



Queensland

Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2024



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2024

A Bill

for

An Act to amend the *Architects Act 2002*, the *Building Act 1975*, the *Building Industry Fairness (Security of Payment) Act 2017*, the *Plumbing and Drainage Act 2018*, the *Professional Engineers Act 2002* and the *Queensland Building and Construction Commission Act 1991* for particular purposes

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024*. 4
5
6

Clause 2 Commencement 7

This Act commences on a day to be fixed by proclamation. 8

Part 2 Amendment of Architects Act 2002 9
10

Clause 3 Act amended 11

This part amends the *Architects Act 2002*. 12

Clause 4 Amendment of s 30 (False or misleading statement) 13

Section 30, ‘state anything to the board’— 14
omit, insert— 15
make a statement 16

Clause 5 Amendment of s 31 (False or misleading document) 17

(1) Section 31(1), ‘the board’— 18
omit, insert— 19
an entity 20

-
- (2) Section 31(2)(a), ‘board’— 1
omit, insert— 2
entity 3

Clause 6 Replacement of s 31A (Proof of giving false and misleading statements and documents) 4
5

Section 31A— 6

omit, insert— 7

31A When statement made or document given in relation to application 8
9

- (1) For sections 30 and 31, a person is taken to make 10
a statement, or give an entity a document, in 11
relation to an application under this part if the 12
person makes the statement or gives the document 13
in connection with— 14
- (a) the application or anything that 15
accompanies the application; or 16
- (b) other information provided as required to 17
decide the application; or 18
- (c) an assessment relevant to the application, 19
including the following— 20
- (i) an assessment of qualifications; 21
- (ii) an examination; 22
- (iii) a health assessment; 23
- (iv) an assessment of whether the applicant 24
has satisfied the continuing registration 25
requirements. 26
- (2) For subsection (1), an assessment is relevant to an 27
application under this part— 28
- (a) whether the assessment is carried out by the 29
board or another entity; and 30

	(b) whether the assessment is carried out before or after the application is made.	1 2
Clause 7	Amendment of s 130 (Orders relating to architect)	3
	(1) Section 130(3)—	4
	<i>insert—</i>	5
	(d) requiring the architect to pay an amount to the board as compensation for all or part of the reasonable costs of an investigation by the board about the matter the subject of the proceeding, including the costs of preparing for the proceeding.	6 7 8 9 10 11
	(2) Section 130(4), ‘subsection (2)’—	12
	<i>omit, insert—</i>	13
	subsection (2) or (3)(d)	14
	(3) Section 130—	15
	<i>insert—</i>	16
	(7) Subsection (3)(d) does not limit the powers of the tribunal under the QCAT Act, chapter 2, part 6, division 6.	17 18 19
Clause 8	Insertion of new s 139A	20
	After section 139—	21
	<i>insert—</i>	22
	139A Costs of investigation	23
	(1) This section applies if a court finds a person guilty of an offence against this Act.	24 25
	(2) The court may make an order requiring the person to pay an amount to the board as compensation for all or part of the reasonable costs of an investigation by the board about the offence, including the costs of preparing for the	26 27 28 29 30

	prosecution.	1
(3)	This section does not limit the orders for costs the court may make on the finding of guilt.	2 3
Part 3	Amendment of Building Act 1975	4 5
Clause 9	Act amended	6
	This part amends the <i>Building Act 1975</i> .	7
Clause 10	Amendment of s 246BH (Who may apply)	8
	Section 246BH(2)—	9
	<i>omit, insert—</i>	10
(2)	An individual who is not a building certifier may apply to the QBCC commissioner for a licence only if the individual has met the approved requirements for pool safety inspectors.	11 12 13 14
Clause 11	Amendment of s 246BI (Requirements for application)	15
(1)	Section 246BI(1)(c)(iv) and (v)—	16
	<i>omit, insert—</i>	17
	(iv) if the applicant is not a building certifier—evidence that the applicant has met the approved requirements for pool safety inspectors;	18 19 20 21
(2)	Section 246BI(1)(c)(vi)—	22
	<i>renumber</i> as section 246BI(1)(c)(v).	23

Clause 12	Replacement of ch 8, pt 8 (Approval of training courses for pool safety inspectors)	1 2	
	Chapter 8, part 8—	3	
	<i>omit, insert—</i>	4	
	Part 8	Requirements for pool safety inspectors	5 6
	246DG Requirements for pool safety inspectors	7	
	(1) The chief executive may approve requirements for pool safety inspectors who are not building certifiers.	8 9 10	
	(2) Without limiting subsection (1), the requirements may comprise successful completion of a course of training or a test or both.	11 12 13	
	(3) The chief executive may amend or replace an approval under this section.	14 15	
	(4) The chief executive must publish a notice of an approval, or the amendment or replacement of an approval, on the department’s website.	16 17 18	
	(5) The notice must state the day the approval, or the amendment or replacement of the approval, takes effect.	19 20 21	
	(6) The day stated in the notice must not be earlier than the day the notice is published.	22 23	
	(7) During the relevant period following the amendment or replacement of an approval, both of the following are taken to be approved requirements for pool safety inspectors who are not building certifiers—	24 25 26 27 28	
	(a) the approved requirements as in effect immediately before the amendment or replacement takes effect;	29 30 31	

	(b) the approved requirements as amended or replaced.	1 2
	(8) For subsection (7), the <i>relevant period</i> is—	3
	(a) the period stated in the notice of the amendment or replacement of the approval; or	4 5 6
	(b) if no period is stated in the notice of the amendment or replacement of the approval—6 months after the day the notice is published.	7 8 9 10
Clause 13	Amendment of s 246F (Pool safety functions performed by QBCC commissioner)	11 12
	(1) Section 246F(g)— <i>omit.</i>	13 14
	(2) Section 246F(h) to (j)— <i>renumber</i> as section 246F(g) to (i).	15 16
Clause 14	Insertion of new ch 11, pt 23	17
	Chapter 11— <i>insert—</i>	18 19
	Part 23	20
	Transitional provision for Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024	21 22 23 24 25
	358 Approval of pool safety inspector courses and tests	26 27
	(1) A QBCC approval in effect under former section	28

	246DG immediately before the commencement	1
	continues in effect as if it were a chief executive	2
	approval under new section 246DG.	3
(2)	In this section—	4
	<i>chief executive approval</i> means an approval of	5
	the chief executive of requirements for pool safety	6
	inspectors.	7
	<i>former section 246DG</i> means section 246DG as	8
	in force immediately before the commencement.	9
	<i>new section 246DG</i> means section 246DG as in	10
	force from the commencement.	11
	<i>QBCC approval</i> means an approval of the QBCC	12
	commissioner of a training course or test for the	13
	purposes of a licence as a pool safety inspector.	14
Clause 15	Amendment of sch 2 (Dictionary)	15
(1)	Schedule 2, definitions <i>approved training course</i> and <i>pool</i>	16
	<i>safety inspector test</i> —	17
	<i>omit.</i>	18
(2)	Schedule 2—	19
	<i>insert</i> —	20
	<i>approved requirements</i> , for pool safety	21
	inspectors, means the requirements approved	22
	under section 246DG.	23

Part 4	Amendment of Building Industry Fairness (Security of Payment) Act 2017	1
		2
		3
Clause 16	Act amended	4
	This part amends the <i>Building Industry Fairness (Security of Payment) Act 2017</i> .	5
		6
Clause 17	Amendment of s 8 (Definitions for chapter)	7
	(1) Section 8, definition <i>protected work</i> —	8
	<i>omit.</i>	9
	(2) Section 8—	10
	<i>insert—</i>	11
	<i>amendment</i> , of a contract, includes a variation of the contract or a change in the contract price.	12
	<i>project trust contract</i> means a contract for which a project trust is required under section 12.	13
	<i>project trust subcontract</i> see section 9A.	14
		15
	(3) Section 8, definition <i>trust records</i> , ‘see section 52(1)’—	16
	<i>omit, insert—</i>	17
	means records required to be kept and retained under section 52	18
		19
		20
Clause 18	Omission of s 8B (Meaning of <i>protected work</i>)	21
	Section 8B—	22
	<i>omit.</i>	23
Clause 19	Insertion of new s 9A	24
	After section 9—	25

insert—

9A Meaning of *project trust subcontract*

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- 33
- (1) A subcontract for a project trust contract is a ***project trust subcontract*** if, when the subcontract is entered into—
 - (a) the subcontract is a first tier subcontract for the contract; and
 - (b) the subcontracted work under the subcontract is or includes 1 or more of the following—
 - (i) architectural services;
 - (ii) contractor or trade work;
 - (iii) a professional engineering service;
 - (iv) services or work prescribed by regulation for this paragraph; and
 - (c) the subcontract is not excluded by regulation from being a project trust subcontract.
 - (2) A subcontract does not cease to be a project trust subcontract because of—
 - (a) an amendment of the subcontract; or
 - (b) an amendment of subsection (1) or a regulation made for subsection (1).
 - (3) If a contract becomes a project trust contract after it is entered into, a subcontract of the contract then in existence becomes a project trust subcontract if it would have been a project trust subcontract had it been entered into when the contract became a project trust contract.
 - (4) A subcontract that was not, at the time it was entered into, a project trust subcontract becomes a project trust subcontract if—
 - (a) the subcontract is amended; and

	(b) the subcontract would have been a project trust subcontract had it been entered into in its amended form, including any earlier amendments, at the time it was amended.	1 2 3 4
(5)	In this section—	5
	<i>architectural services</i> see the <i>Architects Act 2002</i> , schedule 2.	6 7
	<i>contractor or trade work</i> means—	8
(a)	work for which the subcontractor holds, or is required to hold, a licence under any of the following—	9 10 11
	(i) the <i>Building Act 1975</i> ;	12
	(ii) the <i>Electrical Safety Act 2002</i> ;	13
	(iii) the <i>Plumbing and Drainage Act 2018</i> ;	14
	(iv) the <i>Queensland Building and Construction Commission Act 1991</i> ;	15 16
	(v) a regulation made under the <i>Work Health and Safety Act 2011</i> ;	17 18
	(vi) an Act or regulation prescribed by regulation for this paragraph; or	19 20
(b)	work prescribed by regulation to be contractor or trade work.	21 22
	<i>professional engineering service</i> see the <i>Professional Engineers Act 2002</i> , schedule 2.	23 24
Clause 20	Amendment of s 10 (Definitions for part)	25
(1)	Section 10, definitions <i>minimum contract price</i> and <i>related services</i> —	26 27
	<i>omit.</i>	28
(2)	Section 10, definition <i>subcontractor beneficiary</i> , ‘section 11A(4)’—	29 30
	<i>omit, insert</i> —	31

	section 11A	1
Clause 21	Amendment of s 10C (References to particular terms in this part)	2 3
	Section 10C(d), ‘contract for which a project trust is required’—	4 5
	<i>omit, insert</i> —	6
	project trust contract	7
Clause 22	Amendment of s 11 (What is a <i>project trust</i>)	8
	Section 11(a)—	9
	<i>omit, insert</i> —	10
	(a) over amounts—	11
	(i) payable in connection with a project trust contract or project trust subcontract; and	12 13 14
	(ii) required to be deposited in the project trust account under this chapter; and	15 16
Clause 23	Replacement of s 11A (Who are the trustee and beneficiaries of a project trust)	17 18
	Section 11A—	19
	<i>omit, insert</i> —	20
	11A Trustee and beneficiaries of project trust	21
	(1) The contracted party for a project trust contract is both the trustee and a beneficiary of the project trust for the contract.	22 23 24
	(2) The contracted party—	25
	(a) becomes the trustee and a beneficiary of the project trust when the trust is established; and	26 27 28

	(b) ceases to be the trustee and a beneficiary of the project trust when the trust is lawfully dissolved.	1 2 3
	(3) A subcontractor for a project trust subcontract for a project trust contract is a beneficiary of the project trust for the contract.	4 5 6
	(4) The subcontractor—	7
	(a) becomes a beneficiary of the project trust when—	8 9
	(i) a project trust subcontract is entered into with the subcontractor; or	10 11
	(ii) a subcontract for which the subcontractor is the contracted party becomes a project trust subcontract; and	12 13 14 15
	(b) ceases to be a beneficiary of the project trust when—	16 17
	(i) the subcontractor is paid all amounts the subcontractor is entitled to be paid in connection with all project trust subcontracts for which the subcontractor is the contracted party; and	18 19 20 21 22 23
	(ii) the trust is lawfully dissolved.	24
Clause 24	Amendment of s 11B (What are the beneficial interests in a project trust)	25 26
	(1) Section 11B(1)(a), ‘an amount the subcontractor is entitled to be paid under its subcontract’—	27 28
	<i>omit, insert—</i>	29
	all amounts the subcontractor is entitled to be paid in connection with project trust subcontracts	30 31
	(2) Section 11B(2), definition <i>remainder</i> , ‘their subcontracts’—	32

omit, insert— 1
project trust subcontracts 2

Clause 25	Amendment of s 14 (Particular contracts for project trust work)	3
	(1) Section 14, heading—	4
	<i>omit, insert—</i>	5
	14 Eligibility of contract for project trust when contract entered into	6
	(2) Section 14—	7
	<i>insert—</i>	8
	(2A) This section applies to a contract at the time the contract is entered into.	9
	(3) Section 14(2A) and (3)—	10
	<i>renumber</i> as section 14(3) and (4).	11
		12
		13
		14

Clause 26	Replacement of s 14A (Amendments of contracts requiring project trusts)	15
	Section 14A—	16
	<i>omit, insert—</i>	17
	14A Eligibility of contract for project trust when contract amended	18
	(1) A contract does not cease to be eligible for a project trust because of an amendment of the contract.	19
		20
		21
		22
		23
	(2) A contract that was not, at the time it was entered into, eligible for a project trust becomes eligible for a project trust on the amendment of the contract if—	24
		25
		26
		27
	(a) the contract is amended; and	28

	(b) the contract would have been eligible for a project trust had it been in its amended form, including any earlier amendments, when it was entered into; and	1 2 3 4
	(c) the amended contract—	5
	(i) increases the original percentage of the contract price that is for project trust work by 30% or more; or	6 7 8
	(ii) increases the original contract price by 30% or more.	9 10
Clause 27	Amendment of s 15F (Contracts with less than 90 days until practical completion)	11 12
	Section 15F(3), definition <i>amendment</i> —	13
	<i>omit.</i>	14
Clause 28	Amendment of s 18C (Change of financial institution)	15
	Section 18C(2), after ‘by a financial institution’—	16
	<i>insert</i> —	17
	, if the withdrawal is authorised under section 51D	18
Clause 29	Amendment of s 19 (All payments from contracting party to be deposited in project trust account)	19 20
	Section 19(1), ‘contract for which a project trust is required’—	21 22
	<i>omit, insert</i> —	23
	project trust contract	24
Clause 30	Amendment of s 19A (Limited purposes for which money may be deposited in project trust account)	25 26
	(1) Section 19A(1)(a), ‘section 19(2)’—	27

omit, insert— 1

section 19 2

(2) Section 19A(1)(b), from ‘the contracted party’ to
‘subcontract’— 3
4

omit, insert— 5

the subcontractor is entitled, or may become
entitled, to be paid in connection with a project
trust subcontract 6
7
8

**Clause 31 Amendment of s 20 (All payments to subcontractor
beneficiaries to be paid from project trust account)** 9
10

(1) Section 20(1)— 11

omit. 12

(2) Section 20(2), ‘may only pay the amount to the subcontractor
beneficiary’— 13
14

omit, insert— 15

for a project trust contract may only pay an
amount to a subcontractor beneficiary of the
project trust 16
17
18

(3) Section 20(4), ‘subsection (2)(b)’— 19

omit, insert— 20

subsection (1)(b) 21

(4) Section 20(2) to (5)— 22

renumber as section 20(1) to (4). 23

**Clause 32 Amendment of s 20A (Limited purposes for which money
may be withdrawn from project trust account)** 24
25

(1) Section 20A(1)(b), from ‘the contracted party is’ to ‘same
work’— 26
27

omit, insert— 28

a subcontractor beneficiary is not entitled to be 29

	paid for the same work	1
(2)	Section 20A(4)(a), ‘as mentioned under section 18C(2)’—	2
	<i>omit, insert—</i>	3
	authorised to be withdrawn under section 51D	4
Clause 33	Amendment of s 20C (Insufficient amounts available for payments)	5
	Section 20C(5), ‘the party is liable to pay each subcontractor beneficiary’—	6
	<i>omit, insert—</i>	7
	the subcontractor beneficiaries are entitled to be paid in connection with project trust subcontracts	8
		9
		10
		11
Clause 34	Amendment of s 21 (Ending project trust)	12
	Section 21(1)(a), note—	13
	<i>omit.</i>	14
Clause 35	Amendment of s 23 (Notice of project trust before entering subcontracts)	15
	Section 23(1), from ‘If’ to ‘the contracted party’—	16
	<i>omit, insert—</i>	17
	The contracted party for a project trust contract	18
		19
Clause 36	Amendment of s 31 (What is a <i>retention trust</i>)	20
	Section 31(a)(i), after ‘contracts’—	21
	<i>insert—</i>	22
	, inclusive of any GST related to those amounts	23

Clause 37	Amendment of s 31A (Who are the trustee and beneficiaries of a retention trust)	1 2
	Section 31A(5)(b), after ‘in’—	3
	<i>insert</i> —	4
	and the trust is lawfully dissolved	5
Clause 38	Amendment of s 32 (When retention trust required)	6
(1)	Section 32(1)—	7
	<i>omit, insert</i> —	8
(1)	A retention trust is required for a retention amount withheld from payment under a contract if—	9 10
(a)	the contract is a withholding contract at the time the retention amount is withheld; and	11 12
(b)	the retention amount is withheld by the contracting party in the form of cash.	13 14
(1A)	Also, a retention trust is required for a retention amount withheld from payment under a contract if—	15 16 17
(a)	the contract was not a withholding contract at the time the retention amount was withheld but the contract has since become a withholding contract; and	18 19 20 21
(b)	the contract is a first tier subcontract; and	22
(c)	the retention amount was withheld by the contracting party in the form of cash; and	23 24
(d)	the retention amount had not been released to the parties entitled to it at the time the contract became a withholding contract.	25 26 27
(2)	Section 32(2), after ‘starts’—	28
	<i>insert</i> —	29
	, or is taken to have started,	30

-
- (3) Section 32(5)— 1
omit, insert— 2
- (5) In this section— 3
withholding contract means— 4
- (a) a project trust contract that is— 5
- (i) a head contract; or 6
- (ii) a subcontract that is eligible for a 7
project trust under section 14C or 14D; 8
or 9
- (b) a project trust subcontract for a project trust 10
contract mentioned in paragraph (a). 11
- (4) Section 32(1A) to (5)— 12
renumber as section 32(2) to (6). 13

- Clause 39 Amendment of s 33A (Charge over retention amounts held in retention trust)** 14
15
- Section 33A— 16
- insert*— 17
- (7) The charge is inclusive of any GST related to the 18
amount. 19

- Clause 40 Amendment of s 34 (Contracting party withholding retention amount must open retention trust account)** 20
21
- Section 34(2)— 22
- omit, insert*— 23
- (2) The contracting party must open an account for 24
the retention trust at a financial institution— 25
- (a) if the retention trust is required under 26
section 32(1)—before the retention amount 27
is withheld; or 28

- (b) if the retention trust is required under section 32(2)—within 20 business days after the contract becomes a withholding contract. 1
2
3
4
- Maximum penalty—500 penalty units. 5

Clause 41 Amendment of s 35 (All retention amounts withheld must be deposited in retention trust account) 6
7

- (1) Section 35(2) and (3)— 8
 - omit, insert—* 9
 - (2) The contracting party must deposit the retention amount withheld under the contract in a retention trust account (the **deposit obligation**) as follows— 10
11
12
13
 - (a) if the retention trust is required under section 32(1)—when the retention amount is withheld; 14
15
16
 - (b) if the retention trust is required under section 32(2) and there is an existing retention trust account into which the retention amount may be deposited—within 5 business days after the contract becomes a withholding contract; 17
18
19
20
21
22
 - (c) if the retention trust is required under section 32(2) and there is no existing retention trust account into which the retention amount may be deposited—when the retention trust account is opened. 23
24
25
26
27
 - Maximum penalty—200 penalty units or 2 years imprisonment. 28
29
- (2) Section 35— 30
 - insert—* 31
 - (5) The retention amount to which the deposit obligation relates is inclusive of any GST related 32
33

	to the amount.	1
(3)	Section 35(4) and (5)—	2
	<i>renumber</i> as section 35(3) and (4).	3
Clause 42	Amendment of s 50 (Definitions for part)	4
(1)	Section 50, definition <i>registered company auditor</i> —	5
	<i>omit.</i>	6
(2)	Section 50—	7
	<i>insert</i> —	8
	auditor means—	9
	(a) a person registered as an auditor under the Corporations Act, part 9.2; or	10 11
	(b) a person prescribed by regulation to be an auditor.	12 13
(3)	Section 50, definition <i>account review report</i> , ‘section 57A(2)’—	14 15
	<i>omit, insert</i> —	16
	section 57A(1)	17
Clause 43	Replacement of s 52 (Trust records)	18
	Section 52—	19
	<i>omit, insert</i> —	20
	52 Trust records	21
	The trustee for a project trust or retention trust must—	22 23
	(a) keep records for the trust as prescribed by regulation; and	24 25
	(b) retain the records for at least 7 years after the trust is dissolved.	26 27
	Maximum penalty—300 penalty units or 1 year’s	28

	imprisonment.	1
Clause 44	Omission of s 52A (Monthly bank reconciliation)	2
	Section 52A—	3
	<i>omit.</i>	4
Clause 45	Amendment of s 53A (Power to require particular information)	5
	Section 53A(1)(f)—	6
	<i>omit, insert—</i>	7
	(f) an auditor;	8
		9
Clause 46	Amendment of s 57 (Engaging auditor for review of trust account)	10
	(1) Section 57(2)—	11
	<i>omit, insert—</i>	12
	(2) The engagement of the auditor must comply with the requirements prescribed by regulation.	13
	(2) Section 57(6), ‘a registered company auditor’—	14
	<i>omit, insert—</i>	15
	an auditor	16
	(3) Section 57(7), ‘A registered company auditor’—	17
	<i>omit, insert—</i>	18
	An auditor	19
	(4) Section 57(8), ‘a registered company auditor’—	20
	<i>omit, insert—</i>	21
	an auditor	22
	(5) Section 57(8)(b)—	23
	<i>omit, insert—</i>	24
		25
		26

	(b) if—	1
	(i) there are no transactions or changes for the account during the review period; and	2 3 4
	(ii) within 10 business days after the end of the review period the trustee gave the commissioner a written statement, using an approved way, confirming the matter mentioned in subparagraph (i); or	5 6 7 8 9 10
	(c) in the circumstances prescribed by regulation.	11 12
(6)	Section 57(9)— <i>omit.</i>	13 14
Clause 47	Amendment of s 57A (Account review report)	15
(1)	Section 57A(1), ‘an account review report for the account as required under this section’— <i>omit, insert—</i>	16 17 18
	a report (an <i>account review report</i>) for the account as required by regulation	19 20
(2)	Section 57A(2) to (4)— <i>omit.</i>	21 22
(3)	Section 57A(6), ‘subsection (5)’— <i>omit, insert—</i>	23 24
	subsection (2)	25
(4)	Section 57A(5) and (6)— <i>renumber</i> as section 57A(2) and (3).	26 27
Clause 48	Insertion of new ch 2, pt 5	28
	Chapter 2—	29

insert—

1

Part 5 Guidelines for chapter

2

59 Chief executive may issue guidelines for chapter

3

4

(1) The chief executive may issue guidelines to facilitate compliance with this chapter.

5

6

(2) Before issuing the guidelines, the chief executive must consult on the proposed guidelines as the chief executive considers appropriate.

7

8

9

(3) The guidelines must be published on the department's website.

10

11

(4) In a proceeding for an offence against this chapter, it is a defence for a person to prove—

12

13

(a) the conduct constituting the alleged offence is conduct to which the guidelines applied; and

14

15

16

(b) the person complied with the guidelines in engaging in the conduct.

17

18

Clause 49 Amendment of s 200E (Confidentiality of information)

19

Section 200E—

20

insert—

21

(4) Also, subsection (2) does not apply to—

22

(a) the disclosure of information, or the giving of access to a document, by the commission to the chief executive for the purpose of monitoring the operation and effectiveness of this Act; or

23

24

25

26

27

(b) the use of the information or document by the chief executive for that purpose.

28

29

Clause 50	Omission of s 211D (Project trusts and contracts entered into before the commencement of new phases)	1 2
	Section 211D—	3
	<i>omit.</i>	4
Clause 51	Insertion of new ch 8C	5
	After chapter 8B—	6
	<i>insert—</i>	7
	Chapter 8C Transitional provisions for Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2024	8 9 10 11 12 13 14 15
	215 Definitions for chapter	16
	In this chapter—	17
	<i>former</i> , for a section of this Act, means the section as in force from time to time before the commencement.	18 19 20
	<i>new</i> , for a section of this Act, means the section as in force from the commencement.	21 22
	215A Retention amounts	23
	(1) New section 32 applies in relation to a retention amount withheld from payment whether before or after the commencement.	24 25 26

- | | |
|--|----|
| (2) Subsection (3) applies if— | 1 |
| (a) a retention amount was withheld from | 2 |
| payment before the commencement; and | 3 |
| (b) immediately before the commencement, the | 4 |
| retention amount was not required to be | 5 |
| deposited in a retention trust account; and | 6 |
| (c) on the commencement, the retention amount | 7 |
| is required to be deposited in a retention | 8 |
| trust account. | 9 |
| (3) If this subsection applies— | 10 |
| (a) new section 34(2)(b) applies as if a retention | 11 |
| trust account were required to be opened | 12 |
| within 20 business days after the | 13 |
| commencement; and | 14 |
| (b) new section 35(2)(b) and (c) apply as if the | 15 |
| retention amount were required to be | 16 |
| deposited in a retention trust account within | 17 |
| 20 business days after the commencement. | 18 |

215B Changes affecting review of trust account 19

- | | |
|---|----|
| (1) This section applies if— | 20 |
| (a) before the commencement, the trustee for a | 21 |
| project trust or retention trust engaged an | 22 |
| auditor to carry out a review of the trust | 23 |
| account for the trust under former section | 24 |
| 57; and | 25 |
| (b) immediately before the commencement— | 26 |
| (i) the review had not been completed; or | 27 |
| (ii) the account review report for the trust | 28 |
| account required under former section | 29 |
| 57A had not been given to the trustee. | 30 |
| (2) For the purposes of the review and report, former | 31 |
| sections 57 and 57A continue to apply as if the | 32 |
| <i>Building Industry Fairness (Security of Payment)</i> | 33 |

	<i>and Other Legislation Amendment Act 2024</i> had	1
	not been enacted.	2
Clause 52	Replacement of s 217 (Amendment of s 14 (Particular contracts for project trust work))	3 4
	Section 217—	5
	<i>omit, insert—</i>	6
	217 Replacement of s 14 (Eligibility of contract for project trust when contract entered into)	7 8
	Section 14—	9
	<i>omit, insert—</i>	10
	14 Eligibility of contract for project trust when contract entered into	11 12
	A contract is eligible for a project trust if, when it is entered into—	13 14
	(a) more than 50% of the contract price is for project trust work; and	15 16
	(b) the contract price is \$1 million or more.	17
Clause 53	Replacement of s 218 (Amendment of s 32 (When retention trust required))	18 19
	Section 218—	20
	<i>omit, insert—</i>	21
	218 Amendment of s 32 (When retention trust required)	22 23
	Section 32(6), definition <i>withholding contract—</i>	24
	<i>omit, insert—</i>	25
	<i>withholding contract</i> means—	26
	(a) a project trust contract; or	27
	(b) a project trust subcontract; or	28

- (c) any other subcontract for 1
subcontracting work that contributes to 2
the performance of a project trust 3
contract. 4

Clause 54	Amendment of sch 2 (Dictionary)	5
(1)	Schedule 2, definitions <i>minimum contract price</i> , <i>protected work</i> and <i>registered company auditor</i> —	6
	<i>omit.</i>	7
	<i>omit.</i>	8
(2)	Schedule 2—	9
	<i>insert</i> —	10
	<i>amendment</i> , of a contract, for chapter 2, see section 8.	11
	<i>amendment</i> , of a contract, for chapter 2, see section 8.	12
	<i>auditor</i> , for chapter 2, part 4, division 1, see section 50.	13
	<i>auditor</i> , for chapter 2, part 4, division 1, see section 50.	14
	<i>minimum contract price</i> , for chapter 2, part 3, see section 30.	15
	<i>minimum contract price</i> , for chapter 2, part 3, see section 30.	16
	<i>project trust contract</i> see section 8.	17
	<i>project trust subcontract</i> see section 9A.	18
(3)	Schedule 2, definition <i>account review report</i> , ‘section 57A(2)’—	19
	<i>omit, insert</i> —	20
	<i>omit, insert</i> —	21
	section 57A(1)	22
(4)	Schedule 2, definition <i>subcontractor beneficiary</i> , ‘section 8’—	23
	<i>omit, insert</i> —	24
	<i>omit, insert</i> —	25
	section 10	26
(5)	Schedule 2, definition <i>trust records</i> , ‘section 52(1)’—	27
	<i>omit, insert</i> —	28
	<i>omit, insert</i> —	28
	section 8	29

Part 5	Amendment of Plumbing and Drainage Act 2018	1 2
Clause 55	Act amended	3
	This part amends the <i>Plumbing and Drainage Act 2018</i> .	4
Clause 56	Amendment of s 14 (Qualifications and practical experience required for licence)	5 6
	(1) Section 14, ‘commissioner’—	7
	<i>omit, insert—</i>	8
	chief executive	9
	(2) Section 14(b), ‘QBCC’s website’—	10
	<i>omit, insert—</i>	11
	the department’s website	12
Clause 57	Amendment of s 26 (Qualifications and practical experience required for endorsement)	13 14
	(1) Section 26, ‘commissioner’—	15
	<i>omit, insert—</i>	16
	chief executive	17
	(2) Section 26(b), ‘QBCC’s website’—	18
	<i>omit, insert—</i>	19
	the department’s website	20
Clause 58	Insertion of new pt 8, div 3	21
	Part 8—	22
	<i>insert—</i>	23

Division 3	Transitional provision for	1
	Building Industry Fairness	2
	(Security of Payment) and	3
	Other Legislation	4
	Amendment Act 2024	5

174 Qualifications and practical experience	6
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- | | |
|--|----------------------|
| (1) A decision of the commissioner in effect under former section 14 continues in effect as if it were a decision of the chief executive under new section 14. | 7
8
9
10 |
| (2) A decision of the commissioner in effect under former section 26 continues in effect as if it were a decision of the chief executive under new section 26. | 11
12
13
14 |
| (3) In this section— | 15 |
| <i>former</i> , for a section of this Act, means the section as in force immediately before the commencement. | 16
17
18 |
| <i>new</i> , for a section of this Act, means the section as in force from the commencement. | 19
20 |

Clause 59	Amendment of sch 1 (Dictionary)	21
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|--|----------|
| (1) Schedule 1, definition <i>practical experience</i> , ‘commissioner’— | 22
23 |
| <i>omit, insert</i> — | 24 |
| chief executive | 25 |
| (2) Schedule 1, definition <i>qualifications</i> , ‘commissioner’— | 26 |
| <i>omit, insert</i> — | 27 |
| chief executive | 28 |

Part 6	Amendment of Professional Engineers Act 2002	1
		2
Clause 60	Act amended	3
	This part amends the <i>Professional Engineers Act 2002</i> .	4
Clause 61	Amendment of s 30 (False or misleading statement)	5
	Section 30, ‘state anything to the board’—	6
	<i>omit, insert</i> —	7
	make a statement	8
Clause 62	Amendment of s 31 (False or misleading document)	9
	(1) Section 31(1), ‘the board’—	10
	<i>omit, insert</i> —	11
	an entity	12
	(2) Section 31(2)(a), ‘board’—	13
	<i>omit, insert</i> —	14
	entity	15
Clause 63	Replacement of s 31A (Proof of giving false and misleading statements and documents)	16
	Section 31A—	17
	<i>omit, insert</i> —	18
	31A When statement made or document given in relation to application	19
		20
	(1) For sections 30 and 31, a person is taken to make a statement, or give an entity a document, in relation to an application under this part if the person makes the statement or gives the document in connection with—	21
		22
		23
		24
		25
		26

	(a) the application or anything that accompanies the application; or	1 2
	(b) other information provided as required to decide the application; or	3 4
	(c) an assessment relevant to the application, including the following—	5 6
	(i) an assessment of qualifications;	7
	(ii) an assessment of competencies;	8
	(iii) a health assessment;	9
	(iv) an assessment of whether the applicant has satisfied the continuing registration requirements.	10 11 12
	(2) For subsection (1), an assessment is relevant to an application under this part—	13 14
	(a) whether the assessment is carried out by the board or another entity; and	15 16
	(b) whether the assessment is carried out before or after the application is made.	17 18
Part 7	Amendment of Queensland Building and Construction Commission Act 1991	19 20 21
Clause 64	Act amended	22
	This part amends the <i>Queensland Building and Construction Commission Act 1991</i> .	23 24
Clause 65	Amendment of s 12 (Appointment)	25
	Section 12(1), ‘10 members’—	26
	<i>omit, insert—</i>	27

	7 members	1
Clause 66	Insertion of new s 28AA	2
	Before section 28A—	3
	<i>insert—</i>	4
	28AA Public register of interests	5
	(1) The commission must publish a register of members' interests on the commission's website.	6 7
	(2) The register must include, for each member, details of each disclosure recorded in the board's minutes under section 20C.	8 9 10
	(3) Entries in the register for a person who has ceased to be a member may remain in the register on the commission's website as the commission considers appropriate.	11 12 13 14
	(4) The register may contain other information about a member or former member with the consent of the member or former member.	15 16 17
Clause 67	Amendment of s 48 (Cancellation or suspension of licence)	18 19
	Section 48(1)(g), after 'control'—	20
	<i>insert—</i>	21
	, or carried out under the licence,	22
Clause 68	Amendment of s 50 (Surrender of licence)	23
	Section 50—	24
	<i>insert—</i>	25
	(2) If a licence authorises the licensee to carry out more than 1 specified class of building work, subsection (1) applies to the licence as if there were a separate licence for each specified class.	26 27 28 29

Clause 69	Amendment of s 53 (Return of licence)	1
	(1) Section 53—	2
	<i>insert</i> —	3
	(2A) A person who has surrendered a licence must, within 14 days after receiving notice of the commission’s consent to the surrender, return to the commission—	4 5 6 7
	(a) the licence; and	8
	(b) if the commission has issued a licence certificate—the licence certificate.	9 10
	(2) Section 53(2A) and (3)—	11
	<i>renumber</i> as section 53(3) and (4).	12
Clause 70	Amendment of s 74B (Proper grounds for taking disciplinary action against a licensee and former licensees)	13 14 15
	Section 74B(1)(ha), after ‘control’—	16
	<i>insert</i> —	17
	, or carried out under the licence,	18
Clause 71	Amendment of s 86B (Requirements for making application)	19 20
	(1) Section 86B, before paragraph (a)—	21
	<i>insert</i> —	22
	(aa) be made using the approved form; and	23
	(2) Section 86B(aa) to (b)—	24
	<i>renumber</i> as section 86B(a) to (c).	25
Clause 72	Amendment of s 86C (Internal review decision)	26
	Section 86C(2)(a), ‘28 days’—	27

omit, insert— 1

28 business days 2

Clause 73 Amendment of s 110 (Confidentiality of information) 3

(1) Section 110— 4

insert— 5

(3A) Also, subsection (2) does not apply to— 6

(a) the disclosure of information, or the giving
of access to a document, by the commission
to the chief executive for the purpose of
monitoring the operation and effectiveness
of this Act; or 7
8
9
10
11

(b) the use of the information or document by
the chief executive for that purpose. 12
13

(2) Section 110(3A) and (4)— 14

renumber as section 110(4) and (5). 15