



Queensland

Queensland Building Services Authority Amendment Bill 2013

Includes amendments agreed to during Consideration



Queensland

Queensland Building Services Authority Amendment Bill 2013

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of Queensland Building Services Authority Act 1991	
3	Act amended	6
4	Amendment of s 1 (Short title)	6
5	Replacement of pt 2, divs 1–4	7
	Division 1 Establishment, functions and powers	
5	Establishment and status	7
6	Constitution	7
7	Functions	7
8	Powers	7
9	Ministerial direction	8
	Division 2 Queensland Building and Construction Board	
	Subdivision 1 Establishment and functions	
10	Establishment	9
11	Functions	9
	Subdivision 2 Membership	
12	Appointment	10
13	Disqualification as member	10
14	Conditions of appointment	11
15	Term of appointment	11
16	Chairperson	11
17	Deputy chairperson	11
18	Resignation	12

Contents

	Subdivision 3	Board's policies	
	19	Board's policy	13
	Subdivision 4	Business	
	20	Conduct of business	13
	20A	Meetings	14
	20B	Committees	14
	20C	Disclosure of interests	14
	Division 3	Commissioner	
	20D	Appointment	16
	20E	Disqualification as commissioner	16
	20F	Conditions of appointment	16
	20G	Term of appointment	16
	20H	Resignation	17
	20I	Appointment of acting commissioner	17
	20J	Role of the commissioner	17
	20K	Relationship between commissioner and board	19
	20L	Commissioner not to engage in other paid employment	20
	20M	Conflicts of interest	20
6		Replacement of s 27 (Authority is statutory body)	20
	27	Application of financial Acts	20
7		Insertion of new s 71AB	21
	71AB	Statutory insurance scheme not to affect licensing decisions	21
8		Amendment of s 114 (Protection)	21
9		Insertion of new s 115A	22
	115A	Delegations	22
10		Amendment of sch 1 (Transitional and validating provisions)	22
11		Amendment of sch 2 (Dictionary)	31
Part 3		Amendment of Building Act 1975	
12		Act amended	33
13		Insertion of new ch 11, pt 17	33
	Part 17	Transitional provisions for Queensland Building Services Authority Amendment Act 2013	
	324	Definitions	33
	325	Unresolved applications to or by the former BSA	34

	326	Prosecution of offences against chapter 6 or section 246AP(2)	34
	327	Other administrative matters relating to the former BSA	35
Part 4		Minor and consequential amendments	
14		Acts amended	36
Schedule 1		Minor and consequential amendments	37
		Body Corporate and Community Management Act 1997	37
		Building Act 1975	37
		Building and Construction Industry Payments Act 2004	40
		Building and Construction Industry (Portable Long Service Leave) Act 1991	42
		Building Units and Group Titles Act 1980	43
		Domestic Building Contracts Act 2000	43
		Environmental Protection Act 1994	44
		Judicial Review Act 1991	45
		Pest Management Act 2001	45
		Queensland Building Services Authority Act 1991	45
		South Bank Corporation Act 1989	52
		Subcontractors' Charges Act 1974	53
		Sustainable Planning Act 2009	53

2013

A Bill

for

An Act to amend the *Queensland Building Services Authority Act 1991* to replace the Queensland Building Services Authority with a new commission, and to make consequential or minor amendments of the *Building Act 1975* and the Acts as stated in schedule 1 for related purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

Clause 1 Short title

This Act may be cited as the *Queensland Building Services Authority Amendment Act 2013*.

Clause 2 Commencement

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

Part 2 Amendment of Queensland Building Services Authority Act 1991

Clause 3 Act amended

This part amends the *Queensland Building Services Authority Act 1991*.

Note—

See also the amendments in schedule 1.

Clause 4 Amendment of s 1 (Short title)

Section 1, ‘Queensland Building Services Authority’—
omit, insert—

Queensland Building and Construction Commission

Clause 5 Replacement of pt 2, divs 1–4

Part 2, divisions 1 to 4—

omit, insert—

**Division 1 Establishment, functions
and powers**

5 Establishment and status

- (1) The Queensland Building and Construction Commission is established.
- (2) The commission—
 - (a) is a body corporate; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name.

6 Constitution

The commission consists of—

- (a) the Queensland Building and Construction Board; and
- (b) the commissioner and the organisational unit under the control of the commissioner.

7 Functions

The commission has the following functions—

- (a) to administer this Act and further its objects;
- (b) any function given to it under another Act.

8 Powers

- (1) The commission has all the powers of an individual and may, for example—

[s 5]

- (a) enter into contracts or agreements; and
 - (b) acquire, hold, deal with and dispose of, property; and
 - (c) employ staff; and
 - (d) appoint agents and attorneys; and
 - (e) engage consultants; and
 - (f) charge a fee for services and other facilities it supplies; and
 - (g) do anything else necessary or convenient to be done for its functions.
- (2) Without limiting subsection (1), the commission has the powers given to it under an Act.

9 Ministerial direction

- (1) The Minister may give the commission a written direction in relation to the commission and its functions.
- (2) The commission must comply with the direction.
- (3) The Minister must cause a copy of the direction to be tabled in the Legislative Assembly within 7 sitting days after it is given.
- (4) The commission's annual report under the *Financial Accountability Act 2009*, section 63 for the year in which the direction is given must include a copy of the direction.

Division 2 Queensland Building and Construction Board

Subdivision 1 Establishment and functions

10 Establishment

The Queensland Building and Construction Board is established as the commission's governing body.

11 Functions

The board has the following functions—

- (a) deciding the strategies and the operational, administrative and financial policies to be followed by the commission;
- (b) ensuring the commission performs its functions and exercises its powers in a proper, effective and efficient way;
- (c) making and reviewing policies governing the administration of this Act;
- (d) providing guidance and leadership to the commissioner;
- (e) advising the Minister on issues affecting—
 - (i) the building industry; and
 - (ii) consumers; and
 - (iii) the administration of this Act; and
 - (iv) the administration of the commission;
- (f) advising the Minister about unfair or unconscionable trading practices affecting

[s 5]

security of payments to contractors and subcontractors;

- (g) consulting the building industry and its consumers and advancing their interests, consistently with the objects of this Act.

Subdivision 2 Membership

12 Appointment

- (1) The board consists of 7 members appointed by the Governor in Council.
- (2) In appointing a person as a member, the Governor in Council must have regard to the person's ability to make a contribution to the effective and efficient performance of the commission's functions.
- (3) The members are appointed under this Act and not the *Public Service Act 2008*.

13 Disqualification as member

A person is disqualified from becoming, or continuing as, a member if the person—

- (a) has a recorded conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is not able to manage a corporation because of the Corporations Act, part 2D.6; or
- (d) is a relevant officer or contractor of the commission.

14 Conditions of appointment

- (1) A member is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) For matters not provided for by this Act, a member holds office on the terms and conditions decided by the Governor in Council.

15 Term of appointment

- (1) A member is appointed for the term, of no more than 3 years, stated in the member's instrument of appointment.
- (2) However, a person's appointment as a member ends if, during the term of the appointment, the person becomes disqualified under section 13.

16 Chairperson

- (1) The Governor in Council must appoint a member as the chairperson of the board.
- (2) A person may be appointed as the chairperson when the person is appointed as a member.
- (3) The chairperson holds office for the term, ending no later than the person's term of appointment as a member, stated in the person's instrument of appointment as chairperson.
- (4) However, a person's appointment as chairperson ends if, during the term of the appointment, the person stops being a member.

17 Deputy chairperson

- (1) The Governor in Council must appoint a member, other than the chairperson, as deputy chairperson of the board.

[s 5]

- (2) The deputy chairperson holds office for the term, ending no later than the person's term of appointment as a member, stated in the person's instrument of appointment as chairperson.
- (3) However, a person's appointment as deputy chairperson ends if, during the term of the appointment, the person stops being a member.
- (4) The deputy chairperson must act as chairperson—
 - (a) during a vacancy in the office of chairperson; and
 - (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

18 Resignation

- (1) A member may resign by signed notice given to the Minister.
- (2) Also, a member may resign the office of chairperson or deputy chairperson by signed notice given to the Minister.
- (3) The resignation takes effect—
 - (a) on the day the notice is given; or
 - (b) if a later day is stated in the notice—on the later day.
- (4) A person resigning from the office of chairperson or deputy chairperson may continue to be a member.

Subdivision 3 Board's policies

19 Board's policy

- (1) The board may make a policy governing the administration of this Act.
- (2) However, the policies can not prevent the commissioner acting independently when making decisions—
 - (a) about the action to be taken about a licensee's licence; or
 - (b) about rectification or completion of building work; or
 - (c) relating to the statutory insurance scheme.
- (3) Also, the policies do not take effect until they have been approved by regulation.
- (4) The commission must—
 - (a) publish the policies on its website; and
 - (b) keep copies of them available for inspection, without charge, at the commission's office at any time that office is open to the public; and
 - (c) if asked, advise where copies of them may be obtained.

Subdivision 4 Business

20 Conduct of business

Subject to this division and any requirement prescribed under a regulation, the board may conduct its business, including its meetings, in the way it considers appropriate.

[s 5]

20A Meetings

- (1) The chairperson must convene a meeting when requested by at least 3 members.
- (2) At a meeting of the board—
 - (a) 4 members constitute a quorum; and
 - (b) a question is to be decided by a majority of votes of the members present and voting; and
 - (c) each member present has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting has a casting vote.
- (3) The board must keep minutes of its meetings.

20B Committees

The board, or the Minister, may appoint committees to advise the board on particular subjects.

20C Disclosure of interests

- (1) This section applies to a member if—
 - (a) the member has an interest in an issue being considered, or about to be considered, by the board; and
 - (b) the interest conflicts or may conflict with the proper performance of the member's duties about the consideration of the issue.
- (2) After the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a board meeting.
- (3) Unless the board otherwise directs, the member must not—

- (a) be present when the board considers the issue; or
 - (b) take part in a decision of the board about the issue.
- (4) The member must not be present when the board is considering whether to give the direction.
- (5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—
 - (a) be present when the board is considering whether to give the direction; or
 - (b) take part in making the decision about giving the direction.
- (6) Subsections (7) and (8) apply if—
 - (a) because of this section, a member is not present at a board meeting for considering or deciding the issue, or for considering or deciding whether to give the direction; and
 - (b) there would be a quorum if the member were present.
- (7) The remaining members present are a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.
- (8) If there are no members who may remain present for considering or deciding the issue, the Minister may consider and decide the issue.
- (9) The disclosure must be recorded in the board's minutes.

Division 3 Commissioner

20D Appointment

- (1) The commission must have a commissioner.
- (2) The commissioner must be appointed by the board with the Minister's prior written approval.
- (3) The commissioner is employed under this Act and not under the *Public Service Act 2008*.

20E Disqualification as commissioner

A person is disqualified from becoming, or continuing as, the commissioner if the person—

- (a) has a recorded conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is not able to manage a corporation because of the Corporations Act, part 2D.6; or
- (d) is a member or a contractor of the commission.

20F Conditions of appointment

For matters not provided for under this Act or stated in the contract of employment, the commissioner holds office on the terms of appointment decided by the board with the Minister's written approval.

20G Term of appointment

- (1) The commissioner holds office for the term, not more than 3 years, stated in his or her contract of employment.

- (2) However, a person's appointment as commissioner ends if, during the term of the appointment, the person becomes disqualified under section 20E.
- (3) Although the board may, at any time, remove a person appointed as commissioner, the removal does not affect any rights to compensation to which the person is entitled under his or her contract of employment.

20H Resignation

The commissioner may resign by signed notice given to the chairperson of the board.

20I Appointment of acting commissioner

The board may only act under the *Acts Interpretation Act 1954*, section 24B or 25 in appointing a person to act in the office of commissioner with the Minister's prior written approval.

20J Role of the commissioner

- (1) The commissioner is responsible for the following—
 - (a) the overall management of the organisational unit under the control of the commissioner;
 - (b) administration of the licensing system established by this Act;
 - (c) administration of a system of inspection;
 - (d) issuing directions for rectification of building work under this Act;

[s 5]

- (e) taking disciplinary and other proceedings under this Act;
 - (f) assessing and approving payment of insurance claims;
 - (g) undertaking strategic planning;
 - (h) issuing warnings to the public or any section of the public;
 - (i) providing and promoting consumer education;
 - (j) providing an advisory service to consumers about—
 - (i) their statutory rights and obligations; and
 - (ii) insurance claims that may arise about building work; and
 - (iii) the commission's role, functions and operating procedures; and
 - (iv) any incidental matters;
 - (k) providing courses of instruction for—
 - (i) persons seeking to obtain licences; and
 - (ii) licensees; and
 - (iii) persons proposing to carry out building work as owner-builders; and
 - (iv) other persons seeking to acquire knowledge or expertise in subjects related to the building industry;
 - (l) performing a function given to the commissioner under an Act.
- (2) In undertaking the strategic planning, the commissioner must have regard to cyclical industry conditions to ensure the commission's available revenue base, and its assets and

reserves, are enough to allow it to maintain the services it is required to provide.

- (3) The commissioner has all the powers necessary for carrying out those responsibilities and any function (an *additional function*) the commissioner is authorised by another Act to carry out.
- (4) In carrying out an additional function, the commissioner may adopt the procedures of this Act unless the Act authorising the function prescribes another procedure.

20K Relationship between commissioner and board

- (1) In carrying out the commissioner's responsibilities, other than performing an additional function, the commissioner must give effect to any policy or direction of the board relevant to the responsibility.
- (2) However, the commissioner must act independently of the board when making any of the following types of decisions giving effect to the board's policies—
 - (a) a decision about the action to be taken about a licensee's licence;
 - (b) a decision about rectification or completion of building work;
 - (c) a decision relating to the statutory insurance scheme.
- (3) The commissioner must—
 - (a) report regularly to the board on the administration of this Act; and
 - (b) at the request of the board, provide the board with a special report on a particular subject.

[s 6]

- (4) In this section—
additional function see section 20J(3).

20L Commissioner not to engage in other paid employment

The commissioner must not, without the board's prior written approval—

- (a) engage in paid employment outside the duties of the office of commissioner; or
- (b) actively take part in the activities of a business, or in the management of a corporation carrying on business.

20M Conflicts of interest

If the commissioner has an interest that conflicts or may conflict with the discharge of the commissioner's responsibilities, the commissioner—

- (a) must disclose the nature of the interest and conflict to the board as soon as practicable after the relevant facts come to the commissioner's knowledge; and
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the board.

Clause 6 Replacement of s 27 (Authority is statutory body)

Section 27—

omit, insert—

27 Application of financial Acts

- (1) The commission is—

-
- (a) a statutory body under the *Financial Accountability Act 2009*; and
 - (b) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982 (the SBFA)*.
- (2) The SBFA, part 2B, sets out the way in which the commission's powers under this Act are affected by the SBFA.

Clause 7 Insertion of new s 71AB

Part 5—

insert—

**71AB Statutory insurance scheme not to affect
licensing decisions**

In deciding the action to be taken in relation to a licensee's licence, the commissioner must not have regard to the implications for the statutory insurance scheme.

Clause 8 Amendment of s 114 (Protection)

- (1) Section 114(1), from 'the general manager' to 'incurs'—

omit, insert—

the commissioner nor a relevant officer of the commission incurs

- (2) Section 114(2), 'authority'—

omit, insert—

commission

- (3) Section 114(3), from 'the authority' to 'incurs'—

omit, insert—

the commission nor a relevant officer of the commission incurs

[s 9]

- (4) Section 114(4), ‘authority’—
omit, insert—
commission
- (5) Section 114(5), definition *publication act*, ‘authority’—
omit, insert—
commission

Clause 9 Insertion of new s 115A

After section 115—

insert—

115A Delegations

- (1) The board or commissioner may delegate their functions or powers under an Act to an appropriately qualified relevant officer of the commission.
- (2) In this section—
appropriately qualified includes having the qualifications, experience or standing appropriate to perform the function or exercise the power.

Example of standing—

a person’s seniority level in an entity

Clause 10 Amendment of sch 1 (Transitional and validating provisions)

Schedule 1—

insert—

Part 9 Transitional provisions for Queensland Building Services Authority Amendment Act 2013

Division 1 Preliminary

37 Definitions

In this part—

amending Act means the *Queensland Building Services Authority Amendment Act 2013*.

transfer day means the day the amending Act, section 5 commences.

document includes a policy of the former board.

former authority means the former Queensland Building Services Authority established under the QBSA Act.

former board means the Queensland Building Services Board established under the QBSA Act.

general manager means the person holding the office under the QBSA Act immediately before the transfer day.

QBSA Act means this Act as in force immediately before its amendment under the amending Act, section 5.

Division 2 Dissolutions

38 Dissolutions

On the transfer day the following end or cease to exist—

[s 10]

- (a) the former authority;
- (b) the former board;
- (c) the appointment of the members of the former board;
- (d) office of the general manager;
- (e) the general manager's employment.

39 No compensation because of dissolutions

- (1) No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State or the commission to any person for or in connection with the enactment of section 38.
- (2) However, to avoid any doubt, subsection (1) does not limit or otherwise affect the general manager's right to a benefit or entitlement that, under the existing conditions of appointment, had accrued or was accruing immediately before the transfer day.
- (3) On the transfer day, a benefit or entitlement mentioned in subsection (2) ceases to accrue and becomes payable as if—
 - (a) the general manager's appointment had, according to its conditions, been terminated on the transfer day; and
 - (b) the termination is other than by the general manager.
- (4) In this section—
existing conditions of appointment, for the general manager, means the general manager's conditions of appointment as determined by the Minister under the QBSA Act, section 17.

Division 3 Migration of matters to the commission

40 Agreements, assets, liabilities and rights

- (1) On the transfer day—
 - (a) the former authority's assets, liabilities and rights vest in the commission; and
 - (b) the commission is substituted for the former authority in all agreements to which the former authority is a party.
- (2) In this section—

agreement includes leases, undertakings and contractual arrangements.

41 Unresolved applications

- (1) On the transfer day, the commission stands in place of the former authority for any unresolved application made—
 - (a) under the QBSA Act to the former authority; or
 - (b) by the former authority to the tribunal.
- (2) For subsection (1)(a), the commission may be satisfied about a matter merely because the former authority was satisfied about the matter under the relevant provision of the QBSA Act.
- (3) In this section—

unresolved application means an application made, but not finally decided or withdrawn, before the transfer day.

[s 10]

42 Pending legal proceedings

- (1) If, immediately before the transfer day, the former authority was a party to a legal proceeding, the commission is substituted for the former authority as the party.
- (2) For section 111(1), the commission is taken to have knowledge of the commission of a past offence—
 - (a) if the offence came to the former authority's knowledge; and
 - (b) when the offence came to the former authority's knowledge.

Note—

See section 45(6) for the continued authorisation of particular persons to bring prosecutions for offences against this Act.

- (3) In this section—

legal proceeding means a proceeding before a court or tribunal.

past offence means an offence against this Act for which—

 - (a) the alleged date of commission of the offence was before the transfer day; and
 - (b) the prosecution for the offence had not yet started on the transfer day.

43 Ministerial directions to former authority

- (1) A pending Ministerial direction to the former authority applies, if the context permits, to the commission as it would have applied to the former authority.
- (2) In this section—

pending Ministerial direction means a direction by the Minister under section 7 of the QBSA Act and in effect immediately before the transfer day.

44 Records of the former authority

(1) On the transfer day, a record of the former board becomes a record of the commission.

(2) In this section—

record includes a register kept by the former authority under the QBSA Act.

45 Continuing appointments and authorisations

(1) The appointment of an individual as the insurance manager under section 21 of the QBSA Act continues and is taken to have been made by the commission.

(2) The remuneration and conditions of appointment of the insurance manager decided by the former authority under the QBSA Act continue to apply for the appointment.

(3) The appointment of a relevant officer of the former authority as an inspector under section 104 of the QBSA Act continues and is taken to have been made by the commission.

(4) Subsection (5) applies if, immediately before the transfer day—

(a) a relevant officer of the former authority had been issued a card (however called) identifying the officer as a person holding an authorisation under section 104 of the QBSA Act; and

(b) the card had not expired according to its terms.

[s 10]

- (5) The card is taken to be an identity card issued to the officer as an inspector until the earlier of the following—
 - (a) the person is issued a new identity card by the commission under this Act;
 - (b) the card expires according to its terms.
- (6) A person authorised by the former authority to bring a prosecution for an offence against this Act under section 111(2) of the QBSA Act continues to be authorised and the authorisation is taken to have been given by the commission.

46 Annual report of former board

- (1) This section applies unless the transfer day is 1 July in a year.
- (2) The commission's annual report for the financial year in which the commission is established must include information about the former authority's operations that would have been required to be included in the commission's annual report if the QBSA Act had not been amended by the amending Act.
- (3) In this section—
annual report means annual report under the *Financial Accountability Act 2009*.

47 Other administrative matters

- (1) From the transfer day, each of the following things in effect immediately before the transfer day continue in effect as if the thing was approved, given or made by the commission when the thing first took effect—
 - (a) a direction or notice given by the former authority under the QBSA Act;

Example—

a direction to a licensee to rectify or complete tribunal work

- (b) a demand, request or requirement made by the former authority under the QBSA Act that has not been fully complied with on the transfer day;

Examples—

1 a demand of a licensee to pay an amount owed to the former authority

2 a request of an applicant to provide the former authority with further information or evidence to decide an application

- (c) a certificate, licence or permit issued by the former authority under the QBSA Act;

- (d) a decision of the former authority made under the QBSA Act.

- (2) A policy of the former board, approved under section 9A of the QBSA Act and still in effect immediately before the transfer day, continues in effect as if the policy was made by the board.
- (3) For a provision of this Act enabling the taking of action by an entity if the commission had previously taken a particular action, a reference to the commission having previously taken the action is taken to include a reference to the former authority having previously taken it.

Division 4 Other matters

48 References to former entities

In an Act or document—

[s 10]

- (a) a reference to the former authority may, if the context permits, be taken to be a reference to the commission; and
- (b) a reference to the former board may, if the context permits, be taken to be a reference to the board; and
- (c) a reference to the general manager under the QBSA Act may, if the context permits, be taken to be a reference to the commissioner.

49 References to QSBA Act

In an Act or document, a reference to the QBSA Act may, if the context permits, be taken as a reference to this Act as in force after the transfer day.

50 Change to name of employing office

A change in the name of the employing office under the amending Act does not affect the status of that office.

51 Effect on legal relationships

- (1) Nothing done under the amendments to the QBSA Act under the amending Act (the *Act amendments*)—
 - (a) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or
 - (b) except as provided for under the Act amendments, is taken to fulfil a condition that—

-
- (i) terminates, or allows a person to terminate, an instrument or obligation;
or
 - (ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or
 - (iii) allows a person to avoid or enforce an obligation or liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or
 - (iv) requires any money to be paid before its stated maturity; or
- (c) releases a surety or other obligee, wholly or partly, from an obligation.
- (2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under the Act amendments, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- (3) If, apart from this Act, giving notice to a person would be necessary to do something under the Act amendments, the notice is taken to have been given.
- (4) In this section—
relevant entity means—
- (a) the State or an employee or agent of the State; or
 - (b) the commission, a member or a relevant officer of the commission.

Clause 11 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *authority* and *board*—

[s 11]

omit.

(2) Schedule 2—

insert—

board means the Queensland Building and Construction Board established under section 10.

commission means the Queensland Building and Construction Commission established under section 5.

commissioner means the commissioner of the commission.

insolvent under administration has the meaning given by the Corporations Act, section 9.

member means member of the board.

recorded conviction, for an indictable offence, does not include a finding of guilt, or the acceptance of a plea of guilty, by a court, in relation to the offence, without recording a conviction for the offence.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

(3) Schedule 2, definition *board's policies*, '9A'—

omit, insert—

19

(4) Schedule 2, definition, *employing office* 'Services'—

omit, insert—

and Construction

- (5) Schedule 2, definitions *insurance notification form*, *occupational licence* and *relevant officer*, ‘authority’—
omit, insert—
commission

Part 3 Amendment of Building Act 1975

Clause 12 Act amended

This part amends the *Building Act 1975*.

Note—

See also the amendments in schedule 1.

Clause 13 Insertion of new ch 11, pt 17

Chapter 11—

insert—

Part 17 Transitional provisions for Queensland Building Services Authority Amendment Act 2013

324 Definitions

In this part—

amending Act means the *Queensland Building Services Authority Amendment Act 2013*.

transfer day means the day the amending Act, section 5 commences.

[s 13]

former BSA means the former Queensland Building Services Authority under the QBSA Act.

general manager means the general manager under the QBSA Act.

QBSA Act means the *Queensland Building and Construction Commission Act 1991* as in force immediately before its amendment under the amending Act, section 5.

325 Unresolved applications to or by the former BSA

- (1) On the transfer day, the QBCC stands in place of the former BSA for any unresolved application made—
 - (a) under this Act to the former BSA; or
 - (b) by the former BSA to the tribunal.
- (2) For subsection (1)(a), the QBCC may be satisfied about a matter merely because the former BSA was satisfied about the matter under the relevant provision of this Act.
- (3) In this section—

unresolved application means an application made, but not finally decided or withdrawn, before the transfer day.

326 Prosecution of offences against chapter 6 or section 246AP(2)

- (1) For section 256(1), the commissioner for QBCC is taken to have knowledge of the commission of a relevant offence—
 - (a) if the offence came to the general manager's knowledge; and

- (b) when the offence came to the general manager's knowledge.
- (2) For section 256(2), a complaint made by the general manager is taken to be a complaint made by the commissioner for QBCC when the complaint was made.
- (3) A prosecution for an offence against chapter 6 or section 246AP(2) started by the general manager but not concluded or dismissed before the transfer day, may be continued by the commissioner for QBCC.
- (4) In this section—

relevant offence means an offence against this Act, chapter 6 or section 246AP(2) for which—

 - (a) the alleged date of commission of the offence was before the transfer day; and
 - (b) the prosecution for the offence had not yet started on the transfer day.

327 Other administrative matters relating to the former BSA

- (1) From the transfer day, each of the following things in effect immediately before the transfer day continue in effect as if the thing was approved, given or made by the QBCC when the thing first took effect—
 - (a) a direction or notice given by the former BSA under this Act;
 - (b) a requirement made by the former BSA under this Act that has not been fully complied with on the transfer day;
 - (c) a licence issued by the former BSA under this Act;

[s 14]

- (d) a decision or order of the former BSA made under this Act.
- (2) On the transfer day, the register kept by the former BSA under section 179 before the transfer day becomes part of the register kept by the QBCC under section 179.
- (3) For a provision of this Act enabling the taking of action by an entity if the QBCC had previously taken a particular action, a reference to the QBCC having previously taken the action is taken to include a reference to the former BSA having previously taken it.

Part 4

Minor and consequential amendments

Clause 14 Acts amended

Schedule 1 amends the Acts it mentions.

Schedule 1 Minor and consequential amendments

section 14

Body Corporate and Community Management Act 1997

1 Section 162, ‘Queensland Building Services Authority Act 1991’—

omit, insert—

Queensland Building and Construction Commission Act 1991

Building Act 1975

1 Section 24(2), definition *designated person*, paragraph (c), ‘Queensland Building Services Authority Act 1991’—

omit, insert—

Queensland Building and Construction Commission Act 1991

2 Section 133, ‘BSA’—

omit, insert—

QBCC

3 Section 133, ‘Queensland Building Services Authority Act 1991’—

omit, insert—

Queensland Building and Construction Commission Act 1991

4 Sections 151, 155, 157, 158, 160, 164, 165(1), 166(2), 167(1), 169, 170, 171, 172, 173, 174, 175(1), 176, 177, 178, 179, 180, 181, 182, 183(2), 186, 187, 188, 189(1), 190, 191, 192, 193, 194, 195, 196(1), 198, 201, 202(1), 203, 204, 208(1), 210, 211(2)(g), 212(7), 246BW(3)(b), and 256(5), ‘BSA’—

omit, insert—

QBCC

5 Chapter 6, part 3, division 5, subdivision 1, heading, ‘BSA’s’—

omit, insert—

QBCC’s

6 Section 205, ‘BSA’s’—

omit, insert—

QBCC’s

7 Sections 256(2)(b) and (g) and 260(2), ‘general manager of BSA’—

omit, insert—

commissioner for QBCC

8 Section 256(4), ‘BSA’—

omit, insert—

the commissioner for QBCC

-
- 9 Section 260(1), ‘Queensland Building Services Authority Act 1991’—**
omit, insert—
Queensland Building and Construction Commission Act 1991
- 10 Schedule 2, definition *BSA*—**
omit.
- 11 Schedule 2—**
insert—
QBCC means the Queensland Building and Construction Commission established under the *Queensland Building and Construction Commission Act 1991*, section 5.
- 12 Schedule 2, definition *another relevant Act*, paragraph (b), ‘Queensland Building Services Authority Act 1991’—**
omit, insert—
Queensland Building and Construction Commission Act 1991
- 13 Schedule 2, definition *licensed builder*, ‘Queensland Building Services Authority Act 1991’—**
omit, insert—
Queensland Building and Construction Commission Act 1991
- 14 Schedule 2, definition *professional misconduct*, paragraph (c), ‘BSA’—**
omit, insert—
QBCC
-

15 Schedule 2, definition *register*, ‘BSA’—

omit, insert—

QBCC

Building and Construction Industry Payments Act 2004

1 Section 3(5), ‘Queensland Building Services Authority Act 1991’—

omit, insert—

*Queensland Building and Construction Commission
Act 1991*

2 Section 10(2), ‘Queensland Building Services Authority Act 1991’—

omit, insert—

*Queensland Building and Construction Commission
Act 1991*

3 Section 15, ‘Queensland Building Services Authority Act 1991’—

omit, insert—

*Queensland Building and Construction Commission
Act 1991*

4 Section 26(2)(a), ‘Queensland Building Services Authority Act 1991’—

omit, insert—

*Queensland Building and Construction Commission
Act 1991*

12 **Schedule 2, definitions *authority* and *general manager*—**
omit.

13 **Schedule 2—**
insert—

commission means the Queensland Building and Construction Commission established under the *Queensland Building and Construction Commission Act 1991*, section 5.

commissioner means the commissioner appointed under the *Queensland Building and Construction Commission Act 1991*, section 20D.

14 **Schedule 2, definition *approved form*, ‘*general manager*’—**
omit, insert—

commissioner

15 **Schedule 2, definition *relevant offence*, paragraph (d), ‘*Queensland Building Services Authority Act 1991*’—**
omit, insert—

Queensland Building and Construction Commission Act 1991

Building and Construction Industry (Portable Long Service Leave) Act 1991

1 **Schedule, definition *owner-builder permit*, ‘*Queensland Building Services Authority Act 1991*’—**
omit, insert—

*Queensland Building and Construction Commission
Act 1991*

Building Units and Group Titles Act 1980

1 Section 122(b), ‘Queensland Building Services Authority Act 1991’—

omit, insert—

*Queensland Building and Construction Commission
Act 1991*

Domestic Building Contracts Act 2000

1 Section 7(1)(b), ‘Queensland Building Services Authority Act 1991’—

omit, insert—

*Queensland Building and Construction Commission
Act 1991*

2 Sections 32, 97, 99 and 100(2)(a)(ii), ‘authority’—

omit, insert—

commission

3 Sections 52 and 103, ‘QBSA Act’—

omit, insert—

QBCC Act

Schedule 1

4 Schedule 2, definitions *authority*, *board's policies* and *QBSA Act*—

omit.

5 Schedule 2—

insert—

commission means the Queensland Building and Construction Commission established under the QBCC Act, section 5.

QBCC Act means the *Queensland Building and Construction Commission Act 1991*.

6 Schedule 2, definitions *contract information statement*, 'authority'—

omit, insert—

commission

7 Schedule 2, definitions *contractor's licence* and *residential construction work*, 'QBSA Act'—

omit, insert—

QBCC Act

Environmental Protection Act 1994

1 Schedule 4, definition *owner-builder permit*, 'Queensland Building Services Authority Act 1991'—

omit, insert—

Queensland Building and Construction Commission Act 1991

Judicial Review Act 1991

- 1 **Schedule 1, part 1, entry for *Queensland Building Services Authority Act 1991*, section 97—**

omit.

Pest Management Act 2001

- 1 **Sections 14 and 62(5), definition *building site*, ‘*Queensland Building Services Authority Act 1991*’—**

omit, insert—

Queensland Building and Construction Commission Act 1991

Queensland Building Services Authority Act 1991

- 1 **Part 2, heading—**

omit, insert—

Part 2

Queensland Building and Construction Commission

- 2 **Sections 21, 25, 26(2)(b) and 26A, ‘authority’—**

omit, insert—

commission

- 3 Section 25(5), ‘authority’s’—**
omit, insert—
commission’s
- 4 Section 28, heading ‘Authority’s’—**
omit, insert—
Commission’s
- 5 Section 28, ‘authority’—**
omit, insert—
commission
- 6 Section 29, heading ‘Authority’—**
omit, insert—
Commission
- 7 Section 29(1), ‘The authority’—**
omit, insert—
The commission
- 8 Section 29(4) and (5), ‘the authority’—**
omit, insert—
the commission
- 9 Part 2A, heading, ‘Services’—**
omit, insert—
and Construction

-
- 10 Section 29A(1), ‘Services’—**
omit, insert—
and Construction
- 11 Sections 29A(3) and 29C, ‘authority’—**
omit, insert—
commission
- 12 Section 29G, ‘the authority’—**
omit, insert—
the commission
- 13 Sections 31, 32, 32AA, 32AB, 33, 34, 34A, 35(1) and 36, ‘authority’—**
omit, insert—
commission
- 14 Sections 34A(2) and 36(5), ‘authority’s’—**
omit, insert—
commission’s
- 15 Section 37A, heading ‘Authority’—**
omit, insert—
Commission
- 16 Sections 37A, 37B, 38, 38A(1) and (3), ‘authority’—**
omit, insert—
commission
-

- 17 Sections 37C and 38A(2), ‘authority’s’—**
omit, insert—
commission’s
- 18 Sections 44, 44A, 44B, 44E(f)(i), 44F, 44G, 44H, 44J(1), 45, 46, 48, 49, 49A, 50, 50A(1), 50B, 50C, 53, 53A, 53B and 55, ‘authority’—**
omit, insert—
commission
- 19 Section 49A(3)(a), ‘authority’s’—**
omit, insert—
commission’s
- 20 Section 56A, heading ‘Authority’—**
omit, insert—
Commission
- 21 Sections 56A(2), 56AD, 56AE, 56AF, 56AG, and 56AH(1), ‘authority’—**
omit, insert—
commission
- 22 Sections 56AD(7), 56AF(3)(b)(ii)(B), 56AG(4)(c)(ii) and 56AH, ‘authority’s’—**
omit, insert—
commission’s

-
- 23 Sections 58, 59, 63, 64, 65, 66, 67, 67AA, 67AE, 67AF, 67AG, 67AH, 67AI, 67AJ, 67AK, 67AL, 67AM, 67AN, 67AO and 67AP, ‘authority’—**
omit, insert—
commission
- 24 Sections 61, 66(3)(c)(ii), 67(3), 67AH(3)(c), 67AI(3), 67AL(3)(c), 67AM(3), 67AO(7)(b) and 67AP(6), ‘authority’s’—**
omit, insert—
commission’s
- 25 Section 67AQ, definition *demerit points*, ‘authority’—**
omit, insert—
commission
- 26 Sections 67AS, 67AW, 67AX(1), 67AY(1) and 67AZ(1), ‘authority’—**
omit, insert—
commission
- 27 Section 67AZA, heading, ‘Authority’—**
omit, insert—
Commission
- 28 Sections 67AZA, 67AZB and 67AZC, ‘authority’—**
omit, insert—
commission
- 29 Sections 67AZD, 67AZE, 67AZF and 67AZG, ‘authority’—**
omit, insert—
-

commission

30 Sections 67AZF(3), 67AZG(3), 67AZJ(3), 67AZK(3) and 67AZM(7)(b), ‘authority’s’—

omit, insert—

commission’s

31 Sections 67AZH, 67AZI, 67AZJ and 67AZK, ‘authority’—

omit, insert—

commission

32 Sections 67AZL, 67AZM, 67F, 67Y, 68, 68D, 69(1), 70 and 71(1) and (3), ‘authority’—

omit, insert—

commission

33 Section 68D(2)(a), ‘authority’s’—

omit, insert—

commission’s

34 Section 71(4), (5) and (6), ‘the authority’—

omit, insert—

the commission

35 Section 71(6)(e)(ii), ‘authority’s’—

omit, insert—

commission’s

-
- 36 Sections 71AA, 71A, 72(1), (2), (3), (4), (8) and (14), 73 and 74, ‘authority’—**
omit, insert—
commission
- 37 Section 72(13A)(e)(ii) and (15)(a), ‘authority’s’—**
omit, insert—
commission’s
- 38 Sections 83, 84, 86, 87, 88, 89, 90, 91, 92, 92A, 93, 95, 97B, 97C, 99, 101, 102, 103, 103B, 103E, 103F, 104, 108, 108B, 108C, 109A, 111, 111C and 112, ‘authority’—**
omit, insert—
commission
- 39 Sections 103D and 103E, ‘authority’s’—**
omit, insert—
commission’s
- 40 Section 115, heading, ‘Authority’—**
omit, insert—
Commission
- 41 Section 115, ‘authority’—**
omit, insert—
commission
- 42 Schedule 1, section 1A—**
insert—
-

authority means the former Queensland Building Services Authority established under the *Queensland Building Services Authority Act 1991*, section 5.

43 Schedule 1, section 8—

insert—

authority means the former Queensland Building Services Authority established under the *Queensland Building Services Authority Act 1991*, section 5.

44 Schedule 1, section 17—

insert—

authority means the former Queensland Building Services Authority established under the *Queensland Building Services Authority Act 1991*, section 5.

board means the former Queensland Building Services Board established under the *Queensland Building Services Authority Act 1991*, section 8.

45 Schedule 1, section 29(7)—

insert—

authority means the former Queensland Building Services Authority established under the *Queensland Building Services Authority Act 1991*, section 5.

South Bank Corporation Act 1989

1 Schedule 4, section 122(1)(b), ‘Queensland Building Services Authority Act 1991’—

omit, insert—

*Queensland Building and Construction Commission
Act 1991*

Subcontractors' Charges Act 1974

1 Section 10A(1)(c), 'Queensland Building Services Authority Act 1991'—

omit, insert—

*Queensland Building and Construction Commission
Act 1991*

Sustainable Planning Act 2009

1 Sections 526(a) and 532(1)(a)(i), 'Queensland Building Services Authority'—

omit, insert—

Queensland Building and Construction Commission

2 Section 526, note—

omit.

3 Schedule 3—

insert—

Queensland Building and Construction Commission means the Queensland Building and Construction Commission established under the *Queensland Building and Construction Commission Act 1991*, section 5.

© State of Queensland 2013
Authorised by the Parliamentary Counsel