



*Building Act 1975*

# Building Regulation 2021

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Queensland

# Building Regulation 2021

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	7
2	Commencement . . . . .	7
3	Definitions . . . . .	7
<b>Part 2</b>	<b>Declared accepted development</b>	
4	Building work declared to be accepted development for Planning Act— Act, s 21 . . . . .	7
<b>Part 3</b>	<b>Matters for local laws, local planning instruments or resolutions</b>	
5	Operation of part . . . . .	8
6	Design and siting standards for single detached housing . . . . .	8
7	Designation of area prone to bush fire . . . . .	9
8	Designation of area liable to flooding . . . . .	10
<b>Part 4</b>	<b>Smoke alarms for domestic dwellings</b>	
9	Application of part . . . . .	12
10	Definition for part . . . . .	12
11	Installation of smoke alarm . . . . .	12
12	Placement of smoke alarm . . . . .	13
<b>Part 5</b>	<b>Swimming pool safety</b>	
<b>Division 1</b>	<b>Use and display of resuscitation signs and warning signs</b>	
13	Resuscitation signs—Act, s 231D . . . . .	14
14	Warning signs for constructing regulated pool—Act, s 233 . . . . .	15
<b>Division 2</b>	<b>Pool safety inspectors</b>	
<b>Subdivision 1</b>	<b>Continuing professional development</b>	
15	Definitions for subdivision . . . . .	16
16	Continuing professional development for renewal or restoration of licence—Act, ss 246BN and 246BR . . . . .	17
17	CPD activities and CPD points . . . . .	17

Contents

---

<b>Subdivision 2</b>	<b>Demerit points</b>	
18	Definitions for subdivision . . . . .	18
19	Prescribed demerit points—Act, s 246CG and sch 2, definition ground for disciplinary action . . . . .	19
20	Allocation of demerit points for demerit contraventions . . . . .	19
21	When demerit points takes effect . . . . .	19
22	QBCC commissioner must notify pool safety inspector . . . . .	19
23	If pool safety inspector accumulates 16 demerit points . . . . .	20
24	QBCC commissioner may take no further action . . . . .	21
25	When QBCC commissioner must issue further notice . . . . .	22
<b>Division 3</b>	<b>Miscellaneous</b>	
26	Prescribed local government—Act, s 246ACA, definition prescribed local government . . . . .	23
27	Matters for regulated pools register—Act, s 246AS . . . . .	23
28	Notification requirements for sale of regulated premises—Act, s 246ATM . . . . .	24
29	Approved code of conduct for pool safety inspector—Act, s 246BA . . . . .	24
30	Minor repairs—Act, s 246BE . . . . .	24
31	Inspection of particular repairs, maintenance or other works . . . . .	24
32	Professional indemnity insurance—Act, sch 2, definition prescribed professional indemnity insurance . . . . .	25
<b>Part 6</b>	<b>Competent persons</b>	
<b>Division 1</b>	<b>Preliminary</b>	
33	Definitions for part . . . . .	27
<b>Division 2</b>	<b>General</b>	
34	Building certifier may decide who is competent person . . . . .	27
35	Restriction on deciding whether individual is a competent person (inspection) for particular work for single detached class 1a building . . . . .	29
36	Building certifier’s obligation to keep record of decision . . . . .	29
37	Competent person assessment guidelines . . . . .	30
<b>Division 3</b>	<b>Restrictions on competent persons</b>	
38	General restrictions . . . . .	30
39	Restrictions on giving inspection help . . . . .	31
40	Competent person must not give false or misleading documents . . . . .	31
<b>Part 7</b>	<b>Cadet building certifiers</b>	
41	Appointment of cadet building certifier . . . . .	31
42	Role of cadet building certifier and supervising certifier . . . . .	32

---

43	Application of part 6 to cadet building certifier . . . . .	32
<b>Part 8</b>	<b>Inspections of assessable building work</b>	
<b>Division 1</b>	<b>Building certifier inspections</b>	
<b>Subdivision 1</b>	<b>Preliminary</b>	
44	Stages of assessable building work—Act, schedule 2, definition stage 33	
45	Local government may exempt particular assessable building work from particular stages of inspection . . . . .	35
46	Who can sign particular certificates of inspection . . . . .	35
47	Inspection guidelines . . . . .	36
<b>Subdivision 2</b>	<b>Notices for inspection</b>	
48	Builder’s obligation to give notice for inspection at completion of stage 36	
49	Prohibition on further building work until certificate of inspection given 37	
50	Notifying QBCC if notice for inspection not given . . . . .	37
<b>Subdivision 3</b>	<b>Carrying out inspections</b>	
51	Arranging inspection . . . . .	37
52	Inspection procedure . . . . .	38
53	Certificate of inspection . . . . .	39
54	Noncompliance notice . . . . .	39
<b>Subdivision 4</b>	<b>Procedure if noncompliance notice given</b>	
55	Builder’s obligation to ensure stage complies with development approval 41	
56	Consequences of builder not complying with obligation . . . . .	41
<b>Subdivision 5</b>	<b>Additional inspections for pool work in particular circumstances</b>	
57	Application of subdivision . . . . .	42
58	Definitions for subdivision . . . . .	42
59	Building certifier’s obligation to inspect . . . . .	43
60	Obligations after inspection . . . . .	43
61	Delaying inspection in particular circumstances . . . . .	44
<b>Subdivision 6</b>	<b>Inspection without notice being given</b>	
62	Inspections may be conducted without notice being given . . . . .	45
<b>Division 2</b>	<b>Referral agency inspections</b>	
63	Application of division . . . . .	45
64	Notice to referral agency to inspect . . . . .	46
65	Referral agency’s decision about inspection . . . . .	46

---

Contents

---

66	Responding to notice given by referral agency . . . . .	47
67	If notice not given by referral agency . . . . .	47
<b>Part 9</b>	<b>Certificates</b>	
<b>Division 1</b>	<b>QBCC licensee certificates</b>	
68	Application of division . . . . .	48
69	Definitions for division . . . . .	48
70	QBCC licensee certificate . . . . .	49
71	QBCC licensee must not give false or misleading QBCC licensee certificate . . . . .	49
<b>Division 2</b>	<b>Competent person certificates</b>	
72	Definitions for division . . . . .	50
73	Design-specification certificate . . . . .	50
74	Aspect inspection certificate . . . . .	50
75	Building certifier may accept competent person certificate . . . . .	51
76	Competent person (inspection) may accept aspect inspection certificate . . . . .	51
77	Requirements for certificates . . . . .	52
<b>Division 3</b>	<b>Certificates under CodeMark Scheme</b>	
78	Certificate of conformity . . . . .	53
<b>Part 10</b>	<b>Miscellaneous</b>	
<b>Division 1</b>	<b>Approvals and other matters</b>	
79	Queensland Development Code—Act, s 13 . . . . .	53
80	QDC residential design and siting provisions—Act, sch 2, definition QDC residential design and siting provisions . . . . .	53
81	Approval of replacement of code of conduct—Act, s 129 . . . . .	54
82	Demerit offences—Act, s 214A, definition demerit offence . . . . .	54
83	Demerit points—Act, s 214E . . . . .	54
84	Prescribed matters for private certification endorsement—Act, s 163 . . . . .	54
85	Prescribed accreditation standards body—Act, s 184 . . . . .	56
86	Information to be given by the State—Act, s 255 . . . . .	56
87	Notice requirement for particular development approvals for building work near sewers . . . . .	56
88	Notice requirement for particular development approvals for farm buildings . . . . .	57
<b>Division 2</b>	<b>Displaying code checklist</b>	
89	Display of code checklist for particular temporary accommodation buildings . . . . .	59
<b>Division 3</b>	<b>Fees</b>	

90	Fees—general . . . . .	60
91	Fast-track fee and variation application under Act, s 39 . . . . .	60
<b>Part 11</b>	<b>Transitional and savings provisions</b>	
<b>Division 1</b>	<b>Preliminary</b>	
92	Definition for part . . . . .	61
93	References to expired regulation . . . . .	61
94	Acts Interpretation Act 1954, s 20 not limited . . . . .	62
<b>Division 2</b>	<b>Continuation of obligations relating to combustible cladding part 4A</b>	
95	Continuation of part 4A . . . . .	62
96	Offences . . . . .	62
<b>Division 3</b>	<b>Miscellaneous</b>	
97	Designated bush fire prone areas . . . . .	62
98	Designation of and declaration for flood hazard areas . . . . .	62
99	Demerit contravention committed before the commencement . . . . .	63
100	Particular noncompliance notices . . . . .	63
101	Appointment of competent person . . . . .	64
102	Particular local government resolutions . . . . .	64
103	Particular relevant proceedings . . . . .	64
<b>Division 4</b>	<b>Transitional provision for Building Amendment Regulation 2022</b>	
104	Continued application of expired s 84(5) in relation to exempted licences 65	
<b>Schedule 1</b>	<b>Accepted development (self assessable) . . . . .</b>	<b>66</b>
1	Work for particular fences, barriers and gates . . . . .	66
2	Work for particular non-load bearing devices . . . . .	66
3	Work for particular retaining walls . . . . .	67
4	Particular filling or excavation . . . . .	68
5	Work for particular heating devices . . . . .	68
6	Work for particular signs . . . . .	68
7	Particular repairs, maintenance or alterations not affecting structural component or fire safety system . . . . .	69
8	Particular repairs, maintenance or alterations only affecting structural component . . . . .	69
9	Particular repairs, maintenance or alterations only affecting minor component of fire safety system . . . . .	71
10	Work for particular chapter 7, part 3 budget accommodation buildings 72	
11	Work for particular temporary things on building sites . . . . .	72

Contents

---

12	Erecting particular tents . . . . .	73
13	Other work for class 10 buildings or structures . . . . .	73
14	Work for particular air conditioners . . . . .	74
15	Work for solar hot water systems or photovoltaic solar panels . .	74
<b>Schedule 2</b>	<b>Accepted development—exempt from relevant provisions .</b>	<b>75</b>
1	Work for particular class 10b structures or special structures . . .	75
2	Attaching particular sun hoods, window hoods or awnings . . . . .	75
3	Erecting particular tents . . . . .	75
4	Other work for class 10 buildings or structures . . . . .	76
<b>Schedule 3</b>	<b>Prescribed local governments . . . . .</b>	<b>77</b>
<b>Schedule 4</b>	<b>Minor repairs . . . . .</b>	<b>79</b>
1	Minor repairs of barriers for a regulated pool . . . . .	79
2	Minor repairs of gates . . . . .	80
3	Minor repairs of protected windows and doors . . . . .	81
4	Non-climbable zone works . . . . .	81
<b>Schedule 5</b>	<b>Repairs or maintenance of, or other work for, a barrier for regulated pools . . . . .</b>	<b>83</b>
1	Repairs and maintenance of barriers for a regulated pool . . . . .	83
2	Repairs of gates . . . . .	84
3	Repairs of protected windows and doors . . . . .	84
4	Non-climbable zone works . . . . .	85
5	Work for barriers for regulated pools in particular circumstances	85
<b>Schedule 6</b>	<b>Bodies and CPD points for membership for continuing professional development . . . . .</b>	<b>88</b>
<b>Schedule 7</b>	<b>Queensland Development Code . . . . .</b>	<b>89</b>
<b>Schedule 8</b>	<b>Demerit offences and demerit points . . . . .</b>	<b>94</b>
<b>Schedule 9</b>	<b>Fees . . . . .</b>	<b>96</b>
<b>Schedule 10</b>	<b>Dictionary . . . . .</b>	<b>99</b>

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# Building Regulation 2021

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Building Regulation 2021*.

### 2 Commencement

This regulation commences on 1 September 2021.

### 3 Definitions

The dictionary in schedule 10 defines particular words used in this regulation.

## Part 2 Declared accepted development

### 4 Building work declared to be accepted development for Planning Act—Act, s 21

- (1) For section 21(2) of the Act—
  - (a) the building work (*accepted development (self assessable)*) mentioned in schedule 1 is prescribed to the extent the building work does not include altering cladding forming part of, or attached or applied to, an external wall or another external part of a building other than the roof; and
  - (b) the building work mentioned in schedule 2 is prescribed.
- (2) The building work mentioned in schedule 1 must comply with the relevant provisions within the meaning of section 21(5) of the Act.



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- (b) all or some of performance criteria 4, 5, 7 or 8 under QDC part 1.2 and the acceptable solutions for the performance criteria apply for the building work;
  - (c) a qualitative statement for a matter provided for under the performance criteria mentioned in paragraph (a) or (b) for the building work, if the scheme also provides for quantifiable standards for the statements.
- (3) In this section—
- qualitative statement* see section 33(6) of the Act.
- quantifiable standard* see section 33(6) of the Act.

## 7 Designation of area prone to bush fire

- (1) A local government, may in a local planning instrument, designate all or part of its area as a designated bush fire prone area for the BCA or the QDC.
- (2) For each designated bush fire prone area, the provisions of the BCA or QDC that apply to the area apply to any building assessment work carried out within the area.
- (3) The local government must, if it is practicable to do so, ensure the local government's maps in its planning scheme show each designated bush fire prone area.
- (4) If it is not practicable for the local government to comply with subsection (3), the local government must—
  - (a) prepare maps that—
    - (i) show the designated bush fire prone areas; and
    - (ii) state the date each area was designated as a bush fire prone area; and
  - (b) ensure the maps are updated from time to time to show each designated bush fire prone area.
- (5) On the making of the designation, the provisions of the BCA or QDC that apply to a designated bushfire prone area apply for any building assessment work that relates to the area.

## **8 Designation of area liable to flooding**

- (1) A local government may in a planning scheme, temporary local planning instrument under the Planning Act or by resolution—
  - (a) designate all or part of its area as a flood hazard area; and
  - (b) declare the following matters for all or part of the designated flood hazard area—
    - (i) the defined flood level;
    - (ii) the maximum flow velocity of water;
    - (iii) an inactive flow or backwater area;
    - (iv) a freeboard that is more than 300mm;
    - (v) the finished floor level of class 1 buildings built in all or part of the flood hazard area.
- (2) The local government must, in designating a flood hazard area, comply with—
  - (a) a State planning policy; and
  - (b) if a temporary State planning policy is in effect when the designation is made—the temporary State planning policy to the extent it applies in relation to the designation.
- (3) If the local government makes a designation or declaration under subsection (1), the local government must state in the planning scheme, temporary local planning instrument under the Planning Act or resolution, that the designation or declaration is made under this section.

*Note—*

QDC part 3.5 applies to the carrying out of particular building work carried out wholly or partly within a flood hazard area and a defined flood level is declared by a local government for the area.

- (4) The local government must keep a register of—
  - (a) each flood hazard area designated by the local government; and

(b) the date each area was designated as a flood hazard area.

*Note—*

For public access to the register see the Planning Act, section 264 and the *Planning Regulation 2017*, schedule 22.

(5) In this section—

***defined flood level*** means the level to which it is reasonably expected flood waters may rise.

***finished floor level*** means the level of the uppermost surface of a finished floor not including any floor covering.

*Examples of a floor covering—*

carpet, tiles

***freeboard*** means a height above the defined flood level that takes account of matters that may cause flood waters to rise above the defined flood level.

*Examples of matters that may cause a flood level to rise above the defined flood level—*

wave action, localised hydraulic behaviour

***inactive flow or backwater area*** means all or part of a flood hazard area where the maximum flow velocity of water is not likely to be greater than 1.5m/s.

***maximum flow velocity of water***, for all or part of a designated flood hazard area, means a flow velocity of water reasonably expected to be the maximum flow velocity of water for all or part of the area.

***State planning policy*** means a State planning policy under the Planning Act, other than a temporary State planning policy.

***temporary State planning policy*** see the Planning Act, section 12.

## **Part 4**                      **Smoke alarms for domestic dwellings**

### **9**            **Application of part**

- (1) This part applies to a building development application for the construction of a domestic dwelling.
- (2) Building assessment work for the building development application must be carried out under—
  - (a) this part; and
  - (b) the requirements relating to smoke alarms for a domestic dwelling under the BCA.

### **10**          **Definition for part**

In this part—

*domestic dwelling* means either—

- (a) a class 1a building; or
- (b) a sole-occupancy unit in a class 2 building.

### **11**          **Installation of smoke alarm**

- (1) A smoke alarm must be installed in each bedroom of the domestic dwelling in a place that complies with section 12.
- (2) Each smoke alarm—
  - (a) must comply with AS 3786–2014; and
  - (b) must contain a photoelectric sensor and not an ionisation sensor; and
  - (c) must be hardwired to the domestic dwelling’s electricity supply; and
  - (d) must be interconnected to every other smoke alarm installed in the dwelling.

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- (3) For subsection (2)(d), a smoke alarm (the *first smoke alarm*) is interconnected to another smoke alarm if—
    - (a) the first smoke alarm sounds an alert if the other smoke alarm is activated because its sensor detects smoke; and
    - (b) the other smoke alarm sounds an alert if the first smoke alarm is activated because its sensor detects smoke.
  - (4) However, subsections (1) and (2) do not apply to a sole-occupancy unit in a class 2 building if a smoke detection system that complies with the BCA, specification E2.2a, clause 4, has been installed in the sole-occupancy unit.
  - (5) If the BCA is inconsistent with this section, this section prevails to the extent of the inconsistency.

## 12 Placement of smoke alarm

For each bedroom of a domestic dwelling a smoke alarm—

- (a) must be installed—
  - (i) if it is practicable to mount the smoke alarm on a ceiling—on the ceiling; or
  - (ii) if it is not practicable to mount the smoke alarm on a ceiling and an exposed joist or beam has a depth of no more than 300mm when measured from the ceiling—on the underside of the exposed joist or beam; or
  - (iii) otherwise—on a wall in an area that is between 100mm and 300mm from the ceiling and more than 300mm from the corner of 2 walls; and
- (b) if the smoke alarm is installed on a ceiling that slopes—must be installed in an area of the ceiling that is between 500mm and 1,500mm from the apex of the ceiling; and
- (c) must not be installed—
  - (i) within 300mm of a light fitting; and

- (ii) if the smoke alarm is installed on a ceiling—within 300mm of a corner of the ceiling and a wall; and
- (iii) if the smoke alarm is installed in a stairwell—where smoke rising in the stairwell will not reach the smoke alarm because of an obstruction; and
- (iv) within 400mm of an opening from which air is supplied from an air conditioner or forced air ventilation; and
- (v) within 400mm of the blades of a ceiling fan.

## Part 5                      Swimming pool safety

### Division 1                Use and display of resuscitation signs and warning signs

#### 13        Resuscitation signs—Act, s 231D

- (1) This section prescribes a standard for section 231D(1)(b) of the Act.
- (2) A sign complying with subsection (3) (a *resuscitation sign*) must be displayed at a regulated pool.
- (3) For subsection (2), the resuscitation sign must—
  - (a) be attached to the barrier for the regulated pool, or displayed near the pool, so that the sign is conspicuous and easily visible to anyone near the pool; and
  - (b) be at least 300mm x 300mm in size; and
  - (c) be made of durable and weatherproof material; and
  - (d) include a statement that is prominent on the sign explaining to anyone reading the sign how to act in an emergency, including, for example, telephoning for an ambulance, staying with the injured person, calling for help and providing first aid; and

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*Example of what sign must state—*

‘In an emergency phone 000 and ask for ambulance. Stay with injured person, call for help and resuscitate.’

- (e) show information about the procedures for providing first aid, including performing cardiopulmonary resuscitation in the way stated in the document called ‘ANZCOR guideline 8—Cardiopulmonary resuscitation (CPR)’ published by the Australian Resuscitation Council in January 2016.
- (4) Each statement or diagram written or placed on the resuscitation sign must—
  - (a) be clear and legible; and
  - (b) be made by using a material that is durable and weatherproof.

#### **14 Warning signs for constructing regulated pool—Act, s 233**

- (1) For section 233(2) of the Act, a warning sign must—
  - (a) warn members of the public in the vicinity of the land on which the pool is being constructed that—
    - (i) a swimming pool is under construction on the land; and
    - (ii) there is a potential danger to young children accessing the land; and

*Example of what sign must state—*

‘Danger. Swimming pool under construction. Keep children out.’

- (b) subject to subsection (3)—be placed on, or within 1.5m of, the road frontage for the land; and
- (c) be mounted so that the bottom of the sign is at least 300mm above ground level; and
- (d) be positioned so that it is visible from the road; and
- (e) be made of durable and weatherproof material.

[s 15]

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- (2) The lettering of the warning mentioned in subsection (1)(a) must be at least 50mm in height and in a bold style.
- (3) If the land on which the pool is situated has more than 1 road frontage, the warning sign may be placed on only 1 frontage.
- (4) Nothing in this section prevents the warning from including a reference to any other matter.
- (5) In this section—  
*road frontage*, for the land on which the pool is being constructed, means—
  - (a) if the only access to the land is across other land—the boundary between the other land and any road adjoining the other land at the point of access; or
  - (b) otherwise—the boundary between the land and any road adjoining the land.

## **Division 2                      Pool safety inspectors**

### **Subdivision 1                Continuing professional development**

#### **15            Definitions for subdivision**

In this subdivision—

*activity*—

- (a) means an activity undertaken by a person for the purpose of the person's professional development relating to pool safety, including, for example, a course, seminar, workshop or conference; but
- (b) does not include work experience, unless the work experience is gained while the person is employed by the State or a local government.

*CPD activity* mean an activity approved by the QBCC commissioner under section 17(1).

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**16 Continuing professional development for renewal or restoration of licence—Act, ss 246BN and 246BR**

- (1) For sections 246BN(3)(e) and 246BR(2)(c)(v) of the Act the continuing professional development for a person is the accumulation by the person of the following number of continuing professional development points (*CPD points*)—
  - (a) if the person is a building certifier—4 CPD points;
  - (b) otherwise—6 CPD points.
- (2) For subsection (1), a person accumulates CPD points by—
  - (a) completing CPD activities; or
  - (b) holding membership of a body mentioned in schedule 6, column 1.

**17 CPD activities and CPD points**

- (1) The QBCC commissioner may approve an activity as a CPD activity if the commissioner considers the activity is relevant to a pool safety inspection function or matters incidental to the function.
- (2) The commissioner must publish on the QBCC’s website—
  - (a) a list of CPD activities; and
  - (b) the number of CPD points awarded for completion of each CPD activity.
- (3) The QBCC commissioner must award at least 1 CPD point to be accumulated for each CPD activity a person undertakes.
- (4) The QBCC commissioner may award additional CPD points to be completed for each hour or part of an hour a person undertakes a CPD activity, having regard to the following matters—
  - (a) the quality of the CPD activity;
  - (b) the topics covered by the CPD activity;

- (c) the extent to which the CPD activity is relevant to a pool safety inspection function or matters incidental to the function.
- (5) A person holding membership of a body mentioned in schedule 6, column 1 accumulates the CPD points mentioned in schedule 6, column 2 for the body if the person holds the membership at the time the person applies for renewal or restoration of the person's pool safety inspector's licence.

## Subdivision 2 Demerit points

### 18 Definitions for subdivision

In this subdivision—

*accumulation period*, in relation to the accumulation of demerit points, means within a continuous period of 3 years.

*demerit contravention*, by a pool safety inspector, means a contravention of a requirement imposed under a relevant provision.

*demerit point* means a demerit point allocated to a pool safety inspector by the QBCC commissioner under this division for a demerit contravention.

*relevant provision* means any of the following provisions of the Act—

- (a) section 246AA(2);
- (b) section 246AB(2);
- (c) section 246AC(2);
- (d) section 246AC(4);
- (e) section 246AD(2);
- (f) section 246AJ(4);
- (g) section 246AM(2);
- (h) section 246AV.

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**19 Prescribed demerit points—Act, s 246CG and sch 2, definition *ground for disciplinary action***

For section 246CG(2)(d) of the Act and schedule 2 of the Act, definition *ground for disciplinary action*, paragraph (f), 16 demerit points in an accumulation period is prescribed.

**20 Allocation of demerit points for demerit contraventions**

- (1) This section applies if a pool safety inspector commits a demerit contravention.
- (2) The QBCC commissioner may allocate 2 demerit points under this division to the pool safety inspector for the demerit contravention.
- (3) The points must be allocated as soon as practicable after the commissioner becomes aware of the demerit contravention.

*Note—*

A decision of the commissioner relating to the accumulation of demerit points is a reviewable decision. See the QBCC Act, part 7, division 3.

**21 When demerit points takes effect**

Allocated demerit points take effect on—

- (a) for demerit points allocated for a contravention of section 246AD(2) of the Act—the day on which the commissioner became aware of the demerit contravention; or
- (b) otherwise—the day after the last day on which the pool safety inspector was required to comply with the relevant provision.

**22 QBCC commissioner must notify pool safety inspector**

- (1) This section applies if the QBCC commissioner allocates demerit points to a pool safety inspector under section 20.

- (2) The QBCC commissioner must, as soon as practicable after the demerit points are allocated, give the pool safety inspector a notice stating the following information—
  - (a) the number of demerit points allocated;
  - (b) the details of the demerit contravention for which the demerit points have been allocated;
  - (c) the date the demerit points were allocated;
  - (d) the date the demerit points took effect;
  - (e) that the accumulation of 16 demerit points in an accumulation period—
    - (i) is a matter under section 246CG(2)(d) of the Act to be considered by the commissioner if the commissioner is considering whether the pool safety inspector is a suitable person to hold a licence; and
    - (ii) is a ground for disciplinary action and is a matter to be considered—
      - (A) by the commissioner in deciding on an action to take under section 246CY of the Act; or
      - (B) by the tribunal in making an order under chapter 8, part 7, division 3 of the Act.
- (3) The notice must include an information notice about the commissioner's decision to allocate the demerit points.

## **23 If pool safety inspector accumulates 16 demerit points**

- (1) This section applies if a pool safety inspector accumulates 16 demerit points in an accumulation period.
- (2) The QBCC commissioner must give the pool safety inspector a notice stating the following information—
  - (a) that the inspector has accumulated 16 demerit points in the accumulation period;

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- (b) the details of each demerit contravention for which the demerit points have accumulated;
  - (c) the dates the points were allocated;
  - (d) the dates the points took effect;
  - (e) that—
    - (i) under section 246CG(2)(d) of the Act, the commissioner must consider the accumulation of the points by the inspector in considering whether the inspector is a suitable person to hold a licence as a pool safety inspector; and
    - (ii) the accumulation of the points is a ground for disciplinary action;
  - (f) that the inspector may, within a period stated in the notice (the *stated period*), give the commissioner written submissions about why the inspector considers the inspector has not accumulated 16 demerit points in the accumulation period.
- (3) The stated period must end at least 28 days after the pool safety inspector is given the notice.
  - (4) The commissioner must consider a submission made by the pool safety inspector within the stated period.

## **24 QBCC commissioner may take no further action**

- (1) This section applies if, after considering a submission made by the pool safety inspector within the stated period mentioned in section 23(2)(f), the QBCC commissioner is satisfied the inspector has not accumulated the 16 demerit points stated in the notice given under section 23.
- (2) The QBCC commissioner must, as soon as practicable, give the pool safety inspector a notice stating the commissioner does not intend to take any further action in relation to the inspector under the notice given under section 23.

## **25 When QBCC commissioner must issue further notice**

- (1) This section applies if—
  - (a) after considering a submission made by the pool safety inspector within the stated period mentioned in section 23(2)(f), the QBCC commissioner is satisfied the inspector has accumulated 16 demerit points in an accumulation period; or
  - (b) the pool safety inspector does not make a submission under section 23(2)(f).
- (2) The QBCC commissioner must give the pool safety inspector a notice stating the following matters—
  - (a) that the commissioner has decided the inspector has accumulated 16 demerit points in the accumulation period;
  - (b) that the accumulation of 16 demerit points in an accumulation period is a matter that under section 246CG(2)(d) of the Act the commissioner must consider in considering whether the pool safety inspector is a suitable person to hold a licence; and
    - (i) is a matter under section 246CG(2)(d) of the Act to be considered by the commissioner if the commissioner is considering whether the pool safety inspector is a suitable person to hold a licence; or
    - (ii) is a ground for disciplinary action and a matter to be considered—
      - (A) by the commissioner in deciding on an action to be taken under section 246CY of the Act; or
      - (B) by the tribunal in making an order under chapter 8, part 7, division 3 of the Act.
- (3) The notice must include an information notice about the commissioner's decision.

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## Division 3                      Miscellaneous

### 26      **Prescribed local government—Act, s 246ACA, definition *prescribed local government***

For section 246ACA(2) of the Act, definition *prescribed local government*, a local government mentioned in schedule 3 is prescribed.

### 27      **Matters for regulated pools register—Act, s 246AS**

For section 246AS(3)(c) of the Act, each of the following matters are prescribed—

- (a) whether, under section 14(4)(b) of the Act, a performance solution has been used for the barriers for the regulated pool;
- (b) whether the chief executive decided under section 41 of the Act to vary how a building assessment provision relating to the barriers for the regulated pool applies to the pool, and the effect of the variation;
- (c) whether an exemption granted by a local government under section 237 or section 245B of the Act is in force for the barriers for the regulated pool;
- (d) whether, on appeal to a development tribunal under the Planning Act, section 229, the tribunal granted an exemption from complying with the pool safety standard relating to barriers for a regulated pool;
- (e) if, under section 246AN of the Act, a building certificate applies to the regulated pool—
  - (i) the date the certificate was given; and
  - (ii) the relevant period under section 246AN(3) of the Act for which the certificate may be used instead of a pool safety certificate for the pool.

**28 Notification requirements for sale of regulated premises—Act, s 246ATM**

For section 246ATM(2) of the Act, the owner of regulated premises must give a notice in the form approved by the QBCC commissioner before entering into a contract for the sale of the premises under that section.

Maximum penalty—20 penalty units.

**29 Approved code of conduct for pool safety inspector—Act, s 246BA**

For section 246BA(1) of the Act, the code of conduct for pool safety inspectors called ‘Code of conduct for swimming pool safety inspectors, version 2 – September 2019’, made by the QBCC commissioner and published on the QBCC’s website, is approved.

**30 Minor repairs—Act, s 246BE**

For section 246BE(1) of the Act, the repairs mentioned in schedule 4 are prescribed.

*Note—*

See also the *Queensland Building and Construction Commission Regulation 2018*, schedule 1, section 2, that provides that particular work of a value of \$3,300 or less is not building work for the *Queensland Building and Construction Commission Act 1991*, schedule 2, definition *building work*.

**31 Inspection of particular repairs, maintenance or other works**

- (1) This section applies to an owner of a regulated pool if building work mentioned in schedule 5, section 5, is carried out in relation to the pool.
- (2) The owner must, unless the owner has a reasonable excuse, ensure that a pool safety inspector inspects the pool—

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- (a) if the work is carried out during the reinspection period stated in a nonconformity notice given for the regulated pool—within the reinspection period; or
  - (b) if the work is for a specified pool in relation to which a nonconformity notice has not been given—on a day that is not more than 3 months after the day the owner arranged the inspection under schedule 5, section 5(2)(c)(ii).

Maximum penalty—20 penalty units.

**32 Professional indemnity insurance—Act, sch 2, definition *prescribed professional indemnity insurance***

- (1) For schedule 2 of the Act, definition *prescribed professional indemnity insurance*, professional indemnity insurance for a pool safety inspector that provides for all of the following matters is prescribed—
  - (a) a minimum limit of indemnity of a total of \$1m during any 1 period of insurance that may arise from the performance by the pool safety inspector of a pool safety inspection function;
  - (b) indemnity for costs and expenses incurred with the consent of the insurer for defending or settling a claim;
  - (c) no exclusion or special limitation for personal injury or property damage;
  - (d) no requirement for any particular disclaimer to be given by the pool safety inspector to the pool safety inspector’s clients or customers before, during or after the performance of a pool safety inspection function;
  - (e) indemnity for breaches of professional duty as a pool safety inspector arising from an act, error or omission of the inspector after the day the inspector first became a pool safety inspector;
  - (f) at least 1 automatic reinstatement of indemnity;

- (g) indemnity for negligent performance of a pool safety inspection function, other than for claims for fraudulent or illegal acts or omissions;
  - (h) if the pool safety inspector performs a pool safety inspection function as an employee—indemnity for former principals, partners and directors of the employer of the pool safety inspector who were, but no longer are, pool safety inspectors.
- (2) For subsection (1), a pool safety inspector who is a member of a corporation, or an employee of an individual, a corporation or a public sector entity, has the prescribed professional indemnity insurance if the corporation, individual or entity has the professional indemnity insurance mentioned in subsection (1).
- (3) For subsection (1)(b), the indemnity may, for any 1 claim, be limited to 20% of the limit of indemnity the insurance provides under subsection (1)(a) for the claim.
- (4) Subsection (1) does not apply to a pool safety inspector employed as a pool safety inspector by any of the following entities if the inspector is performing a pool safety inspection function in the course of the inspector's employment—
- (a) a local government;
  - (b) the State;
  - (c) the Commonwealth;
  - (d) the Queensland Building and Construction Employing Office established under the *Queensland Building and Construction Commission Act 1991*, section 29A.

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## Part 6                      Competent persons

### Division 1                Preliminary

#### 33        Definitions for part

In this part—

*competent person* means—

- (a) a competent person (design-specification); or
- (b) a competent person (inspection).

*competent person (design-specification)* means an individual that a building certifier decides, under section 34, is competent to give the certifier design-specification help.

*competent person (inspection)* means an individual that a building certifier decides, under section 34, is competent to give the certifier inspection help.

*design-specification help* means help in performing a building certifying function for building design or specification for building assessment work.

*inspection help* means help in performing a building certifying function for the inspection of assessable building work.

### Division 2                General

#### 34        Building certifier may decide who is competent person

- (1) A building certifier may, under this section, decide an individual is competent to provide the certifier with—
  - (a) design-specification help or inspection help generally;  
or

- (b) design-specification help or inspection help limited to a particular aspect of design-specification help or inspection help; or
  - (c) design-specification help or inspection help for particular assessable building work.
- (2) The building certifier may decide that an individual is competent under subsection (1)—
- (a) if a relevant law requires the individual to be registered or hold a licence or other qualification to give the design-specification help or inspection help—only if—
    - (i) the individual is registered or holds the licence or other qualification; and
    - (ii) the building certifier has assessed the individual, having regard to the individual’s experience, qualifications and skills, and the certifier is satisfied the individual is competent to give the help; or
  - (b) otherwise—only if the building certifier has assessed the individual, having regard to the individual’s experience, qualifications and skills, and the certifier is satisfied the individual is competent to give the help.

*Example—*

A building certifier is deciding whether an individual is a competent person to provide help with assessing whether a building complies with the performance requirements for energy efficiency under the BCA, part 3.12. An individual with the skills to carry out appropriate computer modelling for the assessment has appropriate skills to give the help.

- (3) The building certifier may decide an individual is a competent person (inspection), on and from the day the certifier made the decision.
- (4) The building certifier may decide an individual is, or has been, a competent person (design-specification), on and from a particular day.

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- (5) The building certifier may decide an individual is a competent person (design-specification) and a competent person (inspection) at the same time or for the same matter.
  - (6) A building certifier must have regard to the competent person assessment guidelines in making a decision under this section.
  - (7) In this section—  
*relevant law* means a law applying in the State that is relevant to practising in the matter the subject of the help.

**35 Restriction on deciding whether individual is a competent person (inspection) for particular work for single detached class 1a building**

- (1) A building certifier must not decide an individual is a competent person (inspection) to help the building certifier perform boundary clearance work for a single detached class 1a building unless the individual is a cadastral surveyor.
- (2) A building certifier must not decide an individual is a competent person (inspection) to give inspection help for the following building work, unless the individual is a registered professional engineer—
  - (a) reinforcement of footing system work for a single detached class 1a building;
  - (b) formwork and reinforcement for a slab for a single detached class 1a building.

**36 Building certifier's obligation to keep record of decision**

- (1) If, under this part, a building certifier decides an individual is a competent person, the certifier must keep a record stating the following matters—
  - (a) the competent person's name;
  - (b) the matters for which the person was decided to be a competent person;
  - (c) the day the decision was made;

[s 37]

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- (d) if, under section 34(4), the certifier decided the individual has been a competent person (design-specification) from a particular day that was before the day the decision was made—the particular day;
- (e) details of the documents or information relied on by the certifier to make the decision;
- (f) the certifier’s reasons for the decision.

Maximum penalty—20 penalty units.

- (2) The certifier must keep the record for least 7 years from the day the decision was made.

Maximum penalty—20 penalty units.

### **37 Competent person assessment guidelines**

If, under section 258 of the Act, the chief executive makes guidelines about how a building certifier may decide whether or not a person is a competent person under section 34, the guidelines may include information about—

- (a) the matters the building certifier must consider in making the decision; and
- (b) the circumstances in which it may be appropriate for the building certifier to use a competent person to give design-specification help or inspection help.

## **Division 3 Restrictions on competent persons**

### **38 General restrictions**

- (1) Only a competent person (design-specification) may give design-specification help.
- (2) Only a competent person (inspection) may give inspection help.

### **39 Restrictions on giving inspection help**

- (1) This section applies to assessable building work for a building of any class.
- (2) A competent person (inspection) can not sign a certificate of inspection for a stage of the building work if the person—
  - (a) is the builder for the work; or
  - (b) has carried out building work for any aspect of the stage.
- (3) Subsection (2) does not stop the competent person (inspection) giving an aspect inspection certificate for the work if, under part 9, the person can give the certificate.

### **40 Competent person must not give false or misleading documents**

A competent person must not, in giving design-specification help or inspection help, give the building certifier a document containing information the person knows, or reasonably suspects, is false or misleading in a material particular.

Maximum penalty—100 penalty units.

## **Part 7 Cadet building certifiers**

### **41 Appointment of cadet building certifier**

- (1) A person may be appointed as a cadet building certifier to assist a building certifier (a *supervising certifier*) in the performance of a building certifying function, if—
  - (a) the person has been employed by a local government or private certifier for at least 3 months assisting in the performance of building certifying functions under the direct supervision of a building certifier; and
  - (b) the period of employment mentioned in paragraph (a) was completed not more than 6 months before the appointment; and

[s 42]

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(c) the person is undertaking a course of study that, if successfully completed, meets the educational standard required for accreditation by an accreditation standards body.

(2) In this section—

*direct supervision*, of a person by a building certifier, means the giving of technical direction by the certifier to the person about assisting in the performance of a building certifying function, if the technical direction is given before, or at the time, the person gave the assistance, or as soon as reasonably practicable after it has been given.

#### **42 Role of cadet building certifier and supervising certifier**

- (1) A cadet building certifier may assist a supervising certifier in the performance of a building certifying function only if the function is permitted under the level of licence held by the supervising certifier.
- (2) If a cadet building certifier assists a supervising certifier in the performance of a building certifying function, the supervising certifier is the person responsible for the function.
- (3) In deciding whether to allow a cadet building certifier to assist in the performance of a building certifying function, a supervising certifier must have regard to the cadet building certifier's ability, experience, qualifications and skills.

#### **43 Application of part 6 to cadet building certifier**

- (1) A building certifier may, under part 6, decide that a cadet building certifier is a competent person.
- (2) However, a building certifier can not decide that a cadet building certifier is a competent person if the building certifier is—
  - (a) the cadet building certifier's supervising certifier; or
  - (b) the cadet building certifier's employer; or

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- (c) employed by the same employer as the cadet building certifier.

## **Part 8                    Inspections of assessable building work**

### **Division 1                Building certifier inspections**

#### **Subdivision 1          Preliminary**

#### **44            Stages of assessable building work—Act, schedule 2, definition *stage***

- (1) For schedule 2 of the Act, definition *stage*, the following stages of assessable building work are prescribed—
- (a) all stages at which the building development approval states the work must be inspected;
  - (b) if the work is the construction of a single detached class 1a building, the following stages—
    - (i) after excavation of foundation material and before the concrete for the footings, or slab, for the building are poured;
    - (ii) if the building is to have footings—after the placement of formwork and reinforcement for the footings but before the concrete for the footings is poured;
    - (iii) if the building is to have a slab—after the placement of formwork and reinforcement for the slab but before the concrete for the slab is poured;
    - (iv) to the extent the bracing for the frame of the building consists of cladding or lining—after the cladding or lining is fixed to the frame;

[s 44]

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- (v) to the extent the bracing for the frame of the building does not consist of cladding or lining—before the cladding or lining is fixed to the frame;
  - (vi) if reinforced masonry construction is used for the frame of the building—before the wall cavities are filled;
  - (vii) at the completion of all aspects of the work;
  - (c) if the work is an alteration to a single detached class 1a building—each stage mentioned in paragraph (b) that is relevant to the alteration;
  - (d) if the work is the construction of, or an alteration to, a class 10 building or structure, other than a swimming pool—the completion of the building or structure or the alteration;
  - (e) if the work is the construction of, or an alteration to, a swimming pool—
    - (i) for the construction of a temporary fence for the pool—
      - (A) on the completion of the construction of the temporary fence and before the pool is filled with water to a depth of 300mm or more; and
      - (B) if the building certifier for the work extends the period within which the temporary fence for the pool must be constructed—before the extension is given; and
    - (ii) at the completion of the pool and its fencing and, if no temporary fence for the pool was constructed, before the pool is filled with water to a depth of 300mm or more.
- (2) The stages mentioned in subsection (1)(b) to (e) are prescribed for the work mentioned in those paragraphs in addition to the stages prescribed under subsection (1)(a) for the work.
- (3) In this section—

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*temporary fence* means a temporary fence that complies with the QDC part 3.4.

**45 Local government may exempt particular assessable building work from particular stages of inspection**

- (1) A local government may, by resolution, declare a locality or a type of building or structure in the locality exempt from inspection at a stage of assessable building work if the work—
  - (a) is, or is an alteration to, a single detached class 1a building or a class 10 building or structure; and
  - (b) is not for a swimming pool or fencing around the swimming pool.
- (2) However, the resolution may be made only if the local government is satisfied the exemption will not adversely affect public safety.

**46 Who can sign particular certificates of inspection**

- (1) This section applies for assessable building work for a single detached class 1a building or a class 10 building or structure.
- (2) Only the building certifier for the assessable building work, or another building certifier, may sign a certificate of inspection for the following stages—
  - (a) after excavation of foundation material and before the concrete for the footings, or slab, for the building or structure is poured;
  - (b) if the building or structure is to have footings—after the placement of formwork and reinforcement for the footings but before the concrete for the footings is poured;
  - (c) if the building or structure is to have a slab—after the placement of formwork and reinforcement for the slab but before the concrete for the slab is poured;
  - (d) the final stage of the work.

[s 47]

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- (3) However, nothing in subsection (2) restricts a competent person (inspection) who is not a building certifier from giving inspection help for an aspect of a stage mentioned in subsection (2).

## **47 Inspection guidelines**

- (1) This section applies if, under section 258 of the Act, the chief executive makes guidelines about—
  - (a) the aspects or items that make up the completion of assessable building work or a particular stage of assessable building work; and
  - (b) ways of inspecting building work; and
  - (c) ways of certifying building work.
- (2) A person inspecting and certifying aspects of assessable building work is taken to have complied with this part if the person inspects and certifies the work under the guidelines made by the chief executive.

## **Subdivision 2 Notices for inspection**

### **48 Builder's obligation to give notice for inspection at completion of stage**

- (1) This section applies to a builder for assessable building work if the work has been carried out to the completion of a stage of the work, other than assessable building work exempt from inspection under section 45.
- (2) The builder must ensure the building certifier for the work is given a notice (a *notice for inspection*) claiming the stage has been completed.  
Maximum penalty—20 penalty units.
- (3) The notice for inspection may be given in writing or orally.

- (4) If the building certifier is a local government building certifier, subsection (2) may be complied with by giving the notice for inspection in writing to the local government.

#### **49 Prohibition on further building work until certificate of inspection given**

- (1) This section applies if a builder for assessable building work has given a notice for inspection to a building certifier for a stage of the work.
- (2) The builder must not start the next stage of the work until the builder has been given a certificate of inspection for the stage mentioned in subsection (1) stating that it complies with the building development approval.

Maximum penalty—20 penalty units.

#### **50 Notifying QBCC if notice for inspection not given**

- (1) This section applies if—
  - (a) a builder for assessable building work is a licensed builder; and
  - (b) the builder does not give a notice for inspection for a stage of the work.
- (2) The building certifier for the work must, as soon as practicable after becoming aware that the builder did not give the notice for inspection to the building certifier, give QBCC a notice stating that the notice for inspection was not given.

### **Subdivision 3 Carrying out inspections**

#### **51 Arranging inspection**

- (1) This section applies if a building certifier for assessable building work (the *relevant certifier*) receives a notice for inspection for a stage of the work.

[s 52]

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- (2) The relevant certifier must ensure the stage of the assessable building work is, at a time agreed by the builder for the work, inspected by one of the following persons (each an *inspecting person*)—
- (a) the relevant certifier or another building certifier;
  - (b) a competent person (inspection) if—
    - (i) the relevant certifier has decided the competent person may carry out the inspection; and
    - (ii) the competent person may, under this regulation, give a certificate of inspection for the work.

Maximum penalty—20 penalty units.

- (3) The inspecting person must not unreasonably refuse to inspect the stage of the assessable building work at the time agreed under subsection (2).

## 52 Inspection procedure

- (1) This section applies if an inspecting person inspects a stage of assessable building work.
- (2) The inspecting person must inspect the stage of the assessable building work stated in a notice for inspection to ensure the aspects of the stage under the building development approval have been completed and comply with the approval.
- (3) The inspection must be carried out in accordance with best industry practice.

*Note—*

Under section 47 the chief executive may make guidelines about ways of inspecting and certifying building work.

- (4) However, subject to subsection (5), the inspecting person may accept and rely on an aspect inspection certificate, or a QBCC licensee certificate, for each aspect of the stage of the assessable building work without inspecting the work under subsection (2).

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- (5) For a single detached class 1a building or a class 10 building or structure, the inspecting person must not accept an aspect inspection certificate for all aspects of the final stage.

### 53 Certificate of inspection

- (1) This section applies if an inspecting person—
- (a) has complied with section 52 for a stage of assessable building work; and
  - (b) is satisfied all relevant aspects of the stage have been completed and comply with the building development approval for the work.
- (2) The inspecting person must give the builder for the stage of the assessable building work a certificate (a *certificate of inspection*)—
- (a) in the approved form; and
  - (b) signed by the inspecting person; and
  - (c) stating—
    - (i) the reasons the inspecting person is satisfied all relevant aspects of the stage have been completed and comply with the building development approval for the work; and
    - (ii) the extent to which the inspecting person has relied on tests, specifications, rules, standards, codes of practice or other publications.

*Notes—*

- 1 If the stage is the final stage, 2 certificates must be given—the certificate of inspection for the final stage and, if particular requirements under the Act are complied with, a final inspection certificate to the owner of the building.
- 2 For final inspection certificates and the giving of inspection documentation see chapter 5, part 1 and section 124 of the Act.

### 54 Noncompliance notice

- (1) This section applies if an inspecting person—

[s 54]

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- (a) has complied with section 52 for a stage of assessable building work; and
  - (b) is not satisfied all relevant aspects of the stage have been completed and comply with the building development approval for the work.
- (2) If the inspecting person is a building certifier, the inspecting person must give the builder for the assessable building work a notice in the approved form (a *noncompliance notice*) stating—
- (a) the stage of the work does not comply with the building development approval; and
  - (b) how the stage does not comply with the approval; and
  - (c) the work required to ensure the stage complies with the approval.
- (3) If the inspecting person is a competent person (inspection), the inspecting person must give the builder and the building certifier for the assessable building work a notice—
- (a) in the approved form; and
  - (b) stating—
    - (i) the stage of the work does not comply with the building development approval; and
    - (ii) how the stage does not comply with the approval.
- (4) If the building certifier is given a notice under subsection (3) the certifier must—
- (a) if the building certifier is not satisfied the stage complies with the building development approval for the work—give the builder a noncompliance notice; or
  - (b) if the building certifier is satisfied the stage complies with the building development approval for the work—give the builder a certificate of inspection for the work.

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## **Subdivision 4 Procedure if noncompliance notice given**

### **55 Builder's obligation to ensure stage complies with development approval**

If a builder for assessable building work is given a noncompliance notice for a stage, the builder must—

- (a) perform the work, as stated in the notice, required to ensure the stage complies with the building development approval; and
- (b) after complying with paragraph (a)—give the building certifier a notice for inspection for the stage.

*Note—*

For the relevant appeal right, see the Planning Act, chapter 6, part 1 and schedule 1.

### **56 Consequences of builder not complying with obligation**

- (1) This section applies if a builder for assessable building work does not comply with section 55.
- (2) If the noncompliance notice was given to the builder by the building certifier for the work, the issuing authority must take enforcement action against the builder.
- (3) If the issuing authority gives the builder an enforcement notice and the builder does not comply with the notice—
  - (a) if the issuing authority is a local government—the local government must notify the QBCC of the builder's non-compliance with the enforcement notice; or
  - (b) if the issuing authority is a private certifier (class A)—the certifier must notify the QBCC and the local government of the builder's non-compliance with the enforcement notice.
- (4) In this section—

*issuing authority* means the person who issued the building development approval.

## **Subdivision 5 Additional inspections for pool work in particular circumstances**

### **57 Application of subdivision**

- (1) This subdivision applies if—
  - (a) a building development approval is given for pool work; and
  - (b) the relevant entity for the pool work is not given a notice for inspection for the final stage of the pool work by the inspection day.
- (2) In this section—

*relevant entity*, for the pool work, means—

  - (a) the building certifier for the pool work; or
  - (b) if the building certifier for the pool work is a local government building certifier—the local government.

### **58 Definitions for subdivision**

In this subdivision—

*inspection day* means—

- (a) for a building development approval that is only for the pool work—the earlier of the following days—
  - (i) the day that is 6 months after the building development approval is given;
  - (ii) the day that is 2 weeks before the building development approval lapses; or
- (b) for a building development approval that includes work that is the construction of, or alteration to, a class 1

building or class 2 building—the earlier of the following days—

- (i) the day that is 2 years after the building development approval is given;
- (ii) the day that is 2 weeks before the building development approval lapses.

***pool work*** means building work that is the construction of, or alteration to, a regulated pool or its fencing.

***relevant land*** means the land on which the regulated pool or its fencing is, or is intended to be, constructed.

## 59 Building certifier's obligation to inspect

- (1) Subject to section 61, a building certifier for pool work must, unless the certifier has a reasonable excuse, inspect, or ensure another building certifier inspects the pool work as soon as practicable after the inspection day and before the building development approval lapses.

*Example of a reasonable excuse—*

the building certifier is refused access to the premises on which the pool work is being carried out

Maximum penalty—50 penalty units.

- (2) The building certifier who carries out the inspection of the pool work (the ***inspecting certifier***) must carry out the inspection in accordance with best industry practice.

## 60 Obligations after inspection

- (1) If an inspecting certifier is satisfied all relevant aspects of the final stage of pool work under the building development approval have been completed and comply with the approval, the inspecting certifier must give the builder for the work a certificate of inspection for the stage.
- (2) If the stage of the pool work has been completed and the inspecting certifier is not satisfied the stage complies with the building development approval, the inspecting certifier must

give the builder for the work a noncompliance notice for the stage.

- (3) If the occupier of the premises on the relevant land or the builder for the pool work refuses to allow the inspecting certifier to enter the relevant land to carry out the inspection, the inspecting certifier must within 2 business days after the refusal, give the local government notice of the refusal.
- (4) However, subsection (3) does not apply if the inspecting certifier is a local government building certifier.

## **61 Delaying inspection in particular circumstances**

- (1) A builder for pool work may, before the inspection day, give the building certifier for the pool work a notice (a *deferral notice*) asking the building certifier to inspect the pool work on a day that is later than the inspection day (the *later inspection day*).
- (2) The later inspection day must be before the building development approval lapses.
- (3) If the building certifier is a local government building certifier, the deferral notice may be given under subsection (1) by giving it to the local government.
- (4) If the building certifier receives a deferral notice, the building certifier is not required to inspect the pool work before the later inspection day.
- (5) Also, if the building certifier receives a deferral notice the building certifier must, unless the building certifier has a reasonable excuse, inspect, or ensure another building certifier inspects the pool work before the building development approval lapses.

Maximum penalty—50 penalty units.

- (6) Sections 59(2) and 60 apply in relation to an inspection mentioned in subsection (5).

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## **Subdivision 6      Inspection without notice being given**

### **62      Inspections may be conducted without notice being given**

- (1) The giving of a notice under this division about a stage of assessable building work does not prevent any of the following persons from inspecting any aspect of another stage of the work—
  - (a) the building certifier for the work;
  - (b) another building certifier;
  - (c) a competent person (inspection) that the building certifier for the work has decided may carry out the inspection.
- (2) Subsection (1) applies whether or not a notice for inspection has been given for the other stage of the work.

## **Division 2              Referral agency inspections**

### **63      Application of division**

This division applies if—

- (a) an entity was, for a building development application, a referral agency for aspects of the building work (the *referral agency aspects*); and
- (b) the building development approval for the application is granted; and
- (c) a condition of the approval requires the builder for the work to give the agency a notice to inspect the work to ensure the referral agency aspects comply with the approval.

## **64 Notice to referral agency to inspect**

- (1) This section—
  - (a) applies to a builder for building work for which a notice to inspect must be given to a referral agency under a condition of the building development approval; but
  - (b) does not apply in relation to building work the subject of a building development approval to which section 74 of the Act applies.
- (2) The builder for the building work must—
  - (a) give the referral agency a notice to inspect the building work under the approval; and
  - (b) give a copy of the notice to the building certifier.

## **65 Referral agency's decision about inspection**

- (1) This section applies if a referral agency receives—
  - (a) a notice to inspect under section 64(2); or
  - (b) a notice to inspect the installation of, or test, a special fire service under section 74(2) of the Act.
- (2) If the referral agency decides to not inspect the building work or inspect or test the special fire service the agency must, within 5 business days after receiving the notice, give the builder and the building certifier a notice stating it will not inspect the building work or inspect or test the service.
- (3) If the referral agency decides to inspect the building work or inspect or test the service the agency must, within 15 business days after receiving the notice—
  - (a) inspect the work or inspect or test the service; and
  - (b) give the builder and the building certifier a notice stating—
    - (i) the referral agency aspects comply with the building development approval; or

- (ii) the referral agency aspects do not comply with the approval, and the reasons why they do not comply.
- (4) If the building certifier is a local government building certifier, subsection (2) or (3)(b) may be complied with by giving the notice to the local government.

## **66 Responding to notice given by referral agency**

- (1) The building certifier must, in performing functions under the Act for the building work, accept the statement made in a notice given under section 65(3)(b).
- (2) However, subsection (1) does not apply if the building certifier—
  - (a) disagrees with the decision stated in the notice; and
  - (b) within 5 business days after receiving the notice, the certifier gives the referral agency an information notice about the certifier's disagreement.

*Note—*

For the relevant appeal right see the Planning Act, chapter 6, part 1 and schedule 1.

## **67 If notice not given by referral agency**

- (1) If the referral agency does not give a building certifier a notice under section 65(3)(b) within the relevant period for the notice, the referral agency aspects are taken to comply with the building development approval.
- (2) In this section—

***relevant period*** means—

  - (a) 15 business days after the agency receives the notice to inspect; or
  - (b) if, within the 15 days mentioned in paragraph (a), the referral agency and the building certifier agree on a longer period—the longer period.

## Part 9 Certificates

### Division 1 QBCC licensee certificates

#### 68 Application of division

This division applies if—

- (a) building work is for a single detached class 1a building or a class 10 building or structure; and
- (b) if work (the *aspect work*) is carried out for an aspect of the building work; and

*Example of aspect work—*

waterproofing

- (c) either—
  - (i) the aspect work is carried out by a QBCC licensee; or
  - (ii) a QBCC licensee may give a QBCC licensee certificate for the aspect work.

#### 69 Definitions for division

In this division—

***QBCC licensee***, for aspect work, means either—

- (a) a person who, when the person carries out the aspect work, holds a licence of an appropriate class under the QBCC Regulation for the aspect work; or

*Example of a licence of an appropriate class—*

for waterproofing—a waterproofing licence under the QBCC Regulation, schedule 2, part 60

- (b) a person, other than a person mentioned in paragraph (a), who may, under the QBCC Regulation, give a QBCC licensee certificate for the aspect work.

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***QBCC Regulation*** means the *Queensland Building and Construction Commission Regulation 2018*.

## 70 QBCC licensee certificate

- (1) A QBCC licensee may, for building work—
  - (a) if the work is subject to a building development approval—
    - (i) give a certificate (a ***QBCC licensee certificate***) to the building certifier for the work stating the aspect work complies with the approval; and
    - (ii) give a competent person (inspection) a certificate (also a ***QBCC licensee certificate***) stating the aspect work complies with the approval; or
  - (b) if building work is accepted development (self assessable)—give the builder for the building work or the owner of the building a certificate (also a ***QBCC licensee certificate***) stating the aspect work complies with the relevant provisions.
- (2) A QBCC licensee certificate must be in the approved form.
- (3) In this section—

***relevant provisions*** see section 21(5) of the Act.

## 71 QBCC licensee must not give false or misleading QBCC licensee certificate

A QBCC licensee must not give a QBCC licensee certificate the licensee knows, or reasonably suspects, is false or misleading in a material particular.

Maximum penalty—100 penalty units.

## Division 2                      Competent person certificates

### 72            Definitions for division

In this division—

*aspect inspection certificate* see section 74(1).

*competent person certificate* means—

- (a) an aspect inspection certificate; or
- (b) a design-specification certificate.

*design-specification certificate* see section 73.

### 73            Design-specification certificate

A competent person (design-specification) may, for an aspect of building work, give a building certifier a certificate (a *design-specification certificate*) that states a building design or specification will, if installed or carried out under the certificate, comply with the building assessment provisions.

### 74            Aspect inspection certificate

- (1) A competent person (inspection) for assessable building work may give the building certifier for the work a certificate (an *aspect inspection certificate*) for an aspect of the work if—
  - (a) the competent person (inspection) inspects the aspect of the work; and
  - (b) the competent person is satisfied that the aspect of the work has been completed and complies with the building development approval.
- (2) The inspection under subsection (1)(a) must be carried out in accordance with best industry practice.
- (3) However, a competent person (inspection) must not give an aspect inspection certificate for an aspect of assessable building work for a single detached class 1a building, unless—

- (a) if the certificate is for the boundary clearances aspect of the building—the competent person (inspection) is a cadastral surveyor; or
- (b) if the certificate is for the reinforcement of footing system aspect of the building—the competent person (inspection) is a registered professional engineer.

(4) In this section—

*boundary clearances aspect* means the boundary clearances aspect as described in the inspection guideline called ‘Guidelines for inspection of class 1a and 10 buildings and structures’, published by the department.

*reinforcement of footing system aspect* means the reinforcement of slab and footing system aspect for the reinforcement of footings as described in the inspection guideline called ‘Guidelines for inspection of class 1a and 10 buildings and structures’, published by the department.

## **75 Building certifier may accept competent person certificate**

A building certifier may, in performing functions under the Act for a building development application or assessable building work, accept and rely on a competent person certificate if—

- (a) for an aspect inspection certificate—the competent person complied with section 74; and
- (b) the certificate complies with section 77.

## **76 Competent person (inspection) may accept aspect inspection certificate**

- (1) This section applies to a competent person (inspection) who gives inspection help to a building certifier for assessable building work.

[s 77]

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- (2) The competent person (inspection) may accept and rely on an aspect inspection certificate from another competent person if all of the following apply—
  - (a) the other competent person is a competent person of a type relevant to the inspection help;
  - (b) if the other competent person is a competent person of a type relevant to the inspection help only for a particular aspect of the building work—the certificate relates to the aspect;
  - (c) if the other competent person was decided to be a competent person only for particular assessable building work—the certificate relates to the building work;
  - (d) if the other competent person was, under part 6 and this part, permitted to give the certificate;
  - (e) for a certificate that is an aspect inspection certificate—the person complied with section 74;
  - (f) the certificate complies with section 77.
- (3) If the competent person (inspection) accepts and relies on a competent person certificate the competent person (inspection) is not required to inspect the work.

## **77 Requirements for certificates**

A competent person certificate must—

- (a) be in the approved form; and
- (b) be signed by the competent person giving the certificate; and
- (c) state—
  - (i) the basis for giving the certificate; and
  - (ii) the extent to which the competent person has relied on tests, specifications, rules, standards, codes of practice or other publications.

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## Division 3                      Certificates under CodeMark Scheme

### 78            Certificate of conformity

- (1) If a certificate of conformity applies to a building element, the element is, to the extent stated in the certificate, taken to comply with the BCA.
- (2) In this section—

*building element* means the properties and performance of a material, system, method of building or other thing relating to building work.

*certificate of conformity* means a current CodeMark certificate of conformity issued by the Australian Building Codes Board under the scheme known as the CodeMark Certification Scheme.

## Part 10                      Miscellaneous

### Division 1                      Approvals and other matters

#### 79            Queensland Development Code—Act, s 13

- (1) For section 13(1) of the Act, the parts, or the aspects of the parts, of the QDC stated in schedule 7 are prescribed.
- (2) For section 13(2) of the Act, the part, or the aspect of the part, takes effect on the day stated in schedule 7, column 3, for the part or the aspect of the part.

#### 80            QDC residential design and siting provisions—Act, sch 2, definition *QDC residential design and siting provisions*

For schedule 2 of the Act, definition *QDC residential design and siting provisions*, the aspects of parts 1.1 and 1.2 of the QDC, mentioned in schedule 7, are prescribed.

**81 Approval of replacement of code of conduct—Act, s 129**

For section 129(3) of the Act—

- (a) the approval under the expired *Building Regulation 2006*, section 51B, of the replacement by the chief executive of the code of conduct with the document called ‘Code of conduct for building certifiers’, made by the chief executive on 9 September 2020, is continued; and
- (b) the replacement took effect on 1 October 2020.

**82 Demerit offences—Act, s 214A, definition *demerit offence***

For section 214A of the Act, definition *demerit offence*, an offence against a provision of the Act stated in schedule 8, column 1, is prescribed.

**83 Demerit points—Act, s 214E**

For section 214E(2) of the Act, the number of demerit points stated in schedule 8, column 2, opposite a demerit offence stated in column 1, is prescribed for the offence.

**84 Prescribed matters for private certification endorsement—Act, s 163**

- (1) For section 163(1) of the Act, the insurance prescribed for private certification is professional indemnity insurance that provides for all of the following—
  - (a) a minimum limit of indemnity of \$1m for any 1 claim and a total during any 1 period of insurance that may arise from the performance of private certifying functions;
  - (b) as well as the limit of indemnity mentioned in paragraph (a)—indemnity for costs and expenses incurred with the consent of the insurer of defending or settling a claim;

- (c) indemnity for breaches of professional duty as a private certifier arising from an act, error or omission of the private certifier after the day the certifier first became a private certifier;
  - (d) at least 1 automatic reinstatement of indemnity;
  - (e) indemnity for negligent performance of a building certifying function (other than for claims for fraudulent or illegal acts or omissions);
  - (f) if the private certifying functions are performed as an employee—indemnity to former principals, partners and directors of the employer who were, but no longer are, private certifiers.
- (2) For subsection (1), a private certifier who is a member of a corporation, or an employee of an individual, corporation or public sector entity, has the required insurance if the corporation, individual or entity has the professional indemnity insurance mentioned in subsection (1).
- (3) For subsection (1)(b), the indemnity may, for any 1 claim, be limited to 20% of the limit of indemnity the insurance provides under subsection (1)(a) for the claim.
- (4) For section 163(2) of the Act, the prescribed course is the course called ‘Issuing development permits for building work’, conducted by Mackee and Associates Pty Ltd, trading as AssentTECS.
- (5) However, subsection (1) does not apply in relation to a private certifier during the exemption period to the extent the certifier performs private certifying functions directly related to external cladding, or the use of external cladding, that does not comply with any of the following—
- (a) an Act or other law of the Commonwealth or a State;
  - (b) an Australian Standard;
  - (c) the BCA.
- (6) In this section—

*exemption period* means the period starting on the commencement and ending on 30 June 2023.

*external cladding* means cladding or a cladding system—

- (a) forming part of, or attached or applied to, an external wall or other external part of a building other than a roof; and
  - (b) made, in whole or in part, of composite material.
- (7) Subsections (5) and (6) and this subsection expire on 1 July 2023.

**85 Prescribed accreditation standards body—Act, s 184**

For section 184(1) of the Act, the following entities are prescribed—

- (a) the Australian Institute of Building Surveyors;
- (b) the Royal Institution of Chartered Surveyors.

**86 Information to be given by the State—Act, s 255**

For section 255(2) of the Act, the following information is prescribed—

- (a) a 1:100 scale drawing of the building or structure showing floor plans and elevations, unless the Minister responsible for the building work mentioned in section 255 of the Act considers it would not be in the public interest to give the information; and
- (b) a site plan of a scale enabling the local government to provide water supply, sewerage and stormwater drainage for the land on which the building work is to be carried out.

**87 Notice requirement for particular development approvals for building work near sewers**

- (1) This section applies if—

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- (a) a private certifier approves a building development application for building work for a class 1 building or a class 10 building or structure; and
  - (b) the application is for building work on a lot that contains, or is adjacent to a lot that contains, a sewer of a sewerage service provider; and
  - (c) the QDC, part 1.4 applies to the building work because of the distance between the building work and the sewer; and
  - (d) the sewerage service provider is not a local government or a referral agency for the application.
- (2) The private certifier must, within 5 business days after approving the building development application, give the sewerage service provider notice in the approved form about the building work.
  - (3) In this section—

***maintenance cover*** means a cover, whether above, at, or below ground level, for a chamber through which a person, machine or device may gain access to a sewer for the purpose of inspecting, maintaining or replacing the sewer.

***sewer*** means a sewer that is part of a sewerage system under the *Plumbing and Drainage Act 2018* and includes a maintenance cover for the sewer.

***sewerage service provider*** see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

## **88 Notice requirement for particular development approvals for farm buildings**

- (1) This section applies to the assessment manager for a building development application if—
  - (a) the application is for building work for a farm building; and
  - (b) the assessment manager approves the application in whole or in part; and

[s 88]

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- (c) the building work that is approved complies with the QDC, part 3.7, acceptable solution A3(2) or (3).
- (2) The assessment manager must, within 5 business days after approving the building development application, give QFES a notice in the approved form.

- (3) In this section—

***farm animal*** means an animal whose meat or produce is intended for human consumption.

*Examples of produce—*

eggs, milk, wool

***farm building*** means—

- (a) a class 7 building situated on land used primarily for farming, if the building is used primarily for—
  - (i) farming; or
  - (ii) housing 3 or more farm vehicles; or
- (b) a class 8 building situated on land used primarily for farming, if the building is also used primarily for farming.

***farming*** means the use of land for 1 or more of the following—

- (a) cultivating or propagating plants or fungi or constituent parts of plants or fungi;

*Examples of a constituent part of a plant—*

a seed, a bulb

*Example of a constituent part of a fungus—*

a fungal spore

- (b) harvesting or packing a thing mentioned in paragraph (a), other than cutting timber or preparing timber for sale;
- (c) keeping farm animals for 1 or more of the following purposes—

- (i) gathering or packing produce of the animals in a way that does not result in the death of the animals;

*Examples—*

gathering eggs laid by chickens, gathering wool shorn from sheep, milking cows or goats

- (ii) selling the animals or their produce;
- (iii) breeding the animals.

***farm vehicle*** means a vehicle used in relation to farming.

*Examples—*

tractor, harvester, quad bike, utility truck

## Division 2                      Displaying code checklist

### 89            Display of code checklist for particular temporary accommodation buildings

- (1) This section applies to a temporary accommodation building that—
  - (a) is located at a site for more than 42 consecutive days; and
  - (b) is occupied, or available for occupation, by a person—
    - (i) under an agreement relating to the person's employment; or
    - (ii) in return for the payment of rent.
- (2) The prescribed person for the temporary accommodation building must ensure—
  - (a) a code checklist is completed for the temporary accommodation building; and
  - (b) a copy of the checklist is clearly displayed on or near the temporary accommodation building.

Maximum penalty—20 penalty units.

- (3) In this section—

***code checklist***, for a temporary accommodation building, means the checklist—

- (a) in the approved form; and
- (b) completed by the prescribed person for the building.

***prescribed person***, for a temporary accommodation building, means the person who allows occupation of the building—

- (a) under an agreement relating to a person's employment; or
- (b) in return for the payment of rent.

***temporary accommodation building*** means a temporary building or structure containing an area used, or intended to be used, for sleeping.

## **Division 3                      Fees**

### **90            Fees—general**

The fees payable under the Act are stated in schedule 9.

### **91            Fast-track fee and variation application under Act, s 39**

- (1) The fee (the ***fast-track fee***) for a request made by an applicant under section 39 of the Act is payable in addition to the fee payable for a variation application.
- (2) If the chief executive refuses the request made under section 39 of the Act, the chief executive must refund the fast-track fee paid by the applicant.
- (3) The chief executive may refund the fee paid by the applicant for the variation application if—
  - (a) for a variation application accompanied by a request under section 39 of the Act—the decision about the application made under that section is not made within 2 business days after the application is made; or

- (b) otherwise—a decision for the variation application is not made within 20 business days after the application is made.
- (4) In deciding whether to refund the fee under subsection (3), the chief executive must have regard to each of the following matters—
  - (a) if the chief executive requested further information about the application, whether the applicant provided the information within a reasonable time;
  - (b) the complexity of the building work that is the subject of the application, including—
    - (i) the scale of the building work; and
    - (ii) whether the department made a request for specialist advice to decide the application.

## **Part 11**                      **Transitional and savings provisions**

### **Division 1**                      **Preliminary**

#### **92**                      **Definition for part**

In this part—

*expired regulation* means the expired *Building Regulation 2006*.

#### **93**                      **References to expired regulation**

In an instrument, a reference to the expired regulation is, if the context permits, taken to be a reference to this regulation.

**94 Acts Interpretation Act 1954, s 20 not limited**

This part does not limit the *Acts Interpretation Act 1954*, section 20.

**Division 2 Continuation of obligations relating to combustible cladding part 4A**

**95 Continuation of part 4A**

Despite the expiry of the expired regulation, from the commencement, part 4A of the expired regulation continues in force as if it were part of this regulation.

**96 Offences**

To remove any doubt, it is declared that a proceeding for an offence against a provision of the expired regulation, part 4A, may, after the commencement, be started or continued under that part as if the expired regulation had not expired.

**Division 3 Miscellaneous**

**97 Designated bush fire prone areas**

- (1) This section applies to an area designated by a local government as a bush fire prone area under the expired regulation, section 12 if, immediately before the commencement, the designation was in force.
- (2) On the commencement, the area is taken to be an area designated as a bush fire prone area under section 7.

**98 Designation of and declaration for flood hazard areas**

- (1) This section applies if—
  - (a) under the expired regulation, section 13—

- (i) an area was designated by a local government as a flood hazard area; and
  - (ii) a matter mentioned in the expired regulation, section 13(1)(b) was declared for the area; and
  - (b) immediately before the commencement the designation and declaration were in force.
- (2) On the commencement, the designation of the area and declaration of the matter for the area are taken to have been made by the local government under section 8.

## 99 Demerit contravention committed before the commencement

- (1) For part 5, division 2, subdivision 2—
- (a) a reference to a demerit contravention includes a reference to a former demerit contravention; and
  - (b) a reference to demerit points allocated or accumulated by a pool safety inspector includes a reference to demerit points allocated under the expired regulation before the commencement.
- (2) In this section—
- former demerit contravention* means a demerit contravention under the expired regulation committed before the commencement.

## 100 Particular noncompliance notices

- (1) This section applies if—
- (a) under the expired regulation, section 33, a builder was given a noncompliance notice; and
  - (b) immediately before the commencement, the builder had not complied with the expired regulation, section 34.
- (2) On the commencement, the noncompliance notice is taken to be a noncompliance notice given under section 54.

### **101 Appointment of competent person**

- (1) This section applies if immediately before the commencement a person was appointed as a competent person under the expired regulation, section 17.
- (2) On the commencement, the person is taken to have been appointed as the following under section 34(1)—
  - (a) for a competent person (design/specification)—a competent person (design-specification);
  - (b) for a competent person (inspections)—a competent person (inspection).

### **102 Particular local government resolutions**

- (1) This section applies if—
  - (a) under the expired regulation, section 25, a local government had, by resolution, declared localities and forms of buildings or structures in its area exempt from inspection at a stage of assessable building work; and
  - (b) immediately before the commencement, the resolution was in force.
- (2) On the commencement, the resolution is taken to have been made under section 45.

### **103 Particular relevant proceedings**

The expired regulation, sections 23 and 45, continue to apply to an act or omission constituting an offence under those sections that happened before the commencement, as if the expired regulation had not expired.

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## Division 4                      **Transitional provision for Building Amendment Regulation 2022**

### 104      **Continued application of expired s 84(5) in relation to exempted licences**

- (1) This section applies in relation to a private certifier who holds an exempted licence.
- (2) Expired section 84(5) continues to apply in relation to the private certifier until the exempted licence expires.

*Example—*

If the private certifier holds an exempted licence that expires on 12 September 2023, section 84(1) does not apply to the certifier until 13 September 2023 to the extent the certifier performs private certifying functions mentioned in expired section 84(5).

- (3) For subsection (2), the reference in expired section 84(5) to the exemption period is taken to be a reference to the period starting on 1 July 2023 and ending when the exempted licence expires.
- (4) This section does not limit section 84(1).
- (5) In this section—

*exempted licence* means a private certifier's licence—

- (a) with a private certification endorsement made during the extended exemption period in reliance on section 84(5) as in force during that period; and
- (b) that is in force at the end of the extended exemption period.

*expired section 84(5)* means section 84(5) as in force immediately before its expiry on 1 July 2023.

*extended exemption period* means the period—

- (a) starting on the commencement; and
- (b) ending on 30 June 2023.

## **Schedule 1      Accepted development (self assessable)**

section 4(1)(a)

### **1      Work for particular fences, barriers and gates**

- (1) Building work for a fence, if the fence is—
  - (a) no higher than 2m above the fence’s natural ground surface; and
  - (b) not for a regulated pool.
- (2) Despite subsection (1), building work consisting of—
  - (a) minor repairs mentioned in schedule 4, if the minor repairs are carried out by—
    - (i) a pool safety inspector under section 246BE of the Act; or
    - (ii) a person other than a pool safety inspector and a pool safety inspector issues a pool safety certificate for the minor repairs; or
  - (b) repairs or maintenance of, or other work for, a barrier for a regulated pool mentioned in schedule 5.

### **2      Work for particular non-load bearing devices**

- (1) Building work for a prescribed device that is no more than—
  - (a) if the device is attached to a building or structure—3.5m above the building or structure; or
  - (b) if the device is detached from any building or structure—10m above the device’s natural ground surface.
- (2) In this section—

***prescribed device*** means any of the following devices, if the device is non-load bearing—

- (a) an aerial;
- (b) an antenna;
- (c) a satellite dish with a maximum diameter of 900mm;
- (d) a flagpole, mast or tower, situated outside an area covered by the Manual of Standards, part 139, published by the Civil Aviation Safety Authority.

### 3 Work for particular retaining walls

- (1) Building work for a retaining wall, other than work for a retaining wall that forms part of the fencing for a regulated pool, if—
  - (a) there is no surcharge loading over the zone of influence for the wall; and
  - (b) the total height of the wall and of the fill or cut retained by the wall is no more than 1m; and
  - (c) the wall is no closer than 1.5m to a building or another retaining wall.

- (2) In this section—

*finished ground level*, for a retaining wall—

- (a) means the ground level adjacent to the footing system of the wall at the completion of construction and landscaping; but
- (b) does not include the footing for the wall.

*surcharge loading* means a load applied to a soil stratum that has, or may have, the effect of consolidating the stratum, other than a load arising only from—

- (a) persons or vehicles on, or moving over, the stratum; or
- (b) the effects of rain on the stratum.

*total height of the wall* means the height of the wall measured from the finished ground level.

*zone of influence*, for the retaining wall, means the volume of soil stratum behind the wall that affects the wall's structural integrity.

#### **4 Particular filling or excavation**

Building work that is filling or excavation for a building or structure if—

- (a) the proposed cut or fill is no deeper than 1m above or below the natural ground surface; and
- (b) any cut embankment is only into soil of any of the following soil types and no steeper than the gradient stated for the type—
  - (i) for sand—2 horizontal to 1 vertical;
  - (ii) for silt—4 horizontal to 1 vertical;
  - (iii) for firm clay—1 horizontal to 1 vertical;
  - (iv) for soft clay—3 horizontal to 2 vertical; and
- (c) any fill embankment is no steeper than 4.0 horizontal to 1.0 vertical; and
- (d) any compacted fill embankment is only into soil of any of the following soil types and no steeper than the gradient stated for the type—
  - (i) for sand—3 horizontal to 2 vertical;
  - (ii) for silt—4 horizontal to 1 vertical;
  - (iii) for firm clay—2 horizontal to 1 vertical.

#### **5 Work for particular heating devices**

Building work that consists of the installation, repair, maintenance or alteration of a heating device for a building, other than a heating device that is an integral part of, or abuts, the building.

*Example—*

a free-standing pot belly stove or other combustion heater, the chimney of which passes through the building's ceiling and roof space

#### **6 Work for particular signs**

Building work that consists of the erection of a sign that is—

- (a) detached from a building; and
- (b) no higher than 2m; and
- (c) no wider than 1.2m.

## **7 Particular repairs, maintenance or alterations not affecting structural component or fire safety system**

- (1) Building work that consists of repairs, maintenance or alterations to an existing building or structure, other than—
  - (a) alterations to existing fencing for a regulated pool; or
  - (b) repairs, maintenance or alterations to an existing solar hot water system or photovoltaic solar panel attached to the roof of a building.
- (2) However, subsection (1) does not apply to repairs, maintenance or alterations that—
  - (a) change the building or structure's floor area or height; or
  - (b) affect a structural component of the building or structure, other than a structural component mentioned in section 8; or
  - (c) affect the fire safety system of the building or structure.

## **8 Particular repairs, maintenance or alterations only affecting structural component**

- (1) Building work if—
  - (a) the building work consists of repairs, maintenance or alterations to an existing building other than—
    - (i) alterations to existing fencing for a regulated pool; or
    - (ii) repairs, maintenance or alterations to an existing solar hot water system or photovoltaic solar panel attached to the roof of a building; and
  - (b) the building work—

- (i) does not change the building or structure's floor area or height; and
    - (ii) is for, or only affects, a minor structural component of the building; and
  - (c) the requirements under subsection (2) are met.
- (2) For subsection (1)(c), the requirements are—
- (a) if the building work does not affect more than 20% of the building's structural components of the same type; or
  - (b) if the building work is carried out on a sole-occupancy unit in the building—the work and other building work of the same type carried out on the unit in the previous 3 years does not affect more than the lesser of—
    - (i) 20% of the unit's gross floor area; or
    - (ii) 40m<sup>2</sup> of the unit's floor area; or
  - (c) if the building consists of storeys and the work is not carried out on a sole-occupancy unit—the work and other building work of the same type carried out on the same storey in the previous 3 years does not affect more than the lesser of—
    - (i) 20% of the storey's gross floor area; or
    - (ii) 40m<sup>2</sup> of the storey's floor area.
- (3) In this section—

**building** includes structure.

**gross floor area**, of a sole-occupancy unit or storey, means the total area of—

- (a) all parts of the unit or storey within its external walls; and
- (b) any other roofed part of the unit or storey.

*Example for paragraph (b)—*

a roofed balcony

**minor structural component** means—

- 
- (a) the structural component is—
- (i) a roof beam or lintel supporting no more than 5m<sup>2</sup> of roof area; or
  - (ii) a sun hood or sun blind projecting no more than 1m from the building; or
- (b) if the work is repairing or maintaining the structural component—a structural component that, if it was not present in the building, the building’s general safety and structural integrity would not be at risk; or
- Examples—*
- replacing a verandah post
  - replacing a metal connector or bracing member
- (c) if the work is adding the structural component to the building—the addition does not pose a risk to the building’s general safety and structural integrity.

## **9 Particular repairs, maintenance or alterations only affecting minor component of fire safety system**

- (1) Building work that consists of repairs, maintenance or alterations to an existing building if they—
- (a) do not change the building’s floor area or height; and
  - (b) only affect a minor component of the building’s fire safety system; and
  - (c) meet the requirements under subsection (2).
- (2) For subsection (1)(c), the requirements are that the building work—
- (a) only affects a minor component of the system; and
  - (b) does not affect more than 20% of the system’s components of the same type.
- (3) For subsection (2)(a), a component is minor only if, were it not present in the fire safety system, the safety of occupants of the building would not be compromised.

*Examples of a minor component of a fire safety system—*

- a sprinkler head
- a smoke alarm
- a smoke detector

(4) In this section—

***building*** includes structure.

## **10 Work for particular chapter 7, part 3 budget accommodation buildings**

(1) Despite section 9 of this schedule, building work that consists of the installation of any of the following items for a chapter 7, part 3 budget accommodation building—

- (a) smoke alarms;
- (b) a smoke detection system, unless—
  - (i) the system is a 1670 system; and
  - (ii) the fire safety standard requires the installation of a 1670 system in the building;
- (c) internally illuminated exit signs;
- (d) fire extinguishers.

(3) In this section—

***1670 system*** means a fire safety system to which AS 1670.1-1995 applies.

***chapter 7, part 3 budget accommodation building*** means a budget accommodation building to which chapter 7, part 3 of the Act applies.

## **11 Work for particular temporary things on building sites**

Building work for a temporary site office, gantry or scaffolding on a building site.

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**12 Erecting particular tents**

Building work that consists of erecting a tent if the tent's floor area is no more than 500m<sup>2</sup>.

**13 Other work for class 10 buildings or structures**

- (1) Building work for a class 10 building or structure that meets the requirements of subsection (2), other than building work—
  - (a) within Wind Region C (tropical cyclone area) mentioned in AS 1170.2-2011 'Structural design actions Wind actions'; or
  - (b) for a rainwater tank for a new building; or
  - (c) for a deck that is roofed or higher than 1m above the deck's natural ground surface; or
  - (d) for a regulated pool or its fence; or
  - (e) for a solar hot water system or photovoltaic solar panel.
- (2) For subsection (1), the requirements are—
  - (a) the plan area of the class 10 building or structure is no more than 10m<sup>2</sup>; and
  - (b) the class 10 building or structure has, above its natural ground surface—
    - (i) a height of no more than 2.4m; and
    - (ii) if the class 10 building or structure is not a rainwater tank—a mean height of no more than 2.1m, worked out by dividing its total elevational area facing a boundary by its horizontal length facing the boundary; and
  - (c) any side of the class 10 building or structure is no longer than 5m.
- (3) However, subsection (1) does not apply if—
  - (a) another section of this schedule applies to the building work; and

(b) the work does not comply with the requirements under the other section.

(4) In this section—

***plan area***, of the class 10 building or structure, means the area contained within its extremities after the building work has been completed, including overhangs and, if the class 10 building or structure is existing, its existing area.

***rainwater tank*** means—

- (a) a covered tank used to collect rainwater from a building; and
- (b) any stand or other structure that supports the tank.

#### **14 Work for particular air conditioners**

Building work that consists of the installation, repair, maintenance or alteration of an air conditioner for cooling or heating a building of any class, other than an air conditioner that is an integral part of the building.

*Example of air conditioner that is an integral part of a building—*

air conditioner that is part of the fire safety system or mechanical ventilation system for the building

#### **15 Work for solar hot water systems or photovoltaic solar panels**

Building work that consists of—

- (a) the installation of a solar hot water system or photovoltaic solar panel on the roof of a building; or
- (b) repairs, maintenance or alterations to an existing solar hot water system or photovoltaic solar panel attached to the roof of a building.

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## **Schedule 2      Accepted development—exempt from relevant provisions**

section 4(1)(b)

### **1      Work for particular class 10b structures or special structures**

Building work for a class 10b structure or special structure if—

- (a) the structure is not—
  - (i) a fence; or
  - (ii) a retaining wall; or
  - (iii) a free standing wall; or
  - (iv) a swimming pool; and
- (b) the structure is no higher than 3m above its natural ground surface.

*Examples—*

playground and sporting equipment, garden furniture, temporary market stalls, minor plant and equipment covers that are no more than 3m above their natural ground surface

### **2      Attaching particular sun hoods, window hoods or awnings**

Building work that consists of attaching a sun hood, window hood or awning to an existing building if the sun hood's, or window hood's or awning's area is less than 2m<sup>2</sup>.

### **3      Erecting particular tents**

Building work that consists of erecting a tent if the tent's floor area is no more than 100m<sup>2</sup>.

#### **4 Other work for class 10 buildings or structures**

- (1) Building work for a class 10 building or structure if—
  - (a) the building or structure is on land used for agricultural, floricultural, horticultural or pastoral purposes; and
  - (b) no part of the building or structure is within 200m of a road or a boundary of the land on which the building or structure is situated; and
  - (c) the building or structure is not a regulated pool or its fence.
- (2) However, subsection (1) does not apply if—
  - (a) another section of this schedule applies to the building work; and
  - (b) the work does not comply with the requirements under the other section.

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## **Schedule 3      Prescribed local governments**

section 26

Aurukun Shire Council  
Balonne Shire Council  
Banana Shire Council  
Barcaldine Regional Council  
Barcoo Shire Council  
Blackall-Tambo Regional Council  
Boulia Shire Council  
Bulloo Shire Council  
Burke Shire Council  
Carpentaria Shire Council  
Cassowary Coast Regional Council  
Central Highlands Regional Council  
Charters Towers Regional Council  
Cloncurry Shire Council  
Cook Shire Council  
Croydon Shire Council  
Diamantina Shire Council  
Doomadgee Aboriginal Shire Council  
Etheridge Shire Council  
Flinders Shire Council  
Hinchinbrook Shire Council  
Hope Vale Aboriginal Shire Council  
Isaac Regional Council  
Kowanyama Aboriginal Shire Council

Lockhart River Aboriginal Shire Council  
Longreach Regional Council  
Mapoon Aboriginal Shire Council  
Maranoa Regional Council  
Mareeba Shire Council  
McKinlay Shire Council  
Morrington Shire Council  
Mount Isa City Council  
Murweh Shire Council  
Napranum Aboriginal Shire Council  
Northern Peninsula Area Regional Council  
Palm Island Aboriginal Shire Council  
Paroo Shire Council  
Pormpuraaw Aboriginal Shire Council  
Quilpie Shire Council  
Richmond Shire Council  
Tablelands Regional Council  
Torres Shire Council  
Torres Strait Island Regional Council  
Whitsunday Regional Council  
Winton Shire Council  
Woorabinda Aboriginal Shire Council  
Wujal Wujal Aboriginal Shire Council

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# Schedule 4      Minor repairs

## section 30

### 1      Minor repairs of barriers for a regulated pool

- (1) The following minor repairs—
- (a) repairing, replacing or adjusting part of the existing barriers for a regulated pool if—
    - (i) the repairing, replacing or adjusting of the part is carried out to comply with the pool safety standard; and
    - (ii) the part repaired, replaced or adjusted is no longer than a total of 5m and includes no more than 6 posts;
  - (b) erecting a new part of the barriers for a regulated pool if—
    - (i) the erecting of the part is carried out to comply with the pool safety standard; and
    - (ii) the part erected is no longer than a total of 5m and includes no more than 6 posts.
- (2) However, subsection (1)(b) does not apply to minor repairs to the barriers for a regulated pool if the repairs consist of—
- (a) reducing a gap under the barriers other than by lowering the panels or palings of the barriers; or  
*Example of reducing a gap under the barriers for the pool—*  
    laying paving to reduce the gap under the barriers
  - (b) increasing the height of the barriers for a regulated pool other than by raising the panels or palings of the barriers; or  
*Example of increasing the height of the barriers for the pool—*  
    installing capping along the top of the barriers
  - (c) installing shielding material.

- (3) Without limiting subsection (1), the minor repairs mentioned in that subsection include the following repairs or other works—
- (a) repairing, replacing or adjusting loose or damaged panels for the barriers for the pool;
  - (b) raising the panels of the barriers for the pool to increase the height of the barriers;
  - (c) lowering panels of the barriers for the pool to reduce a gap under the barriers;
  - (d) replacing brackets or other fixings for panels of the barriers for the pool;
  - (e) erecting a new part of the fencing to join 2 existing parts of the barriers for the regulated pool.

*Examples for paragraph (e)—*

- erecting a new part of the barriers for a regulated pool to create a corral outside a self-closing door that opens into a pool area
- installing a new part of the barriers for a regulated pool between an existing dividing fence for the land and a wall of a building that forms part of the barriers for the pool

## **2 Minor repairs of gates**

- (1) Repairing, replacing, adjusting or installing a gate in the barriers for a regulated pool if the repairing, replacing, adjusting or installing of the gate is carried out to comply with the pool safety standard.
- (2) Without limiting subsection (1), the minor repairs mentioned in that subsection include the following repairs or other works—
- (a) replacing, adjusting or installing strikers or latches;
  - (b) tightening, adjusting or installing hinges to ensure they are capable of holding the gate;
  - (c) tightening, adjusting or installing a self-closing mechanism on a gate to ensure the gate self-closes;

- 
- (d) replacing, repairing, adjusting or installing hinges to ensure a gate self-closes;
  - (e) making alterations to a gate to change the direction of the gate's swing;
  - (f) installing a new gate in a new part of the barriers for the pool.

### **3 Minor repairs of protected windows and doors**

- (1) Repairs or other works protecting a window or door if the repairs or other work is carried out to comply with the pool safety standard.
- (2) Without limiting subsection (1), the minor repairs mentioned in that subsection include the following repairs or other works—
  - (a) permanently disabling a window or door opening;
  - (b) stopping a window or door from opening more than 100mm;
  - (c) installing a security screen for a window or door;
  - (d) inserting rivets, screws or chocks in windows;
  - (e) removing tracks and running gear from a window or door.

### **4 Non-climbable zone works**

- (1) Minor work to protect the barriers for a regulated pool, including the fencing or a gate for the pool, or an object adjacent to the barriers, if the work is carried out to ensure a person is not able to climb the barriers for the pool.
- (2) Without limiting subsection (1) the minor repairs mentioned in that subsection include the following repairs or other works—
  - (a) installing shielding material that is suitably durable to protect footholds in the barriers for the pool;

- (b) adding return barriers to a barrier that is a permanent body of water;
- (c) removing a climbable object adjoining the barriers for the pool;
- (d) installing shielding material that is suitably durable on a part of the barriers for the pool that adjoins a retaining wall;
- (e) closing gaps between a part of the barriers for the pool and another part of the barriers for the pool or a dividing fence for the land;
- (f) installing material to make the barriers for the pool non-climbable;
- (g) installing shielding material that is suitably durable in front of a latch on a gate;
- (h) removing or shielding footholes or other climbable objects that affect the barriers for the pool;
- (i) trimming or removing trees, branches or vegetation on or adjoining the barriers for the pool.

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## Schedule 5      Repairs or maintenance of, or other work for, a barrier for regulated pools

schedule 1, section 1(2)(b)

### 1      Repairs and maintenance of barriers for a regulated pool

- (1) Repairing or adjusting part of the existing barriers for a regulated pool if—
  - (a) the repairing or adjusting of the part is carried out to comply with the pool safety standard; and
  - (b) the part repaired or adjusted is no longer than a total of 2.4m and includes no more than 2 posts.
- (2) Subsection (1)(b) does not apply to the following repairs or maintenance to a barrier for a regulated pool—
  - (a) reducing a gap under the barriers for the pool other than by lowering the panels or palings of the barriers;  
*Example of reducing a gap under the barriers for the pool—*  
laying paving to reduce the gap under the barriers
  - (b) increasing the height of the barriers for a regulated pool other than by raising the panels or palings of the barriers;  
*Example of increasing the height of the barriers for the pool—*  
installing capping along the top of the barriers
  - (c) installing shielding material;
  - (d) work mentioned in section 5 of this schedule.
- (3) Without limiting subsection (1), the work mentioned in that subsection includes the following—
  - (a) repairing, replacing or adjusting loose or damaged palings for the barriers for the pool;
  - (b) raising the panels of the barriers for the pool to increase the height of the barriers;

- (c) lowering panels of the barriers for the pool to reduce a gap under the barriers;
- (d) replacing brackets or other fixings for panels of the barriers for the pool.

## **2 Repairs of gates**

- (1) Repairing, replacing or adjusting a gate in the barriers for a regulated pool if the repairing, replacing or adjusting of the gate is carried out to comply with the pool safety standard.
- (2) Without limiting subsection (1), the work mentioned in that subsection (1) includes the following—
  - (a) replacing, adjusting or installing strikers or latches;
  - (b) tightening, adjusting or installing hinges to ensure they are capable of holding the gate;
  - (c) tightening, adjusting or installing a self-closing mechanism on a gate to ensure the gate self-closes;
  - (d) replacing, repairing, adjusting or installing hinges to ensure a gate self-closes;
  - (e) making alterations to a gate to change the direction of the gate's swing.

## **3 Repairs of protected windows and doors**

- (1) Protecting a window or door for a regulated pool if the protecting of the window or door is carried out to comply with the pool safety standard.
- (2) Without limiting subsection (1), the work mentioned in that subsection includes the following—
  - (a) permanently disabling a window or door opening;
  - (b) stopping a window or door from opening more than 100mm;
  - (c) installing a security screen for a window or door;
  - (d) inserting rivets, screws or chocks in windows;

- 
- (e) removing tracks and running gear from a window or door.

#### **4 Non-climbable zone works**

- (1) Work to protect the barriers for a regulated pool, including the fencing or a gate for the pool, or an object adjacent to the barriers, if the work is carried out to ensure a person is not able to climb the barriers for the pool.
- (2) Without limiting subsection (1), the work mentioned in that subsection includes the following—
  - (a) installing shielding material that is suitably durable to protect footholds in the barriers for the pool;
  - (b) removing a climbable object adjoining the barriers for the pool;
  - (c) installing shielding material that is suitably durable on a part of the barriers for the pool that adjoins a retaining wall;
  - (d) closing gaps between a part of the barriers for the pool and another part of the barriers for the pool or a dividing fence for the land;
  - (e) installing material to make the barriers for the pool non-climbable;
  - (f) installing shielding material that is suitably durable in front of a latch on a gate;
  - (g) removing or shielding footholes or other climbable objects that affect the barriers for the pool;
  - (h) trimming or removing trees, branches or vegetation on or adjoining the barriers for the pool.

#### **5 Work for barriers for regulated pools in particular circumstances**

- (1) The following work in relation to a regulated pool if the matters in subsection (2) are satisfied—

- (a) constructing a fence that forms the whole or part of a barrier for the regulated pool;
  - (b) repairing, replacing or adjusting an existing fence that forms the whole or part of a barrier for the regulated pool.
- (2) For subsection (1), the matters are—
- (a) either—
    - (i) the only part of the building assessment provisions that applies to the work is the pool safety standard; or
    - (ii) both of the following apply—
      - (A) the pool safety standard and any other part of the building assessment provisions apply to the work;
      - (B) the work would be accepted building work if only that other part of the building assessment provisions applied to the work; and
  - (b) either of the following applies—
    - (i) the fence is no higher than 2m above its natural ground surface;
    - (ii) if the fence is situated on an existing retaining wall, on part of an existing class 1a or class 10 building or on another existing structure—the fence is no higher than 2m above the wall, building or structure and no part of the fence that is higher than 2m above its natural ground surface is within 1.5m of a boundary; and
- Note—*
- See QDC, parts 1.1, 1.2 and 1.3 for siting requirements for buildings and structures.
- (c) either—
    - (i) the work is carried out during the reinspection period stated in a nonconformity notice given for the regulated pool; or

- (ii) the regulated pool is a specified pool in relation to which no nonconformity notice has been given and, before the work commences, the owner of the regulated pool has arranged for an inspection of the pool by a pool safety inspector on a day that is not more than 3 months after the day the owner arranged the inspection.

*Note—*

If work prescribed under this section is carried out in relation to a regulated pool, the owner of the pool must ensure the pool is inspected in the way required under section 31.

## **Schedule 6      Bodies and CPD points for membership for continuing professional development**

section 17(5)

<b>Column 1 Body</b>	<b>Column 2 CPD points</b>
Australian Institute of Building Surveyors ABN 53 004 540 836	2
Institute of Building Consultants as a division of the Queensland Master Builders Association Industrial Organisation of Employers ABN 96 641 989 386	2
RICS Australasia Pty Ltd ABN 18 089 873 067	2
Swimming Pool & Spa Association of Australia Ltd ABN 74 150 541 816	2

## Schedule 7 Queensland Development Code

sections 79 and 80

Part	Description of part or aspect of the part	Day part or aspect took effect
Siting and amenity—detached housing and duplexes		
1.1 published 11 March 2010	Design and siting standard for single detached housing on lots under 450m <sup>2</sup> , but only— (a) the headings ‘application’ and ‘commencement’ and the words under those headings; and (b) performance criteria 1, 2, 3 and 6; and (c) the acceptable solutions for the performance criteria; and (d) definitions relevant to the provisions mentioned in paragraphs (a) to (c)	26 March 2010
1.2 published 11 March 2010	Design and siting standard for single detached housing on lots 450m <sup>2</sup> and over, but only— (a) the headings ‘application’ and ‘commencement’ and the words under those headings; and (b) performance criteria 1, 2, 3 and 6; and (c) the acceptable solutions for the performance criteria; and (d) definitions relevant to the provisions mentioned in paragraphs (a) to (c)	26 March 2010
1.3 published 11 March 2010	Design and siting standard for duplex housing	26 March 2010

<b>Part</b>	<b>Description of part or aspect of the part</b>	<b>Day part or aspect took effect</b>
1.4 published 13 November 2014	Building over or near relevant infrastructure	15 December 2014
Fire safety		
2.1 published 4 April 2008	Fire safety in budget accommodation buildings	4 April 2008
2.2 published 4 April 2008	Fire safety in residential care buildings	4 April 2008
2.3 published 14 June 2011	Fire safety in existing residential care buildings (pre 1 June 2007)	1 September 2011
2.5 published 8 December 2020	Use of external cladding	18 December 2020
Special buildings and structures		
3.1 published 16 November 2007	Floating buildings	1 January 2008

<b>Part</b>	<b>Description of part or aspect of the part</b>	<b>Day part or aspect took effect</b>
3.2 published 16 November 2007	Tents	1 January 2008
3.3 published 6 May 2014	Temporary accommodation buildings and structures	20 June 2014
3.4 published 18 July 2012	Swimming pool barriers	27 July 2012
3.5 published 12 December 2013	Construction of buildings in flood hazard areas	20 December 2013
3.6 published 23 January 2014	Commonwealth games village accommodation buildings	7 February 2014
3.7 published 25 May 2015	Farm buildings	1 June 2015
<b>Building sustainability</b>		

<b>Part</b>	<b>Description of part or aspect of the part</b>	<b>Day part or aspect took effect</b>
4.1 published 17 September 2020	Sustainable buildings	1 March 2021
4.2 published 15 January 2013	Rainwater tanks and other supplementary water supply systems	1 February 2013
4.3 published 15 January 2013	Supplementary water sources – commercial buildings	1 February 2013
4.4 published 17 August 2015	Buildings in a transport noise corridor	17 August 2015
<b>General health, safety and amenity</b>		
5.2 published 16 November 2007	Higher risk personal appearance services	1 January 2008
5.3 published 16 November 2007	Retail meat premises	1 January 2008

<b>Part</b>	<b>Description of part or aspect of the part</b>	<b>Day part or aspect took effect</b>
5.5 published 16 November 2007	Private health facilities	1 January 2008
5.6 published 16 November 2007	Pastoral workers' accommodation	1 January 2008
5.7 published 16 November 2007	Residential services building standard	1 January 2008
Maintenance of buildings		
6.1 published 6 May 2014	Commissioning and maintenance of fire safety installations	1 July 2014

## **Schedule 8      Demerit offences and demerit points**

sections 82 and 83

<b>Column 1</b>	<b>Column 2</b>
<b>Demerit offence</b>	<b>Demerit points</b>
s 83(1)	8
s 84(1)	8
s 84(2)	8
s 86(1)	2
s 88(2)	3
s 88(2B)	8
s 88(6)	1
s 99(2)	2
s 102(2)	1
s 107(2)	2
s 108	2
s 122	5
s 124A(3)	1
s 125	8
s 126	8
s 134	8
s 135(1)	8
s 135(2)	8

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<b>Column 1</b>	<b>Column 2</b>
<b>Demerit offence</b>	<b>Demerit points</b>
s 136(1)	10
s 143(2)	2
s 143A(3)	2
s 143A(4)	2
s 143B(5)	2
s 143B(6)	1
s 147(2)	1
s 148(2)	5
s 149(1)	2
s 149(3)	2
s 150	1
s 183(2) if paragraph (b) of the penalty applies	2
s 195(4)	3
s 202(1)	8
s 203(1)	8

## Schedule 9 Fees

section 90

### Fee units

1	Fee for a variation application (Act, s 38(3))—	
	(a) if a site inspection of a building by the chief executive is not required and the building has a floor area of—	
	(i) 500m <sup>2</sup> or less	604.65
	(ii) more than 500m <sup>2</sup>	874.05
	(b) if a site inspection of a building by the chief executive is required and the building has a floor area of—	
	(i) 500m <sup>2</sup> or less	874.05
	(ii) more than 500m <sup>2</sup>	1,295.65
2	Fast-track fee under section 91(1) (Act, s 39(2))	50% of the fee payable for the application
3	Application fee for licence as a building certifier (Act, s 156(c)(i))	164.25
4	Licence fee for licence as a building certifier (Act, s 156(c)(ii))	874.05
5	Fee for an application for an approval of a pool safety management plan for a swimming pool (Act, s 245M(2)(b)(ii))—	
	(a) if a pool safety management plan has not previously been approved for the pool—	
	(i) standard fee	2,233.00

	<b>Fee units</b>
(ii) additional fee if the pool safety management plan relates to more than 1 swimming pool	125.20 for each additional pool
(iii) additional fee if the QBCC commissioner requires a site inspection for the pool	1,255.20
(b) if a pool safety management plan has previously been approved for the pool—	
(i) standard fee if the pool safety measures under the pool safety management plan are the same, or substantially the same, as the pool safety measures under the previously approved plan	447.15
(ii) standard fee if subparagraph (i) does not apply	2,233.00
(iii) additional fee if the QBCC commissioner requires a site inspection for the pool	1,255.20
6 Fee for an identification number for a pool safety certificate (Act, s 246AJ(3))	41.75
7 Fee to inspect the regulated pools register (Act, s 246AT(1)(a))	nil
8 Fee for a paper copy of all or part of the information held in the regulated pools register (Act, s 246AT(1)(b))—	
(a) for the first page	6.75
(b) for each additional page	2.85
9 Application fee for a pool safety inspector's licence (Act, s 246BI(1)(c)(i))	418.95
10 Licence fee for a pool safety inspector's licence (Act, s 246BI(1)(c)(ii))	208.85

	<b>Fee units</b>
11 Renewal fee for renewal of a pool safety inspector's licence (Act, s 246BN(3)(a))	208.85
12 Licence fee for renewal of a pool safety inspector's licence (Act, s 246BN(3)(b))	105.15
13 Restoration fee for restoration of a pool safety inspector's licence (Act, s 246BR(2)(c)(i))	418.95
14 Licence fee for restoration of a pool safety inspector's licence (Act, s 246BR(2)(c)(ii))	208.85
15 Fee for replacement of a pool safety inspector's licence (Act, s 246CE(2)(b))	70.00

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## Schedule 10 Dictionary

### section 3

***acceptable solution***, for a particular performance criteria, means the acceptable solution for the performance criteria stated in the QDC.

***accepted development (self assessable)*** see section 4(1)(a).

***accumulation period***, for part 5, division 2, subdivision 2, see section 18.

***activity***, for part 5, division 2, subdivision 1, see section 15.

***aspect***, of building work, means a component of a stage of the work.

***aspect inspection certificate*** see section 74(1).

***aspect work*** see section 68(b).

***assessable building work*** means building work that is not accepted development.

***builder***, for building work, means the person in charge of carrying out the work.

*Examples of a builder for building work—*

- a person who contracts with an owner to perform building work for the owner
- a person who holds an owner-builder permit under the *Queensland Building and Construction Commission Act 1991* for building work and who, under that Act, engages subcontractors to perform all or part of the work

***building certifier—***

- (a) for a provision about a competent person—means the building certifier who decided the person is a competent person; or
- (b) for a provision about assessable building work—means the building certifier who performed, or is performing, building certifying functions for the building development approval for the work.

***building design or specification*** means any material, system, method of building or other thing related to the design of or specifications for building work.

***cadastral surveyor*** see the *Surveyors Act 2003*, schedule 3.

***cadet building certifier*** means a person appointed under section 41 as a cadet building certifier.

***certificate of inspection***, for a stage of assessable building work, see section 53(2).

***competent person*** see section 33.

***competent person certificate*** see section 72.

***competent person (design-specification)***, see section 33.

***competent person (inspection)*** see section 33.

***CPD activity***, for part 5, division 2, subdivision 1, see section 15.

***CPD points*** see section 16(1).

***demerit contravention***, for part 5, division 2, subdivision 2, see section 18.

***demerit points*** see section 18.

***design-specification certificate*** see section 73.

***design-specification help***, for a competent person, for part 6, see section 33.

***domestic dwelling***, for part 4, see section 10.

***final stage***, of building work, means the last stage of the building work provided for under section 44.

***floor area***, of a building or structure, sole-occupancy unit or storey, means its floor area as defined under the BCA.

***inspecting certifier***, for a stage of pool work, see section 59(2).

***inspecting person*** see section 51(2).

***inspection day***, for part 8, division 1, subdivision 5, see section 58.

***inspection help***, for a competent person, see section 33.

***local planning instrument*** see the Planning Act, section 8(3).

***natural ground surface***, for a building, device or structure, means the ground surface located at the site of the building, device or structure on the day the first plan of survey showing the relevant allotment was first registered.

***noncompliance notice*** see section 54(2).

***nonconformity notice*** see section 246AB(2) of the Act.

***notice for inspection*** see section 48(2).

***performance criteria***, for building work, means the particular performance criteria for the building work stated in the QDC.

***pool safety inspection function*** see section 231C of the Act.

***pool safety inspector's licence*** means a licence as a pool safety inspector issued under chapter 8, part 6 of the Act.

***pool safety standard*** see section 231D of the Act.

***pool work***, for part 8, division 1, subdivision 5, see section 58.

***QBCC licensee*** see section 69.

***QBCC licensee certificate*** see section 70.

***referral agency aspects***, for part 8, division 2, see section 63(a).

***registered professional engineer*** means a person registered as a registered professional engineer under the *Professional Engineers Act 2002*.

***regulated pool*** see section 231B of the Act.

***reinspection period***, for a regulated pool, see section 246AB(2)(d) of the Act.

***relevant land***, for part 8, division 1, subdivision 5, see section 58.

***relevant provision*** for part 5, division 2, subdivision 2, see section 18.

***road***—

- 1 A *road* is—
  - (a) an area of land dedicated to public use as a road; or
  - (b) an area open to, or used by, the public and developed for, or has, as 1 of its main uses, the driving or riding of motor vehicles.
- 2 However a *road* does not include a pedestrian or bicycle path.

***solar hot water system*** includes any part of a water heating system designed to heat water using light or heat from the sun.

***sole-occupancy unit*** means a sole-occupancy unit as defined under the BCA.

***specified pool*** means—

- (a) a complying pool; or
- (b) a pool that is the subject of a current pool safety certificate; or
- (c) a pool that is the subject of a building certificate mentioned in the Act, section 246AN.

***storey*** means a storey as defined under the BCA.

***structural component***, of a building, means an element or a part of a building that carries or transfers a load in addition to its own weight.

***supervising certifier***, for part 7, see section 41(1).

***tent*** means a temporary structure clad in canvas, plastic or similar material, with or without walls, supported by poles or similar supports and fastened to the ground using ropes, pegs or ballast.

*Examples—*

circus tent, box frame marquee