

I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.



Legislative Assembly Chamber,
Brisbane,

The Clerk of the Parliament.

27 OCTOBER 2014

In the name and on behalf of the Queen, I assent to this Bill.

A handwritten signature in black ink, appearing to read 'Paul de J'.

Government House,

Brisbane,

27 October 20 14



Queensland

No. 56 of 2014

A BILL for

An Act to amend the Building Act 1975, the Plumbing and Drainage Act 2002, the Professional Engineers Act 2002 and the Queensland Building and Construction Commission Act 1991, and to make minor or consequential amendments of the Acts mentioned in schedule 1, for particular purposes



Queensland

Professional Engineers and Other Legislation Amendment Bill 2014

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2014

A Bill

for

An Act to amend the *Building Act 1975*, the *Plumbing and Drainage Act 2002*, the *Professional Engineers Act 2002* and the *Queensland Building and Construction Commission Act 1991*, and to make minor or consequential amendments of the Acts mentioned in schedule 1, for particular purposes

[s 1]

The Parliament of Queensland enacts—

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Professional Engineers and Other Legislation Amendment Act 2014*.

2 Commencement

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

Chapter 2 Amendment of Professional Engineers Act 2002

3 Act amended

This chapter amends the *Professional Engineers Act 2002*.

4 Insertion of new s 6A

Part 1, division 3—

insert—

6A Extraterritorial application of Act

- (1) This Act applies both within and outside Queensland.
- (2) This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

5 Insertion of new s 7B

Part 2, division 1—

insert—

7B Types of registration as a professional engineer

The types of registration as a professional engineer under this Act are registration as a practising professional engineer or a non-practising professional engineer.

6 Amendment of s 8 (Applying for registration)

Section 8(2)(a), after ‘form’—

insert—

and state the type of registration to which the application relates

7 Amendment of s 9 (Eligibility)

Section 9—

insert—

- (2) Also, an applicant for registration as a non-practising professional engineer is eligible for registration only if the board is satisfied the applicant will not carry out, or be responsible for the carrying out of, professional engineering services within the registration period to which the application for registration relates.

8 Amendment of s 20 (Deciding application)

- (1) Section 20(3) and (4)—

renumber as section 20(4) and (5).

- (2) Section 20—

insert—

[s 9]

- (3) Also, for an application for renewal of registration as a non-practising professional engineer, the board must be satisfied the applicant will not carry out, or be responsible for the carrying out of, professional engineering services within the registration period to which the application relates.

9 Amendment of s 24 (Deciding application)

- (1) Section 24(3) and (4)—

renumber as section 24(4) and (5).

- (2) Section 24—

insert—

- (3) Also, for an application for restoration of registration as a non-practising professional engineer, the board must be satisfied the applicant will not carry out, or be responsible for the carrying out of, professional engineering services within the registration period to which the application relates.

10 Amendment of s 34 (Form of certificate of registration)

Section 34(2)—

insert—

- (d) whether the registered professional engineer is a practising professional engineer or a non-practising professional engineer.

11 Amendment of s 39 (Rejection of complaint)

Section 39, from ‘the complaint’—

omit, insert—

the complaint is—

- (a) frivolous, trivial or vexatious; or
- (b) misconceived or lacking in substance.

12 Amendment of s 75 (Board's decision about other investigations)

Section 75(2) and (3)—

omit, insert—

- (2) As soon as practicable after preparing the report, or receiving the report or further report, the board must decide to do 1 or more of the following—
 - (a) start proceedings to prosecute the person for an offence;
 - (b) enter into an undertaking agreed with the person about the person's conduct, including, for example, to apply for registration or to only carry out professional engineering services under the direct supervision of a practising professional engineer;
 - (c) caution or reprimand the person;
 - (d) take no further action about the matter the subject of the investigation.
- (3) If the person does not comply with an undertaking entered into under subsection (2)(b), the board may decide to take another action mentioned in subsection (2).
- (4) As soon as practicable after making the decision, the board must give notice of the decision to the person.
- (5) If the board decides, under subsection (2)(c), to caution or reprimand the person, the board must give the person an information notice for the decision.

[s 13]

13 Insertion of new ss 75A and 75B

After section 75—

insert—

75A Other investigations—recording decision if person becomes registered professional engineer

- (1) This section applies if—
 - (a) the board makes a decision about a person under section 75; and
 - (b) the person later becomes a registered professional engineer.
- (2) The board may include in the register particulars of its decision with other particulars relevant to the person's registration.

75B Publishing information if person other than registered professional engineer found guilty of offence

- (1) This section applies if a person other than a registered professional engineer is found guilty of an offence against part 7 of this Act, whether or not a conviction is recorded.
- (2) The board may, during the relevant period, publish the information about the offence on the board's website on the internet.
- (3) For subsection (2), only the following information may be published—
 - (a) the person's full name and any other identifying particulars;
 - (b) the person's business address or former business address;
 - (c) particulars of the offence committed by the person;

- (d) any other particulars prescribed by regulation.
- (4) If the finding of guilt is quashed on appeal, the board must remove any reference to the offence from the website.
- (5) In this section—
relevant period means the period starting on the date the finding of guilt is made and ending 5 years after that date.

14 Amendment of s 76 (Board to take action as soon as practicable)

Section 76, 'section 75(2)(a)'—

omit, insert—

section 75(2)(a) to (c)

15 Insertion of new s 101A

Part 5, division 7—

insert—

101A Delegation by registrar

- (1) The registrar may delegate the registrar's functions under this Act to—
 - (a) an appropriately qualified employee of the board; or
 - (b) an appropriately qualified public service employee providing services for the board under section 100A.
- (2) In this section—
functions includes powers.

[s 16]

16 Insertion of new s 107A

Part 5, division 9—

insert—

107A Delegation

- (1) The board may delegate the board's functions under this Act to any of the following—
 - (a) a board member;
 - (b) a committee of board members;
 - (c) the registrar;
 - (d) an appropriately qualified employee of the board;
 - (e) an appropriately qualified public service employee providing services for the board under section 100A.
- (2) In this section—

functions includes powers.

17 Amendment of s 115 (Who may carry out professional engineering services)

- (1) Section 115, 'registered professional engineer'—

omit, insert—

practising professional engineer

- (2) Section 115—

insert—

Note—

See also section 6A in relation to the potential application of this section outside Queensland.

18 Amendment of s 122 (Review of particular decisions)

Section 122(2)(g), after '73(2)(c)'—

insert—

or 75(2)(c)

19 Amendment of s 131 (Orders relating to registered professional engineer)

(1) Section 131(3)—

insert—

(f) requiring the registered professional engineer to pay an amount to the board as compensation for all, or a part of, the reasonable costs of any investigation about the matter the subject of the proceeding, including the costs of preparing for the proceeding.

(2) Section 131(4), after ‘(2)’—

insert—

or (3)(f)

(3) Section 131—

insert—

(7) Subsection (3)(f) does not limit the powers of the tribunal under the QCAT Act, chapter 2, part 6, division 6.

20 Amendment of s 139 (Summary proceedings for offences)

Section 139(2)(b), ‘6 months’—

omit, insert—

1 year

21 Insertion of new s 140A

Part 9, division 2—

[s 22]

insert—

140A Costs of investigation

- (1) This section applies if a court finds a person guilty of an offence against this Act.
- (2) The court may make an order requiring the person to pay an amount to the board as compensation for all, or a part of, the reasonable costs of any investigation by the board about the offence, including the costs of preparing for the prosecution.
- (3) This section does not limit the orders for costs the court may make on the finding of guilt.

22 Amendment of s 141 (Performance and carrying out of professional engineering services by particular entities)

Section 141, ‘registered professional engineer’—

omit, insert—

practising professional engineer

23 Insertion of new s 142A

After section 142—

insert—

142A Appropriation of penalties

- (1) A monetary penalty recovered for an offence against this Act must be paid to the board.
- (2) This section applies despite the *Acts Interpretation Act 1954*, section 43.

24 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—

insert—

non-practising professional engineer means a registered professional engineer who does not carry out, and is not responsible for the carrying out of, professional engineering services.

practising professional engineer means a registered professional engineer who carries out, or is responsible for the carrying out of, professional engineering services.

- (2) Schedule 2, definition *prescriptive standard*, paragraphs (a) and (b), ‘construction or production activity’—

omit, insert—

construction, production, operation or maintenance activity

- (3) Schedule 2, definition *prescriptive standard*, examples—

omit, insert—

Example—

AS1684—Timber framing code, published by Standards Australia

- (4) Schedule 2, definition *professional engineering service*, ‘a construction or production activity’—

omit, insert—

a construction, production, operation or maintenance activity

Chapter 3 Amendments of other Acts

Part 1 Amendment of Building Act 1975

25 Act amended

This part amends the *Building Act 1975*.

Note—

See also the amendments in schedule 1.

26 Amendment of s 174 (Notice of particular events to interstate licensing authorities and other entities)

(1) Section 174(3)(c)—

omit.

(2) Section 174(3)(d)—

renumber as section 174(3)(c).

27 Omission of s 205 (Review of QBCC's decision)

Section 205—

omit.

28 Amendment of s 245I (Giving notice of pool immersion incidents)

(1) Section 245I(1)(a), 'PSC'—

omit, insert—

the QBCC commissioner

(2) Section 245I(1)(d)—

omit.

29 Amendment of s 246AT (Access to regulated pools register)

(1) Section 246AT(1), ‘chief executive’, first mention—

omit, insert—

QBCC commissioner

(2) Section 246AT(1)(a)(i) and (ii)—

omit, insert—

(i) QBCC’s head office, while the office is open for business; and

(ii) other places the commissioner considers appropriate; and

(3) Section 246AT(2)—

omit, insert—

(2) The commissioner may make the regulated pools register available for inspection on QBCC’s website.

30 Replacement of s 246BC (Access to code of conduct for pool safety inspectors)

Section 246BC—

omit, insert—

246BC Access to code of conduct for pool safety inspectors

(1) The QBCC commissioner must make the code of conduct for pool safety inspectors available for inspection by anyone while QBCC’s head office is open for business.

(2) The commissioner may make the code of conduct available for inspection on QBCC’s website.

[s 31]

31 Amendment of s 246BW (Notice of particular events to interstate licensing authorities and other entities)

- (1) Section 246BW(2), ‘PSC’—
omit, insert—
the QBCC commissioner
- (2) Section 246BW(3) and (4), ‘PSC’—
omit, insert—
the commissioner
- (3) Section 246BW(3)(b)—
omit.
- (4) Section 246BW(3)(c)—
renumber as section 246BW(3)(b).

32 Replacement of s 246CC (Access to pool safety inspectors register)

Section 246CC—

omit, insert—

246CC Access to pool safety inspectors register

- (1) The QBCC commissioner must make the pool safety inspectors register available for inspection by anyone while QBCC’s head office is open for business.
- (2) The commissioner may make the pool safety inspectors register available for inspection on QBCC’s website.

33 Omission of s 246CJ (Reviews by tribunal of decisions under pt 6)

Section 246CJ—

omit.

33A Omission of s 246CZ (Review of PSC’s decision)

Section 246CZ—

omit.

34 Replacement of ch 8, pt 9 (Pool Safety Council)

Chapter 8, part 9—

omit, insert—

Part 9 Role of QBCC—pool safety

Division 1 QBCC’s functions

246E Pool safety functions performed by QBC board

The functions of the QBC board for pool safety include—

- (a) reporting to the Minister on—
 - (i) any issue relating to pool safety referred to it by the Minister; or
 - (ii) any issue relating to pool safety the board considers the Minister should know about; and
- (b) performing other functions relating to pool safety given to the board under this Act.

246F Pool safety functions performed by QBCC commissioner

The functions of the QBCC commissioner for pool safety include the following—

- (a) under part 6, licensing individuals as pool safety inspectors;

[s 34]

- (b) under part 7, carrying out audits of pool safety inspectors, including their performance of pool safety inspection functions;
- (c) under part 7, investigating written complaints made to the commissioner about pool safety inspectors or former pool safety inspectors and deciding whether grounds for disciplinary action against the inspector are established;
- (d) taking disciplinary action against pool safety inspectors or former pool safety inspectors if grounds for disciplinary action against the inspectors are established;
- (e) giving the QBC board, at least annually, a list of pool safety inspectors and a summary of disciplinary action taken against pool safety inspectors;
- (f) under part 6, division 5, keeping a register of pool safety inspectors;
- (g) approving training courses under section 246DG for individuals proposing to become pool safety inspectors;
- (h) making available for purchase by pool safety inspectors identification numbers for pool safety certificates;
- (i) administering the fund;
- (j) performing any other functions relating to pool safety given to the commissioner under this Act.

Note—

For powers of the QBCC commissioner, see the QBCC Act, section 20J(3).

Division 2 Pool Safety Fund

246G Fund established

The Pool Safety Fund (the *fund*) is established.

246H Purpose of fund

The purpose of the fund is to provide funding to achieve the purposes of this chapter.

246I Payment of amounts into fund

The following amounts must be paid into the fund—

- (a) fees paid to the QBCC commissioner under this chapter;
- (b) amounts payable under section 246CY, 246DC or 246DD;
- (c) penalties paid to the commissioner under section 256(6) or (7);
- (d) other amounts paid to the commissioner under this chapter.

246J Payments from fund

The QBCC commissioner may make payments from the fund only for—

- (a) paying expenses incurred by the commissioner under this chapter; or
- (b) making other payments required or permitted by this chapter to be paid out of the fund.

[s 35]

35 Amendment of s 254 (Approval of forms)

Section 254, after ‘chief executive’—

insert—

or the QBCC commissioner

36 Amendment of s 256 (Prosecution of offences)

(1) Section 256(2)(b) and (g) and (4), ‘commissioner for QBCC’—

omit, insert—

QBCC commissioner

(2) Section 256(2)(d), ‘chief executive’, first mention—

omit, insert—

QBCC commissioner

(3) Section 256(2)(e), ‘chief executive’—

omit, insert—

QBCC commissioner

(4) Section 256(2)(f) and (i), ‘PSC’—

omit, insert—

the QBCC commissioner

(5) Section 256(2)(g) and (h)—

omit, insert—

(g) for an offence against section 246AP(2)—the QBCC commissioner or a local government; or

(h) for an offence against chapter 8, part 4, division 5, subdivision 2, other than section 246ATH(2)—the QBCC commissioner, a local government or a person authorised by a local government; or

(6) Section 256(2)(j)—

omit, insert—

- (j) for an offence against chapter 8, part 6, 7 or 8—the QBCC commissioner; or

(7) Section 256(6)—

omit, insert—

- (6) All penalties recovered under chapter 8 as a result of proceedings for which the QBCC commissioner is the complainant must be paid to the commissioner.
- (7) All penalties recovered as a result of an infringement notice served under the *State Penalties Enforcement Act 1999* for an offence against this Act and for which QBCC is the administering authority for the infringement notice must be paid to the QBCC commissioner.
- (8) In this section—
administering authority, for an infringement notice, see the *State Penalties Enforcement Act 1999*, schedule 2.

37 Amendment of s 257A (Disclosure of particular information)

(1) Section 257A(1), after ‘information’—

insert—

or pool safety information

(2) Section 257A(1), ‘chief executive’—

omit, insert—

QBCC commissioner

(3) Section 257A(2)—

omit.

[s 37]

- (4) Section 257A(3)(b)(i), ‘chief executive’—
omit, insert—
commissioner
- (5) Section 257A(4), ‘The department’s’—
omit, insert—
QBCC’s
- (6) Section 257A(4)(a), ‘or (2)’—
omit.
- (7) Section 257A(5), ‘(4)(a)’—
omit, insert—
(3)(a)
- (8) Section 257A(6)—
omit, insert—
(6) The commissioner may not delegate the commissioner’s power under subsection (1).
- (9) Section 257A(7), definitions *pool immersion information* and *pool safety information*, ‘chief executive’—
omit, insert—
commissioner
- (10) Section 257A(7), definition *pool safety information*, ‘, or exercise of a function under,’—
omit.
- (11) Section 257A(7), definition *relevant person*—
omit, insert—
relevant person means—
 - (a) the commissioner; or
 - (b) an officer or employee of QBCC.
- (12) Section 257A(3) to (7)—

renumber as section 257A(2) to (6).

38 Amendment of s 260 (Evidentiary aids)

(1) Section 260(1), ‘*Queensland Building and Construction Commission Act 1991*’—

omit, insert—

QBCC Act

(2) Section 260(2) and (3)—

omit, insert—

(2) A certificate purporting to be signed by the QBCC commissioner stating any of the following matters is evidence of the matter—

(a) a stated document is a copy of, or an extract from or part of—

(i) a licence; or

(ii) the register; or

(iii) another document kept or made under chapter 6, part 2, 3 or 4; or

(iv) the pool safety inspectors register; or

(v) the regulated pools register; or

(vi) a pool safety certificate; or

(vii) another document kept or made under chapter 8;

(b) on a stated day, or during a stated period, a licence or a licence as a pool safety inspector—

(i) was, or was not, in force; or

(ii) was, or was not, subject to a stated condition; or

[s 39]

(iii) was, or was not, cancelled or suspended.

(3) Section 260(4)—
renumber as section 260(3).

39 Insertion of new ch 11, pt 18

Chapter 11—

insert—

Part 18 Transitional provisions for Professional Engineers and Other Legislation Amendment Act 2014

Division 1 Preliminary

328 Definitions

In this part—

amended Act means this Act as amended by the amending Act.

amending Act means the *Professional Engineers and Other Legislation Amendment Act 2014*.

commencement means commencement of this section.

former council means the PSC established under the unamended Act.

unamended Act means this Act as in force immediately before the commencement.

Division 2 Dissolution of former council and transfer of matters to QBCC

329 Dissolution

- (1) On the commencement—
 - (a) the former council ceases to exist; and
 - (b) the registrar and members of the former council go out of office.
- (2) In this section—

registrar means the person holding the office of registrar under the unamended Act immediately before the commencement.

330 Transfer of former fund

- (1) On the commencement—
 - (a) any liabilities relating to the former fund are taken to be liabilities of the Pool Safety Fund; and
 - (b) any amounts payable to the former fund immediately before the commencement are taken to be payable to the Pool Safety Fund.
- (2) The chief executive must—
 - (a) as soon as practicable after the commencement, do all things necessary to transfer to the Pool Safety Fund all funds held immediately before the commencement in the former fund; and
 - (b) from time to time, transfer to the Pool Safety Fund any funds received that relate to the former fund.

[s 39]

(3) In this section—

former fund means the Pool Safety Fund established under section 246FB as in force from time to time before the commencement.

331 Agreements, assets, liabilities and rights

(1) On the commencement—

- (a) the former council's assets, liabilities and rights vest in QBCC; and
- (b) QBCC is substituted for the former council in all agreements to which the former council was a party immediately before the commencement.

(2) Without limiting subsection (1), any amounts payable to the former council immediately before the commencement are, on the commencement, taken to be payable to QBCC.

(3) In this section—

agreement includes a lease, undertaking and contractual arrangement.

332 Pending applications

(1) This section applies to an application made but not finally decided or withdrawn before the commencement—

- (a) under the unamended Act to the former council; or
- (b) by the former council to the tribunal.

(2) On and from the commencement, the application is taken to have been made—

- (a) if subsection (1)(a) applies—to the QBCC commissioner under the amended Act; or

- (b) if subsection (1)(b) applies—by the commissioner;
when it was made to or by the former council.
- (3) For deciding the application, if the context permits—
 - (a) action taken by the former council before the commencement in relation to the application is action taken by the commissioner under the amended Act; and
 - (b) the commissioner may be satisfied about a matter merely because the former council was satisfied about the matter under the unamended Act.

333 Pending legal proceedings

- (1) A legal proceeding that has been started, or could have been started, by or against the former council before the commencement may be started or continued by or against the QBCC commissioner.
- (2) For section 256(1), the QBCC commissioner is taken to have knowledge of the commission of a past offence—
 - (a) if the offence came to the former council's knowledge; and
 - (b) when the offence came to the former council's knowledge.
- (3) Subsection (4) applies if a prosecution for an offence against the unamended Act is started by a person under section 256(2) of that Act before the commencement.

[s 39]

- (4) On and from the commencement, the commissioner is taken to be the complainant for continuing the prosecution.
- (5) In this section—

legal proceeding means a proceeding before a court or tribunal.

past offence means an offence against this Act for which—

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

334 Ministerial directions to former council

- (1) This section applies to a Ministerial direction given before the commencement to the former council by the Minister under section 246FG of the unamended Act.
- (2) The Ministerial direction is, if the context permits, taken to have been given to QBCC under the QBCC Act, section 9.

335 Records of former council

- (1) On the commencement, a record of the former council becomes a record of QBCC.
- (2) In this section—

record includes a register kept by the former council under the unamended Act.

336 Continuing authorisation of investigators

- (1) This section applies to a person authorised by the former council under section 246CP(1) of the unamended Act as a person to whom a document must be produced.
- (2) On and from the commencement, the person is taken to have been authorised under section 246CP(1) of the amended Act as an investigator by the QBCC commissioner.
- (3) Action taken for an investigation under the unamended Act continues to have effect for the purpose of the amended Act.
- (4) If a notice given by the former council before the commencement under section 246CP of the unamended Act required a document to be produced at a time that is on or after the commencement, the notice is taken to require the document to be produced at that time to the QBCC commissioner.
- (5) Subsection (6) applies if, immediately before the commencement—
 - (a) an identity card had been issued to the person under section 246CQ of the unamended Act; and
 - (b) the card had not expired according to its terms.
- (6) The card is taken to be an identity card issued to the person by the commissioner until the earlier of the following—
 - (a) a new identity card is issued to the person by the commissioner under the amended Act;
 - (b) the card expires according to its terms.

[s 39]

337 Pending complaints and disciplinary matters under ch 8, pt 7

- (1) This section applies if, immediately before the commencement—
 - (a) action is being taken by the former council under chapter 8, part 7, division 1 of the unamended Act in relation to a complaint; or
 - (b) the tribunal is conducting a disciplinary proceeding under chapter 8, part 7, division 3 on an application by the former council.
- (2) On and from the commencement, the complaint or application is taken to have been made to or by the QBCC commissioner under the amended Act.
- (3) For completing the action in relation to the complaint or completing the disciplinary proceeding—
 - (a) steps taken by the former council before the commencement in relation to the complaint or proceeding are steps taken by the commissioner under the amended Act; and
 - (b) the commissioner may be satisfied about a matter merely because the former council was satisfied about the matter under the unamended Act.

338 Other administrative matters relating to former council

- (1) Subsection (2) applies to each of the following things in effect under the unamended Act immediately before the commencement—
 - (a) a direction or notice given by the former council;

Example—

a direction to a pool safety inspector to attend training under section 246CY(4)(c)

- (b) a request, requirement or order made by the former council that has not been fully complied with on the commencement;

Example—

a request of an applicant to give the former council further information or evidence to decide an application

- (c) a certificate or licence issued by the former council;
- (d) a decision of the former council.
- (2) The thing continues in effect as if it had been given, issued or made by QBCC when the thing first took effect.
- (3) A code of conduct for pool safety inspectors made under section 246AZ of the unamended Act and in effect immediately before the commencement continues in effect, on and from the commencement, as if the code of conduct had been made by the QBCC commissioner.

Division 3 Transfer of matters from chief executive to QBCC

339 Pending applications to chief executive

- (1) This section applies to an application made, but not finally decided or withdrawn before the commencement, for approval of a pool safety management plan under the unamended Act, section 245M.

[s 39]

- (2) On and from the commencement, the application is taken to have been made to the QBCC commissioner under the amended Act.
- (3) For deciding the application, if the context permits—
 - (a) action taken by the chief executive before the commencement in relation to the application is action taken by the commissioner under the amended Act; and
 - (b) the commissioner may be satisfied about a matter merely because the chief executive was satisfied about the matter under the unamended Act.

340 Other administrative matters relating to chief executive

Action taken by the chief executive under the unamended Act, chapter 8, part 2, division 6 before the commencement in relation to a pool safety management plan continues to have effect as if it had been taken by the QBCC commissioner when the action was first taken.

Division 4 Provisions about review of particular decisions

341 Pending reviews of relevant decisions

- (1) This section applies if, before the commencement—
 - (a) an application for review of a relevant decision had been made but not decided or otherwise finally dealt with; or
 - (b) the period in which a person was entitled to apply under the unamended Act for review

of a relevant decision had started but not ended.

- (2) The review of the relevant decision may be completed, or started and completed, as if—
 - (a) the unamended Act continued to apply; and
 - (b) the QBCC Act, part 7, division 3 did not apply for review of the decision.
- (3) In this section—

relevant decision means a decision under section 157, 169, 177, 204, 246BJ, 246BP, 246BT, 246BZ or 246CY.

Division 5 Other matters

342 References to former council

In an Act or document, a reference to the former council may, if the context permits, be taken to be a reference to the QBCC commissioner.

343 Effect on legal relationships

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

[s 39]

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

344 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as in force immediately before the commencement to the operation of this Act as in force on or after the commencement; and
 - (b) this part does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day of the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the day of the commencement.

40 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *member*, second occurring, *Ministerial direction*, *PSC* and *registrar*—
omit.
- (2) Schedule 2—
insert—

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

QBC board means the Queensland Building and Construction Board established under the QBCC Act, section 10.

[s 40]

QBCC commissioner means the commissioner of QBCC.

- (3) Schedule 2, definition *fund*, ‘246FB’—
omit, insert—
246G
- (4) Schedule 2, definition *information notice*, paragraph (b)—
omit, insert—
- (b) if the decision is a decision of the QBCC commissioner under section 157, 169, 177, 204, 246BJ, 246BP, 246BT, 246BZ or 246CY, a notice stating the following—
 - (i) the decision;
 - (ii) the reasons for it;
 - (iii) that the person to whom the notice is given may, within 28 days after the person is given the notice—
 - (A) apply to QBCC for internal review of the decision under the QBCC Act, part 7, division 3; or
 - (B) apply to the tribunal for external review of the decision under the QBCC Act, part 7, division 3;
 - (iv) how to apply for review of the decision.
- (5) Schedule 2, definition *QBCC*, ‘*Queensland Building and Construction Commission Act 1991*’—
omit, insert—
QBCC Act

Part 2 Amendment of Plumbing and Drainage Act 2002

41 Act amended

This part amends the *Plumbing and Drainage Act 2002*.

Note—

See also the amendments in schedule 1.

42 Replacement of pt 2, hdg (Plumbing Industry Council)

Part 2, heading—

omit, insert—

Part 2 Role of QBCC—plumbing and drainage

43 Replacement of pt 2, divs 1–7

Part 2, divisions 1 to 7—

omit, insert—

Division 1 QBCC's functions

5 Plumbing and drainage functions performed by QBC board

The functions of the QBC board for plumbing and drainage include—

- (a) conferring on national policy development and implementation for the trade; and
- (b) reporting to the Minister on—
 - (i) any issue relating to plumbing and drainage referred to it by the Minister;
or

[s 44]

- (ii) any issue relating to plumbing and drainage the board considers the Minister should know about; and
- (c) performing any other functions relating to plumbing and drainage given to the board under this Act.

6 Plumbing and drainage functions performed by QBCC commissioner

The functions of the QBCC commissioner for plumbing and drainage include the following—

- (a) administering the licensing system under part 3;
- (b) monitoring the operation of the licensing system and, if necessary, recommending changes;
- (c) promoting acceptable standards of competence for the trade;
- (d) receiving and investigating complaints about work for which a licence is required;
- (e) approving audit programs and auditing licensees to monitor and enforce compliance with part 4;
- (f) performing any other functions relating to plumbing and drainage given to the QBCC commissioner under this Act.

Note—

For powers of the QBCC commissioner, see the QBCC Act, section 20J(3).

44 Replacement of pt 2, div 8, hdg (Council investigators and their powers)

Part 2, division 8, heading—

omit, insert—

Division 2 Investigators appointed by QBCC commissioner

45 Amendment of s 33A (Appointment)

Section 33A(1) and (2)—

omit, insert—

- (1) The QBCC commissioner may appoint a relevant officer as an investigator if the commissioner is satisfied the officer is qualified for appointment because the officer has the necessary expertise or experience.

- (2) In this section—

employing office see the QBCC Act, section 29A.

relevant officer means—

- (a) an employee of the employing office or of another government entity performing work for QBCC under a work performance arrangement; or
- (b) an officer or employee of QBCC.

46 Amendment of s 33TB (Approved audit program)

- (1) Section 33TB(1), from ‘council’ to ‘it’—

omit, insert—

QBCC commissioner may prepare and approve an audit program under which the commissioner

- (2) Section 33TB(2) and (3)—

omit.

- (3) Section 33TB(5)—

[s 47]

omit, insert—

- (5) The commissioner must ensure a copy of the approved audit program is available for inspection at QBCC's head office.

Editor's note—

QBCC's head office is located at 299 Montague Road, West End, Brisbane.

- (4) Section 33TB(4) and (5)—

renumber as section 33TB(2) and (3).

47 Insertion of new pt 2, div 3

Part 2, after section 33W—

insert—

Division 3 Other provisions

33X Fees payable to QBCC

- (1) Fees payable under this Act must be paid to QBCC unless a regulation provides otherwise.
- (2) The following must be applied toward the administration of this Act, including monitoring and enforcing compliance with this Act—
 - (a) revenue received under subsection (1);
 - (b) a monetary penalty recovered for an offence and paid to QBCC.
- (3) Funds that are not immediately required for the administration of this Act may be applied to the objects and purposes appearing to the QBCC commissioner to advance the principles, standards or trade of plumbing and drainage.

48 Omission of pt 7 (Reviews about plumbing and drainage licences)

Part 7—

omit.

49 Replacement of s 135 (Appointments and authority)

Section 135—

omit, insert—

135 Appointments and authority

It is not necessary to prove—

- (a) the appointment of the chief executive, the QBCC commissioner or an inspector; or
- (b) the authority of the chief executive, the commissioner or an inspector to do anything under this Act.

50 Amendment of s 136 (Signatures)

Section 136, from ‘a member’ to ‘the registrar’—

omit, insert—

the QBCC commissioner or an inspector

51 Amendment of s 137 (Evidentiary provisions)

Section 137, ‘, chairperson or registrar’—

omit, insert—

or QBCC commissioner

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

(1) Section 138, heading—

omit, insert—

138 Prosecutions for offences

(2) Section 138—

insert—

- (3) A prosecution may be started only by—
- (a) for any offence regardless of where the offence is alleged to have been committed—
 - (i) a person authorised by the QBCC commissioner (either generally or in a particular case) to start the prosecution; or
 - (ii) the chief executive; or
 - (b) for an offence alleged to have been committed in a local government area for which a local government administers the Standard Plumbing and Drainage Regulation for the area—the local government; or
 - (c) for an offence alleged to have been committed in an area within a local government's area that is under the control of an entity other than the local government and for which the entity administers the Standard Plumbing and Drainage Regulation—the entity.
- (4) The authorisation required by subsection (3) is to be presumed in the absence of evidence to the contrary.
- (5) All penalties recovered as a result of proceedings for which the QBCC commissioner, or a person authorised by the commissioner, is the complainant must be paid to QBCC.
- (6) All penalties recovered as a result of an infringement notice served under the *State Penalties Enforcement Act 1999* for an offence

against this Act and for which QBCC is the administering authority for the infringement notice must be paid to QBCC.

(7) In this section—

administering authority, for an infringement notice, see the *State Penalties Enforcement Act 1999*, schedule 2.

53 Amendment of s 141 (Approval of forms)

Section 141, after ‘chief executive’—

insert—

or the QBCC commissioner

54 Replacement of s 144 (Chief executive may publish information)

Section 144—

omit, insert—

144 Chief executive may publish information

- (1) The chief executive may publish information about plumbing and drainage work including, for example, information about legislation and technical standards for the work.
- (2) For subsection (1), the chief executive may publish the information in a way the chief executive considers appropriate, including, for example, on the internet.

55 Amendment of s 148 (Council members under the repealed Act continue in office)

Section 148—

insert—

[s 56]

Note—

The council was disestablished under the *Professional Engineers and Other Legislation Amendment Act 2014*.

56 Amendment of s 179 (Registrar and officers of former board)

Section 179—

insert—

Note—

The council and the office of registrar were disestablished under the *Professional Engineers and Other Legislation Amendment Act 2014*.

57 Insertion of new pt 10, div 11

Part 10—

insert—

Division 11 Transitional provisions for Professional Engineers and Other Legislation Amendment Act 2014

Subdivision 1 Preliminary

191 Definitions for div 11

In this division—

amended Act means this Act as amended by the amending Act.

amending Act means the *Professional Engineers and Other Legislation Amendment Act 2014*.

commencement means the commencement of this section.

former council means the council established under the unamended Act.

unamended Act means this Act as in force immediately before the commencement.

Subdivision 2 Dissolution of former council

192 Dissolution

- (1) On the commencement—
 - (a) the former council ceases to exist; and
 - (b) the registrar and members of the former council go out of office.
- (2) In this section—

registrar means the person holding the office of registrar under the unamended Act immediately before the commencement.

Subdivision 3 Transfer of matters to QBCC

193 Agreements, assets, liabilities and rights

- (1) On the commencement—
 - (a) the former council's assets, liabilities and rights vest in QBCC; and
 - (b) QBCC is substituted for the former council in all agreements to which the former council was a party immediately before the commencement.

[s 57]

- (2) Without limiting subsection (1), any amounts payable to the former council immediately before the commencement are, on the commencement, taken to be payable to QBCC.
- (3) In this section—
agreement includes a lease, undertaking and contractual arrangement.

194 Pending applications

- (1) This section applies to an application made but not finally decided or withdrawn before the commencement—
 - (a) under the unamended Act to the former council; or
 - (b) by the former council to QCAT.
- (2) On and from the commencement, the application is taken to have been made—
 - (a) if subsection (1)(a) applies—to the QBCC commissioner under the amended Act; or
 - (b) if subsection (1)(b) applies—by the commissioner to QCAT;when it was made to or by the former council.
- (3) For deciding the application, if the context permits—
 - (a) action taken by the former council before the commencement in relation to the application is action taken by the commissioner; and
 - (b) the commissioner may be satisfied about a matter merely because the former council was satisfied about the matter under the relevant provision of the unamended Act.

195 Pending legal proceedings

- (1) A legal proceeding that has been started, or could have been started, by or against the former council before the commencement may be started or continued by or against the QBCC commissioner.
- (2) In this section—
legal proceeding means a proceeding before a court or tribunal.

196 Ministerial directions to former council

- (1) This section applies to a Ministerial direction given before the commencement to the former council under section 28 of the unamended Act.
- (2) The Ministerial direction is, if the context permits, taken to have been given to QBCC under the QBCC Act, section 9.

197 Records of former council

- (1) On the commencement, a record of the former council becomes a record of QBCC.
- (2) In this section—
record includes a register kept by the former council under the unamended Act.

198 Continuing appointment of investigators

- (1) This section applies to a person appointed as an investigator under section 33A of the unamended Act.
- (2) On and from the commencement, the person is taken to have been appointed as an investigator by the QBCC commissioner.

[s 57]

- (3) Action taken for an investigation under the unamended Act continues to have effect for the purpose of the amended Act.
- (4) Subsection (5) applies if, immediately before the commencement—
 - (a) an identity card had been issued to the person under section 33D of the unamended Act; and
 - (b) the card had not expired according to its terms.
- (5) The card is taken to be an identity card issued to the person by the commissioner until the earlier of the following—
 - (a) a new identity card is issued to the person by the commissioner under the amended Act;
 - (b) the card expires according to its terms.

199 Pending disciplinary matters under pt 3, div 7

- (1) This section applies if, before the commencement—
 - (a) the former council had given a licensee a show cause notice under section 66 of the unamended Act and had not yet made a decision under section 69 of that Act; or
 - (b) a matter was referred to QCAT by the former council under section 70A of the unamended Act and the matter had not been finally decided or withdrawn.
- (2) On and from the commencement, the show cause notice or referral of the matter is taken to have been given or made by the QBCC commissioner under the amended Act.
- (3) For completing the matter—

- (a) steps taken by the former council before the commencement in relation to the matter are steps taken by the commissioner under the amended Act; and
- (b) the commissioner may be satisfied about a matter merely because the former council was satisfied about the matter under the unamended Act.

200 Other administrative matters

- (1) Subsection (2) applies to each of the following things in effect under the unamended Act immediately before the commencement—
 - (a) a direction or notice given by the chief executive or former council;
Example—
 - a show cause notice issued by the former council under section 66 of the unamended Act
 - (b) a request, requirement or order made by the chief executive or former council that has not been fully complied with on the commencement;
Example—
 - a request of an applicant to provide the former council with further information or evidence to decide an application
 - (c) a certificate or licence issued by the former council;
 - (d) a decision of the former council;
 - (e) an audit program prepared and approved by the former council under section 33TB.
- (2) The thing continues in effect as if it had been given, issued, made, prepared or approved by the

[s 57]

QBCC commissioner when the thing first took effect.

Subdivision 4 Review of particular decisions

201 Pending reviews of particular decisions

- (1) This section applies if, before the commencement—
 - (a) an application for review of a relevant decision had been made but not decided or otherwise finally dealt with; or
 - (b) the period in which a person was entitled to apply under the unamended Act for review of a relevant decision had started but not ended.
- (2) The review of the relevant decision may be completed, or started and completed, as if—
 - (a) the unamended Act continued to apply; and
 - (b) the QBCC Act, part 7, division 3 did not apply for review of the decision.
- (3) In this section—

relevant decision means a decision under section 40, 59 or 68.

Subdivision 5 Other matters

202 References to former council

In an Act or document, a reference to the former council may, if the context permits, be taken to be a reference to the QBCC commissioner.

203 Effect on legal relationships

- (1) Nothing done under the amendments to this Act under the amending Act (the *Act amendments*)—
 - (a) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or
 - (b) except as provided for under the Act amendments, is taken to fulfil a condition that—
 - (i) terminates, or allows a person to terminate, an instrument or obligation; or
 - (ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or
 - (iii) allows a person to avoid or enforce an obligation or liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or
 - (iv) requires any money to be paid before its stated maturity.
- (2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under the Act amendments, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- (3) If, apart from this Act, giving notice to a person would be necessary to do something under the Act amendments, the notice is taken to have been given.

[s 58]

- (4) In this section—
relevant entity means—
- (a) the State or an employee or agent of the State; or
 - (b) QBCC, or a member or relevant officer of QBCC.

204 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as in force immediately before the commencement to the operation of this Act on or after the commencement; and
 - (b) this division does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day of the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the day of the commencement.

58 Amendment of sch (Dictionary)

- (1) Schedule, definitions *chairperson*, *council*, *deputy chairperson*, *deputy member*, *member*, *original decision* and *registrar*—
omit.

(2) Schedule—

insert—

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

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

QBC board means the Queensland Building and Construction Board established under the QBCC Act, section 10.

QBCC commissioner means the commissioner of QBCC.

(3) Schedule, definition *approved form*, after ‘chief executive’—

insert—

or the QBCC commissioner

(4) Schedule, definition *information notice*, paragraph (a), from ‘of the council’ to ‘for the decision, and’—

omit, insert—

of the QBCC commissioner under part 3, a notice

(5) Schedule, definition *information notice*, paragraph (a)(i) to (iv)—

renumber as paragraph (a)(v) to (viii).

(6) Schedule, definition *information notice*, paragraph (a)—

insert—

- (i) the decision;
- (ii) the reasons for it;
- (iii) that the person to whom the notice is given may, within 28 days after the person is given the notice—

[s 59]

- (A) apply to QBCC for internal review of the decision under the QBCC Act, part 7, division 3; or
 - (B) apply to QCAT for external review of the decision under the QBCC Act, part 7, division 3;
- (iv) how to apply for review of the decision;

Part 3

Amendment of Queensland Building and Construction Commission Act 1991

59 Act amended

This part amends the *Queensland Building and Construction Commission Act 1991*.

60 Amendment of s 56AC (Excluded individuals and excluded companies)

- (1) Section 56AC(5) and (6)—

omit, insert—

- (5) An excluded individual for a relevant event does not also become an excluded individual for another relevant event if the commission is satisfied that both events are consequences flowing from what is, in substance, the one set of circumstances.

- (2) Section 56AC(7)—

renumber as section 56AC(6).

61 Amendment of s 56AD (Becoming a permitted individual)

(1) Section 56AD(8), from ‘application, that’—

omit, insert—

application, that—

- (a) section 56AC(5) applies to the individual for the relevant event; or
- (b) the individual took all reasonable steps to avoid the coming into existence of the circumstances that resulted in the happening of the relevant event.

(2) Section 56AD(8A), ‘In’—

omit, insert—

For subsection (8)(b), in

62 Insertion of new pt 7, div 3, sdiv 1

Part 7, division 3, before section 86—

insert—

Subdivision 1 Internal review

85A Definitions for sdiv 1

In this subdivision—

internal review application means an application for review under this subdivision.

internal review decision see section 86C(1).

reviewable decision see section 86.

63 Amendment of s 86 (Reviewable decisions)

(1) Section 86(1), from ‘The’ to ‘decisions of the commission’—

omit, insert—

[s 64]

Each of the following decisions of the commission under this Act is a **reviewable decision**

(2) Section 86(2) to (4)—

omit, insert—

(2) Also, a decision of the commissioner under any of the following provisions is a **reviewable decision**—

(a) the *Building Act 1975*, section 157, 169, 177, 204, 246BJ, 246BP, 246BT, 246BZ or 246CY;

(b) the *Plumbing and Drainage Act 2002*, section 40, 59 or 68.

(3) Further, a decision of the commissioner relating to the accumulation of demerit points by a pool safety inspector under the *Building Act 1975* is a **reviewable decision**.

64 Insertion of new ss 86A-86F

After section 86—

insert—

86A Who may apply for internal review

(1) A person who is given, or is entitled to be given, notice of a reviewable decision may apply to the commission to have the decision reviewed.

(2) However, subsection (1) does not apply if the person has applied to the tribunal for a review of the reviewable decision under subdivision 2.

(3) Also, if—

(a) the person applies for an internal review of the reviewable decision; and

- (b) before the application is decided, the person applies to the tribunal for review of the reviewable decision under subdivision 2;
- the application for internal review of the decision lapses.

86B Requirements for making application

An internal review application must—

- (a) be made within the following period—
 - (i) 28 days after the applicant is given notice of the reviewable decision to which the application relates or otherwise becomes aware of the decision; or
 - (ii) a longer period allowed by the commission, whether before or after the end of the 28-day period mentioned in subparagraph (i); and
- (b) be lodged at an office of the commission.

86C Internal review decision

- (1) If an internal review application is made under section 86B, the commission must, as soon as practicable but within the required period, make a new decision (the *internal review decision*) as if the reviewable decision the subject of the application had not been made.
- (2) For subsection (1), the *required period* is—
 - (a) 28 days after the internal review application is made; or
 - (b) a longer period agreed to by the applicant.

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- (3) However, if the commission does not decide the application within the required period, the commission is taken to have made an internal review decision at the end of the required period that is the same as the reviewable decision.
- (4) The application must not be dealt with by—
 - (a) the person who made the reviewable decision; or
 - (b) a person in a less senior office than the person who made the reviewable decision.
- (5) Subsection (4)—
 - (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
 - (b) does not apply to a reviewable decision made by the commissioner personally.

86D Notice of internal review decision

- (1) As soon as practicable after an internal review decision is made, or is taken to have been made, under section 86C, the commission must give the applicant and any other person affected by the decision written notice (the *review notice*) of the decision.
- (2) The review notice must state—
 - (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that the person may, if dissatisfied with the internal review decision, within 28 days after the person is given the notice apply to the tribunal for external review of the decision under subdivision 2; and
 - (d) how to apply for review of the decision.

Subdivision 2 External review

86E Definition for sdiv 2

In this subdivision—

reviewable decision means—

- (a) a reviewable decision within the meaning of subdivision 1, other than a decision that was the subject of an internal review under subdivision 1; or
- (b) an internal review decision within the meaning of subdivision 1.

86F Decisions that are not reviewable decisions

- (1) The following decisions of the commission under this Act are not reviewable decisions under this subdivision—
 - (a) a decision to recover an amount under section 71;
 - (b) a decision to direct rectification or completion of tribunal work by a building contractor and any finding by the commission in arriving at the decision if—
 - (i) 28 days have elapsed from the date the direction to rectify or complete was served on the building contractor and the contractor has not, within that time, applied to the tribunal for a review of the decision; and
 - (ii) the commission has—
 - (A) started a disciplinary proceeding against the building contractor by an application under division 4; or

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- (B) served a notice on the building contractor advising a claim under the statutory insurance scheme has been approved in relation to tribunal work stated in the direction; or
 - (C) started a prosecution, or served an infringement notice, for an offence against section 72(10);
- (c) a decision about the scope of works to be undertaken under the statutory insurance scheme to rectify or complete tribunal work if 28 days have elapsed since the decision was served on the building contractor and the contractor has not, within that time, applied to the tribunal for a review of the decision.
- (2) Also, a decision of the commissioner to issue an infringement notice for an offence against this Act, the *Building Act 1975* or the *Plumbing and Drainage Act 2002* is not a reviewable decision under this subdivision.

65 Insertion of new s 87AA

Part 7, division 3, subdivision 2—

insert—

87AA Decision of tribunal on review of particular reviewable decisions

- (1) Subsection (2) applies if—
 - (a) an application is made to the tribunal for a review of a reviewable decision mentioned in section 86(1)(n); and
 - (b) the tribunal is, after reviewing the matters mentioned in section 67AH(1)(a) and (b),

-
- 67AI(1)(a) and (b), 67AL(1)(a) and (b) or 67AM(1)(a) and (b), satisfied that an individual is a banned individual.
- (2) The tribunal may not vary the term of ban applying to the individual if it has been correctly calculated under section 67AO.
- (3) Subsection (4) applies if—
- (a) an application is made to the tribunal for a review of a reviewable decision mentioned in section 86(1)(p); and
- (b) the tribunal is, after reviewing the matters mentioned in section 67AZF(1), 67AZG(1), 67AZJ(1)(a) and (b) or 67AZK(1)(a) and (b), satisfied that an individual is a disqualified individual.
- (4) The tribunal may not vary the term of disqualification applying to the individual if it has been correctly calculated under section 67AZM.

66 Insertion of new pt 9A

After section 108—

insert—

**Part 9A Transfer of particular
assets, liabilities and
employees**

108AA Relevant entity

- (1) Each of the following entities is a *relevant entity*—
- (a) the commission;

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- (b) the department administering this Act;
 - (c) an entity prescribed by regulation for this section.
- (2) However, the regulation may only prescribe—
- (a) a department; or
 - (b) an entity established under an Act; or
 - (c) an entity ultimately owned by a relevant entity or the State.

108AB Transfer of assets, liabilities etc. to relevant entity

- (1) A regulation (a *transfer regulation*) may make provision about all or any of the following for a relevant entity—
- (a) the transfer of an asset or liability of the relevant entity to another relevant entity;
 - (b) the consideration for an asset or liability transferred under paragraph (a);
 - (c) whether and, if so, the extent to which the relevant entity is the successor in law of another relevant entity;
 - (d) a legal proceeding that is being, or may be, taken by or against the relevant entity to be continued or taken by or against another relevant entity;
 - (e) the transfer of an employee of the relevant entity to another relevant entity;
 - (f) the employees of the relevant entity transferred under paragraph (e), and their terms and conditions of employment, rights and entitlements;

- (g) the application of a particular industrial instrument to—
 - (i) the employees mentioned in paragraph (f); or
 - (ii) the relevant entity to which the employees mentioned in paragraph (f) are transferred; or
 - (iii) other employees of the relevant entity mentioned in subparagraph (ii).
- (2) A transfer regulation—
 - (a) may transfer an asset attached to land without transferring the land, even though the asset would otherwise be a part of the land; and
 - (b) has effect despite any other law or instrument; and
 - (c) may provide for a matter by reference to a document held by an entity.
- (3) To remove any doubt it is declared that a transfer regulation applies despite—
 - (a) the *Industrial Relations Act 1999*; and
 - (b) any industrial instrument.
- (4) A transfer regulation may make provision about an accounting treatment in relation to a matter mentioned in subsection (1).

108AC Rights of transferred employees etc.

- (1) This section applies if there is a transfer of an employee (a *transferred employee*) from a relevant entity (the *transferor*) to another relevant entity (the *transferee*) under a transfer regulation made under section 108AB.

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- (2) The transfer does not—
- (a) reduce the transferred employee's total remuneration; or
 - (b) prejudice the transferred employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (c) affect a right or entitlement of the transferred employee to be employed as a public service employee accrued—
 - (i) immediately before the commencement of this section; or
 - (ii) before, on or after the commencement of this section; or
 - (iii) before, on or after the commencement of this section under the *Public Service Act 2008*, section 123; or
 - (d) interrupt continuity of service, except that the transferred employee is not entitled to claim the benefit of a right or entitlement more than once for the same period of service; or
 - (e) constitute a termination, retrenchment or redundancy of the transferred employee's employment by the transferor; or
 - (f) entitle the transferred employee to a payment or other benefit merely because he or she is no longer employed by the transferor; or
 - (g) require the transferor to make any payment to the transferred employee for the transferred employee's accrued rights to recreation, sick, long service or other leave

irrespective of any arrangement between the transferor and the transferred employee.

- (3) The transfer has effect despite any other contract, law or instrument.
- (4) If the transfer regulation provides for the application of a particular industrial instrument to an employee of the transferee (other than a transferred employee), the provision does not reduce the employee's total remuneration.

67 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—

insert—

internal review application, for part 7, division 3, subdivision 1, see section 85A.

internal review decision, for part 7, division 3, subdivision 1, see section 86C(1).

relevant entity, for part 9A, see section 108AA(1).

reviewable decision—

- (a) for part 7, division 3, subdivision 1, see section 86; or
- (b) for part 7, division 3, subdivision 2, see section 86E.

- (2) Schedule 2, definition *excluded company*, '56AC(7)'—

omit, insert—

56AC(6)

[s 68]

Part 4 **Minor and consequential amendments**

68 **Acts amended by sch 1**

Schedule 1 amends the Acts mentioned in it.

Schedule 1 Minor and consequential amendments

section 68

Building Act 1975

1 **Section 158(2)—**

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

2 **Section 164—**

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

3 **Section 170(2)—**

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

4 **Section 178(2)—**

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

5 Section 204(2)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

6 Section 204(5)(a)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

7 Section 246BJ(5)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

8 Section 246BK(2)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

9 Section 246BP(4)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

10 Section 246BQ(2)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

11 Section 246BT(4)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

12 Section 246BU(2)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

13 Section 246CA(2)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

14 Section 246CY(2)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

15 Section 246CY(6)(a)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

16 Replacement of references in relation to dissolution of PSC

The provisions mentioned in column 1 are amended by omitting the words mentioned in column 2 and inserting the words mentioned in column 3—

column 1	column 2	column 3
provisions amended	words omitted	words inserted
section 239, heading	chief executive	QBCC commissioner
section 239(1) and (2)(a)	chief executive	QBCC commissioner
section 243, heading	chief executive	QBCC commissioner
section 243(1)	chief executive	QBCC commissioner
section 243(2)(a)	chief executive	commissioner
section 245F, heading	chief executive	QBCC commissioner
section 245F(1)	chief executive	QBCC commissioner
section 245F(2) and (3)(a)	chief executive	commissioner
section 245M(1)	chief executive	QBCC commissioner
section 245N, first mention	chief executive	QBCC commissioner
section 245N, second mention	chief executive	commissioner
section 245O(1)	chief executive	QBCC commissioner
section 245O(2) to (4)	chief executive	commissioner
section 245Q(1)	chief executive	QBCC commissioner
section 245Q(2), (3), (5) and (6)	chief executive	commissioner
section 245R(2)	chief executive	QBCC commissioner
section 245S(1)	chief executive	QBCC commissioner
section 245UA, heading	Chief executive	QBCC commissioner

column 1	column 2	column 3
section 245UA(1)	chief executive	QBCC commissioner
section 245UA(2)	chief executive	commissioner
section 245UA(2)	chief executive's	commissioner's
section 246AC(6)(a), first mention	PSC	the QBCC commissioner
section 246AC(6)(a), second mention	PSC	the commissioner
section 246AC(6)(b)	PSC	the commissioner
section 246AF(3)	chief executive	QBCC commissioner
section 246AF(4)	chief executive	commissioner
section 246AIB, heading	chief executive	QBCC commissioner
section 246AIB(1), first mention	chief executive	QBCC commissioner
section 246AIB(1), second mention	chief executive	commissioner
section 246AJ(1)	PSC	The QBCC commissioner
section 246AM(2), first mention	chief executive	QBCC commissioner
section 246AM(2), second mention	chief executive	commissioner
section 246AP(2), first mention	chief executive	QBCC commissioner
section 246AP(2), second mention	chief executive	commissioner
section 246AQ(1), first mention	chief executive	QBCC commissioner

Schedule 1

column 1	column 2	column 3
section 246AQ(1), second mention	chief executive	commissioner
section 246AR(2), first mention	chief executive	QBCC commissioner
section 246AR(2), second mention	chief executive	commissioner
section 246AS(1)	chief executive	QBCC commissioner
section 246AS(2)	chief executive	commissioner
section 246ATF(b)(ii)	chief executive	QBCC commissioner
section 246ATF(c)(iii)	chief executive	commissioner
section 246ATI(2)(c)	chief executive	QBCC commissioner
section 246AZ(1)	chief executive	QBCC commissioner
section 246BH(1)	PSC	the QBCC commissioner
section 246BH(2)	PSC	the commissioner
section 246BH(2)(b)	chief executive	commissioner
section 246BI(1)(a)	PSC	the QBCC commissioner
section 246BI(1)(c)(v)	chief executive	commissioner
section 246BJ(1)	PSC	the QBCC commissioner
section 246BJ(2) and (5)	PSC	the commissioner
section 246BJ(3)	PSC	The commissioner
section 246BJ(4)	PSC is	The commissioner is
section 246BJ(4)	if PSC	if the commissioner
section 246BK(1)	PSC	the QBCC commissioner

column 1	column 2	column 3
section 246BK(2)	PSC	the commissioner
section 246BM	PSC	The QBCC commissioner
section 246BN	PSC	the QBCC commissioner
section 246BP(1)	PSC	the QBCC commissioner
section 246BP(2), (3) second mention and (4)	PSC	the commissioner
section 246BP(3) first mention	PSC	The commissioner
section 246BQ(1)	PSC	the QBCC commissioner
section 246BQ(2)	PSC	the commissioner
section 246BR	PSC	the QBCC commissioner
section 246BT(1)	PSC	the QBCC commissioner
section 246BT(2) and (4)	PSC	the commissioner
section 246BT(3)	PSC	The commissioner
section 246BU(1)	PSC	the QBCC commissioner
section 246BU(2)	PSC	the commissioner
chapter 8, part 6, division 4, subdivision 1, heading	PSC's	QBCC commissioner's
section 246BV(1)	PSC	The QBCC commissioner
section 246BV(2) and (3) and note	PSC	the commissioner

Schedule 1

column 1	column 2	column 3
section 246BX(1) and 246BY(1)	PSC	the QBCC commissioner
section 246BY(2)	PSC	The commissioner
section 246BZ(1)	PSC	the QBCC commissioner
section 246BZ(2)	PSC	the commissioner
section 246CA(1)	PSC	the QBCC commissioner
section 246CA(2)	PSC	the commissioner
section 246CB(1)	PSC	The QBCC commissioner
section 246CB(2) and (3)	PSC	the commissioner
section 246CD(1)	PSC	the QBCC commissioner
section 246CD(2) and (3)	PSC	the commissioner
section 246CE(1)	PSC	the QBCC commissioner
section 246CE(2)	PSC	the commissioner
section 246CF(2)	PSC	the QBCC commissioner
section 246CG(1)	PSC	the QBCC commissioner
section 246CG(2)	PSC	The commissioner
section 246CH, heading	PSC	QBCC commissioner
section 246CH(2), first mention	PSC	The QBCC commissioner
section 246CH(2), second mention	PSC	the commissioner

column 1	column 2	column 3
section 246CI	PSC	the QBCC commissioner
section 246CK(1)	PSC	the QBCC commissioner
section 246CK(3), first mention, and (4) to (6)	PSC	The commissioner
section 246CK(3), second mention	PSC	the commissioner
section 246CK(6)	PSC's	the commissioner's
section 246CL(1), first mention	PSC	the QBCC commissioner
section 246CL(1)(b) and (3)	PSC	the commissioner
section 246CM, heading	PSC	QBCC commissioner
section 246CM(1), first mention	PSC	the QBCC commissioner
section 246CM(1), second mention, (1)(a) and (1)(e), and (2), second mention	PSC	the commissioner
section 246CM(2), first mention	PSC	The commissioner
section 246CN(2)(d)	PSC	the QBCC commissioner
section 246CN(3)	PSC	the commissioner
section 246CO(1)(a)	PSC	the QBCC commissioner
section 246CO(1)(b) and (4)	PSC	the commissioner
section 246CO(2) and (3)	PSC	The commissioner

Schedule 1

column 1	column 2	column 3
section 246CP, heading	PSC	QBCC commissioner
section 246CP(1), first mention	PSC	the QBCC commissioner
section 246CP(1), second and third mentions	PSC	the commissioner
section 246CQ(1)	PSC	The QBCC commissioner
section 246CV(1)	PSC	the QBCC commissioner
section 246CV(2)(b)	PSC	the commissioner
section 246CW(1) and 246CX(1)	PSC	the QBCC commissioner
section 246CX(2)	PSC	the commissioner
section 246CY(1)	PSC	the QBCC commissioner
section 246CY(2) and (6)	PSC	The commissioner
section 246CY(3) to (5) and (7)	PSC	the commissioner
section 246DA(1) and 246DC(2)(f)	PSC	the QBCC commissioner
section 246DC(2)(i)	PSC	the commissioner
section 246DD(2)(a)	PSC	the QBCC commissioner
section 246DD(2)(b) and (c)	PSC	the commissioner
section 246DG, heading	PSC	QBCC commissioner
section 246DG(1)	PSC	The QBCC commissioner

column 1	column 2	column 3
section 246DG(2)	PSC	The commissioner
section 246DG(2)	the department's	QBCC's
section 260(1)	<i>Queensland Building and Construction Commission Act 1991</i>	QBCC Act
section 260(2)	commissioner for QBCC	QBCC commissioner
schedule 2, definition <i>approved training course</i>	PSC	the QBCC commissioner
schedule 2, definition <i>decision period</i> , paragraph (b), first mention	PSC	the QBCC commissioner
schedule 2, definition <i>decision period</i> , paragraph (b)(ii)	PSC	the commissioner
schedule 2, definition <i>ground for disciplinary action</i> , paragraph (e)	PSC	the QBCC commissioner
schedule 2, definition <i>pool chief executive safety inspector test</i>		the QBCC commissioner

Plumbing and Drainage Act 2002

1 Section 42(2)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

2 Section 59(4)(b)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

3 Section 69(2)—

insert—

Note—

For reviews of the decision, see the QBCC Act, part 7, division 3.

4 Replacement of references in relation to dissolution of council

The provisions mentioned in column 1 are amended by omitting the words mentioned in column 2 and inserting the words mentioned in column 3—

column 1	column 2	column 3
provisions amended	words omitted	words inserted
section 33C(3), definition <i>signed notice</i>	chief executive	QBCC commissioner
section 33D(1)	chief executive	QBCC commissioner
section 33G	chief executive	QBCC commissioner
section 33H	chief executive	QBCC commissioner
part 2, division 8, subdivision 3A, heading	Council audit	Audit
section 33TA, definition <i>approved audit program</i>	council	QBCC commissioner
section 33TC(1)	chief executive	QBCC commissioner
section 33TC(1) and (4)	the department's	QBCC's

column 1	column 2	column 3
section 33TC(4)	chief executive	commissioner
section 33TD(1)(b), first mention	council	QBCC commissioner
section 33TD(1)(b), second mention, (2) and (3)	council	commissioner
section 33TF(1)(a)	the council	the QBCC commissioner
section 33TF(1)(b) and (2)	the council	the commissioner
section 33V	the State	QBCC
section 33W, heading	Council's obligation	Obligation
section 33W(1), first mention	council	QBCC commissioner
section 33W(1)(b)(ii) and (2)	council	commissioner
section 34(1)	council	QBCC commissioner
section 34(2)	council	commissioner
sections 36 and 37	council	QBCC commissioner
section 38(1), first mention	council	QBCC commissioner
section 38(1)(b), (2) and (5)	council	commissioner
section 39(1)	council	QBCC commissioner
section 39(2) to (4) and (5), definition <i>final consideration day</i>	council	commissioner
section 40(1)	council	QBCC commissioner
section 40(2)	council	commissioner

Schedule 1

column 1	column 2	column 3
section 41(1), first mention	council	QBCC commissioner
section 41(1), second mention, and (2)	council	commissioner
section 42(1)	council	QBCC commissioner
section 42(2) and (3)	council	commissioner
section 43(1), first mention	council	QBCC commissioner
section 43(1), second mention, (2) and (3)	council	commissioner
section 46, heading	Council	QBCC commissioner
section 46(1)(b)	council	QBCC commissioner
section 46(1)(d) and (2)	council	commissioner
sections 47 and 48(1)	council	QBCC commissioner
sections 48(2) and (3)	council	commissioner
section 50(1)	council	QBCC commissioner
section 50(3)	council	commissioner
sections 51(1), 52(1), 53 and 55(1)	council	QBCC commissioner
section 55(5)	council	commissioner
sections 56(1)	council	QBCC commissioner
section 56(2)	council	commissioner
section 57, heading	Council's	QBCC commissioner's
section 57(1), first mention	council	QBCC commissioner
section 57(1)(b), (2) and (3)	council	commissioner

column 1	column 2	column 3
section 58(3)	council	QBCC commissioner
section 58(5)	council	commissioner
sections 59(1)	council	QBCC commissioner
sections 59(2) to (5)	council	commissioner
sections 60(1)	council	QBCC commissioner
sections 60(2) and (3)	council	commissioner
section 61, heading and (1), first mention	council	QBCC commissioner
section 61(1), second mention, (2) and (3)	council	commissioner
section 62, heading and (1), first mention	council	QBCC commissioner
section 62(1), second mention and (2) and (3)	council	commissioner
section 63(2)	council	QBCC commissioner
section 63(3)	council	commissioner
section 64, first mention	council	QBCC commissioner
section 64, second mention and (g)	council	commissioner
part 3, division 7, subdivision 2, heading	council	QBCC commissioner
section 65, heading and (1), first mention	council	QBCC commissioner
section 65(1)(e), (2) and (3)	council	commissioner
section 66(1), first mention	council	QBCC commissioner

Schedule 1

column 1	column 2	column 3
section 66(1), second mention	council	commissioner
section 67(1)	council	QBCC commissioner
sections 67(2) and (3)	council	commissioner
section 68, heading	Council	QBCC commissioner
section 68	council	QBCC commissioner
section 69, heading	Council	QBCC commissioner
section 69(1), first mention	council	QBCC commissioner
section 69(1), second mention and (2)	council	commissioner
section 70	council	QBCC commissioner
section 70A, heading	Council	QBCC commissioner
section 70A(1)	council	QBCC commissioner
section 70A(2)	council	commissioner
section 70C	council	QBCC commissioner
section 71, heading and (1), first mention	council	QBCC commissioner
section 71(1), second mention and (2)	council	commissioner
section 72(1)	council	QBCC commissioner
section 72(2) and (3)	council	commissioner
section 73(1)	council	QBCC commissioner
section 73(2) and (4)	council	commissioner
sections 74 and 75(2)	council	QBCC commissioner
section 75(3)	council	commissioner

column 1	column 2	column 3
section 76(2)	council	QBCC commissioner
section 76(3) to (5)	council	commissioner
section 77	council	QBCC commissioner
section 87(3)	council	QBCC commissioner
section 87(9), (10) and (12)	council	commissioner
section 87A(1)	chief executive	QBCC commissioner
section 87A(2)	council	commissioner
section 87B(1)	council	QBCC commissioner
section 87B(2)	council	commissioner
section 107(2)(a)	council	QBCC commissioner
section 107(2)(b)	council	commissioner
sections 128RA and 128S	council	QBCC commissioner
schedule, definition <i>foreign licensing authority</i> , paragraph (b)	council's functions	QBCC commissioner's functions relating to plumbing and drainage
schedule, definition <i>interstate or the New Zealand licensing authority</i>	council's functions	QBCC commissioner's functions relating to plumbing and drainage
schedule, definition <i>review period</i>	council	QBCC commissioner

5 Amendment of cross references

The following provisions are amended by omitting 'division 8' and inserting 'division 2'—

- schedule, definition *approved audit program*
- schedule, definition *employed licensee*

Schedule 1

- schedule, definition *relevant person*.

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