

Australian Capital Territory

Construction Occupations (Licensing) Act 2004

A2004-12

Republication No 71

Effective: 23 February 2026 – 9 November 2026

Republication date: 23 February 2026

Last amendment made by A2026-2

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

About this republication

The republished law

This is a republication of the *Construction Occupations (Licensing) Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 23 February 2026. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 23 February 2026.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $160 for an individual and $810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Construction Occupations (Licensing) Act 2004

Contents

Page

Part 1 Preliminary

1 Name of Act 2
3 Dictionary 2
4 Notes 2
5 Offences against Act—application of Criminal Code etc 2

Part 2 Important concepts

6 What is a *construction practitioner*? 3
7 What is a *construction occupation*? 3
8 What is a *builder*? 4
8A What is a *building assessor*? 4
9 What is a *building surveyor*? 4
10 What is a *drainer*? 5

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
11	What is an *electrician*?	5
12	What is a *gasfitter*?	6
12A	What is a *gas appliance worker*?	6
13	What is a *plumber*?	6
14	What is a *plumbing plan certifier*?	7
14A	What is a *works assessor*?	7
15	Classes of construction occupations	7
16	What is an *operational Act*?	7

Part 3 Construction practitioners licences

Division 3.1 General

17	Licence applications	9
18	Eligibility for licence	9
19	Decision on licence application	10
20	Multiple occupations, classes and authorisation	12
21	Licence conditions	13
21A	Licence conditions—licensee's previous licence cancelled for longer than 1 year etc	13
22	Endorsements on licences	14
23	Form of licence	14
24	Term of licence	15
24A	Eligibility for licence renewal	15
25	Licence renewal	15
26	Voluntary licence cancellation	17
26A	Entitlement to act as works assessor	18
26B	Notification requirements for licensees	19
26C	Criminal liability of executive officers—s 26B	20

Division 3.2 Nominees

27	Meaning of *mandatory requirement* for div 3.2	22
28	Eligibility for licence—corporations and partnerships	22
28A	Nominees of corporations or partnerships	24
29	Resignation of nominee	25
30	Revocation of nominee's appointment	25
31	Role of nominees	26
32	Legislation Act and nominee appointments	27

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Part 4 Rectification orders, enforceable undertakings and other obligations on licensees

Division 4.1 Preliminary

33 Definitions—pt 4 28

Division 4.2 Rectification orders and other obligations on licensees

33A Rectification orders—exercise of registrar's powers 28
34 Intention to make rectification order 29
35 When rectification order may be made 30
36 Considerations for deciding when rectification order appropriate 32
37 Rectification order inappropriate 33
38 Rectification orders 35
39 Emergency rectification order 37
39A Rectification order—licensee or former licensee wound up etc before order made 38
39B Rectification order—licensee or former licensee wound up etc after order made 40
40 Rectification order offence 41
41 Failure to comply with order 42
42 Action on emergency rectification order 42
43 Hindering or obstructing authorised licensee 43
44 Damage etc by authorised licensee to be minimised 43
45 Compensation 44
46 Protection of authorised licensees from liability 44
47 Licensee to give evidence of insurance 45
47A Licensee must comply with determinations about training 46

Division 4.3 Rectification undertakings

47B Registrar may accept undertakings 46
47C Notice of decision and reasons for decision 47
47D When rectification undertaking becomes enforceable 48
47E Withdrawal or variation of rectification undertaking 48
47F Ending rectification undertaking 48
47G Undertaking not admission of fault etc 48
47H Contravention of rectification undertaking 49

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
47I	Proceeding for contravention or alleged contravention	50
47J	Rectification undertaking offence	51

Part 5 Automatic licence suspension and occupational discipline

Division 5.1 Automatic licence suspension

48	Automatic suspension of individual licence	52
49	Automatic suspension of corporate licence	52
50	Automatic suspension of partnership licence	53
50A	Automatic suspension of licence—no nominee	53
51	Automatic suspension of licence—construction occupations	54
52	Automatic suspension of licence—occupation classes	54
52A	Suspension of licence—public safety	54
53	End of licence suspension	55
53A	Cancellation of licence following automatic suspension	56

Division 5.2 Occupational discipline—licensees

54	Meaning of *licensee*—div 5.2	57
55	Grounds for occupational discipline	57
55A	Skill assessment of licensees	58
56	Occupational discipline	60
57	Considerations before making occupational discipline orders	61
58	Occupational discipline orders—licensees	62
58AA	Occupational discipline orders—directors or partners of licensees	63
58A	Occupational discipline orders—related licence of licensee	64
59	Interim licence suspension	66
60	Effect of interim suspension	67
61	Revocation of interim suspension	67
62	Builders licence affected by occupational discipline or other action	67
63	Effect of non-renewal on suspended licence	68
64	Requirement to return surrendered licence	69

Part 5A Licence cancellation for criminal activity

Division 5A.1 Cancellation orders

65	Meaning of *cancellation order*—div 5A.1	70

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

66 Application for cancellation order 70
67 Cancellation order 70
68 Revoking cancellation order 72

Division 5A.2 Criminal intelligence

69 Meaning of *criminal intelligence*—div 5A.2 72
70 Disclosure of criminal intelligence 72
71 Whether information is criminal intelligence—application and decision 72
72 Confidentiality of criminal intelligence—ACAT 73
73 Confidentiality of criminal intelligence—courts 74
74 Delegation by chief police officer 75

Part 6 Enforcement

Division 6.1 Preliminary—pt 6

75 Definitions—pt 6 76

Division 6.2 Compliance auditors

76 Compliance auditors—appointment 76
77 Compliance auditors—functions 77
78 Compliance auditors—entry to premises 77
79 Compliance auditors—production of documents 78
80 Non-compliance with s 79 notice 80

Division 6.3 Inspectors

80CA Inspectors—appointment 81
80CB Inspectors—functions 81
80CC Inspectors—entry to premises 82
80CD Inspectors—power to seize things 83
80CE Inspectors—receipt for things seized 85
80CF Access to things seized 85
80CG Return of things seized 85

Division 6.4 Identity cards—compliance auditors and inspectors

80CH Identity cards 86
80CI Functions not to be exercised before identity card shown 86
80CJ Consent to entry 87

Division 6.5 Search warrants

80CK Warrants generally 88

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
80CL	Warrants—application made other than in person	89
80CM	Search warrants—announcement before entry	91
80CN	Details of search warrant to be given to occupier etc	91
80CO	Occupier entitled to be present during search etc	92
80CP	Moving things to another place for examination or processing	92

Part 6A Information requirements

80D	Meaning of *information requirement*—pt 6A	94
80E	Information requirements	94
80F	Treatment of documents provided under information requirement	95
80G	Contravention of information requirement	95

Part 7 Offences

81	Pretending to be licensed	96
82	No nominee	96
83	Advertising without details	97
84	Certain entities not to provide construction services	99
85	Allowing unlicensed people to provide construction service	101
86	Surrender of licences	103
87	Breach of licence conditions or codes	104
88	Notification of cancellation of insurance	105

Part 8 Demerit points system

89	Definitions—pt 8	106
90	Meaning of *previous 3 years* for pt 8	107
91	Recording demerit points	107
92	When demerit points are *incurred*	108
93	Deleting demerit points	108
94	Warning notices	109
95	Consequences of incurring demerit points—licensees	109
96	Consequences of incurring demerit points—applicant for issue or renewal of licence	110
97	Licence suspension	111
98	Licence disqualification	111

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
99	Demerit points incurred but not taken into account for notice of licence suspension etc	113
100	Issue of licence suspension notice etc	113
101	Keeping demerit points register	113
102	Security and disclosure of information in demerit points register	114

Part 9 Administration

103	Construction occupations registrar	115
104	Registrar's functions	116
104A	Ministerial statement of expectations	116
104B	Determinations about training	118
105	Delegation by registrar	118
106	Deputy registrars	118
107	The register	119
107A	Register—public information	120
108	Recording rectification orders	125
109	Recording contravention of rectification orders	125
110	Recording interim licence suspension	126
111	Removal of information from register	126
111A	Register of rectification undertakings	127
112	Annual report by registrar	128
113	Evidentiary certificates	128

Part 10 Advisory boards

114	Establishment of advisory boards	129
115	Constitution of advisory board	129
116	Advisory board functions	130

Part 11 Complaints

117	Who may complain?	131
118	Form of complaint	131
119	Withdrawal of complaints	132
120	Further information about complaint etc	132
121	Investigation of complaint	133
122	No further action	133

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
123	Action after investigating complaint	133

Part 11AA Information sharing

123AA	Definitions—pt 11AA	136
123AB	Sharing public safety information—territory agencies	137
123ABA	Sharing public safety information—non-territory agencies	138

Part 11AB Energy efficiency rating statements

123AC	Meaning of *energy efficiency rating statement*	139
123AD	Energy efficiency rating statement	139
123AE	Conflict of interest—building assessors	140

Part 11A Notification and review of decisions

123A	Meaning of *reviewable decision*—pt 11A	142
123B	Reviewable decision notices	142
123C	Review of reviewable decisions	142

Part 12 Miscellaneous

125	Protection of registrar, advisory boards etc	143
126	AS 3500 and Legislation Act, s 47	143
126A	Codes of practice	143
126B	Directors liability for amounts	144
127	Determination of fees	145
128	Approved forms	145
128A	Applying, adopting or incorporating documents in regulations	146
129	Regulation-making power	147

Dictionary 148

Endnotes

1	About the endnotes	154
2	Abbreviation key	154
3	Legislation history	155
4	Amendment history	164

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
5	Earlier republications	185
6	Expired transitional or validating provisions	190

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au



Australian Capital Territory

Construction Occupations (Licensing) Act 2004

An Act to regulate construction occupations, and for other purposes

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Construction Occupations (Licensing) Act 2004*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere.

For example, the signpost definition '***building work***—see the *Building Act 2004*, section 6.' means that the term 'building work' is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 2 Important concepts

6 What is a *construction practitioner*?

(1) A ***construction practitioner*** is an entity that provides, has provided or proposes to provide a construction service.

(2) A ***construction service*** is the doing or supervision of work in a construction occupation.

Note ***Supervise***—see dict.

(3) For this Act, the regulations may—

(a) prescribe work as work in a construction occupation; and

(b) exclude work from a construction occupation.

7 What is a *construction occupation*?

Each of the following is a ***construction occupation***:

(a) builder;

(b) building assessor;

(c) building surveyor;

(d) drainer;

(e) electrician;

(f) gasfitter;

(g) gas appliance worker;

(h) plumber;

(i) plumbing plan certifier;

(j) works assessor.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

8 What is a *builder*?

(1) A ***builder*** is an entity that provides, has provided or proposes to provide a building service.

(2) A ***building service*** is the doing or supervising of building work.

Note 1 ***Building work***—see the *Building Act 2004*, section 6.

Note 2 For building work that involves asbestos removal, a builder must hold an asbestos removal licence (see *Work Health and Safety Regulation 2011*, div 8.10.1).

8A What is a *building assessor*?

(1) A ***building assessor*** is an entity that provides, has provided or proposes to provide a building assessment service.

(2) A ***building assessment service*** is the doing of building assessment work.

9 What is a *building surveyor*?

(1) A ***building surveyor*** is an entity that provides, has provided or proposes to provide—

(a) a building certification service; or

(b) an exemption assessment service; or

(c) a works assessment service.

Note ***Works assessment service***—see s 14A (2).

(2) An ***exemption assessment service*** is the doing of exemption assessment work.

(3) A ***building certification service*** is the doing of building certification work.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) In this section:

building certification work means anything a building certifier may or must do under the *Building Act 2004*.

Note The *Building Act 2004* requires a building surveyor to be appointed as a certifier before doing building certification work. It also restricts the building certification work certain building surveyors may do depending on their occupation class.

exemption assessment work means undertaking an exemption assessment under the *Building Act 2004*.

10 What is a *drainer*?

(1) A ***drainer*** is an entity that provides, has provided or proposes to provide a sanitary drainage service.

(2) A ***sanitary drainage service*** is the doing or supervision of sanitary drainage work.

(3) In this section:

sanitary drainage work—see *Water and Sewerage Act 2000*, dictionary.

11 What is an *electrician*?

(1) An ***electrician*** is an entity that provides, has provided or proposes to provide electrical wiring services.

(2) An ***electrical wiring service*** is the doing or supervision of electrical wiring work.

(3) In this section:

electrical wiring work—see the *Electricity Safety Act 1971*, dictionary.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

12 What is a *gasfitter*?

(1) A ***gasfitter*** is an entity that provides, has provided or proposes to provide a gasfitting service.

(2) A ***gasfitting service*** is the doing or supervision of gasfitting work.

(3) In this section:

gasfitting work—see the *Gas Safety Act 2000*, section 6F.

12A What is a *gas appliance worker*?

(1) A ***gas appliance worker*** is an entity that provides, has provided or proposes to provide a gas appliance service.

(2) A ***gas appliance service*** is the doing or supervising of type A gas appliance work or type B gas appliance work.

(3) In this section:

type A gas appliance work—see the *Gas Safety Act 2000*, section 6B.

type B gas appliance work—see the *Gas Safety Act 2000*, section 6C.

13 What is a *plumber*?

(1) A ***plumber*** is an entity that provides, has provided or proposes to provide a plumbing service.

(2) A ***plumbing service*** is the doing or supervision of—

(a) sanitary plumbing work; or

(b) water supply plumbing work.

(3) In this section:

sanitary plumbing work—see *Water and Sewerage Act 2000*, dictionary.

water supply plumbing work—see *Water and Sewerage Act 2000*, dictionary.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

14 What is a *plumbing plan certifier*?

(1) A ***plumbing plan certifier*** is an entity that provides, has provided or proposes to provide a plumbing plan certification service.

(2) A ***plumbing plan certification service*** is the doing of plumbing plan certification work.

(3) In this section:

plumbing plan certification work means anything a certifier appointed under the *Water and Sewerage Act 2000* may or must do under that Act.

14A What is a *works assessor*?

(1) A ***works assessor*** is an entity who provides, has provided or proposes to provide a works assessment service.

(2) A ***works assessment service*** is the doing of works assessment work.

15 Classes of construction occupations

A regulation may divide a construction occupation into classes.

16 What is an *operational Act*?

Each of the following is an ***operational Act***:

- *Building Act 2004*
- *Dangerous Substances Act 2004*
- *Electricity Safety Act 1971*
- *Gas Safety Act 2000*
- *Planning Act 2023*
- *Professional Engineers Act 2023*
- *Property Developers Act 2024*
- *Unit Titles Act 2001*

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

- *Utilities Act 2000*
- *Water and Sewerage Act 2000*.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 3 Construction practitioners licences

Division 3.1 General

17 Licence applications

(1) An individual, corporation or partnership may apply to the registrar to be licensed in a construction occupation or, for a construction occupation that is divided into classes, in an occupation class.

Note An entity's entitlement to apply for a licence may be affected by a disqualification (see s 98 (3)).

(2) However, a corporation or partnership may apply under subsection (1) in relation to a construction occupation or occupation class only if the regulations allow a corporation or partnership to be licensed in the occupation or class.

(3) The regulations may prescribe the requirements for applications.

(4) A regulation may prescribe how an applicant may, or must, demonstrate that the applicant satisfies a requirement in relation to an application.

(5) If this Act or the regulations prescribe requirements for applications, the registrar need not consider an application that does not comply with the requirements.

18 Eligibility for licence

The regulations may prescribe when an entity is eligible, or not eligible, to be licensed in a construction occupation or occupation class, including the qualifications the entity must have to be eligible to be licensed in the occupation or class.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

19 Decision on licence application

(1) If an entity applies for a licence for a construction occupation or occupation class, the registrar must issue, or refuse to issue, the licence.

(2) However, the registrar may issue a licence other than the licence applied for if—

(a) the applicant is not eligible for the licence applied for; and

(b) the applicant is eligible for the other licence; and

(c) the licence issued is in the same construction occupation as, but a different occupation class from, the licence applied for; and

(d) the applicant agrees to the issue of the licence.

(3) The registrar must refuse to issue a licence for a construction occupation or occupation class to an applicant if—

(a) the registrar is not satisfied that the applicant is eligible to be licensed in the occupation or class; or

(b) the applicant is disqualified from holding a licence under section 98 (Licence disqualification).

(4) The registrar may refuse to issue a licence for a construction occupation, or occupation class, to an applicant if—

(a) the applicant, or a director or nominee of an applicant that is a corporation, or a partner or nominee of an applicant that is a partnership, is a licensee, a related licensee, or a former licensee (however described) under this Act or a corresponding law who—

(i) as a result of disciplinary action (however described) is, or has been, disqualified from holding a licence (however described) or prohibited from providing a construction service (however described) under this Act or a corresponding law; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) is, or has been, subject to occupational discipline (however described) under this Act or a corresponding law; or

(iii) the registrar believes on reasonable grounds surrendered a licence (however described) in circumstances that related to a ground for occupational discipline (however described) under this Act or a corresponding law; or

(iv) has contravened, or is contravening, a court order or an order made by the ACAT (or a similar State tribunal) relating to a construction service, construction occupation or occupation class under this Act or a corresponding law; or

(v) has contravened, or is contravening, this Act or a condition of a licence or a previous or related licence; or

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(vi) has contravened, or is contravening, a rectification order (however described) under this Act or a corresponding law; or

(vii) has contravened, or is contravening, a rectification undertaking (however described) under this Act or a corresponding law; or

(viii) has a debt owing to the Territory under section 37 (5), section 41 (5) or section 42 (3) and does not have, or is not complying with, a formal arrangement to pay the debt; and

(b) the registrar believes on reasonable grounds that the refusal is necessary or desirable to protect the public.

(5) The registrar may issue a licence to an applicant for less than the maximum period for which the licence may be issued if the registrar believes on reasonable grounds that it is necessary or desirable to protect the public.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) If an application for occupational discipline in relation to an applicant or nominee of an applicant has been made by the registrar under division 5.2 (Occupational discipline—licensees), the registrar need not decide whether to licence the applicant until the application has been dealt with by the ACAT, and any appeal or review arising from the occupational discipline, is finished.

(7) In this section:

related licence means a licence under this Act or a corresponding law that is held by a related licensee.

related licensee means—

(a) if the applicant, or a director, partner or nominee of the applicant is or has been a director or nominee of a corporation (the ***related corporation***) that is or has been a licensee under this Act or a corresponding law—the related corporation; or

(b) if the applicant, or a director, partner or nominee of the applicant is or has been a partner or nominee of a partnership (the ***related partnership***) that is or has been a licensee under this Act or a corresponding law—the related partnership.

20 Multiple occupations, classes and authorisation

(1) A licence may authorise the licensee to provide construction services in 1 or more construction occupations and 1 or more occupation classes.

(2) A licence authorises the licensee to provide construction services in each construction occupation or occupation class to which it relates, subject to any condition, and in accordance with any endorsement, on the licence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

21 Licence conditions

(1) The regulations may prescribe—

(a) conditions on licences; and

(b) when conditions on licences (whether imposed under the regulations or by the registrar) take effect.

(2) The registrar may also impose a condition on a licence by written notice given to the licensee if satisfied it is necessary or desirable to protect the public, unless a regulation provides otherwise.

21A Licence conditions—licensee's previous licence cancelled for longer than 1 year etc

(1) This section applies if—

(a) an individual held a licence (however described) under this Act or a corresponding law in a construction occupation or occupation class (however described) that—

(i) was cancelled, and the individual was disqualified from applying for a licence (however described) for at least 1 year; or

(ii) the registrar believes on reasonable grounds was surrendered by the individual in circumstances that related to a ground for occupational discipline (however described); and

(b) the individual has applied for a licence for the same or substantially the same construction occupation or occupation class.

(2) The registrar may issue the licence to the individual—

(a) subject to 1 or more of the following conditions:

(i) that the licensee must not be a nominee for a stated period;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) that the licensee must not supervise trainees or other licensees;

(iii) that the licensee must be supervised by someone else;

(iv) any other condition that the registrar considers appropriate; and

(b) if the registrar believes on reasonable grounds that the condition is necessary or desirable to protect the public.

(3) This section does not limit the operation of section 21.

22 Endorsements on licences

(1) The registrar may, in accordance with the regulations, endorse a licence.

(2) An endorsement authorises the licensee to provide a stated kind of construction service that the licensee would not otherwise be allowed to provide under the licence.

23 Form of licence

(1) A licence must be signed by the registrar and contain the following details in relation to the licensee:

(a) the licensee's full name;

(b) each construction occupation, and occupation class (if any), in which the licensee is licensed;

(c) a unique identifying number (the ***licence number***) for each construction occupation and occupation class in which the licensee is licensed.

Note A licence may be endorsed under s 22.

(2) The regulations may require or allow other information to be included on a licence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

24 Term of licence

The regulations may prescribe the maximum period for which a licence is issued or renewed.

24A Eligibility for licence renewal

(1) A regulation may prescribe when an entity is eligible, or not eligible, for renewal of a licence in a construction occupation or occupation class, including the qualifications the entity must have to be eligible for renewal of the licence.

(2) A regulation may prescribe how an applicant may, or must, demonstrate that the applicant satisfies a requirement in relation to an application for renewal.

25 Licence renewal

(1) A licensee may apply to the registrar for renewal of the licence before the licence term ends.

(2) The registrar must renew a licence on application if satisfied that the applicant—

(a) would be eligible to be licensed if the application were for a new licence of the same kind; or

(b) is eligible for renewal of the licence.

(3) However, the registrar may refuse to renew a licence if—

(a) the applicant, or a director or nominee of an applicant that is a corporation, or a partner or nominee of an applicant that is a partnership, or a related licensee of the applicant—

(i) has contravened, or is contravening, a court order or an order made by ACAT relating to the applicant's licence or a related licence (including work done by the licensee or a related licensee); or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) has contravened, or is contravening, this Act or a condition of the applicant's licence or a condition of a licence or a related licence; or

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(iii) has contravened, or is contravening, a rectification order; or

Examples

1 failing to start the work stated in the rectification order

2 failing to finish the work stated in the rectification order in the period within which the order states that the work must be done

(iv) has contravened, or is contravening, a rectification undertaking (however described) under this Act or a corresponding law; or

(v) was required by the registrar under section 55A (Skill assessment of licensees) to be assessed and the applicant has not completed the assessment; or

(vi) has a debt owing to the Territory under section 37 (5), section 41 (5) or section 42 (3) and does not have, or is not complying with, a formal arrangement to pay the debt; or

(vii) is disqualified under a corresponding law from holding a licence (however described) or providing a construction service (however described) in the same, or substantially the same, construction occupation or occupation class applied for; and

(b) the registrar believes on reasonable grounds that the refusal is necessary or desirable to protect the public.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) The registrar may renew a licence for less than the maximum period for which the licence may be renewed if the registrar believes on reasonable grounds that it is necessary or desirable to protect the public.

(5) The renewal of a licence begins on the day after the licence being renewed ends.

(6) A suspended licence may be renewed, but the renewed licence is suspended until the suspension ends.

(7) In this section:

related licence means a licence under this Act or a corresponding law that is held by a related licensee.

related licensee means—

(a) if a director, partner or nominee of the applicant is or has been a director or nominee of a corporation (the ***related corporation***) that is or has been a licensee under this Act or a corresponding law—the related corporation; or

(b) if a director, partner or nominee of the applicant is or has been a partner or nominee of a partnership (the ***related partnership***) that is or has been a licensee under this Act or a corresponding law—the related partnership; or

(c) if a director, partner or nominee of the applicant is or has been a licensee under this Act or a corresponding law—the director, partner or nominee.

26 Voluntary licence cancellation

The registrar must cancel a licensee's licence if—

(a) the licensee asks, in writing, for the cancellation; and

(b) the licensee gives the licence to the registrar or satisfies the registrar that the licence has been lost, stolen or destroyed; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) the registrar is satisfied that—

(i) the licensee cannot exercise the licensee's functions because of mental or physical incapacity; or

(ii) another licensee is to take over the licensee's functions in relation to construction services that have not been completely provided; or

(iii) it is otherwise appropriate to approve the cancellation.

26A Entitlement to act as works assessor

(1) A licensed construction practitioner is not entitled to perform services as a works assessor if the practitioner has an interest in the work (the ***works***) to be considered for the works assessment service.

(2) For this section, a licensed construction practitioner has an ***interest*** in the works if the practitioner, or an entity related to the practitioner—

(a) has a legal or equitable interest in the land where the works are, or are to be, carried out; or

(b) has prepared, or intends to prepare, drawings intended to be used in relation to the works, unless—

(i) the works have been certified by another entity; and

(ii) the other entity is not related to the practitioner; or

(c) has carried out, or intends to carry out, any of the works; or

(d) has a financial interest in the construction or completion of the works.

(3) For this section, an entity is ***related to*** a licensed construction practitioner if the entity is—

(a) an entity with which the practitioner has a personal, professional, commercial or financial relationship; or

(b) an employer or employee of the practitioner; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) a company of which the practitioner is a director or in which the practitioner holds a share.

(4) For this section, works have been ***certified*** if—

(a) a building approval has been issued for the works; or

(b) a development approval has been issued for the works; or

(c) a works assessment service has been provided for the works.

26B Notification requirements for licensees

(1) A licensee must give the registrar written notice of the following events or circumstances (a ***notification event***):

(a) for an individual who is the licensee—the individual becomes bankrupt or personally insolvent;

(b) for a corporation that is the licensee—

(i) the corporation becomes the subject of a winding-up order; or

(ii) the corporation is placed into administration, receivership or liquidation;

(c) for a partnership that is licensed in a construction occupation or occupation class—a partner's licence in the same occupation or class is suspended or cancelled;

(d) the licensee, or a director or partner of the licensee, is found guilty, whether in the ACT or anywhere else, of an offence that—

(i) involves fraud, dishonesty or violence; and

(ii) is punishable by imprisonment for at least 1 year;

(e) the licensee is not insured for a construction occupation or occupation class in accordance with the regulation;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(f) for a corporation or partnership that is the licensee—the licensee does not have the required nominee or nominees for the construction occupation or occupation class of the licence.

(2) The notice must be given within 24 hours after the notification event.

(3) A licensee commits an offence if the licensee—

(a) knows about a notification event; and

(b) fails to give the notice required under this section.

Maximum penalty: 100 penalty units.

26C Criminal liability of executive officers—s 26B

(1) An executive officer of a corporation is taken to commit an offence if—

(a) the corporation commits an offence against section 26B; and

(b) the officer was reckless about whether the offence would be committed; and

(c) the officer was in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(d) the officer failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: 100 penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the commission of the relevant offence, a court must consider the following:

(a) any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):

(i) that the corporation arranges regular professional assessments of the corporation's compliance with section 26B;

(ii) that the corporation implements any appropriate recommendation arising from such an assessment;

(iii) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirement to comply with section 26B;

(b) any action the officer took when the officer became aware that the relevant offence was, or might be, about to be committed.

(3) Subsection (2) does not limit the matters the court may consider.

(4) This section applies whether or not the corporation is prosecuted for, or convicted of, an offence against section 26B.

(5) This section does not apply if the corporation has a defence to a prosecution for an offence against section 26B.

Note The defendant has an evidential burden in relation to the matters mentioned in s (5) (see Criminal Code, s 58).

(6) In this section:

executive officer, of a corporation, means a person, however described and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Division 3.2 Nominees

27 Meaning of *mandatory requirement* for div 3.2

In this division:

mandatory requirement of the nominee means a written requirement by the nominee that the corporation or partnership do something, or not do something, in compliance with, or to achieve compliance with, this Act or an operational Act.

28 Eligibility for licence—corporations and partnerships

(1) A corporation or partnership is eligible to be licensed only if it complies with subsection (2) or (3).

(2) The corporation or partnership complies with this subsection if—

(a) it has a single nominee appointed by it; and

(b) the nominee is responsible for the supervision of the construction services provided by it; and

(c) the nominee can, at all times, adequately supervise the construction services provided by it; and

(d) the corporation or partnership has a written record of policies and procedures for effectively managing and supervising the nominee and the corporation's or partnership's obligations under the licence, including arrangements for communicating regularly with the nominee in relation to the construction services provided by the corporation or partnership.

(3) The corporation or partnership complies with this subsection if—

(a) it has 2 or more nominees appointed by it; and

(b) each nominee is responsible for the supervision of particular construction services provided by it; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) there is a written record of the construction services each nominee is responsible for supervising; and

(d) between them, the nominees are responsible for the adequate supervision of all the construction services to be provided by the corporation or partnership; and

(e) between them, the nominees can, at all times, adequately supervise all the construction services to be provided by the corporation or partnership; and

(f) the corporation or partnership has a written record of policies and procedures for effectively managing and supervising each nominee and the corporation's or partnership's obligations under the licence, including arrangements for communicating regularly with each nominee in relation to the construction services provided by the corporation or partnership.

(4) The failure of a corporation or partnership to have the policies and procedures mentioned in subsection (2) (d) or (3) (f) is not a reasonable excuse to prevent the taking of any of the following actions in relation to the licensee or construction services carried out under the licence:

(a) the making of a rectification order;

(b) the taking of occupational discipline;

(c) the imposition of a condition on the licence under section 21 (Licence conditions);

(d) the recording of demerit points under section 91;

(e) the taking of any other action under this Act or an operational Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

28A Nominees of corporations or partnerships

(1) A corporation or partnership may, in writing, appoint an individual to be a nominee if the individual—

(a) meets any eligibility requirements prescribed by regulation; and

(b) is licensed in the construction occupation and occupation class (if any) appropriate for each of the construction services for which the individual is to be responsible; and

(c) agrees in writing to the appointment.

(2) If the nominee is to be responsible for the adequate supervision of only some of the construction services to be provided by the corporation or partnership, the appointment must state the services for which the nominee is responsible.

(3) A nominee of a corporation or partnership for a construction service, construction occupation or occupation class automatically stops being a nominee for the service, occupation or class if the nominee stops being eligible to be appointed as a nominee for the service, occupation or class.

Example

Satnam is a class A builder and is the appointed nominee for a corporation that provides construction services. The registrar applies to the ACAT for an occupational discipline order and the ACAT orders the cancellation of Satnam's class A builders licence. The cancellation of the licence means that Satnam is not eligible to be a nominee and his appointment as a nominee automatically ends. There is no need for Satnam to resign as nominee or for the corporation to revoke his appointment.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

29 Resignation of nominee

(1) A nominee of a corporation or partnership may resign the nominee's appointment only with the registrar's approval.

(2) The registrar may approve the resignation of the nominee only if satisfied that—

(a) the corporation or partnership has refused to comply with a mandatory requirement of the nominee; or

(b) the nominee cannot exercise the nominee's functions because of mental or physical incapacity; or

(c) the nominee, or entity that appointed the nominee, has arranged for another nominee to take over the nominee's functions; or

(d) it is otherwise appropriate to approve the resignation.

30 Revocation of nominee's appointment

(1) A corporation or partnership may revoke a nominee's appointment only with the registrar's approval.

(2) The registrar may approve the revocation of the nominee's appointment only if satisfied that—

(a) the nominee cannot exercise the nominee's functions because of mental or physical incapacity; or

(b) the nominee, or entity that appointed the nominee, has arranged for another nominee to take over the nominee's functions; or

(c) it is otherwise appropriate to approve the resignation.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

31 Role of nominees

(1) A nominee of a licensed corporation or partnership has the following functions:

(a) to supervise the construction services of the corporation or partnership for which the nominee is responsible (the ***relevant construction service***);

(b) to ensure that the relevant construction services comply with this Act and the operational Acts.

(2) The nominee commits an offence if the nominee fails to—

(a) adequately supervise the relevant construction services; or

(b) ensure that the relevant construction services comply with this Act and the operational Acts.

Maximum penalty: 50 penalty units.

(3) Subsection (2) does not apply to a failure of a nominee of a corporation or partnership (the ***nominee's firm***) if—

(a) the nominee had given the nominee's firm a mandatory requirement in relation to the matter that made up the failure; and

(b) the nominee had given the registrar a copy of the mandatory requirement; and

(c) the failure would not have happened if the mandatory requirement had been complied with.

(4) The licensed corporation or partnership commits an offence if the nominee fails to—

(a) adequately supervise the relevant construction services; or

(b) ensure that the relevant construction services comply with this Act and the operational Acts.

Maximum penalty: 50 penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) An offence against this section is a strict liability offence.

32 Legislation Act and nominee appointments

The Legislation Act, part 19.3 (Appointments) does not apply to the appointment of a nominee of a corporation or partnership.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 4 Rectification orders, enforceable undertakings and other obligations on licensees

Division 4.1 Preliminary

33 Definitions—pt 4

In this part:

authorised action, for an authorised licensee, means what the licensee is authorised to do under section 41 (Failure to comply with order) or section 42 (Action on emergency rectification order).

authorised licensee means a licensee authorised under section 41 or section 42.

entity—see section 34 (1) (a).

rectification undertaking—see section 47B.

Division 4.2 Rectification orders and other obligations on licensees

33A Rectification orders—exercise of registrar's powers

To remove any doubt, the registrar is not prevented from having a belief on reasonable grounds, or being satisfied, about a matter mentioned in this part in relation to a construction service only because the registrar, the territory planning authority, a certifier or another entity has—

(a) given a certificate, or approval under—

(i) this Act or an operational Act in relation to the construction service; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) the *Planning Act 2023* in relation to the place where, or the territory lease under which, the construction service was provided; or

(b) otherwise endorsed the construction service under this Act or an operational Act.

34 Intention to make rectification order

(1) This section applies if the registrar believes on reasonable grounds that—

(a) a licensee or former licensee (the ***entity***) has provided a construction service otherwise than in accordance with this Act or an operational Act; and

(b) it may be appropriate to make a rectification order.

Examples of licensee or former licensee

1 a licensed builder does building work

2 a drainer who was licensed, does sanitary drainage work while unlicensed

3 a licensed gasfitter does gasfitting work and then becomes unlicensed

4 a licensed plumber, who is the nominee of a licensee that is a corporation, does or supervises plumbing work as the nominee of the licensee

Note If deciding under this section whether it may be appropriate to make a rectification order, the registrar must consider the considerations mentioned in s 36.

(2) The registrar may give the entity, and the land owner in relation to whose land the construction service was provided, a written notice that—

(a) gives details of the rectification order that may be made; and

(b) explains why the registrar intends to make the order; and

(c) invites submissions about the making of the order within the time stated in the notice that is not less than 5 working days after the day the entity or land owner receives the notice; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) states that—

(i) the registrar will not make a rectification order if—

(A) the registrar is not satisfied it is appropriate to make a rectification order in relation to the entity; or

(B) if the registrar accepts a rectification undertaking from the entity—the entity complies with, and does not withdraw, the undertaking; and

(ii) if the registrar does not make a rectification order the Territory may authorise someone else to do the things stated in this notice, and the entity will have to pay for the things to be done.

(3) A submission mentioned in subsection (2) (c) may include a rectification undertaking in relation to the construction service mentioned in the written notice.

35 When rectification order may be made

(1) This section applies if—

(a) the registrar has given an entity notice under section 34; and

(b) the entity provided the construction service, or part of the construction service, to which the notice relates; and

(c) after considering any submissions made within the time mentioned in the notice, the registrar is satisfied—

(i) the entity is contravening, or has contravened, this Act or an operational Act; and

(ii) it is appropriate to make a rectification order in relation to the entity; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) if the registrar has accepted a rectification undertaking from the entity in response to the notice—the entity has failed to comply with, or has withdrawn, the undertaking.

Note 1 If deciding under this section whether it is appropriate to make a rectification order, the registrar must consider the considerations mentioned in s 36.

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(2) The registrar may make an order under section 38 (Rectification orders) in relation to the entity.

(3) If the registrar makes an order under section 38 in relation to an entity, the registrar may also make an order under section 38 in relation to—

(a) if the entity is a corporation—a director of the entity; or

(b) if the entity is a partnership—

(i) a partner of the partnership; or

(ii) a director of a corporation that is a partner of the partnership.

(4) If the entity has failed to comply with, or has withdrawn, the rectification undertaking, the registrar may make an order under section 38 in relation to the entity without giving the entity another notice under section 34.

(5) However, the registrar may only make an order under section 38 in relation to the entity before the latest of the following:

(a) if the registrar first became aware of the act that caused the contravention within 6 months before the end of the 10-year period—1 year after the registrar became aware of the act; or

(b) if the registrar gave the entity a notice under section 34 before the end of the 10-year period—1 year after the entity was given the notice; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) in any other case—the day the 10-year period ends.

(6) In this section:

10-year period means the period starting on the later of the following days:

(a) the day the act that caused the contravention happened or ended;

(b) the day any certificate was issued by the registrar under any of the following provisions of the *Building Act 2004* in relation to the building the subject of the construction service:

(i) section 69 (Certificates of occupancy);

(ii) section 71 (2) (Certificate for building work involving demolition);

(iii) section 72 (2) (Certificate for building work involving erection of structure);

(iv) section 73 (Certificates of occupancy and use for owner-builders).

36 Considerations for deciding when rectification order appropriate

(1) In deciding whether it is, or may be, appropriate to make a rectification order in relation to an entity that is contravening, or has or may have contravened, this Act, the registrar must consider the following:

(a) any injury, loss or damage caused, or that could have been caused, by the contravention;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) if a rectification order is proposed—how the proposed order may affect people affected by the contravention.

Examples of effect of contravention, including injury, loss and damage

1 reduction in safety, reliability, durability, soundness, functionality, accessibility, serviceability, service life, usability, usefulness, amenity, aesthetic quality, value or efficiency of thing affected by contravention

2 adverse affect on health of user of thing affected by contravention

(2) The registrar may consider anything else that is relevant.

(3) However, the registrar need not consider whether the registrar, territory planning authority, a certifier or other entity has—

(a) given a certificate, or approval under—

(i) this Act or an operational Act in relation to the construction service; or

(ii) the *Planning Act 2023* in relation to the place where, or the territory lease under which, the construction service was provided; or

(b) otherwise endorsed the construction service under this Act or an operational Act.

37 Rectification order inappropriate

(1) This section applies if the registrar—

(a) has given an entity (other than the land owner) notice under section 34 (Intention to make rectification order); and

(b) after considering any submissions made within the time mentioned in the notice, is satisfied that the entity is contravening or has contravened this Act or an operational Act; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) is not satisfied that it is appropriate to make a rectification order in relation to the entity, because—

(i) the registrar is satisfied on reasonable grounds that the entity is not able to do a thing in the way that would be required by the order; or

(ii) of the relationship between the entity and the land owner; and

(d) is satisfied that the act that caused the contravention happened, or ended, less than 10 years before the day the Territory proposes to authorise someone under this section.

(2) The Territory may, in writing, authorise a licensee to enter the land where the work to which the notice under section 34 related was to be done and—

(a) take the action stated in the notice; or

(b) start or finish the work stated in the notice.

(3) The authorised licensee must—

(a) give the owner of the land written notice that the licensee intends to enter the land at least 24 hours before the licensee enters the land; and

(b) give a copy of the notice to the entity before entering the land.

(4) However, the Territory must not authorise someone until—

(a) if the entity applied for review of the decision to authorise a licensee under this section within the period for review (the ***review period***) of the decision allowed under the *ACT Civil and Administrative Tribunal Act 2008*—the review is finally disposed of; or

(b) the review period has ended.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) The entity is liable for the reasonable cost incurred in doing anything under subsection (2) and the cost is taken to be a debt owing to the Territory.

38 Rectification orders

(1) The registrar may make an order (a ***rectification order***) in relation to an entity requiring the entity—

(a) to take stated action to rectify work done as part of a construction service; or

(b) to demolish a building or part of a building where a construction service has been provided and provide the construction service under this Act or an operational Act; or

(c) to start or finish stated work in relation to which a construction service has been, is being or was proposed to be provided.

Example—stated action

rectified work must comply with a stated performance requirement of the Building Code of Australia

(2) The rectification order may also require the entity to give the registrar written information about a thing required to be done under the order.

Examples

1 a structural engineer's report about whether rectified work complies with relevant structural standards

2 certification from a building certifier that finished work complies with this Act

(3) However, a rectification order need not state how a thing required to be done under the order is to be done.

Example

A rectification order requires an entity to rectify a building so that it complies with a stated performance requirement of the building code. The rectification order need not include details of how the work is to be undertaken or how the building may need to be redesigned or altered to comply with the requirement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) Subsection (5) applies if—

(a) the order requires the entity to do a thing; and

(b) the entity—

(i) is not licensed, authorised or qualified to do the thing; or

(ii) if a licence, authorisation or qualification is not required to do the thing—does not have appropriate experience and skill to do the thing.

(5) The entity must arrange, and pay for, the thing to be done by someone who—

(a) is licensed, authorised or qualified to do the thing; or

(b) if a licence, authorisation or qualification is not required to do the thing—has appropriate experience and skill to do the thing.

Examples

1 A rectification order requires Freddie to take stated action to rectify work he has done. The action includes having to provide written information about whether the rectified work complies with relevant structural standards. Freddie is not a structural engineer so he must arrange, and pay for, a structural engineer to prepare a report about the rectified work.

2 A rectification order requires Jo to finish building a dwelling. Jo is no longer a licensed builder, and she is not able to get a new licence. Jo must arrange, and pay for, a licensed builder to finish building the dwelling.

3 Alex is a licensed plumber who did non-compliant work on a building that caused extensive water leakage. A rectification order requires him to fix the damage caused by the leakage, including replacing render on the building's exterior, replacing wall linings and insulation in the wall cavity, and repainting walls and replacing carpet in the interior. None of this work requires a licence or other authorisation under ACT law. Alex is able to paint the interior walls to an acceptable standard, but he has never done any of the other kind of work. He must arrange, and pay for, people with appropriate experience and skill to do the rest of the work.

(6) The rectification order must state a period within which what is required to be done must be done.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(7) The stated period for a rectification order other than an emergency rectification order must not be less than 1 month after the day the rectification order is given to the entity.

Note Details of the rectification order must be included in the register (see s 108).

(8) A copy of the rectification order must be given to the land owner.

39 Emergency rectification order

(1) The registrar may make a rectification order (an ***emergency rectification order***) under section 38 in relation to a licensee or former licensee (the ***entity***), without giving the entity notice under section 34, if the registrar is satisfied that—

(a) the entity has provided a construction service other than in accordance with this Act or an operational Act; and

(b) it is appropriate to make a rectification order; and

(c) it is not appropriate to give notice under section 34 of the registrar's intention to make a rectification order because the need to act promptly to protect the health or safety of people, public or private property or the environment, outweighs the importance of giving the notice before making an order.

(2) A rectification order that is an emergency rectification order must also include the following:

(a) a statement explaining that the order is an emergency rectification order;

(b) a statement explaining that, if the thing ordered to be done is not done within the period (the ***completion period***) stated in the order—

(i) the Territory may authorise a licensee to enter the land where the thing is to be done to do the thing ordered; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) neither the Territory nor the authorised licensee need give the land owner or entity against whom the order is made further notice of the authorised licensee doing the thing on the land; and

(iii) the entity against which the order has been made will be liable for the reasonable cost incurred in doing the thing ordered.

(3) The completion period must not be less than 24 hours.

39A Rectification order—licensee or former licensee wound up etc before order made

(1) This section applies if—

(a) the registrar believes on reasonable grounds that—

(i) a licensee or former licensee (the ***entity***) has provided a construction service otherwise than in accordance with this Act or an operational Act; and

(ii) it may be appropriate to make a rectification order; and

(b) the entity is a corporation; and

(c) before the registrar makes the order—

(i) the entity becomes the subject of a winding-up order; or

(ii) the entity is placed into administration, receivership or liquidation; or

(iii) the entity is deregistered.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The registrar may give each person who was a director of the entity at or after the time the construction service was provided—

(a) if the registrar gave the entity notice under section 34 (Intention to make rectification order) before the entity was wound up, placed into administration, receivership or liquidation or deregistered—a copy of the notice and a statement to the effect that the person is invited to make submissions about the making of the order within 28 days after the day the person receives the notice; or

(b) a written notice in accordance with section 34 (2) (a), (b), (d) and (e) and a statement to the effect that the person is invited to make submissions about the making of the order within 28 days after the day the person receives the notice.

(3) The registrar may make a rectification order in relation to a person who was a director of the entity at or after the time the construction service was provided if, after considering any submissions made within the 28 days, the registrar is satisfied—

(a) the entity contravened this Act or an operational Act; and

(b) it is appropriate to make a rectification order in relation to the person.

(4) The rectification order may also require the person to give the registrar written information about a thing required to be done under the order.

(5) Subsection (6) applies if—

(a) the order requires the person to do a thing; and

(b) the person—

(i) is not licensed, authorised or qualified to do the thing; or

(ii) if a licence, authorisation or qualification is not required to do the thing—does not have appropriate experience and skill to do the thing.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) The person must arrange, and pay for, the thing to be done by someone who—

(a) is licensed, authorised or qualified to do the thing; or

(b) if a licence, authorisation or qualification is not required to do the thing—has appropriate experience and skill to do the thing.

39B Rectification order—licensee or former licensee wound up etc after order made

(1) This section applies if—

(a) the registrar makes a rectification order in relation to a licensee or former licensee (the ***entity***); and

(b) the entity is a corporation; and

(c) after the registrar makes the order—

(i) the entity becomes the subject of a winding-up order; or

(ii) the entity is placed into administration, receivership or liquidation; or

(iii) the entity is deregistered.

(2) The order is taken to have been made in relation to each person who was a director of the entity at or after the time the construction service was provided.

(3) Subsection (4) applies if—

(a) a rectification order or emergency rectification order requires an entity to do a thing; and

(b) a person who was a director of the entity at or after the time the construction service was provided—

(i) is not licensed, authorised or qualified to do the thing; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) if a licence, authorisation or qualification is not required to do the thing—does not have appropriate experience and skill to do the thing.

(4) The person must arrange and pay for the thing to be done by someone who—

(a) is licensed, authorised or qualified to do the thing; or

(b) if a licence, authorisation or qualification is not required to do the thing—has appropriate experience and skill to do the thing.

40 Rectification order offence

(1) A person commits an offence if the person intentionally fails to comply with a rectification order given to the person.

Maximum penalty: 2000 penalty units.

(2) Each partner commits an offence if—

(a) the partnership is given a rectification order; and

(b) the partners, or some of them, intentionally fail to comply with the rectification order.

Maximum penalty: 2000 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (2) if the partner proves—

(a) that—

(i) the partner did not know about the failure to comply; and

(ii) reasonable precautions were taken and appropriate diligence was exercised to avoid the contravention; or

(b) that the partner was not in a position to influence the other partners in relation to the failure to comply.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

41 Failure to comply with order

(1) This section applies if an entity (the ***ordered entity***) in relation to whom a rectification order is made contravenes the rectification order.

(2) The Territory may, in writing, authorise a licensee to enter the land where the work to which the rectification order relates is to be done and—

(a) take the action stated in the rectification order; or

(b) start or finish the work stated in the rectification order.

(3) The authorised licensee must—

(a) give the owner of the land written notice that the licensee intends to enter the land at least 24 hours before the licensee enters the land; and

(b) give a copy of the notice to the ordered entity before entering the land.

(4) However, the Territory must not authorise someone until—

(a) if the ordered entity applied for review of the decision within the period for review (the ***review period***) of the decision to make the rectification order allowed under the *ACT Civil and Administrative Tribunal Act 2008*—the review is finally disposed of; or

(b) the review period has ended.

(5) The ordered entity is liable for the reasonable cost incurred in doing anything under subsection (2) and the cost is taken to be a debt owing to the Territory.

42 Action on emergency rectification order

(1) This section applies if—

(a) the registrar has made an emergency rectification order; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the emergency rectification order includes the information mentioned in section 39 (2); and

(c) the ordered entity has contravened the order.

(2) The Territory may, in writing, authorise a licensee to enter the land where the work to which the rectification order is to be done and—

(a) take the action stated in the rectification order; or

(b) start or finish the work stated in the rectification order.

(3) The ordered entity is liable for the reasonable cost incurred in doing anything under subsection (2) and the cost is taken to be a debt owing to the Territory.

43 Hindering or obstructing authorised licensee

(1) An entity commits an offence if—

(a) the entity knows someone is an authorised licensee; and

(b) the entity hinders or obstructs the authorised licensee in the exercise of an authorised action.

Maximum penalty: 50 penalty units.

(2) Strict liability applies to subsection (1) (b).

44 Damage etc by authorised licensee to be minimised

(1) In the exercise of an authorised action, an authorised licensee must take reasonable steps to ensure that the licensee, and anyone helping the licensee, causes as little inconvenience, detriment and damage as is practicable.

(2) If an authorised licensee, or a person assisting an authorised licensee, damages anything in the exercise or purported exercise of a function under this part, the authorised licensee must give written notice of the particulars of the damage to the person the authorised licensee believes on reasonable grounds is the owner of the thing.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If the damage occurs on premises entered under this part in the absence of the occupier, the notice may be given by securing it in a conspicuous place on the premises.

45 Compensation

(1) A person may claim reasonable compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by an authorised licensee or person assisting an authorised licensee.

(2) Compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an offence against this Act brought against the person making the claim for compensation.

(3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) The regulations may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

46 Protection of authorised licensees from liability

(1) An authorised licensee does not incur civil liability for an authorised action done honestly for this Act.

(2) A civil liability that would, apart from this section, attach to the authorised licensee attaches instead to the Territory.

(3) This section does not prevent an application for occupational discipline being made in relation to an authorised licensee in relation to an authorised action done by the licensee.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

47 Licensee to give evidence of insurance

(1) Before providing a construction service to a person (the ***client***), a licensee must give the client evidence of what insurance the licensee holds in relation to the service the licensee is to provide.

(2) The licensee may ask the client to sign an acknowledgment that the client has been told about the licensee's insurance.

(3) The acknowledgment must state the time and date it was given.

(4) If the client signs the acknowledgment, the licensee must immediately give the client a copy of it.

(5) The registrar may assume that the client was not told about the insurance the licensee holds if—

(a) a question arises whether the client was told about the licensee's insurance; and

(b) an acknowledgment under this section is not produced; and

(c) it is not proved that the licensee told the client about the insurance.

(6) The licensee is taken to have given evidence of what insurance the licensee holds before providing a construction service to a person if the licensee advertised the insurance held at the time of providing the services in a way likely to come to the attention of the client.

Example of advertising insurance held

1 Including details of insurance in the telephone directory, if the details are correct at the time the service is provided.

2 Having details of insurance on the vehicle used to provide the service or transport to the location to provide the service, if the details are correct at the time the service is provided.

(7) In this section:

evidence of insurance includes a fidelity certificate.

fidelity certificate—see the *Building Act 2004*, section 84.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

47A Licensee must comply with determinations about training

(1) This section applies if the registrar makes a determination under section 104B (Determinations about training) that applies to a licensee.

(2) The licensee must comply with the determination.

Note Failure to comply with a determination is a ground for occupational discipline (see s 55 (1) (a)) and may result in a refusal to renew a licence (see s 25 (3)).

Division 4.3 Rectification undertakings

47B Registrar may accept undertakings

(1) The registrar may accept a written undertaking (a ***rectification undertaking***) given by an entity relating to the entity's contravention or alleged contravention of this Act or an operational Act in providing a construction service.

(2) A rectification undertaking must include the following:

(a) a statement that, on acceptance of the undertaking by the registrar, the entity—

(i) understands that the undertaking is an enforceable undertaking under this Act; and

(ii) agrees to be bound by the undertaking;

(b) a statement that the entity recognises the registrar's concerns in relation to the entity's contravention or alleged contravention of this Act or an operational Act;

(c) a statement that the entity understands that details of the undertaking may be included in the public register if the registrar believes on reasonable grounds that it is necessary or desirable to protect the public;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) one or more undertakings relating to the contravention or alleged contravention that will result in the rectification of the work done in the course of providing the construction service;

(e) anything else prescribed by regulation.

Examples—undertakings

1 to take particular action to rectify, or arrange or pay for the rectification of, work needed as a direct or indirect result of the contravention of this Act or an operational Act

2 to take particular action to compensate people adversely affected by a contravention of this Act or an operational Act

(3) A rectification undertaking may provide for any matters agreed between the registrar and the entity.

(4) The registrar or a person may suggest draft undertakings before a rectification undertaking is given by an entity under subsection (1).

47C Notice of decision and reasons for decision

(1) The registrar must give an entity that proposes to give a rectification undertaking written notice of the registrar's decision to accept or reject the rectification undertaking and of the reasons for the decision.

(2) A written notice to accept the rectification undertaking must include information about the following:

(a) the effect of accepting the undertaking;

(b) the consequences of contravening the undertaking;

(c) withdrawing or varying the undertaking;

(d) anything else prescribed by regulation.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

47D When rectification undertaking becomes enforceable

A rectification undertaking takes effect and becomes enforceable—

(a) when the registrar's decision to accept the undertaking is given to the entity that gave the undertaking; or

(b) at any later date stated by the registrar.

47E Withdrawal or variation of rectification undertaking

(1) An entity that has given a rectification undertaking may at any time, with the written agreement of the registrar—

(a) withdraw the undertaking; or

(b) vary the undertaking.

(2) However, the provisions of the undertaking cannot be varied to provide for a different contravention or alleged contravention of this Act or an operational Act.

47F Ending rectification undertaking

(1) The registrar may end a rectification undertaking by written notice to the entity that gave the undertaking, if satisfied on reasonable grounds that the undertaking is no longer necessary or desirable to ensure that the person complies with this Act or an operational Act.

(2) The registrar may act under subsection (1) on the registrar's own initiative or on the application of the entity that gave the undertaking.

(3) The undertaking ends when the entity that gave the undertaking receives the registrar's notice.

47G Undertaking not admission of fault etc

(1) This section applies if an entity gives the registrar a rectification undertaking in relation to a contravention or alleged contravention of this Act or an operational Act, whether or not the undertaking is accepted by the registrar.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) Giving the undertaking is not—

(a) an express or implied admission of fault or liability by the entity in relation to the contravention or alleged contravention; or

(b) relevant to deciding fault or liability in relation to the contravention or alleged contravention.

(3) A rectification undertaking is not admissible in evidence in a court or tribunal in any proceeding in relation to the contravention or alleged contravention.

47H Contravention of rectification undertaking

(1) This section applies if the registrar—

(a) believes on reasonable grounds that an entity has contravened a rectification undertaking; and

(b) has not—

(i) authorised someone to take action under section 37 (3) in relation to the work stated in the rectification undertaking; or

(ii) made a rectification order in relation to the entity that gave the rectification undertaking requiring the entity to take the action stated in the undertaking.

(2) The registrar may apply to the Magistrates Court for an order under subsection (3).

(3) If the Magistrates Court is satisfied that the rectification undertaking has been contravened, the court may make 1 or more of the following orders:

(a) an order requiring the entity that gave the undertaking to ensure that the undertaking is not contravened;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) an order requiring the entity that gave the undertaking to pay to the Territory the amount assessed by the court as the value of the benefits anyone derived, directly or indirectly, from the contravention of the undertaking;

(c) an order that the court considers appropriate requiring the entity that gave the undertaking to compensate someone who has suffered loss or damage because of the contravention of the undertaking;

(d) an order discharging the undertaking.

(4) In addition to the orders mentioned in subsection (3), the court may make any other order the court considers appropriate in the circumstances, including orders directing the entity that gave the undertaking to pay to the Territory—

(a) the costs of the proceeding; and

(b) the reasonable costs of the registrar in monitoring compliance with the undertaking in the future.

47I Proceeding for contravention or alleged contravention

(1) No proceeding may be brought, and no disciplinary action may be taken, against a person for a contravention, or alleged contravention, of this Act or an operational Act if a rectification undertaking is in effect in relation to that contravention.

(2) No proceeding may be brought, and no action in relation to a ground for occupational discipline may be taken, for a contravention or alleged contravention of this Act or an operational Act against an entity that has given a rectification undertaking in relation to the contravention and who has completely discharged the undertaking.

(3) The registrar may accept a rectification undertaking in relation to a contravention or alleged contravention before a proceeding or action in relation to a ground for occupational discipline in relation to the contravention has been finalised.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) If the registrar accepts a rectification undertaking before the proceeding or action in relation to a ground for occupational discipline is finalised, the registrar must take all reasonable steps to have the proceeding or action discontinued.

47J Rectification undertaking offence

(1) A person commits an offence if—

(a) the person gives a rectification undertaking; and

(b) the Magistrates Court makes an order under section 47H (3) in relation to the undertaking; and

(c) the person fails to comply with the order.

Maximum penalty: 2 000 penalty units.

(2) Each partner of a partnership commits an offence if—

(a) the partnership gives a rectification undertaking; and

(b) the Magistrates Court makes an order under section 47I (3) in relation to the undertaking; and

(c) the partners, or some of them, fail to comply with the order.

Maximum penalty: 2 000 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (2) if the partner proves—

(a) that—

(i) the partner did not know about the failure to comply; and

(ii) reasonable precautions were taken, and appropriate diligence was exercised, to avoid the contravention; or

(b) that the partner was not in a position to influence the other partners in relation to the failure to comply.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 5 Automatic licence suspension and occupational discipline

Division 5.1 Automatic licence suspension

48 Automatic suspension of individual licence

(1) This section applies to an individual who is licensed.

(2) The individual's licence is automatically suspended if the individual—

(a) provides, or proposes to provide, a construction service for a fee; and

(b) becomes bankrupt or personally insolvent.

(3) However, if the individual is a nominee or employee of a licensed entity the licence is not suspended.

Note The regulations impose a condition on the individual's licence.

49 Automatic suspension of corporate licence

(1) This section applies to a corporation that is licensed.

(2) The corporation's licence is automatically suspended if the corporation—

(a) becomes the subject of a winding-up order; or

(b) is placed into administration, receivership or liquidation; or

(c) is found guilty, whether in the ACT or anywhere else, of an offence that—

(i) involves fraud, dishonesty or violence; and

(ii) is punishable by imprisonment for at least 1 year.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

50 Automatic suspension of partnership licence

(1) This section applies to a partnership that is licensed in a construction occupation or occupation class.

(2) The partnership's licence in the construction occupation or occupation class is automatically suspended if—

(a) a partner's licence in the same occupation or class is suspended or cancelled; or

(b) a partner who is not a licensee is found guilty, whether in the ACT or anywhere else, of an offence that—

(i) involves fraud, dishonesty or violence; and

(ii) is punishable by imprisonment for at least 1 year.

50A Automatic suspension of licence—no nominee

(1) This section applies to a corporation or partnership that is licensed in a construction occupation or occupation class.

(2) The corporation's or partnership's licence in the construction occupation or occupation class is automatically suspended if—

(a) a nominee is not appointed for the construction occupation or occupation class; or

(b) if there is only 1 nominee for the construction occupation or occupation class—the nominee stops being the nominee for the construction occupation or occupation class.

Note A nominee may stop being a nominee automatically (see s 28A), on resignation with the registrar's approval (see s 29) or on revocation with the registrar's approval (see s 30).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

51 Automatic suspension of licence—construction occupations

(1) This section applies if—

(a) an entity that is licensed in a construction occupation stops being eligible to provide a construction service for the construction occupation because the entity is not insured in accordance with the regulation; and

(b) the construction occupation is not divided into classes.

Note A regulation may divide a construction occupation into classes (see s 15).

(2) The entity's licence is automatically suspended when the insurance cover stops.

52 Automatic suspension of licence—occupation classes

(1) This section applies if an entity that is licensed in an occupation class stops being eligible to provide a construction service for the occupation class because the entity is not insured in accordance with the regulation.

Note A regulation may divide a construction occupation into classes (see s 15).

(2) The entity's licence is automatically suspended in relation to the class when the insurance cover stops.

52A Suspension of licence—public safety

(1) This section applies if a licensed construction practitioner engages in conduct that the registrar decides, on reasonable grounds, presents or is likely to present a risk of death or injury to a person, significant harm to the environment or significant damage to property.

Example

A licensed builder has built 7 of 11 proposed dual-occupancy residences. An inspection of 1 of the residences reveals that no fire wall has been built between the 2 occupancies, inconsistent with the building approval. The registrar decides to suspend the builder's licence to inspect the other built residences and prevent other residences being built without a fire wall.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The licensed construction practitioner's licence is suspended when the registrar gives the practitioner notice—

(a) of the nature of the conduct; and

(b) of the nature of the risk; and

(c) that the practitioner may apply in writing to the registrar to revoke the suspension.

(3) However, during the suspension the registrar may allow the licensed construction practitioner to undertake construction work, within the scope of the licensee's licence, necessary to comply with a rectification order.

(4) The registrar may give the notice orally, in writing or in electronic form.

(5) However, if the registrar gives the notice orally, the registrar must give the notice in writing or in electronic form within 2 days after giving the notice orally.

53 End of licence suspension

(1) This section applies if the licence of a construction practitioner has been suspended under 1 or more of the following sections:

- section 48 (Automatic suspension of individual licence);
- section 49 (Automatic suspension of corporate licence);
- section 50 (Automatic suspension of partnership licence);
- section 50A (Automatic suspension of licence—no nominee);
- section 51 (Automatic suspension licence—construction occupations);
- section 52 (Automatic suspension of licence—occupation classes);
- section 52A (Suspension of licence—public safety).

(2) The registrar must revoke the suspension if satisfied that the cause of the suspension no longer exists.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) The registrar may revoke the suspension if satisfied that the circumstance that caused the suspension will not put consumers of the construction practitioner's construction services at a greater risk from using the services than if the thing had not happened.

(4) A revocation must be in writing given to the licensee.

(5) A suspension, other than a suspension under section 52A (Suspension of licence—public safety), ends if the registrar is given notice of the suspension, on the earlier of—

(a) the day the suspension is revoked under this section; or

(b) 3 months after the day the registrar is given notice of the suspension.

(6) If the registrar is not given notice of a suspension, other than a suspension under section 52A, the suspension continues as long as the cause of the suspension continues.

Note The suspension on a licence may be held over to a new licence if the suspended licence expires without being renewed (see s 63).

(7) A suspension under section 52A (Suspension of licence—public safety) ends on the earlier of—

(a) the day the suspension is revoked under this section; or

(b) 3 months after the day it begins.

53A Cancellation of licence following automatic suspension

(1) This section applies if a licensee's licence has been automatically suspended under this division.

(2) If the registrar is satisfied on reasonable grounds that the cause of the suspension still exists at the end of 3 months after the date the registrar became aware of the cause of suspension, the registrar may cancel the licensee's licence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Division 5.2 Occupational discipline—licensees

54 Meaning of *licensee*—div 5.2

In this division:

licensee means a licensee or a former licensee.

55 Grounds for occupational discipline

(1) Each of the following is a ***ground for occupational discipline*** in relation to a licensee:

(a) the licensee, or a director, partner, nominee or employee of the licensee, contravened, or is contravening, this Act or an operational Act (including a direction given to the licensee under an operational Act);

Examples

1 contravening a rectification order

2 failing to complete a skill assessment required by the registrar under s 55A

(b) the licensee, knowingly or recklessly, gave someone information in relation to a construction service provided, or to be provided, by the licensee that was false or misleading in a material particular;

(c) the licensee or a director, partner or nominee of the licensee, has been found guilty, whether in the Territory or anywhere else, of an offence that—

(i) involves fraud, dishonesty or violence; and

(ii) is punishable by imprisonment for at least 1 year;

(d) if the licensee is an individual—the licensee executes a personal insolvency agreement;

(e) if the licensee is a corporation—

(i) the licensee enters into a scheme of arrangement; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) a receiver, manager, receiver and manager or administrator is appointed over the licensee or any of its assets;

(f) if the licensee is a corporation or partnership—the licensee has, or had, no nominee;

(g) the licensee's licence has been automatically suspended under division 5.1 (Automatic licence suspension) and the cause of the suspension still exists;

(h) the licensee ceases to be eligible to hold a licence.

(2) In subsection (1) (a), a reference to a contravention of this Act or an operational Act includes a reference to the following:

(a) a contravention of the Criminal Code, part 2.4 (Extensions of criminal responsibility) in relation to an offence against this Act or an operational Act or otherwise in relation to this Act or an operational Act;

(b) a contravention of the Criminal Code in relation to a document given, or required to be given, under this Act or an operational Act;

(c) a contravention of the Criminal Code in relation to anything done, or not done, under this Act or an operational Act.

(3) A ground for occupational discipline applies to a former licensee if the ground applied to the former licensee while licensed.

(4) A regulation may prescribe a short description of a ground for occupational discipline under subsection (1) (a).

55A Skill assessment of licensees

(1) This section applies—

(a) if the registrar believes on reasonable grounds that—

(i) a ground for occupational discipline mentioned in section 55 (1) (a) exists in relation to a licensee; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) requiring the licensee to be assessed as mentioned in subsection (2) would assist the registrar to exercise the registrar's functions under section 56 (Occupational discipline); or

(b) if—

(i) a licensee's licence is suspended under section 52A (Suspension of licence—public safety); and

(ii) the registrar believes on reasonable grounds that requiring the licensee to be assessed as mentioned in subsection (2) would assist the registrar to exercise the registrar's functions under section 52A (3) or section 53 (End of licence suspension).

(2) The registrar may, by written notice, require the licensee to be assessed to find out whether the licensee has a skill that is reasonably necessary to satisfactorily exercise the functions of a construction occupation or class of construction occupation under the licensee's licence.

(3) An assessment may consist of 1 or more of the following:

(a) an assessment by a person who the registrar is satisfied on reasonable grounds is competent to make the assessment;

(b) an examination, which may have practical, written and oral aspects, by a registered training organisation that the registrar is satisfied on reasonable grounds is competent to set and assess the examination;

(c) an examination of a record of the licensee's experience provided by the licensee;

(d) the undertaking of a test, or a series of tests, approved by the registrar.

(4) The licensee must pay to the Territory the reasonable costs incurred by the Territory in arranging or carrying out an assessment.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) A regulation may prescribe the following:

(a) what a notice mentioned in subsection (2) must or may contain;

(b) any document or thing that must accompany a notice;

(c) anything else in relation to a notice.

Note The registrar may withdraw a notice given to a licensee (see Legislation Act, s 180). The withdrawal does not affect the registrar's belief about whether a ground for occupational discipline under s 55 (1) (a) exists in relation to the licensee.

(6) In this section:

registered training organisation—see the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 3.

56 Occupational discipline

(1) If the registrar believes on reasonable grounds that a ground for occupational discipline exists in relation to a licensee, the registrar may take 1 or more of the following actions—

(a) apply to the ACAT for an occupational discipline order in relation to 1 or more of the following:

(i) the licensee;

(ii) if the licensee is a corporation—a director of the corporation;

(iii) if the licensee is a partnership—

(A) a partner of the partnership; or

(B) a director of a corporation that is a partner of the partnership;

(b) reprimand the licensee;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) require the licensee, or, if the licensee is a corporation or partnership, a nominee of the licensee, to complete a stated course of training to the satisfaction of the registrar or another stated person;

(d) impose a condition on the licence, or amend an existing condition.

(2) The registrar may make an application under subsection (1) (a)—

(a) if the application is in relation to a person mentioned in subsection (1) (a) (ii) or (iii)—whether or not the registrar has made an application in relation to the licensee; and

(b) if the licensee is a corporation or partnership—whether or not the corporation or partnership still exists when the application is made.

(3) If a regulation prescribes a short description of a ground for occupational discipline under section 55 (1) (a), the registrar may use the short description in the application.

57 Considerations before making occupational discipline orders

(1) This section applies if the ACAT is considering an application for an occupational discipline order in relation to a person mentioned in section 56 (1) (a).

(2) Without limiting the matters the ACAT must consider in relation to the person, the ACAT must consider the following:

(a) the degree of responsibility of the person for the act or omission that made up the ground for occupational discipline;

(b) the number of people detrimentally affected by the doing of something, or not doing something, that made up the ground for occupational discipline;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) the extent to which it is necessary to discourage the person and others from doing something, or not doing something, that made up the ground for occupational discipline;

(d) whether, and the extent to which, it is necessary to protect the public from the person;

(e) the desirability of making the person responsible for the consequences of the person's acts or omissions;

(f) the desirability of maintaining public confidence in the regulatory system set up by this Act;

(g) the person's regard, or disregard, for public safety and protection of the environment when doing something, or not doing something, that made up the ground for occupational discipline;

(h) if the person has completed an assessment mentioned in section 55A (Skill assessment of licensees)—the results of the assessment;

(i) any action taken by the registrar under section 56.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 65 (3) sets out other considerations that must be taken into account by the ACAT.

58 Occupational discipline orders—licensees

(1) This section applies if the ACAT may make an occupational discipline order in relation to a licensee.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out when the ACAT may make an order.

(2) In addition to any other occupational discipline order the ACAT may make, the ACAT may, if the licensee is licensed in more than 1 occupation class—

(a) cancel or suspend a single occupational class or each of the occupational classes; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) direct the registrar to place a condition on or remove or amend a condition of a single occupational class or each of the occupational classes.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out other occupational discipline orders the ACAT may make.

(3) In addition to any other occupational discipline order the ACAT may make, the ACAT may require the licensee to pay to the Territory a stated amount of not more than—

(a) if the licensee is an individual—$20 000; or

(b) if the licensee is a corporation or a partnership—$100 000.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out other occupational discipline orders the ACAT may make.

(4) If the ACAT makes an order for payment under subsection (3) in relation to an occupational discipline order against a licensee the ACAT must not make an order for payment under the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (h) in relation to the same occupational discipline order for the licensee.

58AA Occupational discipline orders—directors or partners of licensees

(1) This section applies if the ACAT is considering an application for an occupational discipline order in relation to a licensee that is a corporation or partnership.

(2) The ACAT may also make an occupational discipline order in relation to any of the following people, whether or not an application has been made in relation to the person:

(a) if the licensee is a corporation—a director of the corporation;

(b) if the licensee is a partnership—

(i) a partner of the partnership; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) a director of a corporation that is a partner of the partnership.

(3) The ACAT may only make an order under subsection (2) in relation to a person mentioned in subsection (2) if the person has been given—

(a) notice of the application for an occupational discipline order in relation to the licensee; and

(b) notice that the ACAT is considering making an order in relation to the person; and

(c) the opportunity to make representations to the ACAT in relation to the proposed order.

(4) Section 58 applies to a person mentioned in subsection (2) as if the person were a licensee.

58A Occupational discipline orders—related licence of licensee

(1) This section applies if—

(a) the ACAT makes an occupational discipline order in relation to a licensee; and

(b) a related licensee has a related licence.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out matters the ACAT must consider when the ACAT makes an order.

(2) In addition to any other occupational discipline order the ACAT may make, the ACAT may—

(a) cancel or suspend the related licence; or

(b) direct the registrar to place a condition on, or remove or amend a condition on, the related licence.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out other occupational discipline orders the ACAT may make.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) The ACAT may only make an order under subsection (2) if the related licensee has been given—

(a) notice of the application for an occupational discipline order in relation to a licensee; and

(b) notice that the ACAT is considering making an order in relation to the related licensee; and

(c) the opportunity to make representations to the ACAT in relation to the proposed order.

(4) In this section:

related licence means a licence under this Act that is held by a related licensee.

related licensee means—

(a) if the licensee is a corporation—

(i) if a director or nominee of the licensee is a director or nominee of a corporation (the ***related corporation***) that is a licensee under this Act—the related corporation; or

(ii) if a director or nominee of the licensee is a partner or nominee of a partnership (the ***related partnership***) that is a licensee under this Act—the related partnership; or

(iii) if a director or nominee of the licensee is a licensee under this Act—the director or nominee; and

(b) if the licensee is a partnership—

(i) if a partner or nominee of the licensee is a director or nominee of a corporation (the ***related corporation***) that is a licensee under this Act—the related corporation; or

(ii) if a partner or nominee of the licensee is a partner or nominee of a partnership (the ***related partnership***) that is a licensee under this Act—the related partnership; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(iii) if a partner or nominee of the licensee is a licensee under this Act—the partner or nominee; and

(c) if the licensee is an individual—

(i) if the licensee is a director or nominee of a corporation (the ***related corporation***) that is a licensee under this Act—the related corporation; or

(ii) if the licensee is a partner or nominee of a partnership (the ***related partnership***) that is a licensee under this Act—the related partnership.

59 Interim licence suspension

(1) This section applies if the registrar has applied to the ACAT for occupational discipline in relation to a licensee.

(2) The registrar may, by written notice given to the licensee, suspend (an ***interim suspension***) a licensee's licence.

Note For how documents may be served, see the Legislation Act, pt 19.5.

(3) However, the registrar may only suspend the licence under subsection (2) if the registrar—

(a) has taken into account the ground for occupational discipline; and

(b) believes on reasonable grounds that it is in the public interest to suspend the licence before the ACAT makes an occupational discipline order.

(4) An interim suspension may be—

(a) for 2 weeks or less; but

(b) if the registrar is satisfied that it is in the public interest to extend the suspension—extended until the ACAT decides the application for occupational discipline in relation to the licence.

Note An interim suspension must be recorded on the register (see s 110).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

60 Effect of interim suspension

(1) This section applies if the registrar suspends a licence under section 59.

(2) The licence is suspended as soon as the licensee receives the notice of suspension.

(3) The suspension ends when the earlier of the following happens:

(a) the licensee receives a notice of revocation under section 61;

(b) the ACAT decides the application for occupational discipline in relation to the licensee.

61 Revocation of interim suspension

(1) This section applies if the registrar suspends a licence under section 59 (Interim licence suspension).

(2) The registrar may, at any time before the ACAT makes an occupational discipline order, revoke the suspension by written notice given to the licensee.

(3) If the registrar revokes the suspension of a licensee licensed as a builder, the registrar must notify in writing each entity notified of the suspension under section 62.

62 Builders licence affected by occupational discipline or other action

(1) This section applies if a licensee has a builders licence and 1 of the following applies:

(a) the registrar becomes aware that the licence has been automatically suspended under division 5.1;

(b) the registrar suspends the licence under section 59 (Interim licence suspension);

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) a defined occupational discipline order is made in relation to the licensee.

(2) The registrar must notify each building certifier in writing about the action taken in relation to the licence as soon as practicable.

(3) The registrar must notify each building certifier in writing if—

(a) the registrar notified the building certifiers about the action; and

(b) the action, or the decision to take the action, is reversed, stayed, varied or set aside.

(4) In this section:

defined occupational discipline order means an occupational discipline order of a kind mentioned in—

(a) section 58 (2) (a); or

(b) the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (e), (f) or (g).

63 Effect of non-renewal on suspended licence

(1) This section applies if—

(a) a licence (the ***original licence***) for a construction occupation or occupation class has been suspended for a period; and

(b) the original licence expires before the end of the suspension period without being renewed; and

(c) the licensee is issued with a licence (the ***new licence***) in the same construction occupation or occupation class within 3 years after the day the original licence expired.

(2) The new licence is suspended for the remainder of the suspension period.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

64 Requirement to return surrendered licence

(1) This section applies if a person surrenders the person's licence because the licence is suspended.

Note It is an offence not to surrender a licence that has been suspended or cancelled (see s 86).

(2) The registrar must return the licence to the person not later than the last day of the suspension.

(3) If the licence is varied during the suspension, the licence as varied must be returned.

(4) However, the registrar need not return the licence if the licence expires, or is cancelled, during the suspension.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 5A Licence cancellation for criminal activity

Division 5A.1 Cancellation orders

65 Meaning of *cancellation order*—div 5A.1

In this division:

cancellation order means an order made under section 67.

66 Application for cancellation order

(1) The chief police officer may apply to the ACAT for a cancellation order for a licence.

(2) At least 2 days before applying for the cancellation order, the chief police officer must notify the registrar of the chief police officer's intention to apply for the order.

(3) The chief police officer must give a copy of the application to the licensee.

67 Cancellation order

(1) On application under section 66, the ACAT may make a cancellation order for a licence if satisfied that, because of the licensee's criminal activity, the licensee continuing to hold the licence presents an unacceptable risk to community safety.

(2) For subsection (1)—

(a) the ACAT must consider the need to minimise the possibility of criminal activity in the construction industry; and

(b) the matters the ACAT may consider include—

(i) whether the licensee has been convicted or found guilty of a relevant offence; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) non-conviction information about the licensee.

(3) If the ACAT makes a cancellation order for a licence, the chief police officer must give a copy of the order to the registrar.

(4) In this section:

non-conviction information, about a licensee, means information about whether the licensee—

(a) has been charged with a relevant offence but—

(i) a proceeding for the offence is not finalised; or

(ii) the charge has lapsed, been withdrawn or discharged, or struck out; or

(b) has been acquitted of a relevant offence; or

(c) has had a conviction for a relevant offence quashed or set aside; or

(d) has been served with an infringement notice for a relevant offence; or

(e) has a spent conviction for a relevant offence.

Note The *Spent Convictions Act 2000* sets out which convictions can be spent (see that Act, s 11) and when a conviction is spent (see that Act, s 12).

relevant offence means any of the following:

(a) an offence punishable by imprisonment for 5 years or longer;

(b) an offence against the *Crimes Act 1900*, section 26 (Common assault) or section 35A (1);

(c) an offence involving fraud or dishonesty.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

68 Revoking cancellation order

The ACAT may revoke a cancellation order for a licence if satisfied that, as a result of a change in circumstances, the person who held the licence is no longer engaged in criminal activity that would, if the person were a licensee, present an unacceptable risk to community safety.

Division 5A.2 Criminal intelligence

69 Meaning of *criminal intelligence*—div 5A.2

In this division:

criminal intelligence means information relating to actual or suspected criminal activity, whether in the ACT or elsewhere, the disclosure of which could reasonably be expected to—

(a) prejudice a criminal investigation; or

(b) enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement; or

(c) endanger anyone's life or physical safety.

70 Disclosure of criminal intelligence

Information that the chief police officer classifies as criminal intelligence must not be disclosed for this part to anyone other than the ACAT, a court or an entity to whom the chief police officer authorises its disclosure.

71 Whether information is criminal intelligence—application and decision

(1) This section applies if the chief police officer applies to the ACAT for a cancellation order under section 66 because, or partly because, of information that is classified by the chief police officer as criminal intelligence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The chief police officer must apply to the ACAT for a decision about whether the information is criminal intelligence.

(3) The application need not be served on anyone unless the ACAT otherwise orders on its own initiative.

(4) The ACAT may decide that the information is, or is not, criminal intelligence.

(5) If the ACAT proposes to decide that the information is not criminal intelligence, the chief police officer must be told about the proposal and given the opportunity to withdraw the information from the proceeding.

72 Confidentiality of criminal intelligence—ACAT

(1) The ACAT must maintain the confidentiality of information that is the subject of an application under section 71 in the following circumstances:

(a) until the ACAT makes a decision about whether the information is criminal intelligence;

(b) if the ACAT decides the information is criminal intelligence;

(c) if the ACAT decides the information is not criminal intelligence, but an appeal from that decision is upheld;

(d) if the information is withdrawn.

(2) However, in a proceeding on an application mentioned in section 71, the ACAT may allow a party or a representative of a party to have access to or inspect information that is criminal intelligence (on conditions the ACAT thinks appropriate) if the ACAT thinks it would not be contrary to the public interest to do so.

(3) If the ACAT proposes to allow a party or a representative of a party to have access to or inspect information that is criminal intelligence, the chief police officer must be told about the proposal and given the opportunity to withdraw the information from the proceeding.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) The ACAT may take any steps it considers appropriate to maintain the confidentiality of the information.

(5) However, if the ACAT finds that the information is not criminal intelligence, and the information is not withdrawn, the ACAT need not maintain the confidentiality of the information.

73 Confidentiality of criminal intelligence—courts

(1) This section applies if a court (on appeal or otherwise) deals with a decision by the ACAT about whether information is criminal intelligence.

(2) The court must maintain the confidentiality of the information.

(3) The court may take any steps it considers appropriate to maintain the confidentiality of the information.

(4) The court must not give any reason for making a finding in relation to the information, other than public interest.

(5) However, if the court finds that information is not criminal intelligence, and the information is not withdrawn—

(a) the court need not maintain the confidentiality of the information and may give reasons for the finding; and

(b) any other court need not maintain the confidentiality of the information and may give reasons for making a finding in relation to the information.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

74 Delegation by chief police officer

(1) The chief police officer may delegate a function under this division to a senior police officer.

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

(2) In this section:

senior police officer means a police officer of or above the rank of superintendent.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 6 Enforcement

Division 6.1 Preliminary—pt 6

75 Definitions—pt 6

In this part:

compliance auditor means a compliance auditor appointed under section 76.

inspector means an inspector appointed under section 80CA.

officer means a compliance auditor or an inspector.

Division 6.2 Compliance auditors

76 Compliance auditors—appointment

(1) The registrar may appoint a public servant to be a compliance auditor for this Act.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

(2) An appointment must not be for longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def ***appoint***).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

77 Compliance auditors—functions

(1) A compliance auditor is responsible for auditing the forms and other paperwork required to be provided by licensees for this Act and the operational Acts.

(2) A compliance auditor has any other function given to the compliance auditor by the registrar.

78 Compliance auditors—entry to premises

(1) A compliance auditor may, during ordinary business hours and with any assistance that is necessary and reasonable, enter premises used by a licensed construction practitioner.

(2) However, subsection (1) does not authorise entry into a part of premises that is being used for residential purposes unless—

(a) the occupier or person apparently in charge of the premises consents to the entry; or

(b) the entry is authorised under a search warrant.

(3) The compliance auditor is not authorised to remain on the premises if, on request by or on behalf of the occupier or person apparently in charge of the premises, the compliance auditor does not produce the compliance auditor's identity card.

(4) The compliance auditor may do 1 or more of the following in relation to the premises:

(a) inspect any document on the premises that relates to the licensee's activities;

(b) take an extract from or make a copy of any document that relates to the licensee's activities;

(c) require anyone on the premises to give the compliance auditor information about a document that relates to the licensee's activities;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) require a person apparently in charge of the premises—

(i) to produce a document that relates to the licensee's activities; or

(ii) to give the compliance auditor access to any electronic device on the premises in which information relevant to the licensee's activities is stored; or

(iii) to print information mentioned in subparagraph (ii);

(e) require the occupier, person apparently in charge of the premises or anyone at the premises to give the compliance auditor reasonable help to exercise a function under this section.

Examples of documents

plan, map, book, drawing

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

(5) A person must take reasonable steps to comply with a requirement made of the person under subsection (4) (c), (d) or (e).

Maximum penalty: 50 penalty units.

(6) The occupier or person in charge of the premises must give the compliance auditor all reasonable facilities and assistance the compliance auditor needs for the effective exercise of the compliance auditor's functions under this section.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

79 Compliance auditors—production of documents

(1) A compliance auditor may, by written notice, ask a licensee to produce to the compliance auditor a document that relates to the licensee's activities.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The notice must state—

(a) the place where and time when, or the period within which, the licensee must produce the document that the compliance auditor considers on reasonable grounds is reasonable; and

(b) the consequences under this Act of failing to comply with the notice.

(3) A compliance auditor may do 1 or more of the following in relation to the document:

(a) inspect it;

(b) take an extract from or make a copy of the document;

(c) require the licensee to give the compliance auditor information about the document;

(d) take possession of the document for the period that the compliance auditor considers on reasonable grounds is reasonable.

(4) If a compliance auditor takes possession of a document under subsection (3) (d), the compliance auditor must—

(a) allow a person who would be entitled to inspect the document, if it were not in the compliance auditor's possession, to inspect the document at any reasonable time; and

(b) give a receipt for the document to the licensee.

(5) The receipt must include the following:

(a) a brief description of the document;

(b) the compliance auditor's name, and information about how to contact the compliance auditor;

(c) the address of the place where the compliance auditor will keep the document while it is in the compliance auditor's possession.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

80 Non-compliance with s 79 notice

(1) A licensee commits an offence if the licensee fails to comply with a notice given to the licensee under section 79 (Compliance auditors—production of documents).

Maximum penalty: 50 penalty units.

(2) Each partner in a partnership commits an offence if—

(a) the partnership is a licensee; and

(b) the partners, or any of them, fail to comply with a notice given to the partnership under section 79.

Maximum penalty: 50 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (2) if the partner proves that—

(a) the partner did not know about the failure to comply; and

(b) either—

(i) the partner took reasonable precautions and exercised appropriate diligence to avoid the failure to comply; or

(ii) the partner was not in a position to influence the partnership in relation to the failure to comply.

Note The defendant has a legal burden in relation to the matters mentioned in s (3) (see Criminal Code, s 59).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Division 6.3 Inspectors

80CA Inspectors—appointment

(1) The registrar may appoint a public servant to be an inspector for this Act for—

(a) building assessment work; or

(b) works assessment work.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

(2) An appointment must not be for longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def ***appoint***).

80CB Inspectors—functions

(1) An inspector is responsible for inspecting the work undertaken by a licensee for compliance with this Act, the operational Acts and other legislation which applies to building assessors.

Example—other legislation applying to building assessors

Civil Law (Sale of Residential Property) Act 2003

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(2) Subsection (1) applies only to work for which a person must be licensed under this Act.

(3) An inspector has any other function given to the inspector by the registrar.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) An inspector must exercise the inspector's functions in accordance with—

(a) the instrument of appointment; and

(b) any directions the registrar gives the inspector.

80CC Inspectors—entry to premises

(1) For this Act, an inspector may—

(a) enter any premises at any time with the consent of the occupier; or

(b) enter premises when open to the public; or

(c) enter business premises during business hours at the premises; or

(d) enter premises in accordance with a warrant under this part.

(2) An inspector may, without the occupier's consent or a warrant, enter the land around premises—

(a) to ask the occupier for consent to enter the premises; or

(b) to inspect the land.

(3) An inspector must not remain on premises entered under this section if, on request by the occupier, the inspector does not produce the inspector's identity card.

(4) An inspector who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises, anything on the premises and the land around the premises:

(a) inspect or examine;

(b) inspect and copy, or take an extract from, any document at the premises;

(c) take measurements or conduct tests;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) take samples;

(e) take photographs, films, audio, video or other recordings;

(f) take onto the premises any people, equipment or material the inspector reasonably needs to exercise the inspector's functions under this Act;

(g) require the occupier, or anyone at the premises, to give information, answer questions, or produce documents or anything else, reasonably needed to exercise the inspector's functions under this Act.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

(5) A person must take all reasonable steps to comply with a requirement made of the person under subsection (4) (g).

Maximum penalty: 50 penalty units.

80CD Inspectors—power to seize things

(1) An inspector who enters premises under this part with the occupier's consent may seize anything at the premises if—

(a) the inspector is satisfied on reasonable grounds that the thing is connected with an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent.

(2) An inspector who enters premises under a warrant under this part may seize anything at the premises that the inspector is authorised to seize under the warrant.

(3) An inspector who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that—

(a) the thing is connected with an offence against this Act; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the seizure is necessary to prevent the thing from being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

(4) Also, an inspector who enters premises under this part (whether with the occupier's consent or otherwise) may seize anything at the premises if satisfied on reasonable grounds that the thing—

(a) puts the health or safety of people at risk; or

(b) may cause damage to property or the environment.

(5) The powers of an inspector under subsections (3) and (4) are additional to any powers of the inspector under subsection (1) or any other territory law.

(6) Having seized a thing, an inspector may—

(a) remove the thing from the premises where it was seized (the ***place of seizure***) to another place; or

(b) leave the thing at the place of seizure but restrict access to it.

(7) A person commits an offence if—

(a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (6); and

(b) the person does not have an inspector's approval to interfere with the thing.

Maximum penalty: 50 penalty units.

(8) An offence against this section is a strict liability offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

80CE Inspectors—receipt for things seized

(1) As soon as practicable after a thing is seized by an inspector under this part, the inspector must give a receipt for it to the person from whom it was seized.

(2) If, for any reason, it is not practicable to comply with subsection (1), the inspector must leave the receipt, secured conspicuously at the place of seizure.

80CF Access to things seized

A person who would, apart from the seizure, be entitled to a thing seized under this part may—

(a) inspect it; and

(b) if it is a document—take extracts from it or make copies of it.

80CG Return of things seized

(1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—

(a) a prosecution for an offence relating to the thing is not instituted within 90 days of the seizure; or

(b) the court does not find the offence proved in a prosecution for an offence relating to the thing.

(2) A thing seized under this part is forfeited to the Territory if a court—

(a) finds an offence relating to the thing to be proved; and

(b) orders the forfeiture.

(3) If subsection (2) (a) applies, but a court does not order forfeiture of the thing seized, the construction occupations registrar must return the thing to its owner or the Territory must pay reasonable compensation to the owner for the loss of the thing.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Division 6.4 Identity cards—compliance auditors and inspectors

80CH Identity cards

(1) The registrar must give a compliance auditor an identity card stating the person's name and that the person is a compliance auditor.

(2) The registrar must give an inspector an identity card stating the person's name and that the person is an inspector.

(3) The identity card must show—

(a) a recent photograph of the person; and

(b) the card's date of issue and expiry; and

(c) anything else prescribed by regulation.

(4) A person commits an offence if—

(a) the person ceases to be an officer; and

(b) the person does not return the person's identity card to the registrar as soon as practicable (but within 7 days) after the day the person ceases to be an officer.

Maximum penalty: 1 penalty unit.

(5) An offence against this section is a strict liability offence.

80CI Functions not to be exercised before identity card shown

An officer may exercise a function under this Act in relation to a person only if the officer first shows the person the officer's identity card.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

80CJ Consent to entry

(1) When seeking the consent of an occupier for entering premises under this part an officer must—

(a) produce the officer's identity card; and

(b) tell the occupier—

(i) the purpose of the entry; and

(ii) that anything found and seized under this part may be used in evidence in court; and

(iii) that consent may be refused.

(2) If the occupier consents, the officer must ask the occupier to sign a written acknowledgment—

(a) that the occupier was told—

(i) the purpose of the entry; and

(ii) that anything found and seized under this part may be used in evidence in court; and

(iii) that consent may be refused; and

(b) that the occupier consented to the entry; and

(c) stating the time, and day, when consent was given.

(3) If the occupier signs an acknowledgment of consent, the officer must immediately give a copy to the occupier.

(4) Unless the contrary is proven, a court must presume that an occupier of premises did not consent to an entry to the premises by an officer under this part if—

(a) the question whether the occupier consented to the entry arises in proceedings in the court; and

(b) an acknowledgment under this section is not produced in evidence for the entry; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) it is not proved that the occupier consented to the entry.

(5) In this section:

occupier, of premises, includes—

(a) a person an officer believes on reasonable grounds to be an occupier of the premises; and

(b) a person apparently in charge of the premises.

Division 6.5 Search warrants

80CK Warrants generally

(1) An officer may apply to a magistrate for a warrant to enter premises.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity connected with an offence against this Act; and

(b) the thing or activity is, or is being engaged in, at the premises, or may be, or may be engaged in, at the premises within the next 14 days.

(5) The warrant must state—

(a) that an officer may, with any necessary assistance and force, enter the premises and exercise the officer's powers under this part; and

(b) the offence for which the warrant is issued; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) the things that may be seized under the warrant; and

(d) the hours when the premises may be entered; and

(e) the date, within 14 days after the day of the warrant's issue, that the warrant ends.

(6) In this section:

connected—an activity is ***connected*** with an offence if—

(a) the offence has been committed by engaging or not engaging in it; or

(b) it will provide evidence of the commission of the offence.

80CL Warrants—application made other than in person

(1) An officer may apply for a warrant by phone, fax, radio or other form of communication if the officer considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances.

(2) Before applying for the warrant, the officer must prepare an application stating the grounds on which the warrant is sought.

(3) The officer may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately provide a written copy to the officer if it is practicable to do so.

(5) If it is not practicable to provide a written copy to the officer—

(a) the magistrate must—

(i) tell the officer what the terms of the warrant are; and

(ii) tell the officer the date and time the warrant was issued; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the officer must complete a form of warrant (the ***warrant form***) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the warrant's terms.

(6) The written copy of the warrant, or the warrant form properly completed by the officer, authorises the entry and exercise of the officer's powers under this part.

(7) The officer must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the officer completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) A court must find that a power exercised by an officer was not authorised by a warrant under this section if—

(a) the question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence; and

(c) it is not proved that the exercise of power was authorised by a warrant under this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

80CM Search warrants—announcement before entry

(1) An officer must, before anyone enters premises under a search warrant—

(a) announce that the officer is authorised to enter the premises; and

(b) give anyone at the premises an opportunity to allow entry to the premises; and

(c) if an occupier of the premises, or someone else who apparently represents the occupier, is present at the premises—identify themself to the person.

(2) The officer is not required to comply with subsection (1) if the officer believes on reasonable grounds that immediate entry to the premises is required to ensure—

(a) the safety of anyone (including the officer or any person assisting); or

(b) that the effective execution of the warrant is not frustrated.

80CN Details of search warrant to be given to occupier etc

If an occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the officer or a person assisting must make available to the person—

(a) a copy of the warrant; and

(b) a document setting out the rights and obligations of the person.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

80CO Occupier entitled to be present during search etc

(1) If an occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the occupier or the other person is entitled to observe the search being conducted.

(2) However, the person is not entitled to observe the search if—

(a) to do so would impede the search; or

(b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.

(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

80CP Moving things to another place for examination or processing

(1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—

(a) both of the following apply:

(i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;

(ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or

(b) the occupier of the premises agrees in writing.

(2) The thing may be moved to another place for examination or processing for not longer than 72 hours.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) An officer may apply to a magistrate for an extension of time if the officer believes on reasonable grounds that the thing cannot be examined or processed within 72 hours.

(4) The officer must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.

(5) If a thing is moved to another place under this section, the officer must, if practicable—

(a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and

(b) allow the occupier or the occupier's representative to be present during the examination or processing.

(6) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 6A Information requirements

80D Meaning of *information requirement*—pt 6A

In this part:

information requirement—see section 80E (2).

80E Information requirements

(1) This section applies if the registrar suspects on reasonable grounds that a person—

(a) has information (the ***required information***) reasonably required by the registrar for the administration or enforcement of this Act or an operational Act; or

(b) has possession or control of a document containing the required information.

(2) The registrar may give the person a notice (an ***information requirement***) requiring the person to give the information, or produce the document, to the registrar.

(3) The information requirement must be in writing and must include details of the following:

(a) the identity of the person to whom it is given;

(b) why the information is required;

(c) the time by which the notice must be complied with;

(d) the operation of section 80G (Contravention of information requirement).

(4) A person does not incur any civil or criminal liability only because the person gives information, or produces a document, to the registrar in accordance with an information requirement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

80F Treatment of documents provided under information requirement

(1) The registrar must return a document produced in accordance with an information requirement to the person who produced the document as soon as practicable.

(2) Before returning the document, the registrar may make copies of, or take extracts from, the document.

80G Contravention of information requirement

A person commits an offence if the person contravenes an information requirement.

Maximum penalty: 50 penalty units.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 7 Offences

81 Pretending to be licensed

(1) A person commits an offence if the person—

(a) is not licensed in a construction occupation or occupation class; and

(b) pretends to be licensed in the occupation or class.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

82 No nominee

(1) A corporation commits an offence if the corporation—

(a) advertises or otherwise offers to provide a service in a construction occupation or occupation class; and

(b) does not have a nominee who has a licence that authorises the nominee to provide the service.

Maximum penalty: 50 penalty units.

(2) Each partner in a partnership commits an offence if the partnership—

(a) advertises or otherwise offers to provide a service in a construction occupation; and

(b) does not have a nominee who has a licence that authorises the nominee to provide the service.

Maximum penalty: 50 penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) It is a defence to a prosecution for an offence against subsection (2), if the partner proves that—

(a) the partner did not know about the contravention of the subsection involved in the offence; and

(b) either—

(i) the partner took reasonable precautions and exercised appropriate diligence to avoid the contravention; or

(ii) the partner was not in a position to influence the partnership in relation to the conduct involved in the contravention.

(4) An offence against this section is a strict liability offence.

83 Advertising without details

(1) A person commits an offence if the person—

(a) advertises that the person provides, or will provide, a service in a construction occupation or occupation class; and

(b) does not include the following in the advertisement:

(i) the person's name as recorded on the person's licence;

(ii) the person's licence number;

(iii) if the person is a corporation—the person's ACN (if any).

Maximum penalty: 5 penalty units.

Examples of advertising required to include details

1 providing a prospective client with a letter, business card, sample contract, brochure and items such as caps, shirts and mugs, each with the construction service company name printed on it

2 vehicle signage or clothing such as a T-shirt, with a construction occupation or class stated on it eg 'Jo Jones licensed plumber'

3 a radio advertisement describing the features of a display home open for inspection and including a musical jingle mentioning 'ACME Homes', advertising to the public that ACME Homes provides construction services

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

4 a sign erected outside a building construction site states only 'ACME Constructions', advertising to the public that ACME Constructions provides construction services at the site

5 an entry in a published directory that lists an entity by name, address, telephone number, construction occupation or class, for example 'ACME Plumbing, plumbers and drainers'

Examples that are not advertising or are not required to include details

1 a builder talking to a prospective client about the services the builder can provide to the particular client

2 ACME Homes advertises in the newspaper stating that a particular display home is for sale, but the advertising, states that ACME Homes is the owner, builder and seller of the house, not that it offers building services generally

3 a sign erected outside a building construction site states only 'ACME', which does not advertise that ACME is providing construction services at the site

4 an entry in a published directory that lists an entity alphabetically by name and includes the entity's address and telephone number, even if the name of the entity implies that the entity can provide the service, for example, 'ACME Plumbing, 1 Smith St, City, 55577777'

5 ACME Home Services advertises offering to arrange the provision of electrical services, but the advertisement includes the following statements: 'ACME Homes Services does not provide electrical wiring services, independent contractors provide those services'

(2) Each partner in a partnership commits an offence if the partnership—

(a) advertises that the partnership provides, or will provide, a service in a construction occupation or occupation class; and

(b) does not include the following in the advertisement:

(i) the partnership's name as recorded on the partnership's licence;

(ii) the partnership's licence number.

Maximum penalty: 5 penalty units.

Example of advertising required to include details

The examples in subsection (1) apply to this subsection.

Examples that are not advertising or are not required to include details

The examples in subsection (1) apply to this subsection.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) It is a defence to a prosecution for an offence against subsection (2), if the partner proves that—

(a) the partner did not know about the contravention of the subsection involved in the offence; and

(b) either—

(i) the partner took reasonable precautions and exercised appropriate diligence to avoid the contravention; or

(ii) the partner was not in a position to influence the partnership in relation to the conduct involved in the contravention.

(4) An offence against this section is a strict liability offence.

84 Certain entities not to provide construction services

(1) A person commits an offence if the person—

(a) provides a service (whether as an employee or otherwise) in a construction occupation or occupation class; and

(b) either—

(i) is not licensed in the occupation or class; or

(ii) if an endorsement on the licence is required for the person to be authorised to provide the service provided and the licence does not have that endorsement.

Maximum penalty: 50 penalty units.

(2) Each partner in a partnership commits an offence if the partnership—

(a) provides a service in a construction occupation or occupation class; and

(b) either—

(i) is not licensed in the occupation or class; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) if an endorsement on the licence is required for the partnership to be authorised to provide the service provided and the licence does not have that endorsement.

Maximum penalty: 50 penalty units.

(3) This section does not apply if—

(a) an individual provides the service, whether directly or for an entity; and

(b) the individual is working under the supervision of a licensee whose licence authorises the provision of the service; and

(c) the licensee is not required by a condition or endorsement on the licence to provide the service as an employee or under supervision; and

(d) a regulation allows the service to be provided by an individual without a licence if provided under the supervision of a licensee.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see Criminal Code, s 58).

(4) Also, this section does not apply to an entity if—

(a) the entity provides an electrical wiring service; and

(b) the entity—

(i) is an exempt regulated utility; or

(ii) provides the service for an exempt regulated utility.

(5) It is a defence to a prosecution for an offence against subsection (2) if the partner proves that—

(a) the partner did not know about the contravention of the subsection involved in the offence; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) either—

(i) the partner took reasonable precautions and exercised appropriate diligence to avoid the contravention; or

(ii) the partner was not in a position to influence the partnership in relation to the conduct involved in the contravention.

Note The defendant has a legal burden in relation to the matters mentioned in s (5) (see Criminal Code, s 59).

(6) An offence against this section is a strict liability offence.

(7) In this section:

exempt regulated utility means a regulated utility exempted from the *Electricity Safety Act 1971* by an exemption under that Act, section 62B.

regulated utility—see the *Utilities (Technical Regulation) Act 2014*, section 8.

85 Allowing unlicensed people to provide construction service

(1) A person commits an offence if—

(a) the person engages someone else (the ***worker***), or allows an employee (also the ***worker***), to provide a construction service for the person; and

(b) the worker is not licensed to provide the service; and

(c) the person is reckless about whether the worker is licensed to provide the service.

Maximum penalty: 50 penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) Each member of a partnership commits an offence if—

(a) a partner engages someone else (the ***worker***), or allows an employee of the partnership (also the ***worker***), to provide a construction service for the partnership; and

(b) the worker is not licensed to provide the service; and

(c) the partner is reckless about whether the worker is licensed to provide the service.

Maximum penalty: 50 penalty units.

(3) This section does not apply to an entity that provides a service if—

(a) the service is provided under the supervision of a licensee; and

(b) the licensee is not required by a condition or endorsement on the licence to provide the service as an employee or under supervision; and

(c) a regulation allows the service to be provided by an individual without a licence if provided under the supervision of a licensee.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see Criminal Code, s 58).

(4) Also, this section does not apply to a regulated utility if—

(a) the regulated utility engages someone else, or allows an employee of the regulated utility, to provide an electrical wiring service for the regulated utility; and

(b) the regulated utility is an exempt regulated utility.

(5) It is a defence to a prosecution for an offence against subsection (2) if the partner proves that—

(a) the partner did not know about the contravention of the subsection involved in the offence; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) either—

(i) the partner took reasonable precautions and exercised appropriate diligence to avoid the contravention; or

(ii) the partner was not in a position to influence the partnership in relation to the conduct involved in the contravention.

Note The defendant has a legal burden in relation to the matters mentioned in s (5) (see Criminal Code, s 59).

(6) In this section:

exempt regulated utility—see section 84 (7).

regulated utility—see section 84 (7).

86 Surrender of licences

(1) A person commits an offence if—

(a) the person's licence has been suspended or cancelled; and

(b) the person does not surrender the licence to the registrar within 2 weeks after the day of suspension or cancellation.

Maximum penalty: 5 penalty units.

(2) Each partner commits an offence if—

(a) the partnership's licence has been suspended or cancelled; and

(b) the licence is not surrendered to the registrar within 2 weeks after the day of suspension or cancellation.

Maximum penalty: 5 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant proves that the licence has been destroyed, lost or stolen.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) It is a defence to a prosecution for an offence against subsection (2) if the partner proves that—

(a) the partner did not know about the contravention of the subsection involved in the offence; and

(b) either—

(i) the partner took reasonable precautions and exercised appropriate diligence to avoid the contravention; or

(ii) the partner was not in a position to influence the partnership in relation to the conduct involved in the contravention.

87 Breach of licence conditions or codes

(1) A licensee commits an offence if the licensee contravenes a condition of the licence.

Maximum penalty: 50 penalty units.

(2) Each partner in a partnership commits an offence if—

(a) the partnership is a licensee; and

(b) the licensee contravenes a condition of the licence.

(3) A person who is a licensee commits an offence if the person contravenes a code of practice applicable to the person.

Maximum penalty: 50 penalty units.

(4) Each partner in a partnership commits an offence if the partnership—

(a) is a licensee; and

(b) contravenes a code of practice applicable to the licensee.

Maximum penalty: 50 penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) It is a defence to a prosecution for an offence against subsection (2) or (4) if the partner proves that—

(a) the partner did not know about the contravention of the subsection involved in the offence; and

(b) either—

(i) the partner took reasonable precautions and exercised appropriate diligence to avoid the contravention; or

(ii) the partner was not in a position to influence the partnership in relation to the conduct involved in the contravention.

(6) An offence against this section is a strict liability offence.

(7) In this section:

code of practice means a code of practice under this Act or an operational Act.

88 Notification of cancellation of insurance

(1) An insurer commits an offence if—

(a) the insurer provides a policy of insurance to a entity who is, or is applying to be, licensed in a construction occupation or occupation class; and

(b) the insurance is required under the regulations for the entity to be eligible for the licence; and

(c) the insurer cancels the policy of insurance; and

(d) fails to give the registrar written notice of the cancellation within 3 days after the day of cancellation.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 8 Demerit points system

Note In this part, ***licensee*** has an extended meaning (see s 89, def ***licensee***).

89 Definitions—pt 8

In this part:

demerit ground for occupational discipline, in relation to a licensee—

(a) means a ground for occupational discipline in relation to the licensee for which the ACAT may make an occupational discipline order; but

(b) does not include a ground for occupational discipline if—

(i) the ground is a contravention of this Act or an operational Act; and

(ii) an infringement notice may be issued in relation to the contravention.

demerit points register means the register under section 91.

disciplinary incident, for a demerit ground for occupational discipline, means the circumstances that gave rise to the demerit ground for occupational discipline.

infringement notice—see the *Magistrates Court Act 1930*, section 117.

licensee, in relation to a demerit ground for occupational discipline, includes an entity that was licensed when the disciplinary incident for the demerit ground for occupational discipline happened.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

90 Meaning of *previous 3 years* for pt 8

(1) In this part:

previous 3 years, in relation to a licensee with demerit points, means the 3 year period ending on the day the licensee last incurred a demerit point.

(2) For this section, ***3 year period*** does not include a period of less than 3 years during which a licensee is unlicensed.

(3) Also, if a licensee incurs demerit points while unlicensed and becomes licensed within 3 years after incurring them, for the purpose of working out the ***3 year period*** in relation to the licensee the demerit points are taken to have been incurred when the licensee next becomes licensed.

91 Recording demerit points

(1) If a demerit ground for occupational discipline exists in relation to a licensee, the registrar must record, in the demerit points register, against the licensee or former licensee, and for the relevant construction occupation, the number of demerit points prescribed under the regulations for the demerit ground for occupational discipline.

(2) The demerit points must be recorded in the demerit points register for the day when they are incurred.

(3) In this section:

relevant construction occupation, for a demerit ground for occupational discipline, means—

(a) the construction occupation in relation to which the disciplinary incident happened; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) if the disciplinary incident did not happen in relation to a construction occupation—the main construction occupation in which the licensee was providing construction services when the disciplinary incident happened.

92 When demerit points are *incurred*

(1) This section applies to demerit points to be recorded against a licensee for a construction occupation in the demerit points register for a demerit ground for occupational discipline.

(2) A demerit point is taken to have been ***incurred*** by the licensee for the demerit ground for occupational discipline on the day when the registrar first becomes aware of the disciplinary incident.

93 Deleting demerit points

(1) This section applies to demerit points incurred by a licensee for a construction occupation, recorded in the register and taken into account for—

(a) a notice of licence suspension under section 97; or

(b) a notice of licence disqualification under section 98; or

(c) other action (***disciplinary action***) allowed to be taken under section 95 (2) (c).

(2) The demerit points are deleted from the register at the beginning of the period of suspension or disqualification, or on the imposition of the disciplinary action, relating to the licence for the construction occupation.

(3) Subsection (2) does not prevent the registrar keeping a record of deleted demerit points.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

94 Warning notices

(1) This section applies if—

(a) the registrar records a demerit point against a licensee for a construction occupation; and

(b) in the previous 3 years, the licensee has incurred at least 10 other demerit points for the construction occupation; and

(c) the registrar has not sent the licensee a notice under this section within the 3 month period ending on the day the demerit point is incurred.

(2) The registrar must tell the licensee in writing how many points the licensee has and the effect of this part.

Note For how documents may be served, see Legislation Act, pt 19.5.

(3) Failure to comply with subsection (2) does not affect the validity of anything done by the registrar or a court.

95 Consequences of incurring demerit points—licensees

(1) This section applies to a licensee if the licensee—

(a) has a licence; and

(b) incurred 15 or more demerit points for a construction occupation within the previous 3 years.

(2) The registrar must consider the disciplinary incidents for which the licensee incurred the demerit points and—

(a) serve a notice of licence suspension under section 97 on the licensee in relation to the licensee's licence in the construction occupation; or

(b) serve a notice of licence disqualification under section 98 on the licensee in relation to the licensee's licence in the construction occupation; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) take any other action against the licensee that—

(i) the ACAT could take or direct the registrar to take; and

(ii) the registrar considers appropriate.

(3) In considering what action to take under subsection (2), the registrar must take into account the following considerations:

(a) the need to protect public safety;

(b) the desirability of not allowing people to undertake work which they are financially unable to complete;

(c) the regularity of the disciplinary incidents to which the demerit points relate;

(d) the seriousness of the disciplinary incidents to which the demerit points relate;

(e) the likelihood of further disciplinary incidents relating to the licensee.

(4) The registrar may take into account any other relevant consideration.

96 Consequences of incurring demerit points—applicant for issue or renewal of licence

(1) This section applies to a licensee if—

(a) the licensee applies to the registrar for a licence (including the renewal of a licence) for a construction occupation; and

(b) the licensee has incurred 15 or more demerit points for the construction occupation within the previous 3 years.

(2) The registrar may refuse the licensee's application and serve a notice of licence disqualification on the licensee under section 98.

(3) The registrar may only take action under subsection (2) if satisfied that the public would be at risk if the licensee were allowed to provide the construction services authorised by the licence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

97 Licence suspension

(1) A notice of licence suspension served on a licensee by the registrar under this section—

(a) must state the date of the notice; and

(b) must state each construction occupation or occupation class to which the notice relates; and

(c) must state the date, at least 21 days after the day the notice is served on the licensee, when the suspension of the licensee's licence is to begin; and

(d) must state the period of licence suspension; and

(e) must include any other information required under the regulations; and

(f) may include any additional information the registrar considers appropriate.

Note For how documents may be served, see Legislation Act, pt 19.5.

(2) The licensee's licence is suspended for the period of licence suspension.

(3) To remove any doubt, a licence may be suspended in relation to all construction occupations or occupation classes it relates to.

98 Licence disqualification

(1) A notice of licence disqualification served on a licensee by the registrar under this section—

(a) must state the date of the notice; and

(b) must state each construction occupation or occupation class to which the notice relates; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) must state the date, at least 21 days after the day the notice is served on the licensee, when the disqualification of the licensee to obtain a licence is to begin (the ***date of effect***); and

(d) if the licensee has a licence—must state that the licence is cancelled on the date of effect; and

(e) must state the period of licence disqualification; and

(f) must include any other information required under the regulations; and

(g) may include any additional information the registrar considers appropriate.

Note For how documents may be served, see Legislation Act, pt 19.5.

(2) If the licensee has a licence, the licence is cancelled in relation to each construction occupation or occupation class mentioned in the notice on the date of effect.

(3) The licensee is disqualified from holding a licence in each construction occupation or occupation class during the period of licence disqualification and is not entitled to apply for, or be issued with, a licence in the construction occupation or occupation class during the period.

(4) To remove any doubt, a licence may be cancelled in relation to all construction occupations or occupation classes it relates to.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

99 Demerit points incurred but not taken into account for notice of licence suspension etc

(1) This section applies to—

(a) demerit points incurred by a licensee on or before the date of a notice of licence suspension or licence disqualification served on the licensee under this part that were not taken into account for the notice; and

(b) demerit points incurred by the licensee after the date of the notice and before the period of licence suspension or licence disqualification applying under the notice begins.

(2) The demerit points are only taken into account in relation to the licensee from the end of the period of licence suspension or licence disqualification applying under the notice.

100 Issue of licence suspension notice etc

The registrar may give a notice of licence suspension or licence disqualification to a licensee under this part without giving the licensee an opportunity to make representations why the notice should not be given.

101 Keeping demerit points register

(1) The demerit points register may include information given to the registrar under this Act and any other information the registrar considers appropriate.

(2) The demerit points register may be kept in the form of, or as part of, 1 or more computer databases or in any other form the registrar considers appropriate.

(3) The registrar must correct a mistake, error or omission in the demerit points register subject to the requirements (if any) of the regulations.

(4) This section does not limit the functions of the registrar in relation to the demerit points register.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

102 Security and disclosure of information in demerit points register

(1) The registrar must ensure that information in the demerit points register is kept securely and may be disclosed only in accordance with this Act or another law in force in the ACT.

Note 1 The Territory privacy principles apply to the registrar (see *Information Privacy Act 2014*, sch 1).

Note 2 Access to the register may be sought under the *Freedom of Information Act 2016* (which also provides that it is contrary to the public interest to disclose certain information).

(2) The registrar must give information about a licensee's demerit points to the licensee on application.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 9 Administration

103 Construction occupations registrar

(1) The director-general may appoint a public servant as the Australian Capital Territory Construction Occupations Registrar (the ***registrar***).

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

(2) However, the director-general must not appoint a person under subsection (1) unless satisfied that the person has relevant experience or a relevant qualification in 1 or more of the following areas:

(a) building;

(b) building assessment;

(c) building surveying;

(d) draining;

(e) electrical;

(f) engineering;

(g) gasfitting;

(h) plumbing;

(i) gas appliance work;

(j) works assessment;

(k) administration of building or construction industry regulatory schemes.

(3) The appointment must not be for longer than 3 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

104 Registrar's functions

(1) The registrar has the following functions:

(a) to keep the registers under this Act;

(b) to administer operational Acts;

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

(c) to decide applications in relation to licences;

(d) to maintain the standard of construction occupations by—

(i) acting on complaints made about construction practitioners, including by applying to the ACAT for occupational discipline if appropriate; and

(ii) providing construction practitioners with information about developments in the construction industry.

(2) The registrar has any other function given to the registrar under this Act or another Territory law.

104A Ministerial statement of expectations

(1) The Minister may—

(a) make a statement setting out the Minister's expectations in relation to the registrar's functions (a ***statement of expectations***); and

(b) give the statement of expectations to the registrar.

(2) Before making a statement of expectations, the Minister must consult the registrar.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) The statement of expectations—

(a) may—

(i) relate to any function of the registrar; and

(ii) include any information the Minister believes will assist the registrar in responding to the statement of expectations; but

(b) must not include a direction about—

(i) the way in which a function is exercised; or

(ii) the exercise of a function in relation to an individual or class of person.

(4) A statement of expectations is a notifiable instrument.

(5) The registrar must, within 6 sitting days after the reporting period, give a report to the Minister that details—

(a) any action taken by the registrar to respond to the statement of expectations in effect during the reporting year; and

(b) if no action, or only part action, was taken in response to the statement of expectations during the reporting year—reasons why no action, or only part action, was taken in response to the statement of expectations.

(6) In this section:

Minister means the Minister responsible for the regulatory functions of the registrar (however described) under the administrative arrangements under the *Public Sector Management Act 1994*, section 13.

reporting period, for a statement of expectations, means the 12-month period after the day the Minister gives the registrar the statement of expectations.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

104B Determinations about training

(1) The registrar may determine a course of training for a construction occupation or occupation class if the registrar is satisfied on reasonable grounds that the training is reasonably necessary for the development or enhancement of the skills or knowledge of licensees in the construction occupation or class.

(2) A determination must state—

(a) the reasons for determining the training; and

(b) the consequences under this Act of failing to complete the training; and

(c) information about the training, including who must conduct the training; and

(d) the latest date by which licensees must complete the training that the registrar considers on reasonable grounds is reasonable.

(3) A determination is a disallowable instrument.

105 Delegation by registrar

The registrar may delegate the registrar's functions under this Act or another Territory law to a public servant.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

106 Deputy registrars

(1) The registrar may appoint a public servant as deputy registrar for each construction occupation.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The appointment must not be for longer than 3 years.

(3) A deputy registrar may exercise the functions of the registrar (other than the power to delegate a function) in relation to the construction occupation for which the deputy is appointed.

(4) However, the registrar may—

(a) limit the functions the deputy registrar may exercise, either in the instrument of appointment or in writing later; and

(b) give the deputy registrar written directions about the exercise of the functions.

(5) If the registrar gives the deputy registrar written directions about the exercise of a function, the deputy registrar may only exercise the function in accordance with the directions.

107 The register

(1) The registrar must keep a register of licensees.

Note Particulars about licensees are prescribed under the regulations. This part includes a requirement to record other information in the register.

(2) The register may be kept in any form, including electronic form, that the registrar decides.

(3) The register may be divided into parts.

(4) The registrar must make available to the public information that is—

(a) included in the register; and

(b) required by regulation to be made available to the public.

(5) If a person asks, in writing, to have access to other information on the register, the registrar may give access to the other information.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) Before deciding to give access to information requested under subsection (5), the registrar must consider—

(a) the reason the person requires the information, including whether it is related to the provision of a construction service; and

(b) whether the information includes personal or other information the registrar believes would be inappropriate or illegal to disclose; and

(c) whether the provision of the information would compromise the exercise of a function under this Act or an operational Act.

107A Register—public information

(1) The registrar must publish a register of public information (the ***public register***) at least once a week on a website.

(2) However, the registrar must update the public register by not later than the end of the next working day after the day when—

(a) a licensee's licence is suspended or cancelled under part 5 (Automatic licence suspension and occupational discipline); or

(b) the chief police officer gives the registrar a cancellation order under part 5A (Licence cancellation for criminal activity); or

(c) if a licensee's licence is suspended under section 97 (Licence suspension) or cancelled under section 98 (Licence disqualification) as a consequence of incurring demerit points—the licensee has exhausted review rights; or

(d) a licensee's suspension or cancellation is lifted, overturned or expires; or

(e) the registrar receives a direction from ACAT or a court about recording or removing information from the register.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) For subsection (2) (c), a licensee has exhausted review rights—

(a) if the licensee has not applied for review of the relevant decision within the period allowed under the *ACT Civil and Administrative Tribunal Act 2008*—when the period ends; or

(b) if the licensee has applied for review of the decision within the period mentioned in paragraph (a), when the ACAT—

(i) completes the review; or

(ii) sets aside the decision.

(4) The public register must include—

(a) the name of each licensee and—

(i) if the licensee is a partnership—the name of each partner in the partnership and, if the partnership has an ACN, the ACN; or

(ii) if the licensee is a corporation—

(A) the corporation's ACN; and

(B) the name and licence number of each nominee for the licensee, the licensee's licence number and the construction occupation or occupation class for which the nominee is nominated; and

(b) anything else prescribed by regulation.

(5) In relation to each licence held by the licensee, the public register must include the following:

(a) the construction occupation or occupation class of the licence;

(b) the expiry date of the licence;

(c) any condition on the licence;

Note For licence conditions—see s 21, s 21A and s 56.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) any endorsement on the licence;

Note For licence endorsements—see s 22.

(e) any information that must be included under section 110 (Recording interim licence suspension).

(6) The public register must also include the following information in relation to licensees that have been licensed in the period beginning on the day 10 years before the registrar most recently updates the register, unless the information is no longer available:

(a) details of any suspension under division 5.1 (Automatic licence suspension), including the start date of suspension, the end date of suspension and the reason for suspension;

(b) details of any cancellation under division 5.1, including the date of the cancellation and the reason for the cancellation;

(c) details of any disciplinary action taken by the registrar under section 56 (1) (Occupational discipline) including—

(i) the kind of action; and

(ii) the start date of the action; and

(iii) the end date of the action; and

(iv) the reason for the action (unless the ACAT orders otherwise); and

(v) any other information required to be recorded on the register by the ACAT; and

(vi) whether the period in which the licensee can apply to the ACAT for review of the action has expired; and

(vii) whether the action is under review by the ACAT;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) if the ACAT has made a cancellation order under part 5A (Licence cancellation for criminal activity) in relation to the licensee—a statement that the cancellation order has been made in relation to the licensee;

(e) details of any occupational discipline order by made by the ACAT under section 58 (Occupational discipline orders—licensees) including—

(i) the start date of the order; and

(ii) the end date of the order; and

(iii) the nature and effect of the order; and

(iv) the reason for the order (unless the ACAT orders otherwise); and

(v) any other information required to be recorded on the register by the ACAT;

(f) if the licensee of the licence has been subject to any other form of occupational discipline—

(i) the kind of occupational discipline; and

Examples—other kinds of occupational discipline

1 suspension of licence (see s 97)

2 disqualification of licensee (see s 98)

(ii) any applicable start and end dates; and

(iii) the reason for the occupational discipline (unless the ACAT orders otherwise); and

(iv) any other information required to be recorded on the register by the ACAT;

(g) details of any action the registrar has taken under section 95 (2) (c) (Consequences of incurring demerit points—licensees);

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) details of any licence suspension under section 97 (Licence suspension);

(i) details of any licence disqualification under section 98 (Licence disqualification);

(j) details of previous suspensions and cancellations, occupational discipline, and disciplinary action in the previous 10 years, whether in effect or not, unless the details have been removed from the register under section 111 (Removal of information from register);

(k) details of rectification orders recorded in the register under section 108 (Recording rectification orders);

(l) details of any contravention of a rectification order recorded in the register under section 109 (Recording contravention of rectification orders).

(7) For subsection (6) (g), (h), (i), (k) and (l), the details mentioned must not be included in the public register—

(a) unless the licensee has not applied for review of the relevant decision within the period allowed under the *ACT Civil and Administrative Tribunal Act 2008*; or

(b) if the licensee has applied for review of the decision, before the ACAT—

(i) completes the review; or

(ii) sets aside the decision.

(8) The public register—

(a) must also include details about any order by the ACAT or a court in relation to a rectification undertaking given by a licensee that has been licensed in the period beginning on the day 10 years before the registrar most recently updates the register, and accepted by the registrar; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) may include any other details about the rectification undertaking if the registrar believes on reasonable grounds that it is necessary or desirable to protect the public.

(9) Information about a rectification undertaking included on the public register under subsection (8) (b) must be removed from the register if—

(a) the undertaking has ended and the registrar no longer believes on reasonable grounds that its inclusion is necessary or desirable to protect the public; or

(b) the registrar receives a direction from the ACAT or a court, on application by the licensee who gave, or a person affected by, the undertaking, to remove the information.

108 Recording rectification orders

(1) If the registrar makes a rectification order, the registrar must include the following in the register in relation to the order:

(a) the date the order was made;

(b) what the rectification order required.

(2) However, the registrar may only include information under subsection (1) if the person to whom the rectification order relates—

(a) has not applied for review of the decision to make the order within the period allowed under the *ACT Civil and Administrative Tribunal Act 2008*; or

(b) has applied for review of the decision but the ACAT has not set aside the rectification order.

109 Recording contravention of rectification orders

(1) This section applies if—

(a) the registrar is satisfied that an entity has contravened a rectification order; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the registrar proposes to include the details of the contravention in the register.

(2) The registrar must tell the entity in writing that—

(a) the registrar proposes to include the details of the contravention in the register; and

(b) the entity may make a submission to the registrar about the inclusion of the details within the time (the ***stated time***) stated in the notice that is not less than 2 weeks.

(3) The registrar may include details of the contravention in the register if, after considering any submission made within the stated time, the registrar is satisfied that—

(a) the entity contravened the rectification order; and

(b) it is appropriate to include the details in the register.

110 Recording interim licence suspension

If the registrar suspends a licence under section 59 (Interim licence suspension), the registrar must immediately include the following in the register in relation to the suspension:

(a) the date of suspension;

(b) the length of the suspension;

(c) whether the suspension has been extended.

111 Removal of information from register

(1) This section applies to information included in the register under the following sections:

(a) section 108 (Recording rectification orders);

(b) section 109 (Recording contravention of rectification orders);

(c) section 110 (Recording interim licence suspension).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) An entity may apply for the removal of the information from the register if the information relates to something the entity did or did not do.

(3) On receiving an application from an entity, the registrar may remove the information from the register if satisfied that—

(a) no further information to which this section applies has been recorded in relation to the entity; and

(b) it is 5 years or longer since the day, or last day, that the event to which the information relates happened.

(4) Subsection (3) does not prevent the registrar keeping a record of information removed from the register.

111A Register of rectification undertakings

(1) The registrar must keep a register of rectification undertakings (the ***undertakings register***).

(2) The undertakings register must include the following details for each undertaking:

(a) the name of the entity that gave the undertaking;

(b) particulars of the undertaking given;

(c) the date the undertaking takes effect;

(d) particulars of any withdrawal or variation of the undertaking, including the date of the withdrawal or variation;

(e) anything else prescribed by regulation.

(3) The undertakings register may include any other information the registrar considers relevant.

(4) The undertakings register may be kept in any form, including electronically, that the registrar decides.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) The registrar may—

(a) correct a mistake, error or omission in the undertakings register; and

(b) change a detail in the register to keep the register up-to-date.

112 Annual report by registrar

(1) The registrar must prepare an annual report under the *Annual Reports (Government Agencies) Act 2004*.

(2) A report prepared by the registrar under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include the details prescribed under the regulations.

113 Evidentiary certificates

(1) The registrar may issue a certificate, signed by the registrar, stating that on a date or during a period stated that—

(a) an entity named in the certificate was or was not licensed; and

(b) if the entity was licensed—

(i) the entity was licensed in the construction occupation, and occupation class (if any), in which the entity was licensed; and

(ii) the licence was, or was not, suspended.

(2) A licence or certificate under this section is evidence of the matters stated in it.

(3) Unless the contrary is proved, a document that purports to be a licence or certificate under this section is taken to be such a document.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 10 Advisory boards

114 Establishment of advisory boards

(1) The registrar may establish an advisory board for a construction occupation.

(2) An advisory board may, but need not, relate to more than 1 construction occupation.

115 Constitution of advisory board

(1) An advisory board must have at least 7, but not more than 9 members.

(2) At least 4 of the advisory board members must be licensed in the construction occupation, or 1 of the construction occupations, for which the advisory board is established.

(3) Of the 4 advisory board members mentioned in subsection (2), not more than 2 of them may represent a body established to represent the interests of people working in the construction occupation or 1 of the construction occupations.

(4) At least 1, but not more than 3, of the advisory board members must represent an educational institution, or industry training body, relevant to the construction occupation.

(5) At least 1 of the advisory board members must be a lawyer.

(6) At least 1 of the advisory board members must be a community representative who is not licensed.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

116 Advisory board functions

An advisory board for a construction occupation has the following functions:

(a) to provide advice about qualifications for the construction occupation if asked by the Minister;

(b) to help with investigations for the construction occupation if asked by the registrar;

(c) to help develop and maintain information about emerging issues in the construction industry related to the construction occupation if asked by the registrar.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 11 Complaints

117 Who may complain?

(1) Anyone who believes a licensee is contravening, or a licensee or former licensee has contravened, this Act, or an operational Act, may complain to the registrar.

(2) Notice of a contravention given under the *Building Act 2004*, section 50 (Notification by certifier of contraventions of building and development approvals—building work) is taken to be a complaint made under this section.

118 Form of complaint

(1) A complaint must be—

(a) in writing; and

(b) include the name and address of the person making the complaint (the ***complainant***).

(2) However, the registrar—

(a) may accept a complaint for consideration even if it does not comply with subsection (1); and

(b) must accept a complaint for consideration even if it does not comply with subsection (1) if the complaint is notice given under the *Building Act 2004*, section 50 (Notification by certifier of contraventions of building and development approvals—building work).

(3) If the registrar accepts for consideration a complaint that is not in writing, the registrar must require the complainant to put the complaint in writing unless there is a good reason for not doing so.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

119 Withdrawal of complaints

(1) A complainant may withdraw the complaint at any time by written notice to the registrar.

(2) If the complainant withdraws the complaint, the registrar—

(a) need take no further action on the complaint; and

(b) may continue to act on the complaint if the registrar considers it appropriate to do so; and

(c) need not report to the complainant under section 123 (Action after investigating complaint) on the results of any action on the complaint.

120 Further information about complaint etc

(1) The registrar may, at any time, require a complainant to give the registrar—

(a) further information about the complaint; or

(b) a statement verifying all or part of the complaint.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

(2) When making a requirement under this section, the registrar must give the complainant a reasonable period of time within which the requirement is to be satisfied and may extend that period, whether before or after it ends.

(3) If the complainant does not comply with a requirement made of the complainant under subsection (1), the registrar may, but need not, take further action in relation to the complaint.

(4) To remove any doubt, this section also applies to a complaint that is a notice given under the *Building Act 2004*, section 50 (Notification by certifier of contraventions of building and development approvals—building work).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

121 Investigation of complaint

The registrar must take reasonable steps to investigate each complaint the registrar accepts for consideration.

Note A complaint must be in writing, but the registrar may accept a complaint that is not in writing (see s 118).

122 No further action

(1) The registrar must not take further action on a complaint if satisfied that—

(a) the complaint lacks substance; or

(b) the complaint is frivolous, vexatious or was not made in good faith; or

(c) the complaint has been adequately dealt with.

Note The registrar may also take no further action on a complaint if the complainant has not complied with a requirement made under s 120 (1) (see s 120 (3)).

(2) To remove any doubt, this section also applies to a complaint that is a notice given under the *Building Act 2004*, section 50 (Notification by certifier of contraventions of building and development approvals—building work).

123 Action after investigating complaint

(1) After investigating a complaint against a licensee or former licensee, the registrar must—

(a) if satisfied that a ground for occupational discipline exists in relation to the complaint—

(i) do both of the following:

(A) apply to the ACAT for an occupational discipline order in relation to the licensee;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(B) tell the complainant in writing that the application has been made; or

(ii) take the following disciplinary action:

(A) reprimand the licensee or former licensee;

(B) require the licensee, or, if the licensee is a corporation or partnership, a nominee of the licensee, to complete a stated course of training to the satisfaction of the registrar or another stated person;

(C) impose a condition on the licence, or amend an existing condition; or

(b) if not satisfied that a ground for occupational discipline exists in relation to the complaint—

(i) tell the complainant in writing that the registrar will take no further action on the complaint; and

(ii) take no further action on the complaint; or

(c) if satisfied that the subject of the complaint is a residential building dispute—refer the complaint to the residential building dispute administrator; or

(d) if the complaint was a notice given under the *Building Act 2004*, section 50 (Notification by certifier of contraventions of building and development approvals—building work) and the registrar is satisfied it should be referred to the territory planning authority—refer the complaint to the territory planning authority.

(2) Subsection (1) (b) (ii) does not prevent the registrar from taking further action in relation to a complaint if the registrar becomes satisfied that a ground for occupational discipline exists in relation to the complaint.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) The registrar refers the complaint to an entity mentioned in subsection (1) (c) or (d) by giving the entity—

(a) a copy of the complaint or summary of the information provided in the complaint; and

(b) any information relating to the complaint that the registrar considers may be helpful to the entity; and

(c) a statement about why the registrar considers that the entity is more appropriate to deal with the complaint than the registrar.

Note The registrar need not notify the complainant under subsection (1) if the complainant has withdrawn the complaint (see s 119).

(4) In this section:

residential building dispute—see the *Building Act 2004*, section 127B.

residential building dispute administrator means the Residential Building Dispute Administrator appointed under the *Building Act 2004*, section 127F.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 11AA Information sharing

123AA Definitions—pt 11AA

In this part:

law of another jurisdiction means a law of the Commonwealth or a State.

Note ***State*** includes the Northern Territory (see Legislation Act, dict, pt 1).

non-territory agency means an agency of the Commonwealth or a State that exercises functions analogous to those exercised by a public safety agency.

Note ***State*** includes the Northern Territory (see Legislation Act, dict, pt 1).

public safety agency means any of the following:

(a) the registrar;

(b) the director-general responsible for this Act or an operational Act;

(c) an inspector appointed under an operational Act;

(d) the director-general responsible for the *Emergencies Act 2004*;

(e) the commissioner and chief officers appointed under the *Emergencies Act 2004*;

(f) an inspector appointed under the *Emergencies Act 2004*;

(g) the chief health officer appointed under the *Public Health Act 1997*;

(h) a public health officer appointed under the *Public Health Act 1997*;

(i) the registrar under the *Professional Engineers Act 2023*;

(j) the director-general responsible for the *Work Health and Safety Act 2011*;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(k) the commissioner appointed under the *Work Health and Safety Act 2011*;

(l) an inspector appointed under the *Work Health and Safety Act 2011*;

(m) an agency prescribed by regulation.

public safety information means information in relation to a situation that presents or is likely to present a risk of death or injury to a person, significant harm to the environment or significant damage to property, that is disclosed to, or obtained by, a public safety agency because the agency is, or has been, a public safety agency.

123AB Sharing public safety information—territory agencies

(1) A public safety agency may—

(a) give public safety information to another public safety agency (the ***receiving agency***); and

(b) impose conditions on how the receiving agency uses, stores or shares the information.

(2) A public safety agency may request public safety information from another public safety agency.

(3) A public safety agency that receives a request under subsection (2) may comply with the request.

(4) However, a public safety agency (the ***giving agency***) must not give public safety information to the receiving agency unless the giving agency is satisfied that the receiving agency will use the information to exercise a function given to the receiving agency under a territory law.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

123ABA Sharing public safety information—non-territory agencies

(1) A public safety agency may give public safety information to a non-territory agency if the public safety agency is satisfied that the information relates to—

(a) a function of the non-territory agency; and

(b) compliance with a law of another jurisdiction that makes provision for public safety.

Note For how documents may be given, see the Legislation Act, pt 19.5.

(2) A public safety agency may impose conditions on how the non-territory agency uses, stores or shares the public safety information.

(3) However, a public safety agency must not give public safety information under this section unless the public safety agency is satisfied that—

(a) the non-territory agency that receives the information (the ***receiving agency***) will use the information to exercise a function the receiving agency has under a law mentioned in subsection (1) (b); and

(b) giving the information will not unreasonably compromise the exercise of a function under a territory law.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 11AB Energy efficiency rating statements

123AC Meaning of *energy efficiency rating statement*

In this Act:

energy efficiency rating statement means a statement prepared in accordance with section 123AD.

123AD Energy efficiency rating statement

(1) This section applies if a person is required to give an energy efficiency rating statement under a territory law.

Examples

- the requirement to give an energy efficiency rating statement under the *Civil Law (Sale of Residential Property) Act 2003*, s 23
- the requirement to give an energy efficiency rating statement under the *Residential Tenancies Act 1997*, s 12

(2) An energy efficiency rating statement must be prepared—

(a) by a building assessor; and

(b) in accordance with—

(i) a code of practice (if any) in relation to the statement; or

(ii) if a regulation provides for energy efficiency rating statements—the regulation.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

123AE Conflict of interest—building assessors

(1) A building assessor must not prepare an energy efficiency rating statement for a building if the building assessor is—

(a) for a statement under the *Civil Law (Sale of Residential Property) Act 2003*—

(i) the seller, a family member of the seller under that Act, or the seller's agent or lawyer; or

(ii) a member of a firm that the seller under that Act, or the seller's agent or lawyer, is a member of; or

(iii) someone else carrying on a business if the seller under that Act, or the seller's agent or lawyer or a family member of the seller, has a direct or indirect right to participate in the profits of the business; or

(b) for a statement under the *Residential Tenancies Act 1997*—

(i) the lessor, a family member of the lessor under that Act, or the lessor's agent or lawyer; or

(ii) a member of a firm that the lessor under that Act, or the lessor's agent or lawyer, is a member of; or

(iii) someone else carrying on a business if the lessor under that Act, or the lessor's agent or lawyer or a family member of the lessor, has a direct or indirect right to participate in the profits of the business; or

(c) in any case—a person who—

(i) has a legal or equitable interest in the building; or

(ii) has a financial interest in the building.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) However, a building assessor who has a conflict of interest mentioned in subsection (1) may prepare an energy efficiency rating statement if—

(a) the building assessor prepares the statement for a new building; and

(b) the statement is based on an energy efficiency certificate in relation to the building; and

(c) the statement is consistent with the certificate; and

(d) the building assessor gives—

(i) the registrar a declaration of the assessor's conflict of interest; and

(ii) the seller or lessor a copy of the declaration.

(3) In this section:

energy efficiency certificate—see the *Building Act 2004*, section 139C.

family member, of a person, means—

(a) the person's domestic partner; or

(b) the person's parent or child; or

(c) the person's brother, sister, half-brother or half-sister; or

(d) the parent or child of the person's domestic partner.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 11A Notification and review of decisions

123A Meaning of *reviewable decision*—pt 11A

In this part:

reviewable decision means a decision prescribed by regulation.

123B Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity prescribed by regulation in relation to the decision.

Note The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

123C Review of reviewable decisions

The following may apply to the ACAT for a review of a reviewable decision:

(a) an entity prescribed by regulation for the decision;

(b) any other person whose interests are affected by the decision.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 12 Miscellaneous

125 Protection of registrar, advisory boards etc

(1) This section applies to a person who is, or has been—

(a) the registrar or a deputy registrar; or

(b) an advisory board member.

(2) A civil proceeding does not lie against a person to whom this section applies in relation to loss, damage or injury of any kind to someone else because of an act done, or omitted to be done honestly in the exercise (or purported exercise) of a function under this Act.

126 AS 3500 and Legislation Act, s 47

The Legislation Act, section 47 (6) does not apply to AS 3500 under this Act.

126A Codes of practice

(1) The Minister may approve a code of practice for—

(a) a construction occupation; or

(b) a class of construction occupation; or

(c) a construction service.

(2) An approved code of practice may consist of a code, standard, rule, specification or provision relating to the construction occupation or occupation class, or a construction service, and may apply, adopt or incorporate a law or instrument, or a provision of a law or instrument, as in force from time to time.

(3) An approved code of practice is a disallowable instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) The Legislation Act, section 47 (5) or (6) does not apply in relation to a law or instrument mentioned in subsection (2).

Note Laws and instruments mentioned in s (2) do not need to be notified under the Legislation Act because s 47 (5) and (6) do not apply (see Legislation Act, s 47 (7)).

126B Directors liability for amounts

(1) Subsection (2) applies if—

(a) a corporation is convicted of an offence against this Act or an operational Act; and

(b) a penalty for the offence is imposed on the corporation; and

(c) the amount of the penalty is not paid within the time required for payment.

(2) Liability to pay the amount of the penalty mentioned in subsection (1) attaches to—

(a) each individual who was a director of the corporation when the offence was committed; and

(b) each individual who is a director of the corporation when the penalty is imposed.

(3) Subsection (4) applies if—

(a) the ACAT requires a corporation to pay an amount under section 58 (3); and

(b) the amount is not paid within the time required for payment.

(4) Liability to pay the amount mentioned in subsection (3) attaches to—

(a) each individual who was a director of the corporation when the act or omission that was a ground for occupational discipline happened; and

(b) each individual who is a director of the corporation when the ACAT made the order for payment under section 58 (3).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) Subsection (6) applies if—

(a) a corporation has a debt owing to the Territory under this Act or an operational Act; and

(b) the debt is not paid when it is due.

(6) Liability to pay the amount mentioned in subsection (5) attaches to—

(a) each individual who was a director of the corporation when the debt was incurred; and

(b) each individual who is a director of the corporation when payment for the debt is due.

(7) A liability under subsection (2), (4) or (6) to pay an amount applies regardless of the status of the corporation, including, for example, that the corporation is being, or has been, wound up.

(8) If a liability under subsection (2), (4) or (6) to pay an amount attaches to 2 or more people, each person is jointly and severally liable for payment of the amount.

127 Determination of fees

(1) The Minister may determine fees for this Act.

(2) A determination is a disallowable instrument.

128 Approved forms

(1) The registrar may approve forms for this Act.

(2) If the registrar approves a form for a particular purpose, the approved form must be used for that purpose.

(3) An approved form is a notifiable instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

128A Applying, adopting or incorporating documents in regulations

(1) A regulation may apply, adopt or incorporate (with or without change or modification)—

(a) a law, Australian Standard or Australian/New Zealand Standard as in force from time to time; or

(b) another instrument as in force from time to time.

(2) The Legislation Act, section 47 (5) and (6) do not apply in relation to a law, standard or instrument applied, adopted or incorporated under subsection (1).

Note The law, standard or instrument does not need to be notified under the Legislation Act because s 47 (5) and (6) do not apply (see Legislation Act, s 47 (7)).

(3) The director-general must ensure that an instrument applied, adopted or incorporated under subsection (1) (b) is—

(a) available for inspection by anyone without charge during ordinary business hours at an ACT government office; or

(b) accessible on an ACT government website, or by a link on an ACT government website.

(4) Any instrument that is applied, adopted or incorporated under subsection (1) (b) is not enforceable by or against the Territory or anyone else unless it is made accessible in accordance with subsection (3).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

129 Regulation-making power

(1) The Executive may make regulations for this Act.

(2) The regulations may make provision in relation to—

(a) licences; and

(b) the keeping of the register, including the particulars that must or may be entered in the register; and

(c) the supervision of licensees' activities; and

(d) rectification orders; and

(e) compliance with, and administration of, codes of practice.

(3) The regulations may create offences for contraventions of the regulations and fix maximum penalties of not more than 60 penalty units for offences against the regulations.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- bankrupt or personally insolvent
- building code
- director-general (see s 163)
- document
- entity
- found guilty
- Legislation Act
- occupational discipline order
- reviewable decision notice
- State
- territory planning authority
- under
- working day.

AS 3500 means the following standards, as in force from time to time:

(a) AS 3500.1.1;

(b) AS 3500.2.1;

(c) AS/NZS 3500.

Note AS 3500 may be purchased at www.standards.org.au.

authorised action, for part 4 (Rectification orders, enforceable undertakings and other obligations on licensees)—see section 33.

authorised licensee, for part 4 (Rectification orders, enforceable undertakings and other obligations on licensees)—see section 33.

builder—see section 8.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

building assessment work means preparing and providing—

(a) an energy efficiency certificate under the *Building Act 2004*; or

(b) an energy efficiency rating statement; or

(c) a statement, certificate or other document prescribed by regulation.

Note ***Energy efficiency certificate***—see the *Building Act 2004*, s 139C.

building assessor—see section 8A.

building certification service—see section 9 (3).

building certifier—see the *Building Act 2004*, dictionary, definition of ***certifier***.

building service—see section 8 (2).

building surveyor—see section 9.

building work—see the *Building Act 2004*, section 6.

cancellation order, for division 5A.1 (Cancellation orders)—see section 65.

class, of a construction occupation, means a class into which the occupation is divided under the regulations (see section 15).

code of practice means a code of practice approved under section 126A.

compliance auditor, for part 6 (Enforcement)—see section 75.

conduct means an act or an omission to do an act.

construction occupation—see section 7.

construction practitioner—see section 6.

construction service—see section 6 (2).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

corresponding law means—

(a) a law of a State corresponding, or substantially corresponding, to this Act; or

(b) a law of a State prescribed by regulation as a corresponding law for this Act.

criminal intelligence, for division 5A.2 (Criminal intelligence)—see section 69.

demerit ground for occupational discipline, for part 8 (Demerit points system)—see section 89.

demerit points register, for part 8 (Demerit points system)—see section 89.

director—see the Corporations Act, section 9AC.

disciplinary incident, for part 8 (Demerit points system)—see section 89.

drainer—see section 10.

electrical wiring service—see section 11 (2).

electrician—see section 11.

emergency rectification order—see section 39.

endorsement means an endorsement under section 22.

energy efficiency rating statement—see section 123AC.

engage in conduct means—

(a) do an act; or

(b) omit to do an act.

entity, for part 4 (Rectification orders, enforceable undertakings and other obligations on licensees)—see section 34 (1) (a).

exemption assessment service—see section 9 (2).

former licensee means an entity that has been a licensee.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

gas appliance service—see section 12A (2).

gas appliance worker—see section 12A (1).

gasfitter—see section 12.

gasfitting service—see section 12 (2).

ground for occupational discipline—see section 55.

information requirement, for part 6A (Information requirements)—see section 80D.

infringement notice—see *Magistrates Court Act 1930*, section 117.

inspector, for part 6 (Enforcement)—see section 75.

law of another jurisdiction, for part 11AA (Information sharing)—see section 123AA.

licence means a licence under this Act.

licensee—

(a) for division 5.2 (Occupational discipline—licensees)—see section 54; and

(b) for part 8 (Demerit points system)—see section 89.

licence number, for a licence—see section 23 (1) (c).

mandatory requirement, for division 3.2 (Nominees)—see section 27.

nominee, of a corporation or partnership, means a person who is appointed as a nominee of the corporation or partnership under section 28A.

non-territory agency, for part 11AA (Information sharing)—see section 123AA.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

occupational discipline means—

(a) something done by the ACAT by an occupational discipline order; or

(b) something done by the registrar in accordance with an occupational discipline order; or

(c) something done by the registrar under section 95.

occupation class means a class into which a construction occupation is divided under a regulation.

Note Section 15 provides that a regulation may divide a construction occupation into classes.

occupier, of premises, includes a person believed on reasonable grounds to be an occupier of the premises.

officer, for part 6 (Enforcement)—see section 75.

operational Act—see section 16.

plumber—see section 13.

plumbing plan certification service—see section 14 (2).

plumbing plan certifier—see section 14.

plumbing service—see section 13 (2).

previous 3 years, for part 8 (Demerit points system)—see section 90.

public safety agency, for part 11AA (Information sharing)—see section 123AA.

public safety information, for part 11AA (Information sharing)—see section 123AA.

rectification order—see section 38 (1).

rectification undertaking, for part 4 (Rectification orders, enforceable undertakings and other obligations on licensees)—see section 47B.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

register means the register kept under section 107.

registrar—see section 103.

reviewable decision, for part 11A (Notification and review of decisions)—see section 123A.

sanitary drainage service—see section 10 (2).

supervise includes direct.

works assessment service—see section 14A (2).

works assessment work means—

(a) undertaking an exemption assessment under the *Planning Act 2023*; or

(b) providing, including doing anything incidental to providing, a unit title assessment report under the *Unit Titles Act 2001*.

Note ***Unit title assessment report***—see the *Unit Titles Act 2001*, s 22B.

works assessor—see section 14A (1).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

3 Legislation history

Construction Occupations (Licensing) Act 2004 A2004-12
notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
remainder commenced 1 September 2004 (s 2 and CN2004-8)

as modified by

Construction Occupations (Licensing) Regulations 2004 SL2004-36 (as am by SL2004-44 reg 5; A2005-34 amdt 1.38; SL2005-18 s 4)
taken to have been notified LR 26 March 2004 (A2004-12, s 151 (3) (a))
reg 1 taken to have commenced 26 March 2004 (LA s 75 (1))
remainder commenced 1 September 2004 (A2004-12, s 151 (3) (b))

Construction Occupations (Licensing) Amendment Regulations 2004 (No 1) SL2004-44 reg 5
notified LR 8 September 2004
reg 1, reg 2 commenced 8 September 2004 (LA s 75 (1))
reg 5 commenced 9 September 2004 (reg 2)

Note These regulations only amend the Construction Occupations (Licensing) Regulations 2004 SL2004-36.

as amended by

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.9
notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 3 pt 3.9 commenced 2 June 2005 (s 2 (1))

Construction Occupations Legislation Amendment Act 2005 A2005-34 sch 1 pt 1.3, amdt 1.38
notified LR 6 July 2005
s 1, s 2 commenced 6 July 2005 (LA s 75 (1))
sch 1 pt 1.3, amdt 1.38 commenced 27 July 2005 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Construction Occupations (Licensing) Amendment Regulation 2005 (No 1) SL2005-18 s 4

notified LR 26 August 2005

s 1, s 2 commenced 26 August 2005 (LA s 75 (1))

s 4 commenced 27 August 2005 (s 2)

Note These regulations only amend the Construction Occupations (Licensing) Regulation 2004 SL2004-36.

Construction Occupations Legislation Amendment Act 2006 A2006-15 sch 1 pt 1.2

notified LR 6 April 2006

s 1, s 2 commenced 6 April 2006 (LA s 75 (1))

sch 1 pt 1.2 commenced 1 September 2006 (s 2 and CN2006-19)

Asbestos Legislation Amendment Act 2006 A2006-16 sch 1 pt 1.4 (as am by A2006-24 s 4)

notified LR 18 May 2006

s 1, s 2 commenced 18 May 2006 (LA s 75 (1))

amdt 1.29, amdt 1.32 commenced 18 November 2006 (s 2 (2) and LA s 79)

amdt 1.30 commenced 1 July 2006 (s 2 (2) and CN2006-14)

sch 1 pt 1.4 remainder commenced 1 July 2006 (s 2 (1) as am by A2006-24 s 4)

Asbestos Legislation Amendment Act 2006 (No 2) A2006-24

notified LR 18 May 2006

s 1, s 2 commenced 18 May 2006 (LA s 75 (1))

remainder commenced 19 May 2006 (s 2)

Note This Act only amends the Asbestos Legislation Amendment Act 2006 A2006-16.

Building Legislation Amendment Act 2007 A2007-26 sch 1 pt 1.3

notified LR 13 September 2007

s 1, s 2 commenced 13 September 2007 (LA s 75 (1))

s 3, amdt 1.87, amdt 1.88 commenced 30 November 2007 (s 2 (1) and CN2007-16)

sch 1 pt 1.3 remainder commences 31 March 2008 (s 2 (1) and see Planning and Development Act 2007 A2007-24, s 2 and CN2008-1)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.16
notified LR 12 August 2008
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))
sch 3 pt 3.16 commenced 26 August 2008 (s 2)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 A2008-36 sch 1 pt 1.10
notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.10 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

as modified by

ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009 SL2009-2 s 67 and sch 1 (as am by A2009-49 amdt 1.2, amdt 1.3)
notified LR 29 January 2009
s 1, s 2 commenced 29 January 2009 (LA s 75 (1))
s 67 and sch 1 commenced 2 February 2009 (s 2 and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

as amended by

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.17
notified LR 1 September 2009
s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
sch 3 pt 3.17 commenced 22 September 2009 (s 2)

Statute Law Amendment Act 2009 (No 2) A2009-49 amdt 1.2, amdt 1.3, sch 1 pt 1.4, sch 3 pt 3.10
notified LR 26 November 2009
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))
amdt 1.2, amdt 1.3, sch 1 pt 1.4, sch 3 pt 3.10 commenced 17 December 2009 (s 2)

Note This Act also amends the ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009 SL2009-2.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Construction Occupations Legislation Amendment Act 2010 A2010-8 pt 2

notified LR 3 March 2010
s 1, s 2 commenced 3 March 2010 (LA s 75 (1))
pt 2 commenced 4 March 2010 (s 2 (1))

Construction Occupations Legislation (Exemption Assessment) Amendment Act 2010 A2010-24 pt 3

notified LR 8 July 2010
pt 1 commenced 8 July 2010 (s 2 (1))
pt 3 commenced 8 July 2011 (s 2)

Construction Occupations Legislation Amendment Act 2010 (No 2) A2010-32 pt 4

notified LR 1 September 2010
s 1, s 2 commenced 1 September 2010 (LA s 75 (1))
s 3 commenced 18 February 2011 (LA s 75AA)
pt 4 commenced 1 March 2011 (s 2 and LA s 79)

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.34

notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
sch 1 pt 1.34 commenced 1 July 2011 (s 2 (1))

Planning and Building Legislation Amendment Act 2011 A2011-23 pt 3

notified LR 6 July 2011
pt 1 commenced 6 July 2011 (s 2 (1))
s 7 commenced 8 July 2011 (s 2 (3) and see Construction Occupations Legislation (Exemption Assessment) Amendment Act 2010 A2010-24 s 2)
pt 3 remainder commenced 7 July 2011 (s 2 (5))

Work Health and Safety (Consequential Amendments) Act 2011 A2011-55 sch 1 pt 1.2

notified LR 14 December 2011
s 1, s 2 commenced 14 December 2011 (LA s 75 (1))
sch 1 pt 1.2 commenced 1 January 2012 (s 2 and see Work Health and Safety Act 2011 A2011-35, s 2 and CN2011-12)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Construction and Energy Efficiency Legislation Amendment Act 2013 A2013-31 pt 6

notified LR 26 August 2013
s 1, s 2 commenced 26 August 2013 (LA s 75 (1))
pt 6 commenced 27 August 2013 (s 2 (3))

Construction and Energy Efficiency Legislation Amendment Act 2014 A2014-2 pt 3

notified LR 5 March 2014
s 1, s 2 commenced 5 March 2014 (LA s 75 (1))
pt 3 commenced 6 March 2014 (s 2)

Construction and Energy Efficiency Legislation Amendment Act 2014 (No 2) A2014-10 pt 2

notified LR 17 April 2014
s 1, s 2 commenced 17 April 2014 (LA s 75 (1))
s 18, s 19 commenced 17 October 2014 (s 2 (2) and LA s 79)
pt 2 remainder commenced 18 April 2014 (s 2)

Gas Safety Legislation Amendment Act 2014 A2014-38 pt 2

notified LR 30 September 2014
s 1, s 2 commenced 30 September 2014 (LA s 75 (1))
pt 2 commenced 30 March 2015 (s 2 and LA s 79)

Training and Tertiary Education Amendment Act 2014 A2014-48 sch 1 pt 1.5

notified LR 6 November 2014
s 1, s 2 commenced 6 November 2014 (LA s 75 (1))
sch 1 pt 1.5 commenced 20 November 2014 (s 2)

Justice and Community Safety Legislation Amendment Act 2014 (No 2) A2014-49 sch 1 pt 1.4

notified LR 10 November 2014
s 1, s 2 commenced 10 November 2014 (LA s 75 (1))
sch 1 pt 1.4 commenced 17 November 2014 (s 2)

Dangerous Substances (Asbestos Safety Reform) Legislation Amendment Act 2014 A2014-53 pt 4

notified LR 3 December 2014
s 1, s 2 commenced 3 December 2014 (LA s 75 (1))
pt 4 commenced 1 January 2015 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Planning, Building and Environment Legislation Amendment Act 2015 A2015-12 pt 4

notified LR 20 May 2015
s 1, s 2 commenced 20 May 2015 (LA s 75 (1))
pt 4 commenced 21 May 2015 (s 2)

Red Tape Reduction Legislation Amendment Act 2016 A2016-18 sch 2 pt 2.3, sch 3 pt 3.15

notified LR 13 April 2016
s 1, s 2 commenced 13 April 2016 (LA s 75 (1))
sch 2 pt 2.3, sch 3 pt 3.15 commenced 27 April 2016 (s 2)

Building and Construction Legislation Amendment Act 2016 A2016-44 pt 5

notified LR 19 August 2016
s 1, s 2 commenced 19 August 2016 (LA s 75 (1))
pt 5 commenced 20 August 2016 (s 2 (1))

Public Sector Management Amendment Act 2016 A2016-52 sch 1 pt 1.14

notified LR 25 August 2016
s 1, s 2 commenced 25 August 2016 (LA s 75 (1))
sch 1 pt 1.14 commenced 1 September 2016 (s 2)

Freedom of Information Act 2016 A2016-55 sch 4 pt 4.3 (as am by A2017-14 s 19)

notified LR 26 August 2016
s 1, s 2 commenced 26 August 2016 (LA s 75 (1))
sch 4 pt 4.3 commenced 1 January 2018 (s 2 as am by A2017-14 s 19)

Statute Law Amendment Act 2017 A2017-4 sch 3 pt 3.7

notified LR 23 February 2017
s 1, s 2 commenced 23 February 2017 (LA s 75 (1))
sch 3 pt 3.7 commenced 9 March 2017 (s 2)

Justice and Community Safety Legislation Amendment Act 2017 (No 2) A2017-14 s 19

notified LR 17 May 2017
s 1, s 2 commenced 17 May 2017 (LA s 75 (1))
s 19 commenced 24 May 2017 (s 2 (1))

Note This Act only amends the Freedom of Information Act 2016 A2016-55.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Building and Construction Legislation Amendment Act 2018 A2018-4 pt 2

notified LR 1 March 2018
s 1, s 2 commenced 1 March 2018 (LA s 75 (1))
pt 2 commenced 2 March 2018 (s 2)

Red Tape Reduction Legislation Amendment Act 2018 A2018-33 sch 1 pt 1.5

notified LR 25 September 2018
s 1, s 2 commenced 25 September 2018 (LA s 75 (1))
sch 1 pt 1.5 commenced 23 October 2018 (s 2 (4))

Statute Law Amendment Act 2018 A2018-42 sch 3 pt 3.8

notified LR 8 November 2018
s 1, s 2 taken to have commenced 1 July 2018 (LA s 75 (2))
sch 3 pt 3.8 commenced 22 November 2018 (s 2 (1))

Crimes (Disrupting Criminal Gangs) Legislation Amendment Act 2019 A2019-43 pt 2

notified LR 6 December 2019
s 1, s 2 commenced 6 December 2019 (LA s 75 (1))
pt 2 commenced 6 June 2020 (s 2 (2) and LA s 79)

Building and Construction Legislation Amendment Act 2019 A2019-48 pt 5

notified LR 9 December 2019
s 1, s 2 commenced 9 December 2019 (LA s 75 (1))
ss 27-29 commenced 9 June 2020 (s 2 (2) and LA s 79)
pt 5 remainder commenced 10 December 2019 (s 2 (1))

Building and Construction Legislation Amendment Act 2020 A2020-25 pt 4

notified LR 24 June 2020
s 1, s 2 commenced 24 June 2020 (LA s 75 (1))
s 18 commenced 25 June 2020 (s 2 (1))
pt 4 remainder commenced 24 June 2022 (s 2 (3))

Statute Law Amendment Act 2021 A2021-12 sch 3 pt 3.5

notified LR 9 June 2021
s 1, s 2 commenced 9 June 2021 (LA s 75 (1))
sch 3 pt 3.5 commenced 23 June 2021 (s 2 (1))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Statute Law Amendment Act 2022 A2022-14 sch 3 pt 3.8
notified LR 10 August 2022
s 1, s 2 commenced 10 August 2022 (LA s 75 (1))
sch 3 pt 3.8 commenced 24 August 2022 (s 2)

Electricity Safety Amendment Act 2023 A2023-4 pt 2
notified LR 15 February 2023
s 1, s 2 commenced 15 February 2023 (LA s 75 (1))
pt 2 commenced 16 February 2023 (s 2)

Professional Engineers Act 2023 A2023-8 sch 2 pt 2.2
notified LR 11 April 2023
s 1, s 2 commenced 11 April 2023 (LA s 75 (1))
sch 2 pt 2.2 commenced 6 March 2025 (s 2 (2) as am by A2023-20 pt 5 and A2024-21 pt 6)

Planning (Consequential Amendments) Act 2023 A2023-36 sch 1 pt 1.16
notified LR 29 September 2023
s 1, s 2 commenced 29 September 2023 (LA s 75 (1))
sch 1 pt 1.16 commenced 27 November 2023 (s 2 (1) and see Planning Act 2023 A2023-18, s 2 (2) and CN2023-10)

Building and Construction Legislation Amendment Act 2023 A2023-55 pt 6
notified LR 11 December 2023
s 1, s 2 commenced 11 December 2023 (LA s 75 (1))
s 37, s 38 commenced 12 December 2023 (s 2 (4))
s 39 commenced 11 March 2024 (s 2 (2))
pt 6 remainder commenced 11 December 2024 (s 2 (5))

Building and Construction Legislation Amendment Act 2025 A2025-5 pt 4
notified LR 31 March 2025
s 1, s 2 commenced 31 March 2025 (LA s 75 (1))
pt 4 commenced 1 April 2025 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Statute Law Amendment Act 2025 A2025-29 sch 3 pt 3.20, sch 4 pt 4.38

notified LR 6 November 2025
s 1, s 2 commenced 6 November 2025 (LA s 75 (1))
sch 3 pt 3.20, sch 4 pt 4.38 commenced 16 November 2025 (s 2 (1), (9))

Building and Construction Legislation Amendment Act 2026 A2026-2 pt 4

notified LR 16 February 2026
s 1, s 2 commenced 16 February 2026 (LA s 75 (1))
pt 4 commenced 23 February 2026 (s 2 (1))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

4 Amendment history

Commencement
s 2 om LA s 89 (4)

What is a *construction occupation*?
s 7 sub A2006-16 amdt 1.28
am A2010-8 s 4; A2010-32 s 16; pars renum R21 LA; A2014-53 s 14; pars renum R37 LA; A2025-5 s 14; pars renum R68 LA

Who is an *asbestos assessor*?
s 7A ins A2006-16 amdt 1.28
om A2014-53 s 15

What is an *asbestos removalist*?
s 7B ins A2006-16 amdt 1.28
om A2014-53 s 16

What is a *builder*?
s 8 am A2006-16 amdt 1.29; A2009-20 amdt 3.41; A2015-12 ss 34-36

What is a *building assessor*?
s 8A ins A2010-32 s 17
am A2014-10 s 4

What is a *building surveyor*?
s 9 sub A2010-8 s 5
am A2010-24 ss 27-29; ss, pars renum R24 LA

What is a *gasfitter*?
s 12 am A2023-55 s 36

What is a *gas appliance worker*?
s 12A ins A2014-38 s 5

What is a *plumbing plan certifier*?
s 14 am A2010-8 s 6

What is a *works assessor*?
s 14A ins A2010-8 s 7
am A2010-24 s 30; A2014-10 s 5

Classes of construction occupations
s 15 am A2017-4 amdt 3.26

What is an *operational Act*?
s 16 sub A2006-16 amdt 1.30
am A2010-8 s 8; A2010-24 s 31; A2013-31 s 27; A2023-36 amdt 1.95; A2026-2 s 37

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Construction practitioners licences
pt 3 hdg note om A2022-14 amdt 3.54

Licence applications
s 17 am A2006-15 amdt 1.19; A2019-48 s 22; ss renum R53 LA; A2025-29 amdt 4.38

Eligibility for licence
s 18 am A2019-48 s 23

Decision on licence application
s 19 am A2008-36 amdt 1.92; A2013-31 s 27; ss renum R28 LA; A2016-44 s 49, s 50; A2019-48 s 24; pars renum R53 LA

Licence conditions
s 21 am A2023-55 s 37

Licence conditions—licensee's previous licence cancelled for longer than 1 year etc
s 21A ins A2013-31 s 28

Eligibility for licence renewal
s 24A ins A2016-44 s 51

Licence renewal
s 25 am A2013-31 s 29; ss renum R28 LA; A2016-44 ss 52-55; A2019-48 s 25; pars renum R53 LA

Voluntary licence cancellation
s 26 am A2017-4 amdt 3.27

Entitlement to act as works assessor
s 26A ins A2010-8 s 9

Notification requirements for licensees
s 26B ins A2016-44 s 56
am A2026-2 s 38, s 39

Criminal liability of executive officers—s 26B
s 26C ins A2019-48 s 26
am A2025-29 amdt 3.59

Eligibility for licence—corporations and partnerships
s 28 hdg sub A2026-2 s 40
s 28 am A2005-34 amdt 1.22; A2016-44 ss 57-59; A2019-48 ss 27-29; ss renum R55 LA; A2026-2 s 41

Nominees of corporations or partnerships
s 28A ins A2026-2 s 42

Resignation of nominee
s 29 am A2017-4 amdt 3.28

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Revocation of nominee's appointment
s 30 am A2017-4 amdt 3.28

Rectification orders, enforceable undertakings and other obligations on licensees
pt 4 hdg sub A2019-48 s 30

Preliminary
div 4.1 hdg ins A2019-48 s 30

Definitions—pt 4
s 33 hdg sub A2019-48 s 31
s 33 def ***entity*** ins A2019-48 s 32
def ***rectification undertaking*** ins A2019-48 s 32

Rectification orders and other obligations on licensees
div 4.2 hdg ins A2019-48 s 33

Rectification orders—exercise of registrar's powers
s 33A ins A2007-26 amdt 1.87
(2)-(4) exp 29 February 2008 (s 33A (4) (LA s 88 declaration applies))
am A2010-24 s 32; A2023-36 amdt 1.96, amdt 1.97

Intention to make rectification order
s 34 am A2013-31 s 30; A2014-2 s 14; A2019-48 ss 34-36

When rectification order may be made
s 35 am A2005-34 amdt 1.23; A2016-44 s 60; A2019-48 s 37, s 38

Considerations for deciding when rectification order appropriate
s 36 hdg sub A2019-48 s 39
s 36 am A2007-26 amdt 1.88
(4)-(6) exp 29 February 2008 (s 36 (6) (LA s 88 declaration applies))
am A2010-24 s 33; A2023-36 amdt 1.98, amdt 1.99

Rectification order inappropriate
s 37 am A2008-36 amdt 1.93; A2014-2 s 15

Rectification orders
s 38 am A2013-31 ss 31-33; ss renum R28 LA; A2019-48 s 40; ss renum R53 LA

Rectification order—licensee or former licensee wound up etc before order made
s 39A ins A2019-48 s 41
am A2026-2 s 43, s 44

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Rectification order—licensee or former licensee wound up etc after order made

s 39B hdg	sub A2026-2 s 45
s 39B	ins A2019-48 s 41
	am A2026-2 s 46

Rectification order offence

s 40	am A2014-2 s 16

Failure to comply with order

s 41	am A2008-36 amdt 1.94

Protection of authorised licensees from liability

s 46	am A2008-36 amdt 1.95

Licensee to give evidence of insurance

s 47	am A2025-29 amdt 4.38

Licensee must comply with determinations about training

s 47A	ins A2013-31 s 34

Rectification undertakings

div 4.3 hdg	ins A2019-48 s 42

Registrar may accept undertakings

s 47B	ins A2019-48 s 42

Notice of decision and reasons for decision

s 47C	ins A2019-48 s 42

When rectification undertaking becomes enforceable

s 47D	ins A2019-48 s 42

Withdrawal or variation of rectification undertaking

s 47E	ins A2019-48 s 42

Ending rectification undertaking

s 47F	ins A2019-48 s 42

Undertaking not admission of fault etc

s 47G	ins A2019-48 s 42

Contravention of rectification undertaking

s 47H	ins A2019-48 s 42

Proceeding for contravention or alleged contravention

s 47I	ins A2019-48 s 42

Rectification undertaking offence

s 47J	ins A2019-48 s 42

Automatic licence suspension and occupational discipline

pt 5 hdg	sub A2008-36 amdt 1.96

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Automatic suspension of individual licence
s 48 am A2009-49 amdt 3.22

Automatic suspension of corporate licence
s 49 am A2016-44 s 61; A2026-2 s 47

Automatic suspension of licence—no nominee
s 50A ins A2016-44 s 62
am A2026-2 s 48

Automatic suspension of licence—construction occupations
s 51 am A2006-15 amdt 1.19
sub A2010-8 s 10

Automatic suspension of licence—occupation classes
s 52 am A2006-15 amdt 1.19
sub A2010-8 s 10

Suspension of licence—public safety
s 52A ins A2010-32 s 18
am A2014-53 s 17

End of licence suspension
s 53 hdg sub A2010-32 s 19
s 53 am A2008-36 amdt 1.97; A2010-8 s 11; A2010-32 s 20; A2016-44 s 63, s 64

Cancellation of licence following automatic suspension
s 53A ins A2019-48 s 43

Occupational discipline—licensees
div 5.2 hdg sub A2008-36 amdt 1.98

Meaning of *licensee*—div 5.2
s 54 am A2008-28 amdt 3.59
sub A2008-36 amdt 1.98

Grounds for occupational discipline
s 55 sub A2008-36 amdt 1.98
am A2013-31 s 35; A2016-44 s 65, s 66

Skill assessment of licensees
s 55A ins A2013-31 s 36
am A2014-48 amdt 1.8; A2017-4 amdt 3.29; A2019-48 s 44

Occupational discipline
s 56 hdg sub A2014-2 s 17
s 56 am A2006-15 amdt 1.6; A2007-26 amdt 1.89
sub A2008-36 amdt 1.98
mod SL2009-2 mod 1.1
mod lapsed 17 December 2009 (SL2009-2 mod 1.1 om by A2009-49 amdt 1.3)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

am A2009-49 amdt 1.11; A2014-2 s 18; A2019-48 s 45, s 46; ss renum R53 LA

Considerations before making occupational discipline orders
s 57 sub A2008-36 amdt 1.98
am A2013-31 s 37; A2014-2 s 19; A2019-48 ss 47-50

Occupational discipline orders—licensees
s 58 sub A2008-36 amdt 1.98
am A2016-44 s 67

Occupational discipline orders—directors or partners of licensees
s 58AA ins A2019-48 s 51

Occupational discipline orders—related licence of licensee
s 58A ins A2016-44 s 68

Interim licence suspension
s 59 am A2006-15 amdt 1.19
sub A2008-36 amdt 1.98
am A2016-44 s 69

Effect of interim suspension
s 60 am A2006-15 amdt 1.7
sub A2008-36 amdt 1.98
am A2016-44 s 70

Revocation of interim suspension
s 61 sub A2008-36 amdt 1.98

Builders licence affected by occupational discipline or other action
s 62 am A2006-15 amdt 1.8, amdt 1.19
sub A2008-36 amdt 1.98

Effect of non-renewal on suspended licence
s 63 sub A2008-36 amdt 1.98

Requirement to return surrendered licence
s 64 sub A2008-36 amdt 1.98

Licence cancellation for criminal activity
pt 5A hdg ins A2019-43 s 4

Cancellation orders
div 5A.1 hdg ins A2019-43 s 4

Meaning of *cancellation order*—div 5A.1
s 65 om A2008-36 amdt 1.98
ins A2019-43 s 4

Application for cancellation order
s 66 om A2008-36 amdt 1.99
ins A2019-43 s 4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Cancellation order
s 67 om A2008-36 amdt 1.99
ins A2019-43 s 4

Revoking cancellation order
s 68 om A2008-36 amdt 1.99
ins A2019-43 s 4

Criminal intelligence
div 5A.2 hdg ins A2019-43 s 4

Meaning of *criminal intelligence*—div 5A.2
s 69 om A2008-36 amdt 1.99
ins A2019-43 s 4

Disclosure of criminal intelligence
s 70 om A2008-36 amdt 1.99
ins A2019-43 s 4

Whether information is criminal intelligence—application and decision
s 71 om A2008-36 amdt 1.99
ins A2019-43 s 4

Confidentiality of criminal intelligence—ACAT
s 72 om A2008-36 amdt 1.99
ins A2019-43 s 4

Confidentiality of criminal intelligence—courts
s 73 om A2008-36 amdt 1.99
ins A2019-43 s 4

Delegation by chief police officer
s 74 om A2008-36 amdt 1.99
ins A2019-43 s 4

Disciplinary inquiries
div 5.3 hdg om A2008-36 amdt 1.99

Miscellaneous
div 5.4 hdg om A2008-36 amdt 1.99

Preliminary—pt 6
div 6.1 hdg ins A2014-10 s 6

Definitions—pt 6
s 75 sub A2014-10 s 6
def ***compliance auditor*** sub A2014-10 s 6
def ***inspector*** ins A2014-10 s 6
def ***officer*** ins A2014-10 s 6

Compliance auditors
div 6.2 hdg ins A2014-10 s 6

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Compliance auditors—appointment

s 76 hdg sub A2014-10 s 7

Compliance auditors—functions

s 77 hdg sub A2014-10 s 8

Compliance auditors—entry to premises

s 78 hdg (prev s 80 hdg) sub A2013-31 s 38; A2014-10 s 10

s 78 **orig s 78**
am A2005-20 amdt 3.91; ss renum R5 LA (see A2005-20 amdt 3.92)
om A2014-10 s 9
pres s 78
(prev s 80) am A2013-31 ss 39-43; ss renum R28 LA; A2014-10 s 11
renum as s 78 A2014-10 s 10
am A2017-4 amdt 3.30

Compliance auditors—production of documents

s 79 hdg (prev s 80B hdg) sub A2014-10 s 13

s 79 **orig s 79**
om A2014-10 s 9
pres s 79
(prev s 80B) ins A2013-31 s 44
renum as s 79 A2014-10 s 13

Non-compliance with s 79 notice

s 80 hdg (prev s 80C hdg) sub A2014-10 s 14

s 80 **orig s 80**
renum as s 78
pres s 80
(prev s 80C) ins A2013-31 s 44
am A2014-10 s 15, s 16
renum as s 80 A2014-10 s 14

Consent to entry

s 80A ins A2013-31 s 44
om A2014-10 s 12

Functions of compliance auditors—production of documents

s 80B renum as s 79

Non-compliance with s 80B notice

s 80C renum as s 80

Inspectors

div 6.3 hdg ins A2014-10 s 17

Inspectors—appointment

s 80CA ins A2014-10 s 17

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Inspectors—functions
s 80CB ins A2014-10 s 17

Inspectors—entry to premises
s 80CC ins A2014-10 s 17
am A2017-4 amdt 3.31

Inspectors—power to seize things
s 80CD ins A2014-10 s 17

Inspectors—receipt for things seized
s 80CE ins A2014-10 s 17

Access to things seized
s 80CF ins A2014-10 s 17

Return of things seized
s 80CG ins A2014-10 s 17

Identity cards—compliance auditors and inspectors
div 6.4 hdg ins A2014-10 s 17

Identity cards
s 80CH ins A2014-10 s 17

Functions not to be exercised before identity card shown
s 80CI ins A2014-10 s 17

Consent to entry
s 80CJ ins A2014-10 s 17
am A2017-4 amdt 3.32

Search warrants
div 6.5 hdg ins A2014-10 s 17

Warrants generally
s 80CK ins A2014-10 s 17

Warrants—application made other than in person
s 80CL ins A2014-10 s 17
am A2018-33 amdt 1.10, amdt 1.11

Search warrants—announcement before entry
s 80CM ins A2014-10 s 17
am A2022-14 amdt 3.55

Details of search warrant to be given to occupier etc
s 80CN ins A2014-10 s 17

Occupier entitled to be present during search etc
s 80CO ins A2014-10 s 17

Moving things to another place for examination or processing
s 80CP ins A2014-10 s 17

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Information requirements
pt 6A hdg ins A2013-31 s 45

Meaning of *information requirement*—pt 6A
s 80D ins A2013-31 s 45

Information requirements
s 80E ins A2013-31 s 45
am A2016-44 s 71

Treatment of documents provided under information requirement
s 80F ins A2013-31 s 45

Contravention of information requirement
s 80G ins A2013-31 s 45

No nominee
s 82 am A2006-15 amdt 1.9

Advertising without details
s 83 mod SL2004-36 reg 52 (as am by SL2004-44 reg 5; om R4 LA)
(3)-(5) exp 9 March 2005 (s 83 (5))
am A2005-34 amdt 1.24, amdt 1.25; A2006-15 amdt 1.10

Certain entities not to provide construction services
s 84 am A2006-15 amdt 1.11, amdt 1.12; A2023-4 ss 4-7; ss renum R60 LA

Allowing unlicensed people to provide construction service
s 85 am A2006-15 amdt 1.13, amdt 1.14; A2023-4 ss 8-11; ss renum R60 LA

Surrender of licences
s 86 am A2006-15 amdt 1.15

Breach of licence conditions or codes
s 87 am A2006-15 amdt 1.16; A2016-44 s 72

Notification of cancellation of insurance
s 88 am A2006-15 amdt 1.19; A2010-8 s 12

Definitions—pt 8
s 89 sub A2008-36 amdt 1.100
def ***demerit disciplinary ground*** om A2008-36 amdt 1.100
def ***demerit ground for occupational discipline*** ins A2008-36 amdt 1.100
def ***demerit points register*** sub A2008-36 amdt 1.100
def ***disciplinary incident*** sub A2008-36 amdt 1.100
def ***infringement notice*** sub A2008-36 amdt 1.100
def ***licensee*** am A2006-15 amdt 1.19
sub A2008-36 amdt 1.100

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Recording demerit points
s 91 am A2008-36 amdt 1.101; A2009-49 amdt 3.23

When demerit points are *incurred*
s 92 am A2008-36 amdt 1.101

Deleting demerit points
s 93 am A2008-36 amdt 1.102

Consequences of incurring demerit points—licensees
s 95 am A2008-36 amdt 1.103

Security and disclosure of information in demerit points register
s 102 am A2014-49 amdt 1.7; A2016-55 amdt 4.5

Construction occupations registrar
s 103 am A2006-16 amdt 1.31; A2010-8 s 13; pars renum R20 LA; A2010-32 s 21; pars renum R21 LA; A2011-22 amdt 1.101; A2014-53 s 18; pars renum R37 LA; A2014-38 s 6; pars renum R39 LA; A2017-4 amdt 3.33

Registrar's functions
s 104 am A2008-36 amdt 1.104, amdt 1.105; A2011-23 s 6; A2010-24 s 34; A2011-23 s 7

Ministerial statement of expectations
s 104A ins A2010-32 s 22
am A2011-23 s 8; A2013-31 s 46, s 47
(6)-(8) exp 27 August 2014 (s 104A (8))
om A2016-44 s 73
ins A2020-25 s 18
am A2025-29 amdt 4.38

Determinations about training
s 104B ins A2013-31 s 48
am A2025-29 amdt 4.38

Deputy registrars
s 106 am A2013-31 s 49; A2017-4 amdt 3.34

The register
s 107 am A2014-10 s 18

Register—public information
s 107A ins A2014-10 s 19
am A2019-48 s 52, s 53; pars renum R53 LA; A2019-43 s 5, s 6; pars renum R54 LA

Recording rectification orders
s 108 am A2008-36 amdt 1.106; A2019-48 s 54

Recording contravention of rectification orders
s 109 am A2006-15 amdt 1.19

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Recording interim licence suspension
s 110 am A2008-36 amdt 1.107

Removal of information from register
s 111 am A2006-15 amdt 1.19

Register of rectification undertakings
s 111A ins A2019-48 s 55

Annual report by registrar
s 112 am A2016-52 amdt 1.50

Establishment of advisory boards
s 114 (3), (4) exp 1 September 2005 (s 114 (4))
am A2023-55 s 38

Advisory board functions
s 116 am A2008-36 amdt 1.108
sub A2016-44 s 74

Who may complain?
s 117 am A2007-26 amdt 1.90

Form of complaint
s 118 am A2007-26 amdt 1.91; A2016-18 amdt 2.3

Further information about complaint etc
s 120 am A2007-26 amdt 1.92; A2016-18 amdt 3.63

No further action
s 122 am A2007-26 amdt 1.93

Action after investigating complaint
s 123 am A2007-26 amdt 1.94, amdt 1.95; A2008-36 amdt 1.109, amdt 1.110
mod SL2009-2 mod 1.2
mod lapsed 17 December 2009 (SL2009-2 mod 1.2 om by A2009-49 amdt 1.3)
am A2009-49 amdt 1.12; A2020-25 s 19, s 20; pars renum R58 LA; A2023-36 amdt 1.100

Information sharing
pt 11AA hdg ins A2010-32 s 23

Definitions—pt 11AA
s 123AA ins A2010-32 s 23
def ***law of another jurisdiction*** ins A2018-4 s 4
def ***non-territory agency*** ins A2018-4 s 4
def ***public safety agency*** ins A2010-32 s 23
am A2011-22 amdt 1.102; A2011-55 amdt 1.3; A2023-8 amdt 2.4; pars renum R66 LA; A2025-5 s 15; pars renum R68 LA

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***public safety information*** ins A2010-32 s 23

Sharing public safety information—territory agencies
s 123AB ins A2010-32 s 23
sub A2018-4 s 5

Sharing public safety information—non-territory agencies
s 123ABA ins A2018-4 s 5

Energy efficiency rating statements
pt 11AB hdg ins A2010-32 s 23

Meaning of *energy efficiency rating statement*
s 123AC ins A2010-32 s 23

Energy efficiency rating statement
s 123AD ins A2010-32 s 23

Conflict of interest—building assessors
s 123AE ins A2010-32 s 23
am A2025-29 amdt 4.38

Notification and review of decisions
pt 11A hdg ins A2008-36 amdt 1.111

Meaning of *reviewable decision*—pt 11A
s 123A ins A2008-36 amdt 1.111

Reviewable decision notices
s 123B ins A2008-36 amdt 1.111
am A2025-29 amdt 4.38

Review of reviewable decisions
s 123C ins A2008-36 amdt 1.111
am A2025-29 amdt 4.38

Review of decisions
s 124 am A2006-15 amdt 1.19
om A2008-36 amdt 1.112

Protection of registrar, advisory boards etc
s 125 am A2008-36 amdt 1.113

Codes of practice
s 126A ins A2016-44 s 75
am A2022-14 amdt 3.56; A2025-29 amdt 4.38

Directors liability for amounts
s 126B ins A2019-48 s 56

Determination of fees
s 127 am A2017-4 amdt 3.35; A2025-29 amdt 4.38

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Approved forms
s 128 am A2025-29 amdt 4.38

Applying, adopting or incorporating documents in regulations
s 128A ins A2025-5 s 16
am A2025-29 amdt 3.60, amdt 3.61; pars renum R70 LA

Regulation-making power
s 129 am A2016-44 s 76, s 77; A2025-5 s 17

Repeals and transitional provisions
pt 13 hdg exp 1 September 2005 (s 153 (1))

Definitions for pt 13
s 130 exp 1 September 2005 (s 153 (1))

Review of Act
s 131 om A2017-4 amdt 3.36

Legislation repealed
s 132 om LA s 89 (3)

End of licences or registration of people taken to be licensed or registered
s 133 exp 1 September 2005 (s 153 (1))

Building surveyors
s 134 exp 1 September 2005 (s 153 (1))

Electricians
s 135 table renum R6 LA
exp 1 September 2005 (s 153 (1))

Plumbers, drainers and gasfitters
s 136 exp 1 September 2005 (s 153 (1))

Fire sprinkler's licence
s 137 mod SL2004-36 reg 53 (as am by SL2004-44 reg 5)
mod lapsed 27 July 2005 when s 53 SL2004-36 om by A2005-34 amdt 1.38
am A2005-34 amdt 1.26
exp 1 September 2005 (s 153 (1))

Plumbing plan certifiers
s 138 exp 1 September 2005 (s 153 (1))

Suspensions under repealed Act
s 139 exp 1 September 2005 (s 153 (1))

Suspended electricians
s 140 exp 1 September 2005 (s 153 (1))

Application of rectification orders
s 141 am A2005-34 amdt 1.27
exp 1 September 2005 (s 153 (1))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Applications for registration under repealed Act
s 142 exp 1 September 2005 (s 153 (1))

Former licensee in s 54 (3)
s 143 am A2005-34 amdt 1.28
exp 1 September 2005 (s 153 (1))

Applications for builders' licences under Building Act
s 144 exp 1 September 2005 (s 153 (1))

Eligible applicants for builders' licences without qualifications
s 145 exp 1 September 2005 (s 153 (1))

Current builder's licence
s 146 exp 1 September 2005 (s 153 (1))

Applications for licence or permit under Electricity Safety Act
s 147 exp 1 September 2005 (s 153 (1))

Applications for licence or certificate of competency under Plumbers, Drainers and Gasfitters Board Act
s 148 exp 1 September 2005 (s 153 (1))

Contraventions before commencement day
s 149 mod SL2004-36 s 52 (as am by SL2005-18 s 4)
exp 1 September 2005 (s 153 (1))

Meaning of *demerit disciplinary ground* for pt 8
s 150 exp 1 September 2005 (s 153 (1))

Supervision by nominees—Act, s 28 (3) (b)
s 151 exp 1 September 2004 (s 151 (5))
ins as mod SL2004-36 reg 54 (as am by SL2004-44 reg 5)
mod lapsed 27 July 2005 when s 54 SL2004-36 om by A2005-34 amdt 1.38

Water and Sewerage Act, s 49 (5)
s 151A ins as mod SL2004-36 reg 54 (as am by SL2004-44 reg 5)
mod lapsed 27 July 2005 when s 54 SL2004-36 om by A2005-34 amdt 1.38

Transitional regulations
s 152 exp 1 September 2005 (s 153 (1))

Expiry of pt 13
s 153 exp 1 September 2005 (s 153 (1))

Transitional—Construction Occupations Legislation Amendment Act 2006
pt 14 hdg ins A2006-15 amdt 1.17
om R33 LA

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Transitional—conduct engaged in before 1/9/04

s 154 ins A2006-15 amdt 1.17
am A2008-36 amdt 1.114
exp 31 August 2014 (s 154 (3) (LA s 88 declaration applies))

Transitional—Asbestos Legislation Amendment Act 2006

pt 15 hdg ins A2006-16 amdt 1.32
exp 18 November 2007 (s 157)

Effect of building licence authorising building work involving asbestos

s 155 ins A2006-16 amdt 1.32
exp 18 November 2007 (s 157)

Renewal of building surveyor licences

s 156 ins A2006-16 amdt 1.32
exp 18 November 2007 (s 157)

Expiry—pt 15

s 157 ins A2006-16 amdt 1.32
exp 18 November 2007 (s 157)

Transitional—Construction Occupations Legislation Amendment Act 2010 and Construction Occupations Legislation (Exemption Assessment) Amendment Act 2010

pt 16 hdg ins A2010-24 s 35
exp 8 July 2013 (s 160)

Meaning of *commencement day*—pt 16

s 158 ins A2010-24 s 35
exp 8 July 2013 (s 160)

Transitional regulations

s 159 ins A2010-24 s 35
exp 8 July 2013 (s 160)

Expiry—pt 16

s 160 ins A2010-24 s 35
exp 8 July 2013 (s 160)

Transitional—energy efficiency rating statements

pt 17 hdg ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))

General

div 17.1 hdg ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))

Meaning of *commencement day*—pt 17

s 161 ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Transitional effect—Disapplication of Legislation Act, s 88
s 162 ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))

Expiry—pt 17
s 163 ins A2010-32 s 24
(2) exp 1 March 2012 (s 163 (2))
exp 1 March 2014 (s 163 (1))

Energy efficiency rating statements
div 17.2 hdg ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))

Definitions—div 17.2
s 164 ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))
def ***old energy efficiency rating*** ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))
def ***old energy efficiency rating statement*** ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))

Transitional—status of old energy efficiency rating
s 165 ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))

Transitional—status of old energy efficiency rating statement
s 166 ins A2010-32 s 24
exp 1 March 2014 (s 163 (1))

Registered assessors
div 17.3 hdg ins A2010-32 s 24
exp 1 March 2012 (s 163 (2))

Meaning of *registered assessor*—div 17.3
s 167 ins A2010-32 s 24
exp 1 March 2012 (s 163 (2))

Transitional—status of registered assessor
s 168 ins A2010-32 s 24
exp 1 March 2012 (s 163 (2))

Transitional—endorsement of licence to operate software
s 169 ins A2010-32 s 24
exp 1 March 2012 (s 163 (2))

Transitional—new licence application information
pt 18 hdg ins A2013-31 s 50
om R32 LA

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Certain information to be given to registrar
s 170 ins A2013-31 s 50
exp 27 August 2014 (s 170 (5))

Transitional—rectification orders
pt 19 hdg ins A2014-2 s 20
exp 6 March 2015 (s 173)

Meaning of *commencement day*—pt 19
s 171 ins A2014-2 s 20
exp 6 March 2015 (s 173)

Further notice about making rectification order
s 172 ins A2014-2 s 20
exp 6 March 2015 (s 173)

Expiry—pt 19
s 173 ins A2014-2 s 20
exp 6 March 2015 (s 173)

Transitional—Construction and Energy Efficiency Legislation Amendment Act 2014 (No 2)
pt 20 hdg ins A2014-10 s 20
exp 18 April 2015 (s 181)

Conduct engaged in before commencement of amending Act
s 180 ins A2014-10 s 20
exp 18 April 2015 (s 181)

Expiry—pt 20
s 181 ins A2014-10 s 20
exp 18 April 2015 (s 181)

Transitional—Gas Safety Legislation Amendment Act 2014
pt 21 hdg ins A2014-38 s 7
om R67 LA

Definitions—pt 21
s 182 ins A2014-38 s 7
exp 30 March 2018 (s 190)
def ***code*** ins A2014-38 s 7
exp 30 March 2018 (s 190)
def ***commencement day*** ins A2014-38 s 7
exp 30 March 2018 (s 190)

Validation of code
s 183 ins A2014-38 s 7
exp 30 March 2018 (s 190)

Accreditation under code
s 184 ins A2014-38 s 7
exp 30 March 2018 (s 190)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Certain information to be given to registrar
s 185 ins A2014-38 s 7
exp 30 March 2018 (s 190)

Pending applications for accreditation
s 186 ins A2014-38 s 7
exp 30 March 2018 (s 190)

Pending suspension or cancellation of accreditation
s 187 ins A2014-38 s 7
exp 30 March 2018 (s 190)

Review rights preserved
s 188 ins A2014-38 s 7
exp 30 March 2018 (s 190)

Conduct engaged in before commencement day
s 189 ins A2014-38 s 7
am A2018-42 amdt 3.32
exp 30 March 2025 (s 189 (2))

Expiry—pt 21
s 190 ins A2014-38 s 7
exp 30 March 2018 (s 190)

Transitional—Building and Construction Legislation Amendment Act 2016
pt 22 hdg ins A2016-44 s 78
exp 20 August 2017 (s 193)

Definitions—pt 22
s 191 ins A2016-44 s 78
exp 20 August 2017 (s 193)
def ***commencement day*** ins A2016-44 s 78
exp 20 August 2017 (s 193)
def ***previous Act*** ins A2016-44 s 78
exp 20 August 2017 (s 193)

End of suspension and interim suspension
s 192 ins A2016-44 s 78
exp 20 August 2017 (s 193)

Expiry—pt 22
s 193 ins A2016-44 s 78
exp 20 August 2017 (s 193)

Transitional—Building and Construction Legislation Amendment Act 2023
pt 23 hdg ins A2023-55 s 39
exp 11 September 2024 (s 195)

Transitional—distributed energy resource work
s 194 ins A2023-55 s 39
exp 11 September 2024 (s 195)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Expiry—pt 23

s 195 ins A2023-55 s 39
exp 11 September 2024 (s 195)

Validation—gas appliance workers

pt 24 hdg ins A2025-5 s 18
exp 1 April 2025 (s 197)

Validation of gas appliance worker as construction occupation

s 196 ins A2025-5 s 18
exp 1 April 2025 (s 197)

Expiry—pt 24

s 197 ins A2025-5 s 18
exp 1 April 2025 (s 197)

New regulations

sch 1 om R1 LA

Dictionary

dict am A2008-36 amdt 1.115; A2009-49 amdt 3.24; A2010-32 s 25; A2011-22 amdt 1.103; A2013-31 s 51; A2017-4 amdt 3.37; A2023-36 amdt 1.101
def ***AS 3500*** mod SL2004-36 reg 55 (as am by SL2004-44 reg 5)
sub A2005-34 amdt 1.29
am A2017-4 amdt 3.38
def ***asbestos assessment service*** ins A2006-16 amdt 1.33
om A2014-53 s 19
def ***asbestos assessor*** ins A2006-16 amdt 1.33
om A2014-53 s 19
def ***asbestos removalist*** ins A2006-16 amdt 1.33
om A2014-53 s 19
def ***asbestos removal service*** ins A2006-16 amdt 1.33
om A2014-53 s 19
def ***building assessment work*** ins A2014-10 s 21
def ***building assessor*** ins A2010-32 s 26
def ***building certification service*** ins A2009-20 amdt 3.42
def ***building service*** ins A2009-20 amdt 3.42
def ***cancellation order*** ins A2019-43 s 7
def ***code of practice*** ins A2010-32 s 26
am A2016-44 s 79
def ***compliance auditor*** sub A2014-10 s 22
def ***conduct*** ins A2006-15 amdt 1.18
def ***construction service*** ins A2009-20 amdt 3.42
def ***corresponding law*** ins A2013-31 s 52
def ***criminal intelligence*** ins A2019-43 s 7
def ***daily ACT newspaper*** om A2009-20 amdt 3.43
def ***demerit disciplinary ground*** om A2017-4 amdt 3.39

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***demerit ground for occupational discipline*** ins A2017-4 amdt 3.40
def ***director*** ins A2025-5 s 19
def ***disciplinary action*** om A2008-36 amdt 1.116
def ***disciplinary ground*** om A2008-36 amdt 1.116
def ***disciplinary notice*** om A2008-36 amdt 1.116
def ***electrical wiring service*** ins A2009-20 amdt 3.44
def ***energy efficiency rating statement*** ins A2010-32 s 26
def ***engage*** ins A2006-15 amdt 1.18
def ***entity*** ins A2021-12 amdt 3.10
def ***exemption assessment service*** ins A2017-4 amdt 3.40
def ***former licensee*** am A2006-15 amdt 1.19
def ***gas appliance service*** ins A2017-4 amdt 3.40
def ***gas appliance worker*** ins A2017-4 amdt 3.40
def ***gasfitting service*** ins A2009-20 amdt 3.44
def ***ground for occupational discipline*** ins A2008-36 amdt 1.117
def ***information requirement*** ins A2013-31 s 52
def ***inquiry*** om A2008-36 amdt 1.118
def ***inspector*** ins A2014-10 s 23
def ***licensee*** sub A2008-36 amdt 1.119
def ***law of another jurisdiction*** ins A2018-4 s 6
def ***mandatory requirement*** ins A2017-4 amdt 3.42
def ***mandatory requirements*** om A2017-4 amdt 3.41
def ***nominee*** am A2017-4 amdt 3.43; A2026-2 s 49
def ***non-territory agency*** ins A2018-4 s 6
def ***occupation class*** am A2017-4 amdt 3.44
def ***occupational discipline*** ins A2008-36 amdt 1.120
def ***occupier*** ins A2013-31 s 52
def ***officer*** ins A2014-10 s 23
def ***plumbing plan certification service*** ins A2009-20 amdt 3.44
def ***plumbing service*** ins A2009-20 amdt 3.44
def ***public safety agency*** ins A2010-32 s 26
def ***public safety information*** ins A2010-32 s 26
def ***rectification undertaking*** ins A2021-12 amdt 3.10
def ***reviewable decision*** ins A2008-36 amdt 1.121
def ***reviewable decisions*** om A2008-36 amdt 1.121
def ***sanitary drainage service*** ins A2009-20 amdt 3.44
def ***storey*** om A2017-4 amdt 3.45
def ***works assessment service*** ins A2010-8 s 14
def ***works assessment work*** ins A2014-10 s 23
am A2023-36 amdt 1.102
def ***works assessor*** ins A2010-8 s 14

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Sept 2004	1 Sept 2004– 1 Sept 2004	not amended	new regulations
R2 2 Sept 2004	2 Sept 2004– 8 Sept 2004	not amended	commenced expiry
R3 9 Sept 2004	9 Sept 2004– 9 Mar 2005	not amended	modifications by SL2004-36 as am by SL2004-44
R4 10 Mar 2005	10 Mar 2005– 1 June 2005	not amended	commenced expiry
R5 2 June 2005	2 June 2005– 26 July 2005	A2005-20	amendments by A2005-20
R6 (RI) 28 July 2005	27 July 2005– 26 Aug 2005	A2005-34	amendments by A2005-34 reissue for textual correction in s 83
R7 27 Aug 2005	27 Aug 2005– 1 Sept 2005	A2005-34	modifications by SL2004-36 as am by SL2005-18
R8 (RI) 9 May 2006	2 Sept 2005– 30 June 2006	A2005-34	commenced expiry reissue for republication correction
R9 1 July 2006	1 July 2006– 31 Aug 2006	A2006-24	amendments by A2006-16 as amended by A2006-24

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R10 1 Sept 2006	1 Sept 2006– 17 Nov 2006	A2006-24	amendments by A2006-15
R11 18 Nov 2006	18 Nov 2006– 18 Nov 2007	A2006-16	amendments by A2006-16
R12 19 Nov 2007	19 Nov 2007– 29 Nov 2007	A2007-26	commenced expiry
R13 30 Nov 2007	30 Nov 2007– 29 Feb 2008	A2007-26	commenced expiry
R14 1 Mar 2008	1 Mar 2008– 30 Mar 2008	A2007-26	commenced expiry
R15* 31 Mar 2008	31 Mar 2008– 25 Aug 2008	A2007-26	amendments by A2007-26
R16 26 Aug 2008	26 Aug 2008– 1 Feb 2009	A2008-28	amendments by A2008-28
R17 2 Feb 2009	2 Feb 2009– 21 Sept 2009	SL2009-2	amendments by A2008-36 and modifications by SL2009-2
R18 22 Sept 2009	22 Sept 2009– 16 Dec 2009	A2009-20	amendments by A2009-20
R19 17 Dec 2009	17 Dec 2009– 3 Mar 2010	A2009-49	amendments by A2009-49
R20 4 Mar 2010	4 Mar 2010– 28 Feb 2011	A2010-8	amendments by A2010-8
R21 1 Mar 2011	1 Mar 2011– 30 June 2011	A2010-32	amendments by A2010-32
R22 1 July 2011	1 July 2011– 6 July 2011	A2011-22	amendments by A2011-22
R23 7 July 2011	7 July 2011– 7 July 2011	A2011-23	amendments by A2011-23
R24 8 July 2011	8 July 2011– 31 Dec 2011	A2011-23	amendments by A2010-24 and A2011-23

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R25 1 Jan 2012	1 Jan 2012– 1 Mar 2012	A2011-55	amendments by A2011-55
R26 2 Mar 2012	2 Mar 2012– 8 July 2013	A2011-55	expiry of transitional provisions (s 163 (2) and div 17.3)
R27 9 July 2013	9 July 2013– 26 Aug 2013	A2011-55	expiry of transitional provisions (pt 16)
R28 27 Aug 2013	27 Aug 2013– 1 Mar 2014	A2013-31	amendments by A2013-31
R29 2 Mar 2014	2 Mar 2014– 5 Mar 2014	A2013-31	expiry of transitional provisions (pt 17)
R30 6 Mar 2014	6 Mar 2014– 17 Apr 2014	A2014-2	amendments by A2014-2
R31 18 Apr 2014	18 Apr 2014 27 Aug 2014	A2014-10	amendments by A2014-10
R32 28 Aug 2014	28 Aug 2014 31 Aug 2014	A2014-10	expiry of provision (s 104A (6)-(8)) and transitional provision (s 170)
R33 1 Sept 2014	1 Sept 2014– 16 Oct 2014	A2014-10	expiry of transitional provisions (pt 14)
R34 17 Oct 2014	17 Oct 2014– 16 Nov 2014	A2014-10	amendments by A2014-10
R35 17 Nov 2014	17 Nov 2014– 19 Nov 2014	A2014-49	amendments by A2014-49
R36 20 Nov 2014	20 Nov 2014– 31 Dec 2014	A2014-49	amendments by A2014-49
R37 1 Jan 2015	1 Jan 2015– 6 Mar 2015	A2014-53	amendments by A2014-53

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R38 7 Mar 2015	7 Mar 2015– 29 Mar 2015	A2014-53	expiry of transitional provisions (pt 19)
R39 30 Mar 2015	30 Mar 2015– 18 Apr 2015	A2014-53	amendments by A2014-38
R40 19 Apr 2015	19 Apr 2015– 20 May 2015	A2014-53	expiry of transitional provisions (pt 20)
R41 21 May 2015	21 May 2015– 26 Apr 2016	A2015-12	amendments by A2015-12
R42 27 Apr 2016	27 Apr 2016– 19 Aug 2016	A2016-18	amendments by A2016-18
R43 20 Aug 2016	20 Aug 2016– 31 Aug 2016	A2016-44	amendments by A2016-44
R44 1 Sept 2016	1 Sept 2016– 8 Mar 2017	A2016-52	amendments by A2016-52
R45 9 Mar 2017	9 Mar 2017– 23 May 2017	A2017-4	amendments by A2017-4
R46 24 May 2017	24 May 2017– 20 Aug 2017	A2017-14	updated endnotes as amended by A2017-14
R47 21 Aug 2017	21 Aug 2017– 31 Dec 2017	A2017-14	expiry of transitional provisions (pt 22)
R48 1 Jan 2018	1 Jan 2018– 1 Mar 2018	A2017-14	amendments bv A2016-55 as amended by A2017-14
R49 2 Mar 2018	2 Mar 2018– 30 Mar 2018	A2018-4	amendments by A2018-4
R50 31 Mar 2018	31 Mar 2018– 22 Oct 2018	A2018-4	expiry of transitional provisions (ss 182-188 and s 190)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R51 23 Oct 2018	23 Oct 2018– 21 Nov 2018	A2018-33	amendments by A2018-33
R52 22 Nov 2018	22 Nov 2018– 9 Dec 2019	A2018-42	amendments by A2018-42
R53 10 Dec 2019	10 Dec 2019– 5 June 2020	A2019-48	amendments by A2019-48
R54 6 June 2020	6 June 2020– 8 June 2020	A2019-48	amendments by A2019-43
R55 9 June 2020	9 June 2020– 24 June 2020	A2019-48	amendments by A2019-48
R56 25 June 2020	25 June 2020– 22 June 2021	A2020-25	amendments by A2020-25
R57 23 June 2021	23 June 2021– 23 June 2022	A2021-12	amendments by A2021-12
R58 24 June 2022	24 June 2022– 23 Aug 2022	A2021-12	amendments by A2020-25
R59 24 Aug 2022	24 Aug 2022– 15 Feb 2023	A2022-14	amendments by A2022-14
R60 16 Feb 2023	16 Feb 2023– 26 Nov 2023	A2023-4	amendments by A2023-4
R61 27 Nov 2023	27 Nov 2023– 11 Dec 2023	A2023-36	amendments by A2023-36
R62 12 Dec 2023	12 Dec 2023– 10 Mar 2024	A2023-55	amendments by A2023-55
R63 11 Mar 2024	11 Mar 2024– 11 Sept 2024	A2023-55	amendments by A2023-55
R64 12 Sept 2024	12 Sept 2024– 10 Dec 2024	A2023-55	expiry of transitional provisions (pt 23)
R65 11 Dec 2024	11 Dec 2024– 5 Mar 2025	A2023-55	amendments by A2023-55

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R66 6 Mar 2025	6 Mar 2025– 30 Mar 2025	A2023-55	amendments by A2023-8 as amended by A2023-20 and A2024-21
R67 31 Mar 2025	31 Mar 2025– 31 Mar 2025	A2023-55	expiry of transitional provision (s 189)
R68 1 Apr 2025	1 Apr 2025– 1 Apr 2025	A2025-5	amendments by A2025-5
R69 2 Apr 2025	2 Apr 2025– 15 Nov 2025	A2025-5	expiry of validation provisions (pt 24)
R70 16 Nov 2025	16 Nov 2025– 22 Feb 2026	A2025-29	amendments by A2025-29

6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation 'exp' followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

© Australian Capital Territory 2026

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au