



Queensland

Housing and Other Legislation Amendment Act 2013

Act No. 5 of 2013



Queensland

Housing and Other Legislation Amendment Act 2013

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Queensland

Housing and Other Legislation Amendment Act 2013

Act No. 5 of 2013

An Act to amend the Housing Act 2003, the Building Act 1975 and the Plumbing and Drainage Act 2002 for particular purposes, and to make minor amendments of the Acts mentioned in the schedule

[Assented to 14 March 2013]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Housing and Other Legislation Amendment Act 2013*.

2 Commencement

Part 2 commences on a day to be fixed by proclamation.

Part 2 Amendment of Housing Act 2003

3 Act amended

This part amends the *Housing Act 2003*.

4 Amendment of s 7 (Definitions)

Section 7, ‘schedule 3’—
omit, insert—
‘schedule 4’.

5 Replacement of s 8 (Meaning of *housing service*)

Section 8—
omit, insert—

‘8 Key concepts

- ‘(1) A *housing service* is a social housing service or an ancillary housing service.
- ‘(2) A *social housing service* is the provision of housing to an individual for residential use, other than crisis accommodation.
- ‘(3) A *community housing service* is a social housing service that is not public housing.
- ‘(4) *Public housing* is a social housing service provided directly by the State.
- ‘(5) An *ancillary housing service* is any of the following—
- (a) giving financial or other assistance to enable an individual to—
 - (i) buy or lease a residence or obtain housing in another way; or
 - (ii) modify or maintain a residence;
 - (b) any of the following kinds of services—
 - (i) tenant advisory services;
 - (ii) tenant advocacy services;
 - (iii) home maintenance services;
 - (iv) home modification services;
 - (v) housing-related referral and information services;
 - (vi) provision of crisis accommodation;
 - (vii) a prescribed service.

6 Omission of s 9 (Notes in text)

Section 9—
omit.

[s 7]

7 Amendment of pt 3, hdg (Obligations relating to public housing and other government housing services)

Part 3, heading, ‘public housing and other government’—
omit, insert—
‘social’.

8 Replacement of pt 4, hdg (Registered providers)

Part 4, heading—
omit, insert—

‘Part 4 Funding’.

9 Omission of s 20 (Explanation)

Section 20—
omit.

10 Replacement of ss 21 and 22

Sections 21 and 22—
omit, insert—

‘21 Meaning of *funding* and *funded provider*

‘(1) *Funding* is assistance provided by the chief executive—

- (a) in the form of money or other assistance to a funded provider to assist the provider in providing housing services; and
- (b) on condition the funded provider is accountable to the chief executive for providing the housing services and the use of the money or other assistance.

‘(2) A *funded provider* is an entity providing, or required to provide, housing services using funding.

‘(3) For subsection (2), it does not matter—

- (a) if other resources are also used to provide the services;
or
- (b) that an agreement under which the funding was provided has ended.

‘22 Only particular providers eligible to receive funding to deliver social housing services

‘The chief executive may give funding to deliver a social housing service only to—

- (a) a registered provider; or
- (b) an exempt provider.’.

11 Replacement of pt 4, div 2, hdg (Assistance)

Part 4, division 2, heading—

omit, insert—

‘Division 2 Providing funding’.

12 Replacement of s 23 (Ways of giving assistance)

Section 23—

omit, insert—

‘23 Types of funding that may be provided

‘The chief executive may give an entity that provides, or intends to provide, a housing service funding the chief executive considers appropriate to assist the entity to provide the service, including, for example—

- (a) making, on appropriate conditions, a monetary grant or a series of monetary grants to the entity; or
- (b) making a secured loan to the entity; or
- (c) transferring to the entity land subject to an appropriate security or covenant relating to the use of the land; or
- (d) leasing land to the entity.’.

[s 13]

13 Amendment of s 24 (Purpose of giving assistance)

- (1) Section 24, heading, ‘giving assistance’—
omit, insert—
‘**funding**’.
- (2) Section 24, ‘giving assistance to a registered provider’—
omit, insert—
‘funding an entity’.

14 Replacement of s 25 (Assistance agreement)

Section 25—
omit, insert—

‘25 Funding agreement

- ‘(1) The chief executive may enter into an agreement (a ***funding agreement***) with an entity for giving funding to the entity.
- ‘(2) A funding agreement may include the terms the chief executive considers appropriate.

Example for subsection (2)—

A term of a funding agreement may provide that, if the funded provider deals with a stated amount in a way that contravenes a stated prescribed requirement, the amount is repayable to the chief executive.’.

15 Amendment of s 26 (Demand for repayment of unexpended amounts)

- (1) Section 26(1)(a)—
omit, insert—
‘(a) a funding agreement with a funded provider ends; and’.
- (2) Section 26(1)(b), (2), (3) and (4), ‘registered provider’—
omit, insert—
‘provider’.

16 Amendment of s 27 (No entitlement to assistance)

- (1) Section 27, heading, ‘assistance’—
omit, insert—
‘funding’.
- (2) Section 27, ‘give assistance’—
omit, insert—
‘give funding’.
- (3) Section 27, ‘an assistance agreement’—
omit, insert—
‘a funding agreement’.

17 Omission of pt 4, div 3 (Registration)

Part 4, division 3—
omit.

18 Renumbering of pt 4, div 4 (Compliance with prescribed requirements)

Part 4, division 4—
renumber as part 4, division 3.

19 Amendment of s 33 (Prescribed requirements)

- (1) Section 33(1), ‘funded services by registered providers’—
omit, insert—
‘housing services for which a funded provider receives funding’.
- (2) Section 33(2)(a) and (b), ‘registered provider’—
omit, insert—
‘funded provider’.
- (3) Section 33(2)(a) and (c), ‘funded service’—

[s 20]

omit, insert—

‘housing service for which the provider receives funding’.

(4) Section 33(3)(c)—

omit.

20 Replacement of s 34 (Registered provider must comply with prescribed requirements)

Section 34—

omit, insert—

‘34 Funded provider must comply with prescribed requirements

‘A funded provider must not contravene a prescribed requirement relating to the provision by the provider of a housing service for which the provider receives funding.

Notes—

- 1 Under section 35, a funded provider may be given a compliance notice requiring the provider to remedy a contravention of a prescribed requirement.
- 2 The extent of a funded provider’s compliance with, or contravention of, a prescribed requirement is likely to be a relevant matter for the chief executive to consider when deciding the further funding, if any, to give to the provider under this part.
- 3 A funding agreement may include a provision about the consequences of a contravention of a prescribed requirement.
- 4 Noncompliance by a funded ancillary provider with certain types of prescribed requirements may lead to the appointment of an interim manager to the business of that provider—see sections 40 and 41.’.

21 Amendment of s 35 (Compliance notice)

(1) Section 35(1), ‘registered provider’—

omit, insert—

‘funded provider’.

(2) Section 35(6)(a), from ‘required’ to ‘agreement’—

omit, insert—

‘required to give any funding or further funding, to the provider under a funding agreement’.

- (3) Section 35(7)(a), ‘an assistance’—

omit, insert—

‘a funding’.

22 Omission of pt 4, div 5 (Keeping a register and related matters)

Part 4, division 5—

omit.

23 Insertion of new pt 4A

After part 4—

insert—

‘Part 4A Community housing providers

‘Division 1 Preliminary

‘36 Objects of this part

‘This part establishes a system for the registration, monitoring and regulation of entities providing community housing services—

- (a) to encourage the development, viability and quality of community housing services; and
- (b) to promote confidence in the good governance of registered providers of community housing services, in order to facilitate greater investment in the community housing sector; and

[s 23]

- (c) to make it easier for providers of community housing services to operate in more than 1 participating jurisdiction.

Note—

Part 4A implements the State's obligations under the Inter-Governmental Agreement for a National Regulatory System for Community Housing Providers.

'36A Meaning of *primary jurisdiction*

- '(1) The *primary jurisdiction* of a national provider, or a national entity (a *potential provider*) intending to provide a community housing service, is—
 - (a) the participating jurisdiction in which the national provider provides, or the potential provider intends to provide, most of its community housing services; or
 - (b) if the registrars of each participating jurisdiction agree to a different primary jurisdiction—that jurisdiction.
- '(2) The registrars of each participating jurisdiction may agree to a different primary jurisdiction for a national provider or potential provider at any time whether or not on the application of the national provider or potential provider.
- '(3) As soon as practicable after agreeing on a different primary jurisdiction for a national provider or potential provider, the registrar of the provider's new primary jurisdiction must—
 - (a) give the national provider or potential provider notice of its new primary jurisdiction; and
 - (b) record the new primary jurisdiction on the national register.
- '(4) For subsection (1)(a), a community housing service provided by a national provider, or intended to be provided by a potential provider, in a jurisdiction other than a participating jurisdiction is not to be taken into account in deciding where most of the national provider's or potential provider's community housing services are, or will be, provided.

‘36B Extraterritorial operation of pt 4A

‘It is the intention of the Parliament that, as far as the legislative power of the Parliament permits, the operation of this part includes operation in relation to the following—

- (a) things situated in or outside the territorial limits of the State;
- (b) acts, transactions, and matters done, entered into or occurring in or outside the territorial limits of the State;
- (c) things, acts, transactions and matters, wherever situated, done, entered into or occurring, that would, apart from this part, be governed or otherwise affected by the law of another jurisdiction.

‘36C Chief executive declared to be housing agency

‘For the purpose of the corresponding laws of the other participating jurisdictions, the chief executive as agent for the State is declared to be the housing agency for this jurisdiction.

Note—

See definition, *housing agency* in schedule 4 (Dictionary).

‘Division 2 Registrar

‘36D Appointment

- ‘(1) The chief executive may appoint an appropriately qualified person as the registrar of—
 - (a) the national register for this jurisdiction; and
 - (b) the state register.
- ‘(2) The registrar is to be appointed and employed under the *Public Service Act 2008*.

[s 23]

‘36E Independence of registrar

- ‘(1) Subject to the Minister and the chief executive, the registrar is to control—
- (a) the national register for this jurisdiction; and
 - (b) the state register.
- ‘(2) However, the registrar is not subject to the control of the Minister or the chief executive in making decisions about any of the following matters—
- (a) the approval or refusal of an application for registration on the national register for this jurisdiction or the state register;
 - (b) the imposition of conditions on the registration of a registered provider, including the imposition of an additional standard condition on the registration of a national provider;
 - (c) the variation of a national provider’s category of registration;
 - (d) the exercise of an enforcement or intervention function or power under division 4;
 - (e) the cancellation of a registered provider’s registration on the national register or the state register.

‘36F Functions of registrar

- ‘(1) The registrar has the following functions—
- (a) maintaining—
 - (i) the national register, jointly with the registrars for the other participating jurisdictions; and
 - (ii) the state register;
 - (b) assessing the suitability of applicants for registration;
 - (c) registering—

-
- (i) national entities, for which this jurisdiction is or will be the primary jurisdiction, as national providers; and
 - (ii) local governments and other entities as state providers;
 - (d) cancelling the registration of registered providers;
 - (e) monitoring and enforcing compliance by registered providers with this Act and exercising enforcement and intervention functions under division 4;
 - (f) investigating complaints about the compliance by registered providers with this Act;
 - (g) any other functions conferred or imposed on the registrar under this Act or another Act.
- ‘(2) The registrar has the following additional functions in relation to the national register—
- (a) providing information about the registration of national entities and the compliance by national providers with this Act;
 - (b) sharing information and cooperating with the registrars of the other participating jurisdictions for the purposes of this Act and corresponding laws;
 - (c) providing information and advice to the Minister and chief executive about registration of national entities, the regulation of national providers and any other matters under this Act or a corresponding law.

‘36G Powers of registrar

‘The registrar has the power necessary or convenient to carry out the registrar’s functions.

‘36H Registrar must comply with guidelines

‘In performing a function in relation to the national register, the registrar must comply with any guidelines made jointly by

[s 23]

the Minister and each Minister responsible for the administration of a corresponding law for a participating jurisdiction, and published—

- (a) in the New South Wales Government Gazette; or
- (b) on the New South Wales legislation website.

‘36I Registrar not personally liable

‘The registrar is not personally liable for any matter or thing done or omitted to be done in good faith in the performance of a function, or the exercise of a power, of the registrar under this Act.

‘36J Delegation of registrar’s functions or powers

- ‘(1) The registrar may delegate the registrar’s functions and powers under this Act to—
 - (a) if the function or power relates to the state register—an appropriately qualified officer of the department; or
 - (b) if the function or power relates to the national register—
 - (i) the registrar of another participating jurisdiction; or
 - (ii) an appropriately qualified officer of the department; or
 - (iii) a prescribed person or a member of a prescribed class of persons.
- ‘(2) Without limiting subsection (1), the functions and powers relating to the national register that may be delegated by the registrar include—
 - (a) functions and powers of the registrar as the primary registrar for a national provider, or a national entity intending to provide a community housing service; and
 - (b) functions and powers delegated to the registrar by the registrar of another participating jurisdiction.

-
- ‘(3) However, the registrar may delegate the following functions or powers only to an authorised officer—
- (a) the power to request the provision of information relating to a registered provider’s affairs, including a specified document or record, as mentioned in schedule 2, section 4;
 - (b) the power to request a registered provider attend a meeting to answer questions about the provider’s affairs, as mentioned in schedule 2, section 5;
 - (c) the power to enter a registered provider’s premises to inspect the premises or the provider’s records, as mentioned in schedule 2, section 6;
 - (d) a power or function conferred on the registrar by the corresponding law of a participating jurisdiction that corresponds to the conditions of registration mentioned in schedule 3, part 1, sections 3 to 5.

‘Division 3 Registration

‘37 Registers established

- ‘(1) The national register of national entities providing community housing services is established.
- ‘(2) It is the intention of the Parliament that this part, together with the corresponding laws of the other participating jurisdictions, has the effect that the national register is a single national register.
- ‘(3) The state register of local governments and prescribed state providers providing community housing services is established.

Note—

A state provider may provide a community housing service only within this jurisdiction—see schedule 3, part 2, section 7.

[s 23]

‘37A Information on register

- ‘(1) This section applies if the registrar approves an application by—
- (a) a national entity for which this jurisdiction is, or will be, the primary jurisdiction for registration on the national register; or
 - (b) a local government or a prescribed state provider for registration on the state register.
- ‘(2) The registrar must include the following information on the national register or the state register, for the entity, local government or prescribed state provider (the *provider*)—
- (a) name and identifying details;
 - (b) the conditions applying to the registration;
 - (c) a copy of any notice of intent to cancel registration issued to the provider;
 - (d) whether the registration has been cancelled at any time and details of the cancellation, including a copy of the notice of cancellation;
 - (e) a copy of any binding instructions issued to the provider;
 - (f) details of the appointment of a statutory manager for the provider, including a copy of the relevant instrument of appointment;
 - (g) any other information the registrar considers relevant.
- ‘(3) If the provider is a national entity the registrar must also include the following information for the provider on the national register—
- (a) the category of registration of the provider;
 - (b) the primary jurisdiction;
 - (c) each other participating jurisdiction in which the provider has a national community housing asset.

-
- ‘(4) The registrars of each participating jurisdiction may agree to divide the national register into different parts to assist in the administration of the national register.
 - ‘(5) The registrar may, at any time, by notice to a national provider for which the registrar is the primary registrar—
 - (a) vary the category of registration of the provider; and
 - (b) move the registration of the provider to another part of the national register.

Note—

A decision by the registrar to vary the category of a national provider’s registration is reviewable—see section 63(2)(a).

- ‘(6) Information on the national register and the state register must be publicly available.
- ‘(7) The registrar may, on payment of the prescribed fee, give a person a copy of information kept on the relevant register.

‘37B Application for registration or variation of registration

- ‘(1) An entity (the *applicant*) providing or intending to provide a community housing service may apply to the registrar—
 - (a) if the applicant is a national entity for which the registrar is or will be the primary registrar—for registration on the national register; or
 - (b) if the applicant is a national provider for which the registrar is the primary registrar—for variation of the provider’s existing registration on the national register; or
 - (c) if the applicant is a local government or a prescribed state provider—for registration on the state register.
- ‘(2) An application under subsection (1) must be—
 - (a) in the approved form; and
 - (b) accompanied by the prescribed fee.
- ‘(3) If the registrar receives an application from a national entity or national provider for which the registrar is not, or will not be,

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the primary registrar, the registrar must refer the application to the primary registrar for the applicant.

‘(4) The registrar may require the applicant to give the registrar further information or documents the registrar reasonably requires to decide the application, including information or documents relating to—

(a) the performance of the applicant’s functions and any arrangement the applicant has entered into with another entity in relation to the performance of the applicant’s functions; or

Example—

A national entity that is a consolidated entity within the meaning of the *Corporations Act 2001* (Cwlth), section 9, may be required to give the registrar information about changes to the consolidated entity’s group structure.

(b) the applicant’s affairs.

‘(5) However, subsection (4) does not authorise the registrar to require information or a document that identifies an individual who is an occupier of residential premises.

‘37C Deciding application

‘(1) The registrar must approve an application made under section 37B(1)(a) or (b) by a national entity or a national provider if the registrar is satisfied that—

(a) the entity or provider is providing, or intends to provide, community housing services, most of which are or will be provided in this jurisdiction; and

(b) the entity or provider will comply with this Act and the corresponding law of each participating jurisdiction in which the entity or provider provides, or will provide, a community housing service; and

(c) the entity or provider will comply with any condition applying to the entity or provider’s registration, or the provider’s registration as varied; and

-
- (d) approval of the application is appropriate in the circumstances having regard to—
- (i) the main objects of this Act and how the objects are to be primarily achieved; and
 - (ii) the objects of this part.
- ‘(2) The registrar must approve an application made under section 37B(1)(c) by a local government or a prescribed state provider if the registrar is satisfied that—
- (a) the local government or prescribed state provider is providing, or intends to provide, a community housing service in this jurisdiction only; and
 - (b) the local government or prescribed state provider will comply with this Act and the conditions applying to the local government’s or the provider’s registration; and
 - (c) approval of the application is appropriate in the circumstances having regard to—
 - (i) the main objects of this Act and how the objects are to be primarily achieved; and
 - (ii) the objects of this part.

Note—

A decision by the registrar to refuse an application for registration, or an application by a national provider for variation of its registration, is reviewable—see section 63(2)(b).

‘37D Conditions of registration

- ‘(1) A registered provider must comply with—
- (a) each condition applying to the provider’s registration; and
 - (b) each provision (an *applicable code provision*) of the national regulatory code in schedule 1 that is identified on the relevant register as applying to the provider’s registration.

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Note—

A failure to comply with subsection (1) is not an offence but is a ground for the registrar to give a registered provider a notice of noncompliance.

- ‘(2) Schedule 2 sets out the conditions that apply to the registration of each registered provider.
- ‘(3) Schedule 3, part 1 sets out the conditions that apply to the registration of a national provider for which this jurisdiction is the primary jurisdiction.
- ‘(4) Schedule 3, part 2, sets out the conditions that apply to the registration of a state provider.

‘37E Additional standard conditions for national providers

- ‘(1) The registrars of each participating jurisdiction may agree to conditions of registration (each an *additional standard condition*) for national providers.
- ‘(2) The registrar may impose 1 or more additional standard conditions on the registration of a national provider for which this jurisdiction is the primary jurisdiction—
 - (a) at the time the registrar decides the provider’s application for registration; or
 - (b) at any other time by notice given to the provider.

Note—

A decision by the registrar to impose an additional standard condition is reviewable —see section 63(2)(c).

- ‘(3) The registrar must—
 - (a) give the national provider an opportunity to make a submission on a proposed notice under subsection (2)(b); and
 - (b) take any submission made by the provider into account before giving the notice to the provider.
- ‘(4) An additional standard condition imposed on the registration of a national provider for which this jurisdiction is the primary jurisdiction applies in addition to—

-
- (a) the conditions set out in schedule 2; and
 - (b) the conditions set out in schedule 3, part 1; and
 - (c) any applicable code provision.

‘37F Individual occupier of residential premises

‘Nothing in section 37D or 37E authorises—

- (a) a registered provider to give information that identifies an individual who is an occupier of residential premises, without the individual’s consent, to—
 - (i) the registrar; or
 - (ii) if the provider is a national provider—the registrar of another participating jurisdiction; or
- (b) the registrar, or the registrar of another participating jurisdiction, to enter residential premises occupied by an individual, without the individual’s consent.

‘37G Cancellation of registration

- ‘(1) The registrar may cancel the registration of a national provider for which the registrar is the primary registrar, or a state provider, if the provider—
 - (a) has applied to the registrar for the cancellation of the provider’s registration; or
 - (b) has been wound up or has otherwise ceased to exist.
- ‘(2) An application under subsection (1)(a) must be made in the approved form.
- ‘(3) The registrar may refuse the application only if—
 - (a) for a national provider—the registrar is not satisfied each national community housing asset of the provider has been transferred under section 37H(2) or the corresponding law of another participating jurisdiction that applies to the provider or the asset; or

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- (b) for a state provider—the registrar is not satisfied each state community housing asset of the provider has been transferred under section 37H(3).
- ‘(4) The registrar may also cancel the registration of a national provider for which the registrar is the primary registrar, or a state provider, if—
- (a) the registrar has given the provider a notice of intent to cancel registration under section 38C; and
 - (b) the provider has not, within the time stated in the notice, satisfied the registrar that the provider’s registration should not be cancelled; and
 - (c) the registrar has given the provider notice under section 64 of the registrar’s decision to cancel the provider’s registration.

Note—

A decision by the registrar to cancel a registered provider’s registration or to refuse an application by a registered provider for cancellation of the provider’s registration is reviewable—see section 63(2)(d).

‘37H Community housing assets to be transferred if registration cancelled

- ‘(1) This section applies if—
- (a) a registered provider intends to apply for cancellation of the provider’s registration; or
 - (b) the registrar cancels the registration of a registered provider under section 37G(4).
- ‘(2) If the registered provider is a national provider, the provider must take all reasonable steps to ensure that on or before the relevant day for the provider, the provider transfers each of its national community housing assets to—
- (a) if the asset is located in this jurisdiction—
 - (i) the chief executive; or
 - (ii) if another entity is prescribed—the prescribed entity; or

-
- (iii) if the chief executive consents in writing—another national provider or state provider; or
 - (b) if the asset is located in another participating jurisdiction—
 - (i) the housing agency of that jurisdiction; or
 - (ii) if the corresponding law of that jurisdiction prescribes another entity—the prescribed entity.
 - ‘(3) If the registered provider is a state provider, the provider must take all reasonable steps to ensure that on or before the relevant day for the provider, the provider transfers each of its state community housing assets to—
 - (a) the chief executive; or
 - (b) if another entity is prescribed—the prescribed entity; or
 - (c) if the chief executive consents in writing—another national provider or state provider.
 - ‘(4) If the chief executive consents under subsection (2)(a)(iii) or (3)(c) to the transfer of a community housing asset to another national provider or state provider—
 - (a) the chief executive may impose conditions on the consent that the chief executive considers appropriate; and
 - (b) if the chief executive imposes conditions—the national provider or the state provider transferring the community housing asset must comply with the conditions when the provider is transferring the asset.
 - ‘(5) If a registered provider fails to comply with subsection (2), (3) or (4), the provider is taken to have contravened each funding agreement to which the provider is a party.
 - ‘(6) In this section—
relevant day, for a registered provider, means—
 - (a) for a registered provider intending to apply for cancellation of the provider’s registration—

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- (i) the day before the provider applies for cancellation; or
 - (ii) if, before the provider applies for the cancellation, the registrar and the provider agree in writing that a stated day will be the relevant day for the provider—the stated day; or
- (b) for a registered provider whose registration is cancelled under section 37G(4)—
 - (i) the day that is 6 months after the day on which the provider receives the notice under section 64 of the cancellation; or
 - (ii) if, before the day mentioned in subparagraph (i), the registrar and the provider agree in writing that a stated day will be the relevant day for the provider—the stated day.

‘Division 4 Enforcement powers of registrar

‘38 Registrar may take action

- ‘(1) The registrar may take action under this division in relation to the following—
 - (a) a national provider for which the registrar is the primary registrar;
 - (b) a state provider.
- ‘(2) The registrar may take action under this division against a registered provider mentioned in subsection (1) if the registrar reasonably believes the provider is not complying with—
 - (a) this Act; or
 - (b) if the provider is a national provider—a corresponding law that applies to the provider.

‘38A Notice of noncompliance

- ‘(1) If the registrar decides to take action under this division in relation to a registered provider, the registrar may give the provider a notice (a *notice of noncompliance*) stating—
- (a) that the registrar reasonably believes the provider is not complying with—
 - (i) this Act; or
 - (ii) if the provider is a national provider—a corresponding law that applies to the provider; and
 - (b) the provision of this Act or of the corresponding law the registrar believes is not being, or has not been, complied with; and
 - (c) briefly, how the registrar believes the provision is not being, or has not been, complied with; and
 - (d) the reasonable steps the provider must take to rectify the noncompliance; and
 - (e) the time within which the provider must take steps to rectify the noncompliance; and
 - (f) that the consequences of the provider failing to rectify the noncompliance within the stated time may include cancellation of the provider’s registration.
- ‘(2) If the provider is a national provider, the registrar must give a copy of the notice of noncompliance to the registrar of each other participating jurisdiction.

‘38B Binding instructions to rectify noncompliance

- ‘(1) The registrar may give a registered provider written instructions (the *binding instructions*) about the way in which the provider is to address a matter that is the subject of a notice of noncompliance the registrar has given the provider.

Note—

A decision by the registrar to issue binding instructions to a registered provider is reviewable—see section 63(2)(e).

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- ‘(2) The registrar may give more than 1 set of binding instructions for a notice of noncompliance.
- ‘(3) The registered provider and each relevant person for the provider must comply with the binding instructions within the period, if any, stated in the instructions.

Note—

A failure to comply with subsection (3) is not an offence but is a ground for the registrar to give a registered provider a notice of intention to cancel the provider’s registration.

- ‘(4) In deciding whether to give binding instructions to the registered provider the registrar must—
 - (a) consider the interests of any tenants of the provider; and
 - (b) if the provider is a national provider—take all steps reasonably practicable to obtain the views of a regulatory body the registrar considers has a relevant interest in the matter.

Example for paragraph (b)—

in considering whether to give binding instructions under this section to a national provider that is a company limited by shares under the *Corporations Act 2001* (Cwlth), the registrar takes steps to obtain the views of the Australian Securities and Investments Commission

- ‘(5) In this section—

relevant person, for a registered provider, means—

 - (a) a member of the provider’s governing body; or
 - (b) an officer or employee of the provider.

‘38C Notice of intent to cancel registration

- ‘(1) This section applies if the registrar reasonably believes a registered provider—
 - (a) has not addressed the matters stated in a notice of noncompliance given to the provider within the period stated in the notice; or

-
- (b) has not complied with binding instructions given to the provider within the period, if any, stated in the instructions; or
 - (c) has failed to comply with a provision of this Act or, if the provider is a national provider, a corresponding law of another participating jurisdiction, and urgent steps are required because the failure has potentially serious consequences.

Example for paragraph (c)—

a failure by a registered provider to comply with this Act that creates a risk to the health and safety of the provider's tenants

- '(2) The registrar may give the registered provider a notice (a ***notice of intent to cancel registration***) that the registrar intends to cancel the provider's registration.
- '(3) The notice of intent to cancel registration must state—
 - (a) the reasons the registrar considers registration should be cancelled; and
 - (b) that the provider's registration will be cancelled unless, within the period stated in the notice, the provider satisfies the registrar that the provider's registration should not be cancelled.
- '(4) The stated period in a notice of intent to cancel registration—
 - (a) must be not less than 14 days after the day the notice is given to the registered provider; and
 - (b) may be extended in writing by the registrar at the provider's request, if the registrar is satisfied that there are good reasons for extending the period.
- '(5) If the provider is a national provider, the registrar must also give a copy of the notice of intent to cancel registration to the registrar of, and the housing agency for, each other participating jurisdiction.

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‘38D Statutory managers

- ‘(1) The registrar may, by instrument, appoint a person (a *statutory manager*) to conduct the affairs and activities of a registered provider, to the extent the affairs and activities relate to the provider’s community housing assets.

Note—

A decision by the registrar to appoint a statutory manager is reviewable—see section 63(2)(f).

- ‘(2) The registrar may appoint a statutory manager only if—
- (a) the registrar has given the provider a notice of intent to cancel registration; or
 - (b) the registrar is satisfied the provider has failed to comply with any of the following and urgent steps are required because the failure to comply has potentially serious consequences—
 - (i) this Act;
 - (ii) if the provider is a national provider—a corresponding law of another participating jurisdiction applying to the provider;
 - (iii) binding instructions given to the provider.

Example of potentially serious consequences—

a failure by a registered provider to comply with this Act that creates a risk to the health and safety of the provider’s tenants

- ‘(3) The statutory manager’s instrument of appointment must state the following—
- (a) the statutory manager’s name;
 - (b) details of the registered provider;
 - (c) details of the statutory manager’s functions and powers;
 - (d) the day the appointment takes effect;
 - (e) either—
 - (i) the day the appointment ends; or

-
- (ii) that the appointment continues until the registrar gives notice that the appointment has ended;
 - (f) any conditions of the appointment;
 - (g) any other matter the registrar considers appropriate.
- ‘(4) A copy of the instrument of appointment must be given to the registered provider.
- ‘(5) The statutory manager—
- (a) has the functions and powers stated in the manager’s instrument of appointment; and
 - (b) holds office on the conditions stated in the manager’s instrument of appointment.
- ‘(6) If a person appointed as statutory manager is not a public service employee, the person is entitled to be paid the remuneration decided by the chief executive.
- ‘(7) A registered provider must not, while a statutory manager is appointed for the provider, perform a function or exercise a power the statutory manager has been appointed to perform or exercise unless the statutory manager agrees to the provider performing the function or exercising the power.

Note—

A failure to comply with subsection (7) is not an offence but may be a ground for the cancellation of the registered provider’s registration.

- ‘(8) The registrar must revoke the statutory manager’s appointment if the registrar is satisfied—
- (a) the registered provider is complying, or will comply—
 - (i) with this Act and any binding instructions given to the provider; and
 - (ii) if the provider is a national provider—with each corresponding law that applies to the provider; or
 - (b) the provider no longer provides a community housing service—
 - (i) in this jurisdiction; and

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- (ii) if the provider is a national provider—in any other participating jurisdiction; or
- (c) the registered provider has been wound up or has otherwise ceased to exist.

‘38E Other matters relating to performance of a function or exercise of a power by statutory manager

- ‘(1) The expenses of and incidental to the conduct of the affairs and activities of a registered provider by a statutory manager are payable by the provider.
- ‘(2) The expenses include—
 - (a) the remuneration of the statutory manager if the statutory manager is not a public service employee; or
 - (b) the reimbursement of the State of an amount certified by the chief executive as being the remuneration of the employee for the period of the employee’s appointment as statutory manager.
- ‘(3) The amount mentioned in subsection (2)(b) may be recovered in a court of competent jurisdiction as a debt due to the State.
- ‘(4) A statutory manager is not liable for any loss incurred by the registered provider during the period of the statutory manager’s appointment unless the loss was attributable to the statutory manager’s—
 - (a) wilful misconduct; or
 - (b) gross negligence; or
 - (c) wilful failure to comply with this Act or a corresponding law or any other law regulating the conduct of members of the governing body of the provider.
- ‘(5) Neither the State nor the registrar is liable for any loss incurred by a registered provider during the period of a statutory manager’s appointment for the registered provider, whether or not the statutory manager is liable to the provider.

‘38F Displacement provisions

- ‘(1) Sections 38B and 38D are declared to be Corporations legislation displacement provisions for the *Corporations Act 2001* (Cwlth), section 5G.
- ‘(2) Sections 38B and 38D prevail to the extent the sections are inconsistent with a provision of the following legislation—
 - (a) the *Associations Incorporation Act 1981*;
 - (b) the *Cooperatives Act 1997*.

‘38G No compensation payable by State

- ‘(1) No compensation is payable by or on behalf of the State or the registrar in connection with the operation of this division.
- ‘(2) Without limiting subsection (1), compensation is not payable by or on behalf of the State or the registrar arising directly or indirectly from any of the following—
 - (a) the cancellation of the registration of a registered provider;
 - (b) the imposition of conditions on the registration of a registered provider;
 - (c) the publication of a notice of intent to cancel registration;
 - (d) the giving of binding instructions;
 - (e) the appointment of a statutory manager;
 - (f) the performance by a person of a function or exercise of a power, or a failure by a person to perform a function or exercise a power, of a statutory manager.
- ‘(3) In this section—
compensation includes damages or any other form of monetary compensation.

[s 24]

‘Division 5 Miscellaneous

‘38H Disclosure of information

‘The registrar must not disclose information obtained in the performance of the registrar’s functions, or exercise of the registrar’s powers, under this Act unless the disclosure is made—

- (a) in connection with the administration of this Act, including disclosure of information to the Minister or the chief executive, or of another law; or
- (b) with the consent of—
 - (i) the person from whom the information was obtained; or
 - (ii) if the person from whom the information was obtained is not the person to whom the information relates—the person to whom the information relates; or
- (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
- (d) under an authorisation provided by the guidelines mentioned in section 36H; or
- (e) as expressly permitted or required by another Act.’.

24 Amendment of pt 5, hdg (Appointment of interim manager)

Part 5, heading, after ‘manager’—

insert—

‘for particular funded providers’.

25 Replacement of s 39 (Definitions for pt 5)

Section 39—

omit, insert—

‘39 Definitions for pt 5

‘In this part—

business, of a funded ancillary provider, means the business of the provider to the extent that it involves any of the following activities—

- (a) the provision of an ancillary housing service using funding;
- (b) the management of funded property;
- (c) compliance with the terms of a relevant agreement.

funded ancillary provider means a funded provider that provides an ancillary housing service but does not provide a social housing service.

funded property, for a funded ancillary provider, means property—

- (a) transferred or leased by the chief executive to the funded ancillary provider for the purpose of providing an ancillary housing service; or
- (b) bought or leased by the funded ancillary provider using funds entirely or partly provided by a grant, loan or other financial assistance from the chief executive for the purpose of providing an ancillary housing service.

relevant agreement, for a funded ancillary provider, means a residential tenancy agreement for which—

- (a) the lessor is the funded ancillary provider; and
- (b) the residential premises the subject of the agreement are funded property.’.

26 Amendment of s 40 (Appointment)

- (1) Section 40, ‘of a funded service.’—

omit, insert—

‘for the business of a funded ancillary provider.

[s 27]

Note—

For the appointment of a statutory manager to a registered provider—see section 38D.’.

27 Replacement of s 41 (Basis for appointment)

Section 41—

omit, insert—

‘41 Basis for appointment

- ‘(1) The chief executive may appoint an interim manager for the business of a funded ancillary provider only if the chief executive is satisfied the appointment is reasonably necessary to ensure—
- (a) in relation to the funded ancillary provider—
 - (i) compliance with a prescribed requirement about—
 - (A) deciding eligibility or priority for ancillary housing services; or
 - (B) rent assessment or collection; and
 - (ii) the proper and efficient use of funded property under the funding agreement; or
 - (b) in relation to a relevant agreement—compliance with an obligation under the *Residential Tenancies and Rooming Accommodation Act 2008*, section 185(2)(b) to (d) or (3)(a) to (c).
- ‘(2) In deciding whether the appointment is reasonably necessary, the chief executive must have regard to all of the following matters—
- (a) the amount and type of property the funded ancillary provider is managing in the course of providing the ancillary housing service;
 - (b) the amount and type of funding provided by the chief executive to the funded ancillary provider for the ancillary housing service;

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- (c) the number of relevant agreements in force for the funded ancillary provider;
 - (d) whether the funded ancillary provider is or appears to be unwilling or unable to provide, or provide properly, the ancillary housing service for which the provider is receiving the funding;
 - (e) the likely consequences for the tenants under relevant agreements if the provider does not provide, or provide properly, the ancillary housing service for which the provider is receiving the funding;
 - (f) the likely consequences of the appointment, of which the chief executive is aware, for the funded ancillary provider and anyone else likely to be affected;
 - (g) any other relevant matter of which the chief executive is aware.
- ‘(3) Before making the appointment, the chief executive must consider whether it would be more appropriate to take steps other than the appointment, or not to take any steps.’.

28 Amendment of s 42 (Suitability of proposed appointee)

Section 42(2)(a), ‘funded service’—

omit, insert—

‘ancillary housing service provided by the funded ancillary provider’.

29 Amendment of s 43 (Terms of appointment)

- (1) Section 43, ‘An appointment’—

omit, insert—

‘An instrument of appointment’.

- (2) Section 43, ‘of the funded service’—

omit, insert—

‘for the business of a funded ancillary provider’.

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- (3) Section 43(b), ‘funded service’—
omit, insert—
‘ancillary housing service provided by the funded ancillary provider’.

30 Amendment of s 44 (Notice about appointment)

- (1) Section 44(1), ‘of the funded service’—
omit, insert—
‘for the business of the funded ancillary provider’.
- (2) Section 44(1), ‘registered provider’—
omit, insert—
‘funded ancillary provider’.

31 Amendment of s 46 (Variation of appointment)

- (1) Section 46(5)(b), ‘the funded service’—
omit, insert—
‘the business of the funded ancillary provider’.
- (2) Section 46(6)(a), ‘registered provider’—
omit, insert—
‘funded ancillary provider’.

32 Amendment of s 47 (Ending of appointment)

- Section 47(2), ‘registered provider’—
omit, insert—
‘funded ancillary provider’.

33 Amendment of s 48 (Application of div 3)

- Section 48, ‘of a funded service’—

omit, insert—

‘for the business of a funded ancillary provider’.

34 Amendment of s 50 (Power to act on registered provider’s behalf in relation to a relevant agreement)

(1) Section 50, heading, ‘registered provider’s’—

omit, insert—

‘funded ancillary provider’s’.

(2) Section 50(1)(a) and (2), ‘registered provider’—

omit, insert—

‘funded ancillary provider’.

(3) Section 50(1)(b), from ‘behalf of’ to ‘is permitted’—

omit, insert—

‘behalf of the provider, that the provider is permitted’.

35 Amendment of s 51 (Power to demand rental payments)

Section 51(1), (2), (5) and (6), ‘registered provider’—

omit, insert—

‘funded ancillary provider’.

36 Amendment of s 52 (Other powers)

Section 52, ‘registered provider’—

omit, insert—

‘funded ancillary provider’.

37 Amendment of s 56 (Access to information or documents)

(1) Section 56(1), ‘registered provider’—

omit, insert—

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‘funded ancillary provider’.

- (2) Section 56(2), example—

omit, insert—

‘*Example for subsection (2)—*

The chief executive may give information about the business of the funded ancillary provider, or access to the provider’s records, that the chief executive has obtained under section 81.’.

38 Amendment of s 57 (Confidentiality)

- (1) Section 57(1)(a), ‘of a funded service’—

omit, insert—

‘for the business of a funded ancillary provider’.

- (2) Section 57(1)(b) and (2)(b), ‘registered provider’—

omit, insert—

‘funded ancillary provider’.

39 Amendment of s 59 (Registered provider liable for remuneration and other costs)

- (1) Section 59, heading, ‘Registered provider’—

omit, insert—

‘Funded ancillary provider’.

- (2) Section 59(1), from ‘to a funded service’ to ‘registered provider’—

omit, insert—

‘for the business of a funded ancillary provider, the chief executive may give the provider’.

40 Amendment of s 60 (Accounts and reports)

- (1) Section 60(1), ‘to a funded service’—

omit, insert—

‘for the business of a funded ancillary provider’.

- (2) Section 60(3), ‘registered provider’—
omit, insert—
‘funded ancillary provider’.

41 Omission of s 61 (Notation in the register)

Section 61—
omit.

42 Replacement of ss 63–66

Sections 63 to 66—
omit, insert—

‘63 Reviewable decisions

- ‘(1) The following decisions made by the chief executive are reviewable decisions—
- (a) a decision about a person’s eligibility for a social housing service;
 - (b) a decision about the type of social housing service to be provided to a person;
 - (c) a decision about the place where a social housing service is to be provided to a person;
 - (d) a decision to appoint an interim manager for the business of a funded ancillary provider.
- ‘(2) The following decisions by the registrar are reviewable decisions—
- (a) a decision to vary the category of registration of a national provider;
 - (b) a decision to refuse—
 - (i) an application for registration; or

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- (ii) an application by a national provider to vary the provider's registration;
- (c) a decision to impose an additional standard condition;
- (d) a decision to—
 - (i) cancel the registration of a registered provider; or
 - (ii) refuse an application by a registered provider for cancellation of the provider's registration;
- (e) a decision to issue binding instructions to a registered provider;
- (f) a decision to appoint a statutory manager for a registered provider.

'64 Notice of reviewable decision

'As soon as practicable after making a reviewable decision, the chief executive or the registrar must give the entity in relation to which the decision was made a notice stating—

- (a) the reasons for the decision; and
- (b) that the entity may apply to the chief executive for a review of the decision—
 - (i) for a reviewable decision made by the chief executive—within 28 days after receiving the notice; or
 - (ii) for a reviewable decision made by the registrar—within 14 days after receiving the notice; and
- (c) how the entity may apply for the review; and
- (d) if the notice relates to a decision by the registrar to cancel a provider's registration—the day the cancellation takes effect.

‘65 Application for review

- ‘(1) An entity entitled to be given a notice under section 64 about a reviewable decision may apply to the chief executive for a review of the decision.
- ‘(2) The application must be made—
 - (a) for a reviewable decision made by the chief executive—
 - (i) if the chief executive gives the entity a notice under section 64—within 28 days after the notice is given; or
 - (ii) otherwise—within 28 days after the entity becomes aware of the decision; or
 - (b) for a reviewable decision made by the registrar—
 - (i) if the registrar gives the entity a notice under section 64—within 14 days after the notice is given; or
 - (ii) otherwise—within 14 days after the entity becomes aware of the decision.
- ‘(3) The application must be in the approved form and supported by enough information to enable the chief executive to decide the application.
- ‘(4) The chief executive may extend the time for making the application.

‘66 Stay of operation of reviewable decision

- ‘(1) An application under section 65 for review of a reviewable decision does not stay the decision.
- ‘(2) However, the operation of the decision may be stayed by—
 - (a) for a reviewable decision made by the chief executive—the chief executive giving the entity a notice staying the operation for a stated period; or
 - (b) for a reviewable decision made by the registrar—the chief executive or registrar giving the entity a notice staying the operation of the decision for a stated period.

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- ‘(3) The chief executive or the registrar may grant the stay on conditions the chief executive or the registrar considers appropriate.
- ‘(4) If the chief executive or the registrar grants a stay, the chief executive or registrar must give the entity in relation to which the reviewable decision was made a notice stating—
 - (a) that the operation of the reviewable decision has been stayed; and
 - (b) the day on which the stay ends; and
 - (c) any conditions imposed under subsection (3).’.

43 Replacement of s 68 (Exercise of powers only for certain matters)

Section 68—

omit, insert—

‘68 Exercise of powers only for certain matters

‘A power conferred under this part may be exercised only for monitoring or enforcing—

- (a) compliance with parts 3 and 4; or
- (b) compliance by a registered provider with part 4A; or
- (c) compliance by a funded ancillary provider with—
 - (i) section 55(1); or
 - (ii) in relation to a relevant agreement within the meaning given by section 39—the *Residential Tenancies and Rooming Accommodation Act 2008*, section 185(2)(b) to (d) or (3)(a) to (c); or

Note for subparagraph (ii)—

This relates to a ground for appointing an interim manager for the business of a funded ancillary provider. See section 41(1)(b).

- (d) compliance with section 88 or 89.’.

44 Replacement of s 69 (Appointment)

Section 69—

omit, insert—

‘69 Appointment and qualifications

‘(1) The following persons are authorised officers—

(a) the registrar;

(b) an officer of the department appointed by the chief executive by instrument in writing.

‘(2) However, the chief executive may appoint an officer of the department as an authorised officer only if the chief executive is satisfied that the officer has the necessary expertise or experience.’.

45 Amendment of s 70 (Appointment conditions and limit on powers)

Section 70(1)(a), before ‘the officer’s’—

insert—

‘if the officer was appointed under section 69(1)(b),’.

46 Amendment of s 72 (Resignation)

Section 72—

insert

‘(2) However, the registrar may not resign as an authorised officer without resigning as registrar.’.

47 Amendment of s 77 (Power to enter a place)

Section 77—

insert

‘(1A) Without limiting subsection (1)(c), the registrar may enter the premises of a registered provider, other than a residence, to

[s 48]

inspect the premises or the provider's records as mentioned in a condition of the provider's registration.'

48 Insertion of new s 81A

After section 81—

insert—

'81A Registrar may require attendance

- '(1) The registrar may, by notice given to a registered provider, require the provider to ensure that a suitably qualified officer of the provider attends a meeting with the registrar to provide oral information about the provider's affairs, on the day and in the place stated in the notice.
- '(2) A person required by a notice mentioned in subsection (1) to attend a meeting must not, without reasonable excuse—
- (a) fail to attend as required by the notice; or
 - (b) fail to continue to attend the meeting as required by the registrar until excused from further attendance by the registrar.

Note—

A failure to comply with this section is not an offence but may be a ground for the registrar to give a registered provider a notice of noncompliance.'

49 Amendment of s 86 (Duty of confidentiality)

Section 86—

insert—

- '(3) In this section—
- authorised officer* does not include the registrar.'

50 Amendment of s 87 (Meaning of *official*)

Section 87, after 'officer'—

insert—

‘, including the registrar’.

51 Insertion of new s 99A

After section 99—

insert—

‘99A Delegation by Minister or chief executive

- ‘(1) The Minister may delegate the Minister’s functions or powers under this Act to an appropriately qualified public service employee.
- ‘(2) The chief executive may delegate the chief executive’s functions or powers under this Act to an appropriately qualified public service employee.
- ‘(3) A delegation of a function or power may permit the subdelegation of the function or power to an appropriately qualified public service employee.’.

52 Amendment of s 101 (Regulation-making power)

Section 101(2)—

insert—

- ‘(d) prescribing an entity that is not a local government or a national entity to be a prescribed state provider;
- (e) prescribing a person, or a class of persons, to whom a function or power of the registrar that relates to the national registrar may be delegated;
- (f) prescribing, for section 37H, a person to whom, or entity to which, a registered provider may transfer a community housing asset;
- (g) prescribing an asset, or a class of assets, as a national community housing asset or a state community housing asset.’.

[s 53]

53 Amendment of s 127 (Registration of an entity that is a party to a continuing agreement)

Section 127(2)—

insert—

‘Note—

The chief executive can no longer register an entity under this provision—see section 170.’.

54 Insertion of new pt 10, div 7

Part 10—

insert—

‘Division 7 Transitional provisions for Housing and Other Legislation Amendment Act 2013

‘Subdivision 1 Interpretation

‘156 Definitions for div 7

‘In this division—

accommodation provider means an entity that, immediately before the commencement, was—

- (a) registered under the former Act; and
- (b) providing a relevant housing service.

amending Act means the *Housing and Other Legislation Amendment Act 2013*.

application period means the period—

- (a) starting on the commencement; and
- (b) ending on—
 - (i) the prescribed day; or

- (ii) if a day is not prescribed—the day that is 1 year after the commencement.

commencement means the day this section commences.

existing assistance agreement means any of the following—

- (a) an assistance agreement under the former section 25 that was current immediately before the commencement;
- (b) a continuing agreement under the former section 127 that was current immediately before the commencement.

former, in relation to a provision, means as in force immediately before the repeal or amendment of the provision by the amending Act.

former Act means the *Housing Act 2003*, as in force immediately before the commencement.

other registered provider means an entity that, immediately before the commencement, was—

- (a) registered under this Act; and
- (b) providing a housing service under the former section 8 that was not, or did not include, a relevant housing service.

relevant asset, for an accommodation provider, means the following—

- (a) the provider's relevant property;
- (b) the provider's relevant receipts.

relevant housing service means a housing service under the former section 8 that was, or included, the provision of housing to an individual for residential use, other than crisis accommodation.

relevant property, for an accommodation provider, means any of the following—

- (a) property transferred or leased by the chief executive or the Queensland Housing Commission (the **QHC**) to the

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provider for the purpose of providing a relevant housing service;

- (b) property bought or leased by the provider using funds entirely or partly provided by—
 - (i) a grant, loan or other financial assistance given by the chief executive or the QHC for the purpose of providing a relevant housing service; or
 - (ii) other relevant receipts.

relevant receipts, for an accommodation provider, means—

- (a) amounts paid to the provider by the chief executive or the QHC as grants, loans or other financial assistance for the purpose of providing a relevant housing service; and
- (b) rent or other income from the provider's relevant property; and
- (c) the proceeds of sale of the provider's relevant property; and
- (d) fees for providing relevant goods and services; and
- (e) interest received on an amount mentioned in paragraphs (a) to (d).

transitional period means the period—

- (a) starting on the commencement; and
- (b) ending on—
 - (i) the prescribed day; or
 - (ii) if a day is not prescribed—the day that is 18 months after the commencement.

‘Subdivision 2 Other registered providers

‘157 Existing registration of other registered providers is cancelled

- ‘(1) On the commencement, the registration of each other registered provider under the former Act is cancelled.
- ‘(2) The cancellation under subsection (1) of another registered provider’s registration does not affect the provision of funding to the provider under an existing assistance agreement to which the provider is a party.
- ‘(3) As soon as practicable after the commencement, the chief executive must give each other registered provider a notice stating that—
 - (a) the provider’s registration under the former Act has been cancelled; and
 - (b) the cancellation does not affect the provider’s ability to continue providing a housing service that is an ancillary housing service under section 8; and
 - (c) the cancellation does not affect any existing assistance agreement between the provider and the chief executive.

‘Subdivision 3 Accommodation providers

‘158 Accommodation providers capable of registration under pt 4A

- ‘(1) This section applies to an accommodation provider if the provider—
 - (a) intends to continue providing a community housing service in this jurisdiction after the commencement, whether exclusively or in conjunction with an ancillary housing service; and
 - (b) is capable of being registered under part 4A as either—

[s 54]

- (i) a national provider for which this jurisdiction is the primary jurisdiction; or
 - (ii) a state provider.
- ‘(2) From the commencement—
 - (a) the accommodation provider’s registration under the former Act continues and the provider must comply with—
 - (i) a prescribed requirement; and
 - (ii) the former section 37; and
 - (b) each existing assistance agreement to which the provider is a party continues.
- ‘(3) Before the application period ends, the accommodation provider may apply under section 37B for registration.
- ‘(4) If the accommodation provider applies under section 37B before the application period ends and the registrar approves the application, on the registration of the provider under part 4A—
 - (a) the provider’s registration under the former Act is cancelled; and
 - (b) an existing assistance agreement to which the provider is a party continues until it is terminated or otherwise ends.

‘159 Transitional arrangements for particular accommodation providers mentioned in s 158

- ‘(1) This section applies if an accommodation provider mentioned in section 158—
 - (a) does not apply for registration under section 37B before the application period ends; or
 - (b) applies but is refused registration under part 4A.
- ‘(2) The accommodation provider must transfer or otherwise dispose of each of the provider’s relevant assets in the prescribed way—

- (a) before the transitional period ends; or
- (b) if the provider applies under section 65 for a review of the registrar's decision to refuse the application and the registrar's decision is confirmed on review—the day that is 6 months after the day the registrar's decision is confirmed.

'160 Cancellation of registration etc.

- '(1) On the completion of the transfer or disposition of an accommodation provider's relevant assets under section 159—
 - (a) the provider's registration under the former Act is cancelled; and
 - (b) an existing assistance agreement to which the accommodation provider is a party is terminated.
- '(2) For subsection (1)(b), it does not matter that the accommodation provider is not required by the existing assistance agreement to be registered under the former Act to receive funding under the agreement.
- '(3) If the accommodation provider fails to transfer or dispose of the provider's relevant assets within the time required under section 159, the provider is taken to have contravened each existing assistance agreement to which the provider is a party.

'161 Accommodation providers not capable of registration under pt 4A

- '(1) This section applies to an accommodation provider if the provider—
 - (a) is a national entity; and
 - (b) was, immediately before the commencement, providing a relevant housing service in this jurisdiction; and
 - (c) intends, after the commencement, to continue providing a community housing service in this jurisdiction; and

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- (d) is not eligible to be registered under part 4A because the provider will be providing most of its community housing services in another participating jurisdiction.
- ‘(2) From the commencement—
- (a) the accommodation provider’s registration under the former Act continues and the provider must comply with—
 - (i) a prescribed requirement; and
 - (ii) the former section 37; and
 - (b) each existing assistance agreement to which the provider is a party continues.
- ‘(3) Before the application period ends, the accommodation provider may apply for registration under the corresponding law of the participating jurisdiction that would be the provider’s primary jurisdiction (the *relevant jurisdiction*).
- ‘(4) If the accommodation provider applies for registration under the corresponding law of the relevant jurisdiction before the application period ends, the provider must—
- (a) as soon as practicable after the provider makes the application, give the registrar notice of the application; and
 - (b) as soon as practicable after the registrar of the relevant jurisdiction (the *other registrar*) decides the provider’s application, give the registrar notice of the other registrar’s decision.
- ‘(5) If the other registrar approves the accommodation provider’s application for registration, on the registration of the provider under the corresponding law—
- (a) the provider’s registration under the former Act is cancelled; and
 - (b) an existing assistance agreement to which the provider is a party continues until it is terminated or otherwise ends.

‘162 Transitional arrangements for particular accommodation providers mentioned in s 161

- ‘(1) This section applies if an accommodation provider mentioned in section 161—
- (a) does not apply for registration under the corresponding law of the relevant jurisdiction before the application period ends; or
 - (b) applies but is refused registration by the other registrar.
- ‘(2) The accommodation provider must transfer or otherwise dispose of each of the provider’s relevant assets in the prescribed way—
- (a) before the transitional period ends; or
 - (b) if the provider applies under the corresponding law of the relevant jurisdiction for a review of the other registrar’s decision to refuse the application and the other registrar’s decision is confirmed on the review—the day that is 6 months after the day the other registrar’s decision is confirmed.

‘163 Cancellation of registration etc.

- ‘(1) On the completion of the transfer or disposition of an accommodation provider’s relevant assets under section 162—
- (a) the provider’s registration under the former Act is cancelled; and
 - (b) an existing assistance agreement to which the accommodation provider is a party is terminated.
- ‘(2) For subsection (1)(b), it does not matter that the accommodation provider is not required by the existing assistance agreement to be registered under the former Act in order to receive funding under the agreement.
- ‘(3) If the accommodation provider fails to transfer or dispose of the provider’s relevant assets within the time required under

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section 162, the provider is taken to have contravened each existing assistance agreement to which the provider is a party.

‘Subdivision 4 Other provisions

‘164 Existing application under former s 28

- ‘(1) This section applies to an application made under the former section 28 that, immediately before the commencement, had not been finally dealt with.
- ‘(2) From the commencement—
 - (a) if the application related to the proposed provision of a relevant housing service—the application is taken to have been made under section 37B; and
 - (b) if the application related to the proposed provision of a housing service other than a relevant housing service—the application is taken to have been withdrawn and no further action is to be taken in relation to it.

‘165 Existing application for cancellation of registration

- ‘(1) This section applies to an application under the former section 30 that, immediately before the commencement, had not been finally dealt with.
- ‘(2) From the commencement, the application may be dealt with under the former section 30 and the former part 6 as if the amending Act had not commenced.

‘166 Existing notice of proposed cancellation of registration

- ‘(1) A notice given to an accommodation provider under the former section 31 that had not, immediately before the commencement, been finally dealt with may, from the commencement, continue to be dealt with under that section as if the amending Act had not commenced.

- ‘(2) If the chief executive decides to cancel the accommodation provider’s registration, the former part 6 applies to that decision as if the decision had been made before the commencement.

‘167 Existing appointment of interim manager continues

- ‘(1) This section applies if, immediately before the commencement, a person held office under the former part 5 as an interim manager of a funded service.
- ‘(2) From the commencement, the person’s appointment continues under the former part 5 as if the amending Act had not commenced, until the earlier of the following occurs—
- (a) the period of the person’s appointment ends;
 - (b) the chief executive ends the appointment under the former section 47.

‘168 Review of decision to appoint interim manager

- ‘(1) This section applies if, immediately before the commencement—
- (a) a person was entitled to be given a notice about a decision by the chief executive to appoint an interim manager under the former part 5, division 2; and
 - (b) the period during which an application for review of the decision may be made had not ended.
- ‘(2) From the commencement, the application for review may be made and decided as if the amending Act had not commenced.

‘169 No registration under former s 127

‘From the commencement, an entity mentioned in the former section 127(1) can not be registered under section 127.

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‘170 References in Acts and documents

- ‘(1) A reference in an Act or document to ‘assistance’ given by the chief executive under this Act is taken, from the commencement and if the context permits, to be a reference to ‘funding’.
- ‘(2) A reference in an Act or document to an ‘assistance agreement’ under this Act is taken, from the commencement and if the context permits, to be a reference to a ‘funding agreement’.
- ‘(3) A reference in an Act or document to a ‘funded service’ under this Act is taken, from the commencement and if the context permits, to be a reference to a ‘housing service for which a funded provider receives funding.’.

55 Amendment of sch 3 (Dictionary)

Schedule 3—

renumber as schedule 4.

56 Insertion of new schs 1–3

Before schedule 4, as renumbered—

insert—

‘Schedule 1 National regulatory code

section 37D(1)(b)

‘1 Tenant and housing services

‘The community housing provider is fair, transparent and responsive in delivering housing assistance to tenants, residents and other clients particularly in relation to the following—

- (a) determining and managing eligibility, allocation, and termination of housing assistance;

- (b) determining and managing rents;
- (c) setting and meeting relevant housing service standards;
- (d) supporting tenant and resident engagement;
- (e) facilitating access to support for social housing applicants and tenants with complex needs;
- (f) managing and addressing complaints and appeals relating to the provision of housing services;
- (g) maintaining satisfaction with the overall quality of housing services.

‘2 Housing assets

‘The community housing provider manages its community housing assets in a manner that ensures suitable properties are available at present and in the future, particularly in relation to the following—

- (a) determining changing housing needs and planning asset acquisitions, disposals and reconfiguration to respond (strategic asset management);
- (b) setting and meeting relevant property condition standards;
- (c) planning and undertaking responsive, cyclical and life-cycle maintenance to maintain property conditions (asset maintenance);
- (d) planning and delivering its housing development program (asset development).

‘3 Community engagement

‘The community housing provider works in partnership with relevant organisations to promote community housing and to contribute to socially inclusive communities, specifically in relation to—

- (a) promoting community housing to local organisations that work with potential residents, tenants or clients; and

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- (b) contributing to place renewal and social inclusion partnerships and planning relevant to the provider's community housing activities.

‘4 Governance

‘The community housing provider is well-governed to support the aims and intended outcomes of its business, specifically in relation to the following—

- (a) ensuring coherent and robust strategic, operational, financial and risk planning;
- (b) ensuring effective, transparent and accountable arrangements and controls are in place for decision making to give effect to strategic, operational, financial and risk plans;
- (c) complying with legal requirements and relevant government policies;
- (d) ensuring that the governing body has members with appropriate expertise or that such expertise is available to the governing body.

‘5 Probity

‘The community housing provider maintains high standards of probity relating to the business of the provider, specifically in relation to the following—

- (a) establishing and administering a code of conduct;
- (b) establishing and administering a system of employment and appointment checks;
- (c) establishing and administering a system for preventing, detecting, reporting on and responding to, instances of fraud, corruption and criminal conduct;
- (d) maintaining the reputation of the community housing sector.

‘6 Management

‘The community housing provider manages its resources to achieve the intended outcomes of its business in a cost effective manner, specifically in relation to the following—

- (a) demonstrating it utilises its assets and funding to meet business goals;
- (b) implementing appropriate management structures, systems, policies and procedures to ensure the operational needs of its business can be met (including having people with the right skills and experience and the systems and resources to achieve the intended outcomes of its business).

‘7 Financial viability

‘The community housing provider is financially viable at all times, specifically in relation to the following—

- (a) ensuring a viable capital structure;
- (b) maintaining appropriate financial performance;
- (c) managing financial risk exposure.

**‘Schedule 2 Conditions of registration
applying to each
registered provider**

section 37D(2)

‘1 Compliance with national regulatory code

‘A registered provider must comply with the provisions of the national regulatory code in schedule 1 that are identified on the relevant register as applying to the provider.

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‘2 Transfer of community housing asset

‘A registered provider must comply with this Act in relation to the transfer of, or other dealing with, a community housing asset of the provider.

‘3 Provision of information relating to registered provider’s functions

‘A registered provider must, at the times and in the way approved by the registrar, give the registrar any information reasonably required by the registrar about the exercise of the provider’s functions, including information relating to an arrangement the provider has with another person in relation to the exercise of the provider’s functions.

‘4 Provision of document or information relating to registered provider’s affairs

- ‘(1) A registered provider must comply with a written request by the registrar for information about the provider’s affairs, including a request to produce a specified document or record.
- ‘(2) The provider must comply with the request within—
 - (a) 14 days after receiving the request; or
 - (b) if a longer period is stated in the request—the stated period.

‘5 Attendance at meeting with registrar to answer questions

‘If the registrar makes a written request that a registered provider attend a meeting with the registrar to answer questions about the provider’s affairs, the provider must ensure that an appropriately qualified officer or employee of the provider attends the meeting at the time and place stated in the request.

‘6 Allowing inspection of premises or records

‘A registered provider must allow the registrar to enter the provider’s premises during business hours for the purpose of the registrar inspecting the premises or the provider’s records.

‘7 List of community housing assets

- ‘(1) A registered provider must keep a list, in the approved form, of—
- (a) if the provider is a national provider—all of the provider’s national community housing assets; or
 - (b) if the provider is a state provider—all of the provider’s state community housing assets.
- ‘(2) The provider must make the list, or a copy of the list, available to the registrar for inspection on request.

‘Schedule 3 Particular conditions applying to registration of national providers or state providers

section 37D(3) and (4)

‘Part 1 Conditions applying to registration of national providers

‘1 Compliance with corresponding law

‘A national provider for which this jurisdiction is the primary jurisdiction must comply with any applicable requirement of the corresponding law of another participating jurisdiction in

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relation to the transfer of, or other dealing with, a national community housing asset of the provider.

‘2 Constitution to provide for transfer of national community housing assets on winding-up

‘A national provider for which this jurisdiction is the primary jurisdiction must have provision in its constitution for each remaining national community housing asset of the provider to be transferred, on the winding-up of the provider—

- (a) if the asset is located in this jurisdiction—under this Act; or
- (b) if the asset is located in another participating jurisdiction—under the corresponding law of that jurisdiction.

‘3 Provision of information to registrar of another participating jurisdiction

‘(1) A national provider for which this jurisdiction is the primary jurisdiction must comply with a written request by a registrar of another participating jurisdiction for information about the provider’s affairs, including a request to produce a specified document or record.

‘(2) This provider must comply with the request within—

- (a) 14 days after receiving the request; or
- (b) if a longer period is stated in the request—the stated period.

‘4 Attendance at meeting with registrar of another participating jurisdiction to answer questions

‘If a registrar of another participating jurisdiction makes a written request that a national provider for which this jurisdiction is the primary jurisdiction attend a meeting with the registrar to answer questions about the provider’s affairs, the provider must ensure that an appropriately qualified

officer or employee of the provider attends the meeting at the time and place stated in the request.

‘5 Allowing registrar of another participating jurisdiction to inspect premises or records

‘A national provider for which this jurisdiction is the primary jurisdiction must allow a registrar of another participating jurisdiction to enter the provider’s premises during business hours for the purpose of the registrar inspecting the premises or the provider’s records.

‘6 Requirement to notify registrar of particular events

‘A national provider for which this jurisdiction is the primary jurisdiction must notify the registrar of any of the following events mentioned in column 1, within the time stated opposite the event, in column 2—

Column 1	Column 2
Event	Time within which registrar must be notified
a decision to appoint a voluntary administrator to the provider	as soon as practicable after the decision
a decision to wind-up the provider	as soon as practicable after the decision
the appointment of a receiver to the provider	as soon as practicable after the provider learns of the receiver’s appointment
a decision to apply for cancellation of the provider’s registration on the national register	as soon as practicable after the decision and at least 28 days before the day the application is made
a decision to conduct a vote at a meeting on a matter that may affect the provider’s eligibility to remain registered on the national register or the category of the provider’s registration	as soon as practicable after the decision and at least 28 days before the day the meeting is held

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a change in the provider's affairs before the change or within 3 days
that may have an adverse impact on after the change
its compliance with this Act or the
corresponding law of another
participating jurisdiction
any other event for which the within the time stated in the notice
registrar gives the provider notice

'Part 2 Condition applying to registration of state providers

'7 State provider to provide community housing service in this jurisdiction

'A state provider may provide a community housing service in this jurisdiction only.'

57 Amendment of sch 4 (Dictionary)

(1) Schedule 4, as renumbered, definitions *assistance agreement*, *funded service*, *housing service*, *nonprofit corporation*, *public housing*, *register*, *registered provider* and *registration*—
omit.

(2) Schedule 4—
insert—

'accommodation provider, for part 10, division 7, see section 156.

additional standard condition see section 37E.

amending Act, for part 10, division 7, see section 156.

ancillary housing service see section 8(5).

application period, for part 10, division 7, see section 156.

appropriately qualified, for a person who is appointed to an office or to whom a function or power may be delegated

includes having the qualifications, experience or standing appropriate to perform the functions of the office or to exercise the delegated function or power.

binding instructions see section 38B.

business, for part 5, see section 39.

category of registration, for a national provider, means a category of registration under the guidelines mentioned in section 36H.

commencement, for part 10, division 7, see section 156.

community housing asset means—

- (a) for a national provider—a national community housing asset; or
- (b) for a state provider—a state community housing asset.

community housing service see section 8(3).

corresponding law means a law of a jurisdiction that contains provisions that substantially correspond to the provisions of part 4A.

exempt provider means a person or entity—

- (a) not registered under part 4A; and
- (b) prescribed as being eligible to receive funding to provide—
 - (i) a particular social housing service in this jurisdiction; or
 - (ii) any social housing service in this jurisdiction.

existing assistance agreement, for part 10, division 7, see section 156.

former, for part 10, division 7, see section 156.

former Act, for part 10, division 7, see section 156.

funded ancillary provider, for part 5, see section 39.

funded property, for part 5, see section 39.

funded provider see section 21(2).

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funding see section 21(1).

funding agreement see section 25.

housing agency means each of the following—

- (a) for this jurisdiction—the chief executive as agent for the State;
- (b) for another participating jurisdiction—the body or officer declared by the corresponding law of that jurisdiction to be a housing agency for the jurisdiction.

housing service see section 8(1).

interim manager means a person appointed under section 40 as interim manager for the business of a funded ancillary provider.

national community housing asset means any of the following assets of a national provider, regardless of when the provider acquired it—

- (a) land—
 - (i) transferred to the national provider under this Act by the chief executive, another national provider or a state provider; or
 - (ii) vested in the national provider under a corresponding law of a participating jurisdiction;
- (b) land acquired by the national provider wholly or partly with—
 - (i) funding provided to the provider by the chief executive; or
 - (ii) financial or other assistance given to the provider by a housing agency of another participating jurisdiction;
- (c) land held by the national provider on which housing has been constructed, or to which another improvement has been made—
 - (i) by the chief executive or using funding provided by the chief executive; or

-
- (ii) by a housing agency of another participating jurisdiction;
 - (d) a national provider receipt;
 - (e) an amount paid to the national provider—
 - (i) by the chief executive under a funding agreement that remains unexpended when the funding agreement is terminated or otherwise ends; or
 - (ii) by the housing agency of another participating jurisdiction under an agreement that corresponds to a funding agreement, that remains unexpended when the agreement is terminated or otherwise ends; or
 - (f) any other asset of the national provider that is of a class of assets declared by this Act or a corresponding law of another participating jurisdiction applying to the provider, or is prescribed, as a community housing asset for the purposes of the Act or the corresponding law.

national entity means each of the following entities that provides, or intends to provide, a community housing service—

- (a) a company limited by shares or guarantee under the *Corporations Act 2001* (Cwlth);
- (b) an Aboriginal and Torres Strait Islander corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cwlth);
- (c) a body corporate, cooperative or incorporated association established under legislation of the Commonwealth or a State.

national provider means a national entity registered on the national register.

national provider receipt means any of the following—

- (a) funds in the form of grants, loans or other financial assistance paid to a national provider by the chief

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- executive or the housing agency of another participating jurisdiction;
- (b) rent or other income, including proceeds of sale, from property—
- (i) transferred or leased by the chief executive or a housing agency of another participating jurisdiction to a national provider for the purpose of providing a community housing service; or
- (ii) bought or leased by a national provider using, entirely or partly, funds of the kind mentioned in paragraph (a) or by other receipts obtained by a national provider for a community housing service;
- (c) fees received by a national provider for providing goods or services in the course of providing a community housing service;
- (d) interest received by a national provider on an amount mentioned in paragraphs (a) to (c).

national register means the register of national entities providing community housing services established under section 37(1).

notice of intent to cancel registration see section 38C.

notice of noncompliance see section 38A.

other registered provider, for part 10, division 7, see section 156.

participating jurisdiction means a jurisdiction in which a corresponding law applies as a law of the jurisdiction.

prescribed state provider means an entity, or class of entity, other than a local government or a national entity, that—

- (a) is providing, or intends to provide, a community housing service in this jurisdiction; and
- (b) is prescribed as being eligible to be registered on the state register.

primary jurisdiction see section 36A.

primary registrar, for a national provider, or a national entity providing or intending to provide a community housing service, means the registrar of the provider or entity's primary jurisdiction.

public housing see section 8(4).

registered provider means each of the following—

- (a) a national provider;
- (b) a state provider.

registrar means the person appointed under section 36D as the registrar.

registrar of another participating jurisdiction means the registrar appointed under the corresponding law of another participating jurisdiction as the registrar for that jurisdiction.

registration means registration under part 4A.

relevant agreement, for part 5, see section 39.

relevant asset, for part 10, division 7, see section 156.

relevant housing service, for part 10, division 7, see section 156.

relevant property, for part 10, division 7, see section 156.

relevant receipts, for part 10, division 7, see section 156.

social housing service see section 8(2).

state community housing asset means any of the following assets of a state provider, regardless of when the provider acquired it—

- (a) land transferred to the state provider under this Act by the chief executive, a national provider or another state provider;
- (b) land acquired by the state provider wholly or partly with funding provided by the chief executive;
- (c) land held by the state provider on which housing has been constructed, or other improvements made—

[s 57]

- (i) by the chief executive or
- (ii) using funding provided by the chief executive;
- (d) a state provider receipt;
- (e) an amount paid to the state provider by the chief executive under a funding agreement that remains unexpended when the funding agreement is terminated or otherwise ends;
- (f) any other asset of the state provider that is of a class of assets declared by this Act, or prescribed, to be a state community housing asset.

state provider means a local government or a prescribed state provider registered on the state register.

Note—

‘Local government’ is defined in the *Acts Interpretation Act 1954*, section 36 to mean the Brisbane City Council or a local government under the *Local Government Act 2009*. Under the *Local Government Act 2009*, an indigenous regional council is a local government.

state provider receipt means any of the following—

- (a) funding in the form of grants, loans or other financial assistance paid to a state provider by the chief executive;
- (b) rent or other income, including proceeds of sale, from property—
 - (i) transferred or leased by the chief executive to a state provider for the purpose of providing a community housing service; or
 - (ii) bought or leased by a state provider using, entirely or partly, funds of the kind mentioned in paragraph (a) or by other receipts obtained by a state provider for a community housing service;
- (c) fees received by a state provider for providing goods or services in the course of providing a community housing service;
- (d) interest received by a state provider on an amount mentioned in paragraphs (a) to (c).

[s 59]

- (c) supported by enough information to enable the local government to decide the application.
- ‘(7) A person who makes an application for an extension must, within 5 business days of making the application, give a copy of the application to the assessment manager who gave the building development approval mentioned in subsection (1), unless the local government is also the assessment manager.
- ‘(8) The local government may consult with any other entity the local government considers appropriate in deciding the application.
- ‘(9) The local government must decide the application within 10 business days after the application is made.
- ‘(10) In making a decision about the application the local government may consider all relevant matters, including, for example—
- (a) how much building work has been undertaken at the time of the making of the application and whether the building work that has been undertaken is structurally sound; and
 - (b) any impact the building work may have on the local community if the extension were given or not.
- ‘(11) The local government must, within 5 business days after deciding the application, give the applicant and the assessment manager for the building work notice of the decision.
- ‘(12) If the decision is to refuse to extend the building development approval, the notice must be an information notice.
- Note—*
- For appeals against a decision for which an information notice must be given under this section, see the Planning Act, section 532.
- ‘(13) If the local government grants the application, the building development approval for the building work is taken to have been extended for the period granted by the local government.
- ‘(14) Subsection (15) applies if—

-
- (a) an application for an extension is made before the end of the period mentioned in subsection (3); and
 - (b) the local government has not made a decision about the application before the end of that period.
- ‘(15) The building development approval for the building work is taken to have been extended until the earlier of the following events—
- (a) the local government notifies the applicant of its decision;
 - (b) the end of 6 months after the end of the period mentioned in subsection (3).’.

60 Amendment of s 101 (Meaning of *substantially completed*)

Section 101(1)(d)—

omit, insert—

‘(d) either—

- (i) the local government has issued a compliance certificate under the *Plumbing and Drainage Act 2002* stating the plumbing or drainage work for the building has been completed under that Act; or
- (ii) notice of notifiable work carried out for the building has, on the completion of that work, been given to the Plumbing Industry Council under the *Plumbing and Drainage Act 2002*, section 87; and’.

61 Replacement of s 155 (Who may apply)

Section 155—

omit, insert—

‘155 Who may apply

- ‘(1) An individual may apply to BSA for a licence at the level of building certifier–level 1 or building certifier–level 2 only if

[s 62]

the individual holds a current accreditation issued by an accreditation standards body.

‘(2) An individual may apply to BSA for a licence at the level of building certifier–level 3 only if—

(a) the individual holds a current accreditation issued by an accreditation standards body; and

(b) either—

(i) the individual holds, or has previously held, a licence at, or equivalent to, that level; or

(ii) both of the following apply—

(A) the individual has at least 1 year’s experience carrying out level 3 work under the supervision of a person licensed as a building certifier–level 1 or a building certifier–level 2;

(B) the period of experience mentioned in subparagraph (A) was completed not more than 2 years before the application for the licence is made.

‘(3) In this section—

level 3 work means work usually carried out by a building certifier–level 3 working as a building certifier–level 3.’.

62 Amendment of s 246BN (Applying for renewal)

Section 246BN(2)—

omit, insert—

‘(2) However, the application can not be made after the licence expires.’.

63 Amendment of ch 11, hdg (Savings and transitional provisions)

Chapter 11, heading, ‘and transitional’—

omit, insert—

‘, transitional and validation’.

64 Insertion of new ch 11, pt 16

Chapter 11—

insert—

**‘Part 16 Validation provisions for
Housing and Other Legislation
Amendment Act 2013**

‘316 Definitions for pt 16

‘In this part—

commencement means the commencement of this part.

previous, for a provision of this Act, means the provision as in force immediately before the commencement.

relevant period means the period starting on 1 November 2012 and ending immediately before the commencement.

‘317 Retrospective validation of particular certificates of classification given during relevant period

‘(1) This section applies if, during the relevant period, a building certifier for a building development approval—

(a) gave a certificate of classification for the building under section 102; and

(b) when the certificate was given—

(i) the building was not substantially completed under previous section 101(1)(d); but

(ii) would have been substantially completed if section 101(1)(d), as in force immediately after the commencement, had been in force on the day the certificate was given.

[s 64]

- ‘(2) The certificate of classification is taken to be, and always to have been, as valid as if section 101(1)(d), as in force immediately after the commencement, had been in force on the day the certificate was given.

‘318 Retrospective validation of particular applications for renewal of licences at level of building certifier–level 3

- ‘(1) This section applies to an application for the renewal of a licence at the level of building certifier–level 3 made under section 167 if the application—
- (a) was made before the commencement; and
 - (b) when the application was made, the individual making the application—
 - (i) did not comply with the requirements of previous section 155(1)(b)(ii) or (iii); but
 - (ii) would have complied with the requirements of section 155 as in force immediately after the commencement.
- ‘(2) The application is taken to be, and always to have been, as valid as if section 155, as in force immediately after the commencement, had been in force on the day the application was made.

‘319 Retrospective validation of particular licences at level of building certifier–level 3 renewed during relevant period

- ‘(1) This section applies to a licence—
- (a) which was renewed by the BSA under section 169(1)(a) at the level of building certifier–level 3 during the relevant period; and
 - (b) when the decision to renew the licence was made, the applicant—
 - (i) did not comply with the requirements of previous section 155(1)(b)(ii) or (iii); but

-
- (ii) would have complied with the requirements of section 155 as in force immediately after the commencement.
 - ‘(2) The renewed licence is taken to be, and always to have been, as valid as if section 155, as in force immediately after the commencement, had been in force on the day the licence was issued.
 - ‘(3) If the renewed licence was subject to a restriction, condition or endorsement, the licence is also taken to be subject to the same restriction, condition or endorsement in the same terms so far as practicable.

‘320 Retrospective validation of building certifying functions performed during relevant period

- ‘(1) This section applies to a building certifying function performed by an individual who holds a renewed licence mentioned in section 319.
- ‘(2) The individual is taken to be, and always to have been, licensed when performing the function.

‘321 Retrospective validation of particular applications for renewal of licences for pool safety inspectors

- ‘(1) This section applies to an application for the renewal of a pool safety inspector’s licence made under section 246BN if the application—
 - (a) was made before the commencement; and
 - (b) when the application was made, the pool safety inspector who made the application did not comply with the requirements of previous section 246BN(2)(b).
- ‘(2) The application is taken to be, and always to have been, as valid as if section 246BN, as in force immediately after the commencement, had been in force on the day the application was made.

[s 65]

‘322 Retrospective validation of particular licences for pool safety inspectors renewed during particular period

- ‘(1) This section applies to a pool safety inspector’s licence—
- (a) which was renewed by the PSC under section 246BP during the period starting on 29 December 2012 and ending immediately before the commencement; and
 - (b) if when the decision to renew was made the applicant did not comply with the requirements of previous section 246BN(2)(b).
- ‘(2) The renewed licence is taken to be, and always to have been, as valid as if section 246BN, as in force immediately after the commencement, had been in force on the day the licence was issued.
- ‘(3) If the renewed licence was subject to a restriction or condition, the licence is also taken to be subject to the same restriction or condition in the same terms so far as practicable.

‘323 Retrospective validation of pool safety inspection functions

- ‘(1) This section applies for a pool safety inspection function performed by a pool safety inspector who holds a renewed licence mentioned in section 322.
- ‘(2) The pool safety inspector is taken to be, and always to have been, licensed when performing the function.’.

65 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

‘commencement, for chapter 11, part 16, see section 316.

previous, for chapter 11, part 16, see section 316.

relevant period, for chapter 11, part 16, see section 316.’.

[s 72]

omit.

72 Insertion of new s 81A

After section 81—

insert—

‘81A When notifiable work must be assessed for compliance

- ‘(1) This section applies if—
- (a) in relation to plumbing and drainage work—
 - (i) a compliance request made under division 3 is for compliance assessment of a plan for the work; or
 - (ii) a request made under division 4 is for compliance assessment of the work; and
 - (b) the work—
 - (i) includes notifiable work; or
 - (ii) is notifiable work only.
- ‘(2) The notifiable work must be assessed for compliance with the Standard Plumbing and Drainage Regulation.
- ‘(3) A reference in this Act to compliance assessable work is taken to include a reference to notifiable work that must be assessed for compliance because of this section.
- ‘(4) Section 87 does not apply to notifiable work that must be assessed for compliance because of this section.’.

73 Amendment of s 82 (Plans and all plumbing and drainage work or on-site sewerage work must comply)

- (1) Section 82, heading, ‘or on-site sewerage work’—
omit.
- (2) Section 82(1), ‘or on-site sewerage work’—
omit.

74 Amendment of s 83 (Compliance permit required for certain compliance assessable work or any on-site sewerage work)

- (1) Section 83, heading, ‘or any on-site sewerage work’—
omit.
- (2) Section 83(1), ‘or on-site sewerage work’—
omit.
- (3) Section 83(2), after ‘compliance assessable work’—
insert—
‘, other than compliance assessable work that is on-site sewerage work.’.

75 Amendment of s 84 (Compliance assessable work or on-site sewerage work by a public sector entity)

- (1) Section 84, heading, ‘or on-site sewerage work’—
omit.
- (2) Section 84(1), ‘or on-site sewerage work’—
omit.

76 Amendment of s 85 (Process for assessing plans)

Section 85(1), ‘or on-site sewerage work’—
omit.

77 Replacement of pt 4, div 4, hdg (Assessing plumbing and drainage work and on-site sewerage work)

Part 4, division 4, heading—
omit, insert—

‘Division 4 Assessing compliance assessable work’.

[s 78]

78 Amendment of s 86 (General process for assessing compliance assessable work and on-site sewerage work)

(1) Section 86, heading, ‘and on-site sewerage work’—

omit.

(2) Section 86(1)—

omit, insert—

‘(1) This section applies, subject to sections 86B and 86C, for assessing compliance assessable work (the *work*) other than compliance assessable work mentioned in section 86A(1).’.

79 Amendment of s 86A (Process for assessing certain compliance assessable work or on-site sewerage work in remote areas)

(1) Section 86A, heading, ‘or on-site sewerage work’—

omit.

(2) Section 86A(1), ‘or on-site sewerage work’—

omit.

80 Amendment of s 86C (Conditions of compliance certificate)

Section 86C(1), after ‘greywater use facility’—

insert—

‘or on-site sewerage work’.

81 Replacement of s 87 (Notifiable work)

Section 87—

omit, insert—

‘87 Notifiable work

‘(1) This section applies for notifiable work that has been completed.

-
- ‘(2) For the purposes of subsection (1), notifiable work is completed when the earlier of the following happens—
- (a) the work becomes operational;
 - (b) an invoice has been issued for the work;
 - (c) if the work is carried out with other notifiable work as part of a transaction (a *single transaction*)—
 - (i) all of the work that is part of the single transaction becomes operational; or
 - (ii) an invoice has been issued for all or some of the work that is part of the single transaction.
- ‘(3) The following person must, in the way and at the time required under this section, give the council notice of the work—
- (a) if it was carried out by or for an entity (a *relevant entity*) that is a public sector entity or an entity mentioned in section 89(2)—the relevant entity;
 - (b) if 1 licensee for the work (a *supervising licensee*) directed the carrying out of, or supervised a person who carried out, the work—the supervising licensee;
 - (c) if 2 or more licensees for the work (each also a *supervising licensee*) jointly or separately directed the carrying out of, or supervised a person who carried out, the work—each supervising licensee;
 - (d) otherwise—the person who carried out the work (a *relevant licensee*).

Maximum penalty—60 penalty units.

- ‘(4) The notice must—
- (a) be in the approved form or made electronically under section 87A; and
 - (b) be given within the period prescribed under the Standard Plumbing and Drainage Regulation or, if no period is prescribed, 10 business days after completion of the work; and

[s 81]

- (c) be accompanied by the fee prescribed under a regulation.
- ‘(5) If notifiable work is part of a single transaction, a notice may be given for all or some of the work that comprises the transaction.
- ‘(6) For subsection (3)(c), compliance by 1 of the supervising licensees with subsection (3) is regarded as compliance by all of the supervising licensees.
- ‘(7) Subsection (3) does not apply if the person has a reasonable excuse.
- ‘(8) Without limiting the circumstances in which a local government may be required to inspect notifiable work, the local government may, but need not, inspect the work as a result of the notice being given.
- ‘(9) The relevant entity, supervising licensee or relevant licensee who gave the notice to the council must also give a copy of the notice to—
 - (a) the owner of the premises where the work was carried out; or
 - (b) if another person asked the relevant entity, supervising licensee or relevant licensee to carry out the work—the other person.
- ‘(10) The copy of the notice given under subsection (9) must be accompanied by the following information—
 - (a) a statement that notice of completed notifiable work must be given to the council;
 - (b) details of the notice given or information about how the owner or other person may access details of the notice given;
 - (c) a statement that the local government may decide to inspect the work and may contact the owner or other person about inspecting the work.
- ‘(11) Subsection (12) applies if the work is emergency work carried out in the SEQ region that involves connecting to,

disconnecting from or changing a connection to a relevant service provider's water infrastructure.

'(12) If the local government is not the relevant service provider for the work, when the relevant entity or person gives the council the notice the entity or person must also give the relevant service provider a copy of the notice.

'(13) In this section—

emergency work means plumbing work or drainage work that must, because of a failure in plumbing or drainage, be performed to stop a continuing risk to health and safety or damage to property.'

82 Insertion of new s 87B

After section 87A—

insert—

'87B Disclosure of particular information for facilitating assessment of notifiable work

'(1) This section applies for the purpose of facilitating an assessment of notifiable work about which a notice has been given to the council under section 87(3).

'(2) The council may give a copy of the notice, or disclose information contained in the notice, to the local government or the owner or occupier of the relevant premises.'

83 Amendment of s 90 (Standard Plumbing and Drainage Regulation may prescribe additional requirements and actions)

(1) Section 90(b), after 'government'—

insert—

'including, for example, actions that may, or must, be taken in relation to the inspection of notifiable work'.

(2) Section 90—

insert—

[s 84]

‘(c) circumstances in which a local government must inspect notifiable work.’.

84 Amendment of s 114 (Functions and powers of inspectors and relationship to the Local Government Act 2009)

(1) Section 114, heading, after ‘2009’—

insert—

‘**and City of Brisbane Act 2010**’.

(2) Section 114(1)—

insert—

‘(d) the *City of Brisbane Act 2010*.’.

(3) Section 114(2)—

omit, insert—

‘(2) Subsection (1)(b), (c) and (d) apply, to the extent possible for the Acts mentioned in subsection (1)(b), (c) and (d), for plumbing or drainage on premises.’.

(4) Section 114(3)(a)—

omit, insert—

‘(a) has the powers of an authorised person under the *Local Government Act 2009* or *City of Brisbane Act 2010* and a reference in those Acts to an authorised person are, for this Act, taken to be a reference to an inspector under this Act; and’.

85 Amendment of s 116 (Enforcement notices)

(1) Section 116(1)(a), ‘or an on-site sewerage facility’—

omit.

(2) Section 116(2) and (3)(b) and (c), ‘or on-site sewerage work’—

omit.

86 Amendment of s 121 (Exemptions for ss 119 and 120)

Section 121(2), definition *designated person*, paragraph (a)(ii)—

omit, insert—

‘(ii) relates to plumbing or drainage work; and’.

87 Amendment of s 128B (Owner’s obligation to ensure compliance with conditions of compliance certificate)

Section 128B, ‘, or for on-site sewerage work for an on-site sewerage facility,’—

omit, insert—

‘or an on-site sewerage facility’.

88 Amendment of s 128G (Owner’s obligation to maintain plumbing and drainage and on-site sewerage facility)

(1) Section 128G, heading, ‘and on-site sewerage facility’—

omit.

(2) Section 128G(1), ‘and any on-site sewerage facility’—

omit.

89 Amendment of s 138 (Offences under Act are summary)

Section 138(2)—

omit, insert—

‘(2) A proceeding for the offence must start within 2 years after the alleged date of commission of the offence or within 1 year after the offence comes to the complainant’s knowledge, whichever is the later.’.

90 Amendment of s 144 (Chief executive may publish information)

Section 144(a), ‘and on-site sewerage’—

[s 91]

omit.

91 Amendment of s 145 (Regulation-making power)

Section 145(2)—

omit, insert—

- ‘(2) A regulation (the *Standard Plumbing and Drainage Regulation*) may be made about plumbing and drainage work, including about inspecting plumbing and drainage work.’.

92 Insertion of new pt 10, div 10

Part 10—

insert—

‘Division 10 Validation provision for Housing and Other Legislation Amendment Act 2013

‘190 Validation of functions and powers of inspectors

- ‘(1) This section applies to a function or power performed by an inspector under section 114 as in force immediately before the commencement.
- ‘(2) To remove any doubt, it is declared that the performance of the function or power is taken to be, and always to have been, as valid as if section 114, as in force immediately after the commencement, had been in force on the day the function or power was performed.
- ‘(3) In this section—
commencement means the commencement of this division.’.

93 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *drainage work, local government* and *operate—*

omit.

(2) Schedule—

insert—

‘drainage work includes—

- (a) installing, changing, extending, disconnecting, taking away and maintaining drainage; and
- (b) on-site sewerage work.

local government, in relation to work performed or to be performed at a facility or premises, means the local government that, under section 89, administers the Standard Plumbing and Drainage Regulation for—

- (a) the area in which the work is performed, or is to be performed; or
- (b) the area in which the facility or premises is located.

operate, plumbing or drainage, includes maintain the plumbing or drainage.’.

(3) Schedule, definition *drainage*, paragraph (b)—

omit, insert—

‘(b) an on-site sewerage facility.’.

Part 5 Minor amendments

94 Acts amended

The schedule amends the Acts it mentions.

Schedule Acts amended

section 94

Building Act 1975

- 1 Section 25(2)(b), ‘relevant’—**
omit, insert—
‘a relevant’.
- 2 Section 59(2), example, ‘site safety standard’—**
omit, insert—
‘fire safety standard’.
- 3 Section 60(1)(b), ‘certifier’—**
omit, insert—
‘certifier is’.
- 4 Section 62(2), ‘313(3)(a) or 314(3)(a)’—**
omit, insert—
‘313(3)(c) or 314(3)(c)’.
- 5 Section 86(1)(a), ‘documents,’—**
omit, insert—
‘documents’.
- 6 Section 104(5)(a), ‘102’—**
omit, insert—
‘102,’.

7 Section 115(4)(a)(ii), ‘provisions,’—*omit, insert—*

‘provisions’.

8 Section 123(3), ‘building’s’—*omit, insert—*

‘the building’s’.

9 Section 132(1), examples, ‘48’—*omit, insert—*

‘sections 48’.

10 Section 145(1)(b), ‘51’—*omit, insert—*

‘51,’.

11 Section 149(2), ‘certifier accepted’—*omit, insert—*

‘certifier has accepted’.

12 Section 167(3)(c), ‘holds’—*omit, insert—*

‘hold’.

13 Section 172(1), ‘of certifier’s’—*omit, insert—*

‘of the certifier’s’.

- 14 Section 175(2)(d), ‘to the licence’—**
omit, insert—
‘to amend the licence’.
- 15 Section 175(2)(e), ‘suspend’—**
omit, insert—
‘suspend the licence’.
- 16 Section 229(4), definition *local government Act*, ‘section 3’—**
omit, insert—
‘schedule 4’.
- 17 Section 231AK, heading, ‘certificate or classification’—**
omit, insert—
‘certificate of classification’.
- 18 Section 231AN(2)(a), ‘to owner’—**
omit, insert—
‘the owner’.
- 19 Section 242(6), after ‘142’—**
insert—
‘or the *City of Brisbane Act 2010*, section 132’.
- 20 Section 245XD(4), ‘Also’—**
omit, insert—
‘Also’.

-
- 21 Section 245XD(4)(b), ‘example’—**
omit, insert—
‘example,’.
- 22 Section 245XE(4), ‘has order’—**
omit, insert—
‘has ordered’.
- 23 Section 245XF(4), ‘has order’—**
omit, insert—
‘has ordered’.
- 24 Section 245XH(2)(b), ‘to pool owner’—**
omit, insert—
‘to a pool owner’.
- 25 Section 245XM(1)(c)(i), ‘proposed;’—**
omit, insert—
‘proposed; and’.
- 26 Section 246AG(1), ‘246AF(2)’—**
omit, insert—
‘246AF(2),’.
- 27 Section 246BX(2)(e), ‘suspend’—**
omit, insert—
‘suspend the licence’.

- 28 Section 246CT(3), ‘warrant enter’—**
omit, insert—
‘warrant, enter’.
- 29 Section 246EH(1)(i), ‘part 4, division 2’—**
omit, insert—
‘part 6, division 5’.
- 30 Section 246ER(2)(a) and (b), ‘246EM’—**
omit, insert—
‘246EL’.
- 31 Section 252, after ‘142’—**
insert—
‘or the *City of Brisbane Act 2010*, section 132’.
- 32 Chapter 11, part 15, first mentioned—**
renumber as part 14A.
- 33 Section 309, heading ‘pt 15’—**
omit, insert—
‘pt 14A’.
- 34 Section 311, first occurring—**
renumber as section 310A.

Plumbing and Drainage Act 2002

1 Section 9(3)(a)(iii), ‘Health and Hospitals Network Act 2011’—

omit, insert—

‘Hospital and Health Boards Act 2011’.

2 Section 13(1)(c), ‘this Act,’—

omit, insert—

‘this Act or’.

3 Section 15, ‘14(1)(a)’—

omit, insert—

‘14(a)’.

4 Section 56(2), ‘the licensee’—

omit, insert—

‘the licensee,’.

5 Section 62(2), ‘has’—

omit, insert—

‘has,’.

6 Section 85B(1), editor’s note, ‘Editor’s note—’—

omit, insert—

‘Note—’.

7 Section 85D(4)—

omit.

- 8 Section 94(2)(a), editor's note, 'Editor's note—'**—
omit, insert—
'Note—'.
- 9 Section 125(b), editor's note, 'Editor's note—'**—
omit, insert—
'Note—'.
- 10 Section 125, maximum penalty, paragraph (a), 'units;'**—
omit, insert—
'units; or'.
- 11 Section 128C, editor's note, 'Editor's note—'**—
omit, insert—
'Note—'.
- 12 Section 128D, editor's note, 'Editor's note—'**—
omit, insert—
'Note—'.
- 13 Section 128K(1)(b)(iii), editor's note, 'Editor's note—'**—
omit, insert—
'Note—'.
- 14 Section 143A, editor's note, 'Editor's note—'**—
omit, insert—
'Note—'.
- 15 Schedule, definition AS/NZS 1546—**
omit.

16 Schedule, definition *greywater treatment plant*, ‘the premises greywater’—

omit, insert—

‘the premises, greywater’.

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