

2014

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for the Environment and Sustainable Development)

# Construction and Energy Efficiency Legislation Amendment Bill 2014

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(As presented)

(Minister for the Environment and Sustainable Development)

# Construction and Energy Efficiency Legislation Amendment Bill 2014

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## A Bill for

An Act to amend legislation about construction and energy efficiency

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Construction and Energy Efficiency Legislation*  
4 *Amendment Act 2014*.

5 **2 Commencement**

6 (1) This Act (other than sections 18 and 19) commences on the day  
7 after its notification day.

8 *Note* The naming and commencement provisions automatically commence on  
9 the notification day (see [Legislation Act](#), s 75 (1)).

10 (2) Sections 18 and 19 commence on a day fixed by the Minister by  
11 written notice.

12 *Note 1* A single day or time may be fixed, or different days or times may be  
13 fixed, for the commencement of different provisions (see [Legislation](#)  
14 [Act](#), s 77 (1)).

15 *Note 2* If a provision has not commenced within 6 months beginning on the  
16 notification day, it automatically commences on the first day after that  
17 period (see [Legislation Act](#), s 79).

18 **3 Legislation amended**

19 This Act amends the following legislation:

- 20 • [Construction Occupations \(Licensing\) Act 2004](#)  
21 • [Construction Occupations \(Licensing\) Regulation 2004](#)  
22 • [Electricity Safety Act 1971](#)  
23 • [Energy Efficiency \(Cost of Living\) Improvement Act 2012](#).

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1 **Part 2** **Construction Occupations**  
2 **(Licensing) Act 2004**

3 **4** **What is a *building assessor*?**  
4 **Section 8A (3) and note**

5 *omit*

6 **5** **What is a *works assessor*?**  
7 **Section 14A (3) and note**

8 *omit*

9 **6** **Section 75**

10 *substitute*

11 **Division 6.1** **Preliminary—pt 6**

12 **75** **Definitions—pt 6**

13 In this part:

14 *compliance auditor* means a compliance auditor appointed under  
15 section 76.

16 *inspector* means an inspector appointed under section 80CA.

17 *officer* means a compliance auditor or an inspector.

18 **Division 6.2** **Compliance auditors**

- 1 **7 Section 76 heading**
- 2 *substitute*
- 3 **76 Compliance auditors—appointment**
- 4 **8 Section 77 heading**
- 5 *substitute*
- 6 **77 Compliance auditors—functions**
- 7 **9 Sections 78 and 79**
- 8 *omit*
- 9 **10 Section 80 heading**
- 10 *substitute*
- 11 **78 Compliance auditors—entry to premises**
- 12 **11 Functions of compliance auditors—entry to premises**
- 13 **Section 80 (2)**
- 14 *substitute*
- 15 (2) However, subsection (1) does not authorise entry into a part of
- 16 premises that is being used for residential purposes unless—
- 17 (a) the occupier or person apparently in charge of the premises
- 18 consents to the entry; or
- 19 (b) the entry is authorised under a search warrant.



1	<b>12</b>	<b>Consent to entry</b>
2		<b>Section 80A</b>
3		<i>omit</i>
4	<b>13</b>	<b>Section 80B heading</b>
5		<i>substitute</i>
6	<b>79</b>	<b>Compliance auditors—production of documents</b>
7	<b>14</b>	<b>Section 80C heading</b>
8		<i>substitute</i>
9	<b>80</b>	<b>Non-compliance with s 79 notice</b>
10	<b>15</b>	<b>Non-compliance with s 80B notice</b>
11		<b>Section 80C (1)</b>
12		<i>substitute</i>
13		(1) A licensee commits an offence if the licensee fails to comply with a
14		notice given to the licensee under section 79 (Compliance
15		auditors—production of documents).
16		Maximum penalty: 50 penalty units.
17	<b>16</b>	<b>Section 80C (2) (b)</b>
18		<i>omit</i>
19		section 80B
20		<i>substitute</i>
21		section 79

1 **17 New divisions 6.3 to 6.5**

2 *insert*

3 **Division 6.3 Inspectors**

4 **80CA Inspectors—appointment**

5 (1) The registrar may appoint a public servant to be an inspector for this  
6 Act for—

7 (a) building assessment work; or

8 (b) works assessment work.

9 *Note 1* For the making of appointments (including acting appointments), see  
10 the [Legislation Act](#), pt 19.3.

11 *Note 2* In particular, a person may be appointed for a particular provision of a  
12 law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by  
13 naming a person or nominating the occupant of a position (see  
14 [Legislation Act](#), s 207).

15 (2) An appointment must not be for longer than 5 years.

16 *Note* A person may be reappointed to a position if the person is eligible to be  
17 appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1,  
18 def *appoint*).

1    **80CB    Inspectors—functions**

- 2           (1) An inspector is responsible for inspecting the work undertaken by a  
3           licensee for compliance with this Act, the operational Acts and other  
4           legislation which applies to building assessors.

5           **Example—other legislation applying to building assessors**

6           *Civil Law (Sale of Residential Property) Act 2003*

7           *Note 1*    A reference to an Act includes a reference to the statutory instruments  
8           made or in force under the Act, including any regulation (see  
9           [Legislation Act](#), s 104).

10          *Note 2*    An example is part of the Act, is not exhaustive and may extend, but  
11          does not limit, the meaning of the provision in which it appears (see  
12          [Legislation Act](#), s 126 and s 132).

- 13          (2) Subsection (1) applies only to work for which a person must be  
14          licensed under this Act.

- 15          (3) An inspector has any other function given to the inspector by the  
16          registrar.

- 17          (4) An inspector must exercise the inspector’s functions in accordance  
18          with—

- 19               (a) the instrument of appointment; and  
20               (b) any directions the registrar gives the inspector.

21    **80CC    Inspectors—entry to premises**

- 22          (1) For this Act, an inspector may—

23               (a) enter any premises at any time with the consent of the  
24               occupier; or

25               (b) enter premises when open to the public; or

26               (c) enter business premises during business hours at the premises;  
27               or

28               (d) enter premises in accordance with a warrant under this part.

- 1           (2) An inspector may, without the occupier's consent or a warrant, enter  
2           the land around premises—
- 3               (a) to ask the occupier for consent to enter the premises; or  
4               (b) to inspect the land.
- 5           (3) An inspector must not remain on premises entered under this section  
6           if, on request by the occupier, the inspector does not produce his or  
7           her identity card.
- 8           (4) An inspector who enters premises under this part may, for this Act,  
9           do 1 or more of the following in relation to the premises, anything  
10          on the premises and the land around the premises:
- 11               (a) inspect or examine;  
12               (b) inspect and copy, or take an extract from, any document at the  
13               premises;  
14               (c) take measurements or conduct tests;  
15               (d) take samples;  
16               (e) take photographs, films, audio, video or other recordings;  
17               (f) take onto the premises any people, equipment or material the  
18               inspector reasonably needs to exercise the inspector's functions  
19               under this Act;
- 20               (g) require the occupier, or anyone at the premises, to give  
21               information, answer questions, or produce documents or  
22               anything else, reasonably needed to exercise the inspector's  
23               functions under this Act.

24           *Note*     The [Legislation Act](#), s 170 and s 171 deal with the application of  
25           the privilege against self-incrimination and client legal privilege.

1 (5) A person must take all reasonable steps to comply with a  
2 requirement made of the person under subsection (4) (g).

3 Maximum penalty: 50 penalty units.

4 **80CD Inspectors—power to seize things**

5 (1) An inspector who enters premises under this part with the occupier's  
6 consent may seize anything at the premises if—

7 (a) the inspector is satisfied on reasonable grounds that the thing is  
8 connected with an offence against this Act; and

9 (b) seizure of the thing is consistent with the purpose of the entry  
10 told to the occupier when seeking the occupier's consent.

11 (2) An inspector who enters premises under a warrant under this part  
12 may seize anything at the premises that the inspector is authorised to  
13 seize under the warrant.

14 (3) An inspector who enters premises under this part (whether with the  
15 occupier's consent, under a warrant or otherwise) may seize  
16 anything at the premises if satisfied on reasonable grounds that—

17 (a) the thing is connected with an offence against this Act; and

18 (b) the seizure is necessary to prevent the thing from being—

19 (i) concealed, lost or destroyed; or

20 (ii) used to commit, continue or repeat the offence.

21 (4) Also, an inspector who enters premises under this part (whether with  
22 the occupier's consent or otherwise) may seize anything at the  
23 premises if satisfied on reasonable grounds that the thing—

24 (a) puts the health or safety of people at risk; or

25 (b) may cause damage to property or the environment.

- 1 (5) The powers of an inspector under subsections (3) and (4) are  
2 additional to any powers of the inspector under subsection (1) or any  
3 other territory law.
- 4 (6) Having seized a thing, an inspector may—
- 5 (a) remove the thing from the premises where it was seized (the  
6 *place of seizure*) to another place; or
- 7 (b) leave the thing at the place of seizure but restrict access to it.
- 8 (7) A person commits an offence if—
- 9 (a) the person interferes with a seized thing, or anything  
10 containing a seized thing, to which access has been restricted  
11 under subsection (6); and
- 12 (b) the person does not have an inspector's approval to interfere  
13 with the thing.
- 14 Maximum penalty: 50 penalty units.
- 15 (8) An offence against this section is a strict liability offence.

16 **80CE Inspectors—receipt for things seized**

- 17 (1) As soon as practicable after a thing is seized by an inspector under  
18 this part, the inspector must give a receipt for it to the person from  
19 whom it was seized.
- 20 (2) If, for any reason, it is not practicable to comply with subsection (1),  
21 the inspector must leave the receipt, secured conspicuously at the  
22 place of seizure.

1    **80CF     Access to things seized**

2           A person who would, apart from the seizure, be entitled to a thing  
3           seized under this part may—

- 4           (a) inspect it; and  
5           (b) if it is a document—take extracts from it or make copies of it.

6    **80CG     Return of things seized**

7           (1) A thing seized under this part must be returned to its owner, or  
8           reasonable compensation must be paid to the owner by the Territory  
9           for the loss of the thing, if—

10           (a) a prosecution for an offence relating to the thing is not  
11           instituted within 90 days of the seizure; or

12           (b) the court does not find the offence proved in a prosecution for  
13           an offence relating to the thing.

14           (2) A thing seized under this part is forfeited to the Territory if a  
15           court—

16           (a) finds an offence relating to the thing to be proved; and

17           (b) orders the forfeiture.

18           (3) If subsection (2) (a) applies, but a court does not order forfeiture of  
19           the thing seized, the construction occupations registrar must return  
20           the thing to its owner or the Territory must pay reasonable  
21           compensation to the owner for the loss of the thing.

1     **Division 6.4                    Identity cards—compliance auditors**  
2    **and inspectors**

3     **80CH     Identity cards**

- 4             (1) The registrar must give a compliance auditor an identity card stating  
5               the person's name and that the person is a compliance auditor.
- 6             (2) The registrar must give an inspector an identity card stating the  
7               person's name and that the person is an inspector.
- 8             (3) The identity card must show—
- 9               (a) a recent photograph of the person; and
- 10              (b) the card's date of issue and expiry; and
- 11              (c) anything else prescribed by regulation.
- 12             (4) A person commits an offence if—
- 13               (a) the person ceases to be an officer; and
- 14               (b) the person does not return the person's identity card to the  
15                registrar as soon as practicable (but within 7 days) after the day  
16                the person ceases to be an officer.
- 17               Maximum penalty: 1 penalty unit.
- 18             (5) An offence against this section is a strict liability offence.

19     **80CI     Functions not to be exercised before identity card shown**

20             An officer may exercise a function under this Act in relation to a  
21             person only if the officer first shows the person the officer's identity  
22             card.



- 1     **80CJ     Consent to entry**
- 2             (1) When seeking the consent of an occupier for entering premises
- 3             under this part an officer must—
- 4                 (a) produce his or her identity card; and
- 5                 (b) tell the occupier—
- 6                         (i) the purpose of the entry; and
- 7                         (ii) that anything found and seized under this part may be
- 8                         used in evidence in court; and
- 9                         (iii) that consent may be refused.
- 10            (2) If the occupier consents, the officer must ask the occupier to sign a
- 11            written acknowledgment—
- 12                 (a) that the occupier was told—
- 13                         (i) the purpose of the entry; and
- 14                         (ii) that anything found and seized under this part may be
- 15                         used in evidence in court; and
- 16                         (iii) that consent may be refused; and
- 17                 (b) that the occupier consented to the entry; and
- 18                 (c) stating the time, and day, when consent was given.
- 19            (3) If the occupier signs an acknowledgment of consent, the officer
- 20            must immediately give a copy to the occupier.
- 21            (4) Unless the contrary is proven, a court must presume that an occupier
- 22            of premises did not consent to an entry to the premises by an officer
- 23            under this part if—
- 24                 (a) the question whether the occupier consented to the entry arises
- 25                 in proceedings in the court; and

- 1 (b) an acknowledgment under this section is not produced in  
2 evidence for the entry; and
- 3 (c) it is not proved that the occupier consented to the entry.
- 4 (5) In this section:
- 5 *occupier*, of premises, includes—
- 6 (a) a person an officer believes on reasonable grounds to be an  
7 occupier of the premises; and
- 8 (b) a person apparently in charge of the premises.

9 **Division 6.5 Search warrants**

10 **80CK Warrants generally**

- 11 (1) An officer may apply to a magistrate for a warrant to enter premises.
- 12 (2) The application must be sworn and state the grounds on which the  
13 warrant is sought.
- 14 (3) The magistrate may refuse to consider the application until the  
15 officer gives the magistrate all the information the magistrate  
16 requires about the application in the way the magistrate requires.
- 17 (4) The magistrate may issue a warrant only if satisfied there are  
18 reasonable grounds for suspecting—
- 19 (a) there is a particular thing or activity connected with an offence  
20 against this Act; and
- 21 (b) the thing or activity is, or is being engaged in, at the premises,  
22 or may be, or may be engaged in, at the premises within the  
23 next 14 days.

- 1 (5) The warrant must state—
- 2 (a) that an officer may, with any necessary assistance and force,
- 3 enter the premises and exercise the officer's powers under this
- 4 part; and
- 5 (b) the offence for which the warrant is issued; and
- 6 (c) the things that may be seized under the warrant; and
- 7 (d) the hours when the premises may be entered; and
- 8 (e) the date, within 14 days after the day of the warrant's issue,
- 9 that the warrant ends.

- 10 (6) In this section:

11 *connected*—an activity is *connected* with an offence if—

- 12 (a) the offence has been committed by engaging or not engaging in
- 13 it; or
- 14 (b) it will provide evidence of the commission of the offence.

15 **80CL Warrants—application made other than in person**

- 16 (1) An officer may apply for a warrant by phone, fax, radio or other
- 17 form of communication if the officer considers it necessary because
- 18 of—
- 19 (a) urgent circumstances; or
- 20 (b) other special circumstances.
- 21 (2) Before applying for the warrant, the officer must prepare an
- 22 application stating the grounds on which the warrant is sought.
- 23 (3) The officer may apply for the warrant before the application is
- 24 sworn.
- 25 (4) After issuing the warrant, the magistrate must immediately fax a
- 26 copy to the officer if it is practicable to do so.

- 1 (5) If it is not practicable to fax a copy to the officer—  
2 (a) the magistrate must—  
3 (i) tell the officer what the terms of the warrant are; and  
4 (ii) tell the officer the date and time the warrant was issued;  
5 and  
6 (b) the officer must complete a form of warrant (the *warrant form*)  
7 and write on it—  
8 (i) the magistrate's name; and  
9 (ii) the date and time the magistrate issued the warrant; and  
10 (iii) the warrant's terms.
- 11 (6) The faxed copy of the warrant, or the warrant form properly  
12 completed by the officer, authorises the entry and exercise of the  
13 officer's powers under this part.
- 14 (7) The officer must, at the first reasonable opportunity, send to the  
15 magistrate—  
16 (a) the sworn application; and  
17 (b) if the officer completed a warrant form—the completed  
18 warrant form.
- 19 (8) On receiving the documents, the magistrate must attach them to the  
20 warrant.
- 21 (9) A court must find that a power exercised by an officer was not  
22 authorised by a warrant under this section if—  
23 (a) the question arises in a proceeding before the court whether the  
24 exercise of power was authorised by a warrant; and  
25 (b) the warrant is not produced in evidence; and  
26 (c) it is not proved that the exercise of power was authorised by a  
27 warrant under this section.

- 1     **80CM     Search warrants—announcement before entry**
- 2             (1) An officer must, before anyone enters premises under a search  
3             warrant—
- 4                 (a) announce that the officer is authorised to enter the premises;  
5                 and
- 6                 (b) give anyone at the premises an opportunity to allow entry to  
7                 the premises; and
- 8                 (c) if an occupier of the premises, or someone else who apparently  
9                 represents the occupier, is present at the premises—identify  
10                 himself or herself to the person.
- 11            (2) The officer is not required to comply with subsection (1) if the  
12            officer believes on reasonable grounds that immediate entry to the  
13            premises is required to ensure—
- 14                 (a) the safety of anyone (including the officer or any person  
15                 assisting); or
- 16                 (b) that the effective execution of the warrant is not frustrated.
- 17     **80CN     Details of search warrant to be given to occupier etc**
- 18             If an occupier of premises, or someone else who apparently  
19             represents the occupier, is present at the premises while a search  
20             warrant is being executed, the officer or a person assisting must  
21             make available to the person—
- 22                 (a) a copy of the warrant; and
- 23                 (b) a document setting out the rights and obligations of the person.

1     **80CO     Occupier entitled to be present during search etc**

- 2           (1) If an occupier of premises, or someone else who apparently  
3           represents the occupier, is present at the premises while a search  
4           warrant is being executed, the occupier or the other person is  
5           entitled to observe the search being conducted.
- 6           (2) However, the person is not entitled to observe the search if—
- 7                 (a) to do so would impede the search; or
- 8                 (b) the person is under arrest, and allowing the person to observe  
9                 the search being conducted would interfere with the objectives  
10                of the search.
- 11          (3) This section does not prevent 2 or more areas of the premises being  
12          searched at the same time.

13     **80CP     Moving things to another place for examination or**  
14     **processing**

- 15           (1) A thing found at premises entered under a search warrant may be  
16           moved to another place for examination or processing to decide  
17           whether it may be seized under the warrant if—
- 18                 (a) both of the following apply:
- 19                         (i) there are reasonable grounds for believing that the thing  
20                         is or contains something to which the warrant relates;
- 21                         (ii) it is significantly more practicable to do so having regard  
22                         to the timeliness and cost of examining or processing the  
23                         thing at another place and the availability of expert  
24                         assistance; or
- 25                 (b) the occupier of the premises agrees in writing.
- 26          (2) The thing may be moved to another place for examination or  
27          processing for not longer than 72 hours.

- 1 (3) An officer may apply to a magistrate for an extension of time if the  
2 officer believes on reasonable grounds that the thing cannot be  
3 examined or processed within 72 hours.
- 4 (4) The officer must give notice of the application to the occupier of the  
5 premises, and the occupier is entitled to be heard on the application.
- 6 (5) If a thing is moved to another place under this section, the officer  
7 must, if practicable—
- 8 (a) tell the occupier of the premises the address of the place where,  
9 and time when, the examination or processing will be carried  
10 out; and
- 11 (b) allow the occupier or the occupier's representative to be  
12 present during the examination or processing.
- 13 (6) The provisions of this part relating to the issue of search warrants  
14 apply, with any necessary changes, to the giving of an extension  
15 under this section.

16 **18 The register**  
17 **Section 107 (4)**

18 *substitute*

- 19 (4) The registrar must make available to the public information that is—
- 20 (a) included in the register; and
- 21 (b) required by regulation to be made available to the public.
- 22 (5) If a person asks, in writing, to have access to other information on  
23 the register, the registrar may give access to the other information.
- 24 (6) Before deciding to give access to information requested under  
25 subsection (5), the registrar must consider—
- 26 (a) the reason the person requires the information, including  
27 whether it is related to the provision of a construction service;  
28 and

- 1 (b) whether the information includes personal or other information  
2 the registrar believes would be inappropriate or illegal to  
3 disclose; and
- 4 (c) whether the provision of the information would compromise  
5 the exercise of a function under this Act or an operational Act.

6 **19 New section 107A**

7 *insert*

8 **107A Register—public information**

- 9 (1) The registrar must publish a register of public information (the  
10 *public register*) at least once a week on a website.
- 11 (2) However, the registrar must update the public register by not later  
12 than the end of the next working day after the day when—
- 13 (a) a licensee's licence is suspended or cancelled under part 5  
14 (Automatic licence suspension and occupational discipline); or
- 15 (b) if a licensee's licence is suspended under section 97 (Licence  
16 suspension) or cancelled under section 98 (Licence  
17 disqualification) as a consequence of incurring demerit  
18 points—the licensee has exhausted review rights; or
- 19 (c) a licensee's suspension or cancellation is lifted, overturned or  
20 expires; or
- 21 (d) the registrar receives a direction from ACAT or a court about  
22 recording or removing information from the register.
- 23 (3) For subsection (2) (b), a licensee has exhausted review rights—
- 24 (a) if the licensee has not applied for review of the relevant  
25 decision within the period allowed under the *ACT Civil and*  
26 *Administrative Tribunal Act 2008*—when the period ends; or



- 1 (b) if the licensee has applied for review of the decision within the  
2 period mentioned in paragraph (a), when the ACAT—
- 3 (i) completes the review; or  
4 (ii) sets aside the decision.
- 5 (4) The public register must include—
- 6 (a) the name of each licensee and—
- 7 (i) if the licensee is a partnership—the name of each partner  
8 in the partnership and, if the partnership has an ACN, the  
9 ACN; or
- 10 (ii) if the licensee is a corporation—
- 11 (A) the corporation's ACN; and  
12 (B) the name and licence number of each nominee for  
13 the licensee, the licensee's licence number and the  
14 construction occupation or occupation class for  
15 which the nominee is nominated; and
- 16 (b) anything else prescribed by regulation.
- 17 (5) In relation to each licence held by the licensee, the public register  
18 must include the following:
- 19 (a) the construction occupation or occupation class of the licence;  
20 (b) the expiry date of the licence;  
21 (c) any condition on the licence;
- 22 *Note* For licence conditions—see s 21, s 21A and s 56.
- 23 (d) any endorsement on the licence;
- 24 *Note* For licence endorsements—see s 22.
- 25 (e) any information that must be included under section 110  
26 (Recording interim licence suspension).

- 1           (6) The public register must also include the following information in  
2 relation to licensees that have been licensed in the period beginning  
3 on the day 10 years before the registrar most recently updates the  
4 register, unless the information is no longer available:
- 5           (a) details of any suspension under division 5.1 (Automatic licence  
6 suspension), including the start date of suspension, the end date  
7 of suspension and the reason for suspension;
- 8           (b) details of any disciplinary action taken by the registrar under  
9 section 56 (1) (Occupational discipline) including—
- 10               (i) the kind of action; and  
11               (ii) the start date of the action; and  
12               (iii) the end date of the action; and  
13               (iv) the reason for the action (unless the ACAT orders  
14 otherwise); and  
15               (v) any other information required to be recorded on the  
16 register by the ACAT; and  
17               (vi) whether the period in which the licensee can apply to the  
18 ACAT for review of the action has expired; and  
19               (vii) whether the action is under review by the ACAT;
- 20           (c) details of any occupational discipline order by made by the  
21 ACAT under section 58 (Occupational discipline orders—  
22 licensees) including—
- 23               (i) the start date of the order; and  
24               (ii) the end date of the order; and  
25               (iii) the nature and effect of the order; and  
26               (iv) the reason for the order (unless the ACAT orders  
27 otherwise); and

- 1 (v) any other information required to be recorded on the  
2 register by the ACAT;
- 3 (d) if the licensee of the licence has been subject to any other form  
4 of occupational discipline—
- 5 (i) the kind of occupational discipline; and
- 6 **Examples—other kinds of occupational discipline**
- 7 1 suspension of licence (see s 97)
- 8 2 disqualification of licensee (see s 98)
- 9 *Note* An example is part of the Act, is not exhaustive and may  
10 extend, but does not limit, the meaning of the provision in  
11 which it appears (see [Legislation Act](#), s 126 and s 132).
- 12 (ii) any applicable start and end dates; and
- 13 (iii) the reason for the occupational discipline (unless the  
14 ACAT orders otherwise); and
- 15 (iv) any other information required to be recorded on the  
16 register by the ACAT;
- 17 (e) details of any action the registrar has taken under  
18 section 95 (2) (c) (Consequences of incurring demerit points—  
19 licensees);
- 20 (f) details of any licence suspension under section 97 (Licence  
21 suspension);
- 22 (g) details of any licence disqualification under section 98  
23 (Licence disqualification);
- 24 (h) details of previous suspensions and cancellations, occupational  
25 discipline, and disciplinary action in the previous 10 years,  
26 whether in effect or not, unless the details have been removed  
27 from the register under section 111 (Removal of information  
28 from register);

- 1 (i) details of rectification orders recorded in the register under  
2 section 108 (Recording rectification orders);
- 3 (j) details of any contravention of a rectification order recorded in  
4 the register under section 109 (Recording contravention of  
5 rectification orders).
- 6 (7) For subsection (6) (e), (f), (g), (i) and (j), the details mentioned must  
7 not be included in the public register—
- 8 (a) unless the licensee has not applied for review of the relevant  
9 decision within the period allowed under the *ACT Civil and  
10 Administrative Tribunal Act 2008*; or
- 11 (b) if the licensee has applied for review of the decision, before the  
12 ACAT—
- 13 (i) completes the review; or  
14 (ii) sets aside the decision.

15 **20 New part 20**

16 *insert*

17 **Part 20 Transitional—Construction and**  
18 **Energy Efficiency Legislation**  
19 **Amendment Act 2014**

20 **180 Conduct engaged in before commencement of amending**  
21 **Act**

22 Part 6 as amended by the *Construction and Energy Efficiency*  
23 *Legislation Amendment Act 2014* (the *Act*), applies in relation to  
24 work carried out by licensees and former licensees before the  
25 commencement of the Act.

1 **181 Expiry—pt 20**

2 This part expires 1 year after the day the Act, section 3 commences.

3 *Note* Transitional provisions are kept in the Act for a limited time.  
4 A transitional provision is repealed on its expiry but continues to have  
5 effect after its repeal (see [Legislation Act](#), s 88).

6 **21 Dictionary, new definition of *building assessment work***

7 *insert*

8 *building assessment work* means preparing and providing—

- 9 (a) an energy efficiency certificate under the [Building Act 2004](#); or  
10 (b) an energy efficiency rating statement; or  
11 (c) a statement, certificate or other document prescribed by  
12 regulation.

13 *Note* *Energy efficiency certificate*—see the [Building Act 2004](#), s 139C.

14 **22 Dictionary, definition of *compliance auditor***

15 *substitute*

16 *compliance auditor*, for part 6 (Enforcement)—see section 75.

17 **23 Dictionary, new definitions**

18 *insert*

19 *inspector*, for part 6 (Enforcement)—see section 75.

20 *officer*, for part 6 (Enforcement)—see section 75.

21 *works assessment work* means—

- 22 (a) undertaking an exemption assessment under the [Planning and](#)  
23 [Development Act 2007](#); or

**Part 2** Construction Occupations (Licensing) Act 2004

Section 23

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1 (b) providing, including doing anything incidental to providing, a  
2 unit title assessment report under the *Unit Titles Act 2001*.

3 *Note* ***Unit title assessment report***—see the *Unit Titles Act 2001*, s 22B.

1  
2  
3  
4  
5**Part 3****Construction Occupations  
(Licensing) Regulation 2004****24 Reviewable decisions  
Schedule 4, new item 21A***insert*

21A	Act, 107 (5)	refuse to give access to information on register	person asking for access to information
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1 **Part 4 Electricity Safety Act 1971**

2 **25 Part 2 heading**

3 *substitute*

4 **Part 2 Electrical wiring work and**  
5 **electrical installations**

6 **Division 2.1 Electrical wiring work and electrical**  
7 **installations—safety**

8 **26 New division 2.2**

9 *after section 8, insert*

10 **Division 2.2 Electrical wiring work and electrical**  
11 **installations—energy efficiency**

12 *Note* The *Greenhouse and Energy Minimum Standards Act 2012* (Cwlth) (the  
13 *Commonwealth Act*) applies greenhouse and energy minimum  
14 standards (*GEMS*) in association with the supply and commercial use of  
15 products that use energy, or affect the energy used by another product.  
16 These standards are provided for by requirements in Ministerial  
17 determinations (*GEMS determinations*).

18 See this Act, s 27 (Offences—energy efficiency requirements for  
19 non-prescribed articles of electrical equipment).

20 **8A Offences—energy efficiency requirements for electrical**  
21 **wiring work and electrical installations**

22 (1) A person commits an offence if—

23 (a) the person carries out electrical wiring work; and



1 (b) the work does not comply with a regulation made under  
2 section 66 (2) (a) (Regulation-making power) that applies to  
3 the work.

4 Maximum penalty: 50 penalty units.

5 *Note* Power to make a statutory instrument (including a regulation) includes  
6 power to make different provision in relation to different matters or  
7 different classes of matters, and to make an instrument that applies  
8 differently by reference to stated exceptions or factors (see [Legislation](#)  
9 [Act](#), s 48).

10 (2) A person commits an offence if—

11 (a) the person carries out electrical wiring work on an electrical  
12 installation; and

13 (b) the installation does not comply with a regulation made under  
14 section 66 (2) (a) that applies to the work.

15 Maximum penalty: 50 penalty units.

16 (3) A person commits an offence if—

17 (a) the person disposes of—

18 (i) all or part of an electrical installation; or

19 (ii) all or part of an article of electrical equipment; and

20 (b) the disposal does not comply with a standard prescribed by  
21 regulation that applies to the disposal.

22 Maximum penalty: 50 penalty units.

1 **27** **Definitions for pt 3**  
2 **Section 9, definition of *approved first seller***

3 *substitute*

4 *approved first seller* means a person who—

5 (a) either—

6 (i) manufactures a prescribed article of electrical equipment  
7 in the ACT or another state or territory; or

8 (ii) imports a prescribed article of electrical equipment into  
9 the ACT from outside Australia; and

10 (b) is registered or approved as an approved first seller (however  
11 described) under a relevant safety standard.

12 **28** **Declaration of prescribed articles of electrical equipment**  
13 **New section 11A (4A) to (4C)**

14 *insert*

15 (4A) If the construction occupations registrar states a safety standard  
16 under subsection (4) by adopting the law of a State, and that law  
17 includes a registration, approval or certification requirement, that  
18 requirement applies to the safety standard stated by the registrar.

19 (4B) Also, an article of electrical equipment ceases to comply with a  
20 safety standard if there is an approved first seller of the article and—

21 (a) the registrar is satisfied that—

22 (i) the approved first seller of the article is insolvent; or

23 (ii) the approved first seller of the article has been refused  
24 registration as a first seller or approved applicant, or  
25 equivalent registration, under a corresponding law of a  
26 State or another Territory; or

- 1 (iii) the registration of a person as a first seller or approved  
2 applicant, or equivalent registration of the person, under  
3 the corresponding law of a State or another Territory has  
4 been cancelled other than at the request of the person; or
- 5 (iv) the approved first seller of the article has been convicted  
6 of an offence against this part or part 3 as in force  
7 immediately before the commencement of this part or of  
8 a similar offence against the law of a State or another  
9 Territory; or
- 10 (v) the person has supplied an article of electrical equipment  
11 in breach of an undertaking referred to in a determination  
12 of compliance; or
- 13 (b) the approved first seller asks in writing that the registration be  
14 cancelled; or
- 15 (c) the approved first seller—
- 16 (i) for a body corporate—is dissolved; or
- 17 (ii) for an individual—dies.
- 18 (4C) For subsection (4B), a person is taken to be insolvent if—
- 19 (a) for a body corporate—a resolution for the winding-up of the  
20 body has been passed or an application for the winding-up of  
21 the body has been filed in a court; or
- 22 (b) for an individual—the person becomes bankrupt or personally  
23 insolvent.

1 **29 Sale or installation of prescribed articles**  
2 **Section 12 (1) (b) (i)**

3 *substitute*

- 4 (i) a declaration of compliance in relation to the article is not  
5 registered in accordance with a relevant safety standard  
6 or corresponding law; or

7 **30 Section 12 (2) (b) (i)**

8 *substitute*

- 9 (i) a declaration of compliance in relation to the article had  
10 never been registered in accordance with a relevant safety  
11 standard or corresponding law; or

12 **31 Sections 14 to 19**

13 *omit*

14 **32 Multiple occupations, classes and authorisation**  
15 **Section 20**

16 *omit*

17 the authority

18 *substitute*

19 the registrar

1	<b>33</b>	<b>Registers</b>
2		<b>Section 21 (1) (b) and (c)</b>
3		<i>omit</i>
4	<b>34</b>	<b>Revocation of nominee's appointment</b>
5		<b>Section 30 (2) (a)</b>
6		<i>omit</i>
7		the authority
8		<i>substitute</i>
9		the registrar
10	<b>35</b>	<b>Emergency rectification order</b>
11		<b>Section 39</b>
12		<i>omit</i>
13		the authority
14		<i>substitute</i>
15		the registrar
16	<b>36</b>	<b>Power to inspect electrical wiring work</b>
17		<b>Section 57 (1)</b>
18		<i>omit</i>
19		(Electrical wiring work)
20		<i>insert</i>
21		(Electrical wiring work and electrical installations)

- 1 **37 Regulation-making power**  
2 **New section 66 (2)**
- 3 *after the note, insert*
- 4 (2) The Executive may also make regulations—
- 5 (a) for electrical installations and articles of electrical equipment  
6 to promote the efficient use or conservation of power and  
7 energy, or to limit harm to the environment; and
- 8 (b) that set standards in relation to construction, installation,  
9 configuration, maintenance, repair, service, replacement,  
10 inspection, testing, labelling or disposal of articles of electrical  
11 equipment and electrical installations (or parts of electrical  
12 equipment and electrical installations).
- 13 **38 Reviewable decisions**  
14 **Schedule 1, items 3 to 8**
- 15 *omit*
- 16 **39 Dictionary, note 2**
- 17 *insert*
- 18 • construction occupations registrar
- 19 **40 Dictionary, note 2**
- 20 *omit*
- 21 • planning and land authority

- 1 **41 Further amendments, mentions of *planning and land***  
2 ***authority***
- 3 *omit*
- 4 planning and land authority
- 5 *substitute*
- 6 construction occupations registrar
- 7 *in*
- 8 • sections 11A and 11B
- 9 • section 20
- 10 • section 28
- 11 • sections 30 and 31
- 12 • section 36
- 13 • sections 39 and 40

1 **Part 5** **Energy Efficiency (Cost of**  
2 **Living) Improvement Act 2012**

3 **42 Achieving energy savings obligations**  
4 **New section 14 (4)**

5 *after the notes, insert*

- 6 (4) However, if a NERL retailer undertakes an eligible activity before  
7 the retailer gives a compliance plan for a compliance period to the  
8 administrator, the activity is taken not to comply with an approved  
9 code of practice for the compliance period.

10 **43 NERL retailer must lodge compliance plan**  
11 **Section 17 (3)**

12 *omit*

13 lodge a compliance plan

14 *substitute*

15 give a compliance plan to the administrator

16 **44 Compliance with energy savings obligations—retailer**  
17 **energy savings result**  
18 **New section 20 (3A) and (3B)**

19 *insert*

- 20 (3A) The administrator may exclude from the calculation of a retailer  
21 energy savings result the abatement factor for an eligible activity  
22 reported by the retailer under section 19 if the administrator is not  
23 satisfied that the activity complies with a relevant approved code of  
24 practice.



- 1 (3B) If the administrator excludes data from a calculation under  
2 subsection (3A), the administrator may substitute data that the  
3 administrator believes on reasonable grounds is correct.

4 **Example—reason for excluding an abatement factor**  
5 the abatement factor has been miscalculated

6 *Note* An example is part of the Act, is not exhaustive and may extend, but  
7 does not limit, the meaning of the provision in which it appears (see  
8 [Legislation Act](#), s 126 and s 132)

9 **45 New section 20D**

10 *insert*

11 **20D Redetermining energy savings result**

- 12 (1) If the administrator believes on reasonable grounds that the  
13 determination of a NERL retailer's retailer energy savings result is  
14 not correct, the administrator may make a new determination of the  
15 retailer's retailer energy savings result under section 20.
- 16 (2) A new determination under section 20 must not be made more than  
17 5 years after the day on which the compliance period, for which the  
18 original determination was made, ends.
- 19 (3) Section 20 (4) to (8) and section 21 apply to a new determination of  
20 the retailer's retailer energy savings result.

21 **46 Compliance with priority household obligations—retailer  
22 priority household result  
23 New section 21 (2A) and (2B)**

24 *insert*

- 25 (2A) The administrator may exclude from the calculation of a retailer  
26 priority household result the abatement factor for an eligible activity  
27 reported by the retailer under section 19 if the administrator is not  
28 satisfied that the activity complies with a relevant approved code of  
29 practice.

1 (2B) If the administrator excludes data from a calculation under  
2 subsection (2A), the administrator may substitute data that the  
3 administrator believes on reasonable grounds is correct.

4 **47 Codes of practice**  
5 **New section 25 (1) (e)**

6 *before the note, insert*

7 (e) carrying out an audit of information given to the administrator  
8 under section 19 (Information to be given to administrator),  
9 including the following:

- 10 (i) purpose of the audit;  
11 (ii) qualifications of auditors;  
12 (iii) appointment of auditors;  
13 (iv) removal of auditors;  
14 (v) obligations of auditors;  
15 (vi) reporting requirements for auditors.

16 **48 New part 4A**

17 *insert*

18 **Part 4A Information sharing**

19 **28A Definitions—pt 4A**

20 In this part:

21 *compliance information* means information that—

- 22 (a) the administrator has as a result of exercising a function under  
23 this Act; or

- 1 (b) a regulatory agency has—
- 2 (i) as a result of exercising a function under a territory law;
- 3 and
- 4 (ii) that is relevant to a function of the administrator under
- 5 this Act.
- 6 ***non-territory agency*** means an agency of the Commonwealth or a
- 7 State that exercises functions analogous to those exercised by a
- 8 regulatory agency.
- 9 ***regulatory agency*** means any of the following:
- 10 (a) the construction occupations registrar;
- 11 (b) the planning and land authority;
- 12 (c) the environment protection authority;
- 13 (d) the commissioner appointed under the *Fair Trading*
- 14 (*Australian Consumer Law*) Act 1992;
- 15 (e) the director-general responsible for the *Fair Trading*
- 16 (*Australian Consumer Law*) Act 1992;
- 17 (f) the director-general responsible for the *Work Health and Safety*
- 18 *Act 2011*;
- 19 (g) the commissioner appointed under the *Work Health and Safety*
- 20 *Act 2011*;
- 21 (h) the independent competition and regulatory commission;
- 22 (i) the chief executive officer appointed under the *Independent*
- 23 *Competition and Regulatory Commission Act 1997*;
- 24 (j) an entity prescribed by regulation.

- 1     **28B     Sharing information—territory agencies**
- 2           (1) The administrator may—
- 3               (a) give compliance information to a regulatory agency; and
- 4               (b) impose conditions on how the regulatory agency uses, stores or
- 5                     shares the information.
- 6           (2) The administrator may request compliance information from a
- 7               regulatory agency.
- 8           (3) A regulatory agency that receives a request under subsection (2)
- 9               may—
- 10               (a) give the information to the administrator; and
- 11               (b) impose conditions on how the administrator uses, stores or
- 12                     shares the information.
- 13           (4) However, compliance information must not be given under this
- 14               section unless the entity that gives the information is satisfied that—
- 15               (a) the entity that receives the information (the *recipient*) will use
- 16                     the information to exercise a function the recipient has under a
- 17                     territory law; and
- 18               (b) giving or receiving the information will not compromise the
- 19                     exercise of a function under a territory law.
- 20               **Example—instance where exercise of function could be compromised**
- 21               XYZ Pty Ltd carries out an eligible activity under this Act. The work
- 22               safety commissioner (the *commissioner*) is investigating XYZ for possible
- 23               breaches of the *Work Health and Safety Act 2011*. The commissioner
- 24               receives a request for compliance information from the administrator. The
- 25               commissioner believes that giving the administrator the information could
- 26               jeopardise the investigation. The commissioner may refuse the request.
- 27               *Note*     An example is part of the Act, is not exhaustive and may extend,
- 28                     but does not limit, the meaning of the provision in which it
- 29                     appears (see [Legislation Act](#), s 126 and s 132).

- 1    **28C       Sharing information—non-territory agencies**
- 2       (1) The administrator may give compliance information to a
- 3       non-territory agency if the administrator believes on reasonable
- 4       grounds that—
- 5           (a) the information relates to the undertaking of eligible activities;
- 6           and
- 7           (b) the information relates to compliance with a law of another
- 8           jurisdiction that is applied, adopted or incorporated under—
- 9               (i) a determination made under section 10 (Eligible
- 10              activities); or
- 11              (ii) a code of practice approved under section 25 (Codes of
- 12              practice).
- 13       *Note     Law of another jurisdiction—see s 10 (8).*
- 14       (2) The administrator may impose conditions on how the non-territory
- 15       agency uses, stores or shares the information.
- 16       (3) However, the administrator must not give compliance information
- 17       under this section unless the administrator is satisfied that—
- 18           (a) the entity that receives the information (the *recipient*) will use
- 19           the information to exercise a function the recipient has under a
- 20           law mentioned in subsection (1) (b); and
- 21           (b) giving the information will not compromise the exercise of a
- 22           function under a territory law.

1 **49 New divisions 5.5A to 5.5C**

2 *insert*

3 **Division 5.5A Contravention of code of practice**

4 **49A Powers of administrator to address contravention**

5 (1) If the administrator believes on reasonable grounds that a NERL  
6 retailer, or the retailer's agent, has contravened a code of practice,  
7 the administrator may do any of the following:

8 (a) require the retailer or agent to complete a stated course of  
9 training to the satisfaction of the administrator;

10 (b) restrict or place a condition on the performance of an activity  
11 by the retailer or agent;

12 **Examples—condition**

13 1 retailer must notify administrator before performing an activity

14 2 retailer must arrange for independent quality assurance

15 3 retailer must report more often

16 *Note* An example is part of the Act, is not exhaustive and may extend,  
17 but does not limit, the meaning of the provision in which it  
18 appears (see [Legislation Act](#), s 126 and s 132).

19 (c) require the retailer to rectify the contravention within a stated  
20 time;

- 1 (d) if the administrator is satisfied that it would not be appropriate  
2 to require the retailer to rectify the contravention because of  
3 the relationship between the retailer and the land owner—  
4 authorise someone else to rectify the contravention, and require  
5 the NERL retailer to pay for the work;

6 **Example where relationship requires another party to do work**

7 A NERL retailer installed an article on land owned by another person (the  
8 *owner*). The owner has been seeking redress for bad workmanship from the  
9 retailer in relation to this and/or other installations on the land. The owner  
10 has no confidence in the retailer's ability to properly carry out the work. It  
11 would not be appropriate to require the retailer to do the work.

- 12 (e) require the retailer to pay a financial penalty of not more than  
13 \$1 000 in relation to each contravention.

14 *Note* A penalty imposed under this Act must be paid to the Territory.

- 15 (2) If the administrator requires a person to complete training under  
16 subsection (1) (a), the person must pay—

17 (a) for the training; and

18 (b) if the Territory incurs expense in arranging the training—the  
19 Territory the amount of expense incurred.

- 20 (3) However, if the person who is required to complete training under  
21 subsection (1) (a) is a retailer's agent, the retailer must pay the costs  
22 mentioned in subsection (2).

23 **49B Notice before exercising power**

- 24 (1) The administrator must not take action under section 49A unless the  
25 administrator has given notice in relation to the following matters to  
26 a relevant person:

27 (a) details of the action that may be taken;

28 (b) an explanation of why the administrator intends to take the  
29 action;

- 1 (c) that the person may make submissions about the proposed  
2 action during a period stated in the notice that is not less than  
3 5 working days after the day the person receives the notice.
- 4 (2) However, the administrator must not give notice of action to be  
5 taken under section 49A to an owner of land unless the action  
6 requires work to be carried out on the land.
- 7 (3) Subsection (4) applies if the rectification work must be carried out  
8 on land that is not owned or occupied by the NERL retailer.
- 9 (4) The notice must—
- 10 (a) state that the administrator will not make a rectification order  
11 unless the administrator is satisfied that it is appropriate to  
12 make the order in relation to the NERL retailer, because of the  
13 relationship between the retailer and the land owner; and
- 14 (b) if the administrator is not satisfied that it is appropriate to make  
15 the order in relation to the NERL retailer, because of the  
16 relationship between the retailer and the land owner—inform  
17 the NERL retailer that the administrator proposes to take action  
18 under section 49A (1) (d).
- 19 (5) In this section:
- 20 *relevant person* means a NERL retailer, and a person on whose land  
21 the retailer has carried out an activity.

## 22 **49C When rectification order may be made**

- 23 (1) This section applies if—
- 24 (a) the administrator has given a relevant person notice under  
25 section 49B; and
- 26 (b) the person carried out the activity to which the notice relates;  
27 and



- 1 (c) after considering any submissions made within the time  
2 mentioned in the notice, the administrator is satisfied—
- 3 (i) the person is contravening, or has contravened, this Act;  
4 and
- 5 (ii) it is appropriate to make a rectification order in relation  
6 to the person.
- 7 *Note 1* If deciding under this section whether it is appropriate to make a  
8 rectification order, the registrar must consider the considerations  
9 mentioned in s 49D.
- 10 *Note 2* A reference to an Act includes a reference to the statutory instruments  
11 made or in force under the Act, including any regulation (see  
12 [Legislation Act](#), s 104).
- 13 (2) The administrator may make an order under section 49E  
14 (Rectification orders) in relation to the person.
- 15 (3) If the administrator receives a submission within the period stated in  
16 subsection (1) (c), the administrator may not make an order under  
17 section 49E if a submission is made that satisfies the administrator  
18 that the act that caused the contravention happened, or ended, more  
19 than 10 years before the day the registrar proposes to make the  
20 order.
- 21 (4) The following do not prevent the administrator making an order  
22 under section 49D:
- 23 (a) a report has been accepted;
- 24 (b) an energy savings result has been determined under section 20  
25 (Compliance with energy savings obligations—retailer energy  
26 savings result) or section 21 (Compliance with priority  
27 household obligations—retailer priority household result);
- 28 (c) a penalty notice has been issued.

- 1     **49D       Considerations for deciding under s 49B and s 49C**
- 2             (1) In deciding whether it is, or may be, appropriate to make a  
3             rectification order in relation to a NERL retailer that is  
4             contravening, or has or may have contravened, this Act, the  
5             administrator must consider the following:
- 6                 (a) any injury or damage caused, or that could be caused, by the  
7                 contravention;
- 8                 (b) if a rectification order is proposed—how the proposed order  
9                 may affect people affected by the contravention.
- 10                **Example—effect of contravention, including injury and damage**  
11                adverse effect on health of user of thing affected by contravention
- 12                *Note*     An example is part of the Act, is not exhaustive and may extend,  
13                but does not limit, the meaning of the provision in which it  
14                appears (see [Legislation Act](#), s 126 and s 132).
- 15             (2) The administrator may not make a rectification order if an order has  
16             been made under another Territory law that requires a person to  
17             carry out work that would address the matters that the rectification  
18             order would cover.
- 19             (3) Also, if there is another Territory law that could address the matters  
20             that the rectification order would cover, the administrator—
- 21                 (a) must refer the matter to the administrative unit responsible for  
22                 the law; and
- 23                 (b) may make a rectification order only if the administrator  
24                 remains satisfied that injury or damage is, or could be, caused  
25                 by the contravention.

1     **49E     Rectification orders**

2           (1) The administrator may make an order (a *rectification order*) in  
3           relation to a NERL retailer requiring the retailer—

4                   (a) to take stated action to rectify work done as part of an eligible  
5                   activity or the retailer’s operations under this Act; or

6                   (b) to start or finish stated work in relation to which an eligible  
7                   activity or operation of the retailer has been, is being or was  
8                   proposed to be provided.

9           **Example—stated action**

10           rectify work to comply with a stated performance requirement of the Building  
11           Code of Australia

12           *Note*     An example is part of the Act, is not exhaustive and may extend, but  
13                   does not limit, the meaning of the provision in which it appears (see  
14                   [Legislation Act](#), s 126 and s 132).

15           (2) The rectification order may also require the NERL retailer to give  
16           the administrator written information about a thing required to be  
17           done under the order.

18           **Example**

19           an engineer’s report about whether rectified work complies with relevant  
20           standards

21           (3) Subsection (4) applies if—

22                   (a) the order requires the NERL retailer to do a thing; and

23                   (b) the NERL retailer—

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

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

- 1 (4) The NERL retailer must arrange, and pay for, the thing to be done  
2 by someone who—  
3 (a) is licensed, authorised or qualified to do the thing; or  
4 (b) if a licence, authorisation or qualification is not required to do  
5 the thing—has appropriate experience and skill to do the thing.

6 **Example**

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

- 12 (5) The rectification order must state a period within which what is  
13 required to be done must be done.  
14 (6) The stated period for a rectification order must not be less than  
15 1 month after the day the rectification order is given to the NERL  
16 retailer.  
17 (7) A copy of the rectification order must be given to the land owner.

18 **49F Failure to comply with order**

- 19 (1) This section applies if an entity (the *ordered entity*) in relation to  
20 whom a rectification order is made contravenes the rectification  
21 order.  
22 (2) The Territory may, in writing, authorise a person to enter the land  
23 where the work to which the rectification order relates is to be done  
24 and—  
25 (a) take the action stated in the rectification order; or  
26 (b) start or finish the work stated in the rectification order.

- 1 (3) The authorised person must—
- 2 (a) give the owner of the land written notice that the person
- 3 intends to enter the land at least 24 hours before the person
- 4 enters the land; and
- 5 (b) give a copy of the notice to the ordered entity before entering
- 6 the land.
- 7 (4) However, the Territory must not authorise someone until—
- 8 (a) if the ordered entity applied for review of the decision within
- 9 the period for review (the *review period*) of the decision to
- 10 make the rectification order allowed under the *ACT Civil and*
- 11 *Administrative Tribunal Act 2008*—the review is finally
- 12 disposed of; or
- 13 (b) the review period has ended.
- 14 (5) The ordered entity is liable for the reasonable cost incurred in doing
- 15 anything under subsection (2) and the cost is taken to be a debt
- 16 owing to the Territory.

## 17 **Division 5.5B Public safety restrictions**

### 18 **49G Restriction of people—public safety**

- 19 (1) This section applies if the administrator believes on reasonable
- 20 grounds that a person has engaged in conduct, or demonstrated
- 21 insufficient skills and knowledge in carrying out an eligible activity,
- 22 that presents or is likely to present a risk of death or injury to a
- 23 person, significant harm to the environment or significant damage to
- 24 property.

#### 25 **Examples**

- 26 1 An installer authorised by a retailer to carry out eligible activities is not an
- 27 electrician but nevertheless undertakes electrical wiring work in consumer's
- 28 premises.

- 1                   2    An inspection of the installation of sealing to a ventilation opening shows  
2                   that a person has undertaken the work without the required building approval  
3                   and has sealed a room in which there is a flueless gas heater. When  
4                   questioned by the administrator, it is apparent that the person is not familiar  
5                   with the requirements of the building code or the standards for ventilation for  
6                   gas appliances and has undertaken a number of installations that are not  
7                   compliant and may cause carbon monoxide poisoning or other problems for  
8                   the occupants.
- 9                   3    An installer is replacing a window and frame and disturbs friable asbestos.  
10                  Although the installer has taken an asbestos awareness course, the installer is  
11                  not a licensed asbestos assessor or an asbestos removalist. The installer  
12                  attempts to remove the asbestos himself and places the removed asbestos in a  
13                  normal garbage bin, releasing asbestos fibres into the air and causing a  
14                  potential health problem to residents and other members of the public.
- 15                 4    A retailer or contractor engaged by a retailer employs unlicensed people to  
16                 undertake gasfitting work.

17                 *Note*    An example is part of the Act, is not exhaustive and may extend, but  
18                 does not limit, the meaning of the provision in which it appears (see  
19                 [Legislation Act](#), s 126 and s 132).

- 20                 (2) The administrator may place a restriction on a person that—
- 21                   (a) prevents the person from undertaking an eligible activity; or
- 22                   (b) prevents the person from undertaking certain prescribed  
23                   activity requirements; or
- 24                   (c) prevents the person from undertaking eligible activities or  
25                   certain prescribed activity requirements without supervision; or
- 26                   (d) requires the person to undertake specific training, assessment  
27                   or other remedial activity.

28                 **Examples**

- 29                 1    After undertaking inspections on a number of solar water heater installations,  
30                 the administrator determines that a number of installers employed by an  
31                 authorised contractor have failed to install appropriate tempering devices,  
32                 making the installations unsafe. The administrator restricts the authorised  
33                 contractor from undertaking solar water heater installations until its installers  
34                 undertake remedial training and the contractor puts in place a quality  
35                 assurance system for checking installations.

- 1                   2    A retailer has been permitting unlicensed people to undertake degassing of  
2                    refrigerators. The administrator may prevent the retailer from undertaking  
3                    activities requiring the degassing of refrigerators until it can demonstrate that  
4                    it has engaged suitably licensed people to undertake the work.
- 5                   (3) A restriction mentioned in subsection (2) does not make it unlawful  
6                    for the person to undertake an eligible activity, but the eligible  
7                    activity is taken to generate no abatement factor for this Act.
- 8                   (4) The restriction mentioned in subsection (2) applies when the  
9                    administrator gives the person a notice that includes—
- 10                   (a) the name of the person to whom the restriction applies; and  
11                   (b) the nature of the conduct or deficiency; and  
12                   (c) the nature of the risk; and  
13                   (d) the duration of the restriction; and  
14                   (e) the eligible activities, or prescribed activity requirements the  
15                    restriction applies to; and  
16                   (f) a statement that the retailer may apply in writing to the  
17                    administrator to revoke the restriction.
- 18                   (5) The administrator may give the notice orally or in writing.
- 19                   (6) However, if the administrator gives the notice orally, the  
20                    administrator must give the notice in writing not later than 2 days  
21                    after the day the administrator gave the notice orally.
- 22                   (7) In this section:
- 23                    ***person***, in relation to a restriction, means a retailer, an agent or a  
24                    representative of a retailer that arranges or carries out eligible  
25                    activities or certain actions required as part of an eligible activity  
26                    under this Act.

1     **49H       End of restriction**

- 2           (1) This section applies if a restriction has been placed on a person  
3           under section 49G.
- 4           (2) The administrator must end the restriction if satisfied that the reason  
5           for placing the restriction on the person no longer exists.
- 6           (3) The administrator may end the restriction if the administrator  
7           believes on reasonable grounds that ending the restriction on the  
8           person will not put consumers of the person's services at greater risk  
9           from using the services than if the restriction continued in force.
- 10          (4) The administrator must review the restriction not later than  
11          3 months after the day the restriction is placed on the person, unless  
12          the restriction ends earlier.
- 13          (5) A restriction under section 49G continues in force after the 3 months  
14          mentioned in subsection (4) if—
- 15              (a) the administrator is not satisfied that the reason for placing the  
16              restriction on the person no longer exists; or
- 17              (b) the person has not complied with the restriction.

18     **Division 5.5C       Information requirements**

19     **49I       Meaning of *information requirement*—div 5.5C**

20           In this division:

21           *information requirement*—see section 49J (2).



1     **49J       Information requirements**

- 2             (1) This section applies if the administrator believes on reasonable  
3                 grounds that a person—
- 4                 (a) has information (the *required information*) reasonably  
5                     required by the administrator for the administration or  
6                     enforcement of this Act; or
- 7                 (b) has possession or control of a document containing the  
8                     required information.
- 9             (2) The administrator may give the person a notice (an *information*  
10                *requirement*) requiring the person to give the information, or  
11                produce the document, to the administrator.
- 12            (3) The information requirement must be in writing and must include  
13                details of the following:
- 14                (a) the identity of the person to whom it is given;
- 15                (b) why the information is required;
- 16                (c) the time by which the notice must be complied with.
- 17            (4) A person does not incur any civil or criminal liability only because  
18                the person gives information, or produces a document, to the  
19                administrator in accordance with an information requirement.

20     **49K       Treatment of documents provided under information**  
21                **requirement**

- 22             (1) The administrator must return a document produced in accordance  
23                 with an information requirement to the person who produced the  
24                 document as soon as practicable.
- 25             (2) Before returning the document, the administrator may make copies  
26                 of, or take extracts from, the document.

1 **50 Schedule 1**

2 *substitute*

3 **Schedule 1 Reviewable decisions**

4 (see pt 6)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	18	approving an application in relation to acquisition of abatement factors	NERL retailer applying for the approval
2	20	determining retailer energy savings result	NERL retailer receiving the result
3	21	determining retailer priority household result	tier 1 NERL retailer receiving the result
4	49A	making requirement, imposing restriction or condition	person to whom requirement, restriction or condition applies
5	49H	refusing to end restriction under s 49G	person to whom restriction applies

1 **51 Dictionary, definition of *auditor***

2 *omit*

3 **52 Dictionary, new definitions**

4 *insert*

5 *compliance information*, for part 4A (Information sharing)—see  
6 section 28A.

7 *information requirement*, for division 5.5C (Information  
8 requirements)—see section 49H.

9 *non-territory agency*, for part 4A (Information sharing)—see  
10 section 28A.

11 *rectification order*—see section 49E (Rectification orders).

12 *regulatory agency*, for part 4A (Information sharing)—see  
13 section 28A.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 27 February 2014.

**2 Notification**

Notified under the [Legislation Act](#) on 2014.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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