

QUEENSLAND BUILDING SERVICES AUTHORITY AMENDMENT BILL 1996

EXPLANATORY NOTES

GENERAL OUTLINE

Objective of the Legislation

The objective of the legislation is to amend the *Queensland Building Services Authority Act 1991* to allow the *Subcontractors' Charges Act 1974* to apply to all domestic building work other than work carried out for individual consumers in relation to single detached or duplex dwellings.

Reasons for the Bill

A decision of the Supreme Court of Queensland on 17 October 1995 (In re *K-Crete Industries*) in respect of the Admiralty Towers apartment building confirmed that Section 110 of the *Queensland Building Services Authority Act 1991* denies a claim under the *Subcontractors' Charges Act 1974* to a subcontractor who carries out building work on commercial premises, if those premises are of a residential nature.

The proposed amendment to the *Queensland Building Services Authority Act 1991* is to enhance security of payment to subcontractors working in the commercial residential building sector by permitting subcontractors to claim a charge under the *Subcontractors' Charges Act 1974* on unpaid building work.

NOTES ON PROVISIONS

Clause 1 sets out the short title.

Clause 2 provides that the amendment commences on 5 September 1996.

Clause 3 provides that the principal Act to be amended is the *Queensland Building Services Authority Act 1991*.

Clause 4 inserts Section 97(3) to provide that where a subcontractor commences a proceeding in a court to enforce a claim of charge under the *Subcontractors' Charges Act 1974* any proceeding in the Queensland Building Tribunal brought by the subcontractor relating to the subject matter of the claim of charge must be removed to the court.

Clause 5 replaces Section 110 and:

- maintains the exclusion of the Commercial Arbitration Act from domestic building work;
- removes the complete exclusion of the *Subcontractors' Charges Act 1974* from domestic building work;
- reintroduces the *Subcontractors' Charges Act 1974* to domestic building work in the commercial residential sector by providing that the *Subcontractors' Charges Act 1974* does not apply to domestic building work relating to a duplex (two attached dwellings) or a single detached dwelling (a house) if:
 - the work is carried out by a building contractor for one or more individuals; and
 - the work is not for a business carried out by the individual or individuals in a partnership.