

EXPLANATORY MEMORANDUM

BUILDING SERVICES (REGISTRATION)

BILL 2010

INTRODUCTION

The *Building Services (Registration) Bill 2010* provides a flexible legislative framework for the registration and regulation of building service providers. Initially, it will cover builders, painters and building surveyors, as well as the approval of owner-builders. Flexibility is needed to support streamlined building approvals under the *Building Bill 2010* and the current circumstances of the building industry in Western Australia.

Builders, painters and building surveyors are currently registered under three separate statutes. The Bill, along with the *Building Services (Complaint Resolution and Administration) Bill 2010*, will replace those statutes with a single, modern and streamlined system of registration and approval for persons working in the building industry.

The Bill will abolish the Builders' Registration Board, the Painters' Registration Board, the Building Surveyors Qualifications Committee and the Building Disputes Tribunal. This is in accordance with the Government's policy of reducing the number of government agencies, statutory boards and committees.

The principal regulator of building service providers and building standards in Western Australia will be a statutory officer known as the Building Commissioner, who will be appointed to that position under the *Building Services (Complaint Resolution and Administration) Bill*. The Building Commissioner will operate within the Building Commission, which was established as a division of the Department of Commerce in July 2009.

A single Building Services Board will be established under Part 7 of the Bill, which will be comprised of a chairperson, two consumer representatives and two representatives from each building service occupation regulated by the Bill. The Board's primary responsibilities will be to:

- make decisions on applications for registration as a building service provider, as well as the approval of owner-builders;
- make decisions on whether to take disciplinary action before the State Administrative Tribunal against building service providers;
- hold hearings into minor disciplinary matters; and
- provide advice to the Building Commissioner.

The Building Services Board will not be a body corporate and will work closely with and receive administrative support from the Building Commissioner and staff of the Department of Commerce.

Part 3 of the Bill provides a broad and flexible scheme of registration by allowing for any type of building occupation to be included in the regulations as a "prescribed building service". While it is anticipated that builders, painters and building surveyors will be required to be registered, this may expand or contract as circumstances require.

Flexibility is further provided by allowing for classes or tiers of registration, as well as exemptions, to be prescribed within each building service. The current builders and painters registration statutes suffer from the inability to prescribe classes of registration to reflect the various sub-groups within those industries. A flexible registration scheme is also essential in addressing the circumstances of building services providers in regional areas, where qualification and skill levels may be variable, particularly as the Bill extends registration coverage to the whole of the State for the first time.

Part 3 registers building service providers in two broad categories: building service practitioners; and building service contractors. Individuals meeting the qualification, experience and character requirements set out in the regulations may be registered as building service practitioners in the appropriate class for builders, painters and building surveyors. Individuals (sole traders) who wish to contract with consumers for the provision of building services in one of these classes will also be required to be registered as building service contractors. Partnerships and bodies corporate that wish to contract with consumers will be required to employ a nominated supervisor who is a registered practitioner in the appropriate class.

Part 3 of the Bill significantly strengthens consumer protection by enhancing controls over the supervision requirements of building service providers. Building companies, for example, will be required to nominate one or more supervisors to oversee all building work and to submit details to the Building Services Board of their supervision arrangements for its approval.

Under Part 5 of the Bill, the Building Services Board may also order the immediate suspension of a building service provider if it is of the opinion the provider has engaged in conduct that constitutes grounds for suspension or cancellation, is likely to continue the conduct and there is risk of significant loss or damage as a result of that conduct.

Part 4 of the Bill will require owner-builders to show they have sufficient knowledge of the duties and responsibilities of an owner-builder before they can be issued with a building permit from the relevant local government. This is consistent with requirements in most other States in Australia. This is in addition to changes under the Building Bill that will require high-risk parts of buildings to be inspected by a registered building practitioner. Together, these measures will improve the standard of owner-building in this State and protect owner-builders from claims by subsequent owners for poor or non-compliant work.

Maximum penalties for working as an unregistered builder will be significantly bolstered from \$10,000 to \$25,000. The maximum penalty will also apply to unregistered painters and building surveyors.

Registered builders who enter into contracts with consumers will remain responsible for all work carried out by tradespersons and subcontractors under their control. While it is not envisaged that individual trades will be registered, the Bill is flexible enough to allow for this, especially should national licensing proceed in this direction or serious problems with any particular trade develop.

Building surveyors will for the first time be required to be formally registered under the Bill. Currently, persons with relevant building surveying qualifications can gain accreditation to enable employment as building surveyors with local governments. Concurrent changes introduced by the Building Bill will deregulate the certification of buildings by local governments and allow privately employed building surveyors to perform this service. Formal registration will provide protection for consumers who choose to use the services of private building surveyors and certifiers.

Complaints and disputes in relation to the provision of building services are dealt with under the Building Services (Complaint Resolution and Administration) Bill. That Bill provides for a complaint handling process where complaints are received by the Building Commissioner and attempts made to conciliate and resolve the matter between the parties. Intractable disputes will be referred to the State Administrative Tribunal, which will carry out hearings in place of the Building Disputes Tribunal.

Abbreviations list

Board.....	Building Services Board
BDT.....	Building Disputes Tribunal
BR Act.....	<i>Builders' Registration Act 1939 (WA)</i>
BRB.....	Builders' Registration Board
Building Bill.....	Building Bill 2010
CRA Bill.....	Building Services (Complaint Resolution and Administration) Bill 2010
HBC Act.....	<i>Home Building Contracts Act 1991 (WA)</i>
Levy Bill.....	Building Services Levy Bill 2010
Local Government Regulations.....	<i>Local Government (Building Surveyors) Regulation 2008 (WA)</i>
Painters' Act.....	<i>Painters' Registration Act 1961 (WA)</i>
PRB.....	Painters' Registration Board
SAT.....	State Administrative Tribunal
The Bill.....	Building Services (Registration) Bill 2010

CLAUSE NOTES

Long Title The long title sets out the purpose of the Bill, which is to provide for the registration of certain building service providers, the approval of owner-builders and to repeal the BR Act, the Painters' Act, the Local Government Regulations and for related purposes.

PART 1 – PRELIMINARY

This Part formally titles the Act, provides a means for setting a commencement date(s) for the Act or specific provisions of the Act and sets out the definition of key terms used in the Act.

Clause 1 Short title

This clause formally titles the Act.

Clause 2 Commencement

Provides for the Act to come into operation on a day fixed by proclamation. Different days may be fixed for different provisions so that, for example, the proposed Board may be established and commence registration in advance of other provisions.

The Bill is written on the assumption that the Building Bill, the CRA Bill and the Levy Bill will be enacted at the same time and proclaimed in stages to allow a smooth transition from the repealed Acts.

Clause 3 Terms used

This clause contains the definitions required for the purposes of the Act. The key terms used in this Bill are:

“*building service*” is defined by reference to the same term in clause 3 of the CRA Bill as building work, demolition work, plumbing work and any other service or work prescribed in the regulations. The key term among these in the Registration Bill is “building work”, which is defined by reference to the same term in clause 3 of the Building Bill as:

“(a) the erection, assembly or construction of a building or a structure incidental to a building; or

(b) the renovation, alteration, extension, improvement or repair of a building or a structure incidental to a building; or

(c) the assembly, reassembly or securing of a relocated building or a relocated structure incidental to a building; or

(d) changing ground levels of land for the purposes of work of a kind mentioned in paragraph (a), (b) or (c) to an extent that could adversely affect land beyond its boundaries; or

(e) site work on any land for the purposes of, or required because of, work of a kind mentioned in paragraph (a), (b), (c) or (d), or in the definition of “demolition work”, including the placement of permanent retaining or other permanent protection structures; or

(f) other work of a kind prescribed by the regulations, but does not include work of a kind prescribed by the regulations for the purposes of this definition as not being building work;”

“building service practitioner” and **“building service contractor”** describes the two broad categories of registration available to persons in the building occupations required to be registered under the Bill.

Building service practitioner

Individuals who do not contract with others for the provision of building services, but who have the qualifications and experience to be registered, may seek registration as a building service practitioner.

Practitioner registration covers personal capabilities such as skills, experience, continuing professional development, etc.

For example, builders working for registered building service contractors may seek recognition of their skills and qualifications by being registered as practitioners. The nominated supervisor(s) of building services contractors must also be registered building service practitioners.

Building service contractor

Individuals who contract with others to provide building services (i.e. sole traders) must be registered as building service contractors, in addition to being registered as building services practitioners.

Partnerships and companies that wish to contract with the public to provide building services must be registered as building service contractors and employ at least one person who is a registered building service practitioner to supervise and manage all building work carried out by the contractor.

Contractor registration covers contractual capabilities such as financial capacity, insurance cover, organisational capacity, etc.

The term “building services contractor” is not to be confused with the term “subcontractor” that is commonly used in the building industry. “Subcontractor” usually refers to a tradesperson or specialist contracted by a builder to carry out some part of the building work on behalf of the builder. Subcontractors have a contractual relationship with the builder but none with the owner. All building work carried out by subcontractors remain the responsibility of the builder. Subcontractors engaged by builders may be registered under separate legislation (e.g. electricians) or work in unregistered building trades (e.g. bricklayers, carpenters, etc).

“prescribed building service” refers to the types of building services prescribed in the regulations for which registration will be required. Upon commencement, the following three types of building services will be included in the regulations:

Prescribed Building Service	Description
Building	<p>This means the carrying out of building work or the entering into a contract to carry out building work for another person that requires being named as the builder on a building permit under clause 9 of the Building Bill.</p> <p>This provision does not prevent builders from using subcontractors to manage or construct parts of the building work.</p>
Painting	<p>This means the carrying out or the entering into a contract to carry out painting work for another person valued at the prescribed amount or less.</p> <p>Under this Bill painters can only subcontract painting work to other registered painting contractors.</p>
Building Surveying	<p>This means the issuing of certificates of compliance required under the Building Bill.</p>

“registered building service provider” means either a building service practitioner or a building service contractor.

PART 2 –PROHIBITIONS IN RELATION TO UNREGISTERED PERSONS

Part 2 establishes the prohibition on unregistered persons from carrying out prescribed building services, as well as the prohibitions on registered and unregistered persons from holding out or implying the person is registered in a class of prescribed building service provider when they are not.

Division 1 — Use of titles and representations as to registration

Clause 4 **Restriction on use of titles**

This clause prohibits persons who are not registered from using titles prescribed in the regulations. Titles that registered persons may use will be as follows:

<u>Occupation and Category</u>	<u>Titles Permitted to Use</u>
Registered Builder: Practitioner	<i>Registered Builder: Practitioner</i> <i>Registered Building Practitioner</i> <i>Registered Building Services Practitioner</i>
Registered Builder: Contractor	<i>Registered Builder</i> <i>Registered Builder: Contractor</i> <i>Registered Building Contractor</i> <i>Registered Building Services Contractor</i>
Registered Painter: Practitioner	<i>Registered Painter: Practitioner</i> <i>Registered Painting Practitioner</i> <i>Registered Painting Services Practitioner</i>
Registered Painter: Contractor	<i>Registered Painter</i> <i>Registered Painter: Contractor</i> <i>Registered Painting Contractor</i> <i>Registered Painting Services Contractor</i>
Registered Building Surveyor: Practitioner	<i>Registered Building Surveyor: Practitioner</i> <i>Registered Building Surveying Practitioner</i> <i>Registered Building Surveying Services Practitioner</i>
Registered Building Surveyor: Contractor	<i>Registered Building Surveyor</i> <i>Registered Building Surveyor: Contractor</i> <i>Registered Building Surveying Contractor</i>

Titles can be rationalised after the commencement of the Act when, following consultation with stakeholders and, depending on the direction of national licensing proposals currently under development, new classes of registration for each occupation may be prescribed.

Persons and bodies registered as “Registered Builder: Contractor” will be permitted to use the title “Registered Builder” when advertising their services. The same concept will apply to “Registered Painter: Contractor” and “Registered Building Surveyor: Contractor”. A penalty of a fine of \$25,000 may be imposed for using a prescribed title if not registered.

Clause 5 Claims as to registration

A person who is not registered as a building service practitioners or a building service contractor is prohibited from advertising or holding out that the person is registered or entitled to provide a prescribed building service in the relevant class.

The categories and classes of registered building service practitioner and registered building service contractor to be prescribed for the three occupations upon the commencement of the Act will be as follows:

<u>Occupation</u>	<u>Registered Class</u>
Builder	Registered Builder: Practitioner.
	Registered Builder: Contractor.
Painter	Registered Painter: Practitioner.
	Registered Painter: Contractor.
Building Surveyor	Registered Building Surveyor: Practitioner.
	Registered Building Surveyor: Contractor.

As discussed in the comments for clause 4, additional classes may be registered after the commencement of the Act. A penalty of a fine of \$25,000 may apply to persons who breach this clause.

Clause 6 Advertising entitlement to carry out prescribed building service when not registered

This clause prohibits persons from advertising or holding out in any way that they are entitled to carry out a prescribed building service unless they are a registered building service contractor.

Advertising requires contractor registration rather than practitioner registration as the key trigger is “to carry out a building service for other persons”. This covers normal contracts as well as informal arrangements.

Division 2 — Prohibitions in respect of carrying out prescribed building service

Clause 7 Carrying out prescribed building service when not registered

Any person who carries out or undertakes to carry out a prescribed building service without being a registered building service contractor faces a maximum penalty of a fine of \$25,000. The prohibition relates to how a “prescribed building service” is described in regulations (refer to the descriptions used in clause 3).

7(1) provides that the term “carry out” prohibits actually doing the work and “undertake to carry out” prohibits contracting to do the work, even if the work is not commenced.

7(2)(a) allows people to carry out building services without themselves being registered so long as they are employed by an appropriately registered building service contractor. Some employees may still be required to be a registered building services practitioner (e.g. the nominated supervisor) or to sign (as distinct from issue) a certificate of design compliance, etc.

7(2)(b) allows a public authority to carry out building services without being registered as a building service contractor. Contractor registration confirms financial capacity and insurance cover for private sector entities (see clause 18(1)(b) and (c)). Public authorities can be assumed to have sufficient financial capacity. Note that public authorities may need to employ registered building services practitioners (e.g. building surveyors) to perform some functions (e.g. inspect work).

7(2)(b) allows, for example, a permit authority to issue certificates of design compliance under the Building Bill.

7(3) and 7(4) allow a person who engages an unregistered person to recover any contract payments or, to refuse to make payments. In limited circumstances the unregistered person can recover costs where the owner would receive an unfair benefit from the labour and materials supplied. This allows the unregistered person to pay subcontractors and suppliers for work where title transfers to the owner.

“Licence lending”

“Licence lending” in the context of the building industry is where an unregistered builder asks a registered builder to obtain a building permit but the whole of the works is carried out by the unregistered contractor. 7(5) attacks this practice by prohibiting registered building services contractors from contracting out of their responsibilities, except to another registered contractor. The Building Bill does not allow the person named as “builder” on a building permit to contract out of the prescribed responsibilities.

Division 3 — Advertisements by building service contractors

Clause 8 Advertisements by building service contractor

Requires building service contractors to include their registration number in all advertisements, other than types of advertisements exempted by the regulations. This helps in checking and enforcement, and allows consumers to know precisely who they are dealing with.

PART 3 – REGISTRATION OF BUILDING SERVICE PROVIDERS

This Part registers building service providers in two broad categories: building service practitioners; and building service contractors.

Individuals meeting the qualification, experience and character requirements set out in the regulations may be registered as building service practitioners in the appropriate class for builders, painters and building surveyors. Individuals (sole traders) who wish to contract with consumers for the provision of building services in one of these classes will also be required to be registered as building service contractors. Partnerships and bodies corporate that wish to contract with consumers will be required to employ a nominated supervisor who is a registered practitioner in the appropriate class.

This Part significantly strengthens consumer protection by enhancing controls over the supervision requirements of building service providers. Building companies, for example, will be required to nominate one or more supervisors to oversee all building work and to submit details to the Board of their supervision arrangements for its approval.

Division 1 — Grant or renewal of registration

Clause 9 Classes of building service practitioner and building service contractor

Building service practitioner

Individuals who do not contract with others to provide building services but who have the qualifications and experience to be registered may seek registration as building service practitioners in a class prescribed in the regulations. For example, persons qualified as builders but working as employees or supervisors of building service contractors (such as building companies) may be registered as practitioners.

The classes of registered building service practitioner to be prescribed for the three occupations upon the commencement of the Act will be as follows:

<u>Occupation</u>	<u>Registered Class</u>
Builder	Registered Builder: Practitioner.
Painter	Registered Painter: Practitioner.
Building Surveyor	Registered Building Surveyor: Practitioner.

After the Act commences, new classes of registration for each occupation may be prescribed. This will depend upon the direction of national licensing proposals currently under development and following consultation with stakeholders in this State.

Building service contractor

Individuals who contract with others to provide building services (i.e. sole traders) must also be registered as building service contractors, which requires applicants to demonstrate a financial and organisational capacity.

Partnerships and companies that wish to contract with the public to provide building services must be registered as building service contractors. However, they are required to employ at least one person who is a registered building service practitioner to supervise all building work carried out by the contractor.

The classes of registered building service contractor to be prescribed for the three occupations upon the commencement of the Act will be as follows:

<u>Occupation</u>	<u>Registered Class</u>
Builder	Registered Builder: Contractor.
Painter	Registered Painter: Contractor.
Building Surveyor	Registered Building Surveyor: Contractor.

After the Act commences, new classes of registration for each occupation may be prescribed. This will depend upon the direction of national licensing proposals currently under development and consultation with stakeholders in this State.

Clause 10 Effect of registration as building service practitioner

Registration in a class of building service practitioner entitles the person to use a title prescribed in the regulations for that class of practitioner.

The titles that registered building service practitioners may use under clauses 4 and 10, is as follows:

<u>Occupation and Category</u>	<u>Titles permitted to use</u>
Registered Builder: Practitioner	<i>Registered Builder: Practitioner</i> <i>Registered Building Services Practitioner</i>
Registered Painter: Practitioner	<i>Registered Painter: Practitioner</i> <i>Registered Painting Services Practitioner</i>
Registered Building Surveyor: Practitioner	<i>Registered Building Surveyor: Practitioner</i> <i>Registered Building Surveying Practitioner</i> <i>Registered Building Surveying Services Practitioner</i>

Registered building services practitioners may also be given powers to perform some building services under other legislation. For example, a registered building surveying practitioner can sign certificates of compliance under clauses 19, 55 and 56 of the Building Bill. (Note: those clauses use the term “building surveyor” which is defined in clause 3 of the Building Bill to mean a building service practitioner registered under the Bill).

Clause 11 Effect of registration as building service contractor

This clause empowers registered building services contractors to carry out prescribed building services and to use a title prescribed by the regulations for that class of contractor. This complements clause 7 that prohibits unregistered persons from carrying out prescribed building services.

The building services to be prescribed at the commencement of the Act are:

<u>Prescribed Building Service</u>	<u>Description</u>
Building	This means the carrying out of building work or the entering into a contract to carry out building work for another person that requires being named as the builder on a building permit under clause 9 of the Building Bill. This provision does not prevent builders from using subcontractors to construct or manage parts of the building work.
Painting	This means the carrying out or the entering into a contract to carry out painting work for another person valued at the prescribed amount. Under this Bill painters can only subcontract painting work to other registered painting contractors.
Building Surveying	This means the issuing of certificates of compliance required under the Building Bill.

The titles that registered building service contractors may use for each occupation under clauses 4 and 11 are as follows:

<u>Occupation and Category</u>
Registered Builder: Contractor
Registered Painter: Contractor
Registered Building Surveyor: Contractor

Clause 12 Duration of registration

This introduces three-year registration. This reduces administrative costs for both providers and government. Three year registration gives ample time for any continuing professional development requirements that may later be prescribed to be met between renewals.

12(1)(b) and 12(2)(b) allow the Board to specify shorter registration periods, which will facilitate the transition from the current registration schemes to the new scheme (see Part 9 Division 2 and the box below entitled “Transitional Arrangements”), as well as the transition to national licensing.

Transitional Arrangements

The registration of builders and painters under current legislation expires on 1 February each year. It is anticipated that on 1 May 2011 all builders and painters will transfer to registrations under this Bill. Depending on transitional requirements for national licensing due to commence in July 2013, renewals due on 1 February 2012 may be for periods shorter than three years. This will provide flexibility to stagger renewals to manage administrative workload and to bring in the new re-registration requirements in a shorter period of time than three years.

Clause 13 Application for registration or renewal

Applications for registration will be received in practice by the Building Commission, which will vet them for completeness and compliance with clause 14(3). The Building Commission then checks the application against the registration requirements of clauses 17 or 18 as the case may be.

When the Building Commission has completed its assessment of whether an application should be accepted or registered it will make a submission to the Board (at its next meeting) for decision. Where the Board requires more information it will request the Building Commission to obtain it from the applicant under clause 14. Clause 12(3) allows building service providers to remain registered should there be any delay in processing a renewal.

Clause 14 Further information

These are usual provisions that provide the Board with flexible powers to deal with unusual or non-standard applications. It is anticipated that the Building Commission will write to applicants on behalf of the Board.

Clause 15 Timing of application for renewal

15(1) provides power to prescribe the period before registration expires in which an application for renewal must be made (e.g. three months before expiry). This should not be confused with the period for which the registration is valid as prescribed under clause 12 “Duration of Registration”.

15(2) means that when a registration expires, the building service provider cannot act as a registered provider until an application for renewal is accepted (in writing) by the Board. Once the application is accepted, the provider can again act as a registered person until the application for renewal is finally approved or rejected. Acceptance of a late application retrospectively approves actions taken while the person’s registration had lapsed up to the time the late application was accepted.

15(4) states a late fee may be prescribed in the regulations, however, the Board has discretion whether to apply it as it sees fit.

Clause 16 Application for registration by a person whose registration has been cancelled

Under clause 58 a person is disqualified by the SAT. Therefore, the Board cannot re-register a disqualified person without SAT's approval. The approval will be sought by the Building Commission on behalf of the Board.

Clause 17 Registration of building service practitioners

This clause sets out the requirements for registration as a building service practitioner.

17(1)(b) provides for the regulations to prescribe the qualifications and experience required to be registered as a building service practitioner in each class. The current qualifications and experience requirements for builders, painters and building surveyors will be carried over to the Act upon commencement, then reviewed as required.

17(1)(c) allows for the Board to consider convictions, past bankruptcies, etc, when making a decision on whether to grant or renew a registration.

17(1)(d) provides for other requirements for registration to be prescribed in the regulations. This provides flexibility to the registration system. It will also enable the introduction of continuing professional development requirements for re-registration of practitioners.

Clause 18 Registration of building service contractors

This clause sets out the requirements for registration as a building service contractor.

18(1)(b) requires building service contractors to meet any financial requirements prescribed in the regulations. This will allow the Board to limit the size and/or number of contracts undertaken according to the financial capacity of the contractor.

18(1)(c) requires building service contractors to meet any insurance requirements prescribed in the regulations. Building surveyor contractors, for example, are likely upon commencement of the Act to be required to have professional indemnity insurance appropriate to the size and/or number of buildings certified.

18(1)(d) requires contractors to have at least one nominated supervisor for the class or classes of work they undertake.

18(1)(e) allows the Board to require an appropriate ratio of supervisors to the size and number of contracts to ensure building services are managed and supervised in a proficient manner. Where the building service contractor can satisfy the Board that one practitioner can reasonably supervise the building service to ensure it is delivered appropriately, only one practitioner is needed. Where the size or geographical spread of a contractor's business is extensive, the Board may require more than one nominated supervisor before approving the application.

Clause 19 Notice of decision

19(1) requires the Board to give written notice of its decisions and where an application is refused, the applicant's right of review of the decision by the SAT. In practice, the Building Commission will provide the notice on behalf of the Board.

The Building Commission will refund the fee from the Building Services Account established under clause 94 of the CRA Bill.

Clause 20 Registration certificate

If the Board registers or renews the registration of an applicant, the Building Commission will provide the certificate. Refer also to Division 5 that deals with the register and access to the register by the public.

Division 2 — Nominated supervisors

Clause 21 Nominated supervisor for building service contractor

21(1) defines "eligible person", in relation to a building service contractor, as a building service practitioner in a prescribed class that is equivalent to the work for which that contractor is registered. 21(1) and (2) effectively requires all individuals who are registered building service contractors to be registered as building service practitioners in the same class.

21(2) requires a building service contractor that is a body to nominate at least one eligible person as the nominated supervisor for the contractor, while contractors who are individuals are the nominated supervisor for the purposes of this section.

21(3) provides that the nominated supervisor must be an eligible person.

21(4) allows the building service contractor to notify a change of nominated supervisor without disrupting the currency of registration. If the Board is not satisfied that the contractor has the arrangements to supervise the work required under clause 18(1)(e) it can suspend the registration under the process in clause 53(1)(f).

Clause 22 Effect of not having nominated supervisor

Building service contractors are prohibited from carrying out any building service during a period when they have no nominated supervisor. This means, for example, that a building or a painting company must not continue to carry out work if its nominated supervisor leaves or is incapacitated. A penalty of a maximum fine of \$25,000 may apply for a breach of this provision.

Building service contractors must notify the Board within seven days when they no longer have a nominated supervisor. This ensures that the Building Commission can monitor the building service contractor during a period without a nominated supervisor. In most cases the building service contractor will promptly appoint a new nominated supervisor and the written notices under 21(3)(b) and 22(3) will be lodged together within the seven day period required under clause 22(4). Failure to provide a notice may incur a penalty of a fine of \$10,000.

Division 3 — Conditions on registration

Clause 23 Conditions generally

This provides a general power for conditions. Any conditions that apply to existing registrations will carry over to this Act.

Clause 24 Conditions imposed by Board

The Board may impose conditions on the registration of a registered building service provider at the time registration is granted and at any time during the currency of the registration.

This allows the Board flexibility to grant or continue registration when minor or easily correctable deficiencies occur in applications. An example would include completion of continuing professional development obligations by a stated date during the currency of the registration.

Conditions may also be applied following disciplinary action under Part 5. Examples may include being required to work under supervision for a set period or, to complete a course of instruction.

Clause 25 Compliance with conditions

Failure to comply with a condition of registration is a disciplinary matter under clause 53(1)(d). Building service providers may be penalised by a maximum fine of \$25,000 for a breach of this provision.

Division 4 — Amendment, suspension or cancellation of registration

Clause 26 When Board may amend, suspend or cancel registration

26(1) and (2) allow registered providers to amend or suspend their registration for business or personal reasons.

26(3) provides administrative flexibility for the Board or the Building Commission to do things such as change the names of registration categories (without changing the substance), to correct errors, etc.

Clause 27 Suspension of registration: effect

This prevents a person from carrying out a prescribed building service, advertising, etc, during the period of suspension. It does not prevent the Board from commencing disciplinary action under Part 5 or prosecuting an unregistered person under Part 2.

Clause 28 Revocation of suspension

28(1) provides for the Board to give a notice in writing to end a period of voluntary suspension requested under 26(1)(b).

28(4) provides that a person whose registration has been suspended by the SAT can not apply for revocation of the suspension for three months. 28(5) provides a process to end a period of involuntary suspension imposed by SAT under clause 58(1)(g).

Division 5 — Register

Clause 29 The register

The Building Commissioner keeps the register and determines what form it will take so long as it contains the information required by this clause. This allows flexibility to use websites and other emerging technologies to provide information.

Clause 30 Inspection of register

30(2) provides for the register to be placed on the Department's website. Under 30(3), members of the public may inspect and obtain certified copies of the register for a prescribed fee, which may be needed for contractual or legal process reasons.

Clause 31 Board to provide register information

The Board is required to provide the Building Commissioner with such information as is necessary for the purpose of keeping the register. This prevents any potential problem in accessing information required to keep the register up to date.

Division 6 — Offences in relation to registration

Clause 32 Notification of change of address

Registered building service providers must give the Board written notice within 14 days of any change of addresses that are recorded in the register.

The address on the register can be used for the service of notices under contracts for disciplinary or legal action. It is important that addresses on the register are kept current.

A penalty of a fine of up to \$10,000 may apply for failure to meet this requirement.

Clause 33 Notification of change in eligibility

Registered building service providers must give written notice to the Board within seven days of any change of circumstances that may affect the eligibility of the provider to remain registered.

This ensures the Board is able to take prompt action to review registration. Examples of changes in eligibility might include loss of insurance cover, changed financial capacity (but not insolvency, which is covered under clause 34), loss of qualifications, etc. Disciplinary action can be taken under clause 53(1)(b). A penalty of a fine of up to \$10,000 may apply for failure to meet this requirement.

Clause 34 Notification of financial difficulty

Registered building service contractors must give written notice to the Board within seven days of becoming aware of the inability to meet their financial obligations as and when they fall due.

This allows the Board to take prompt action in cases of insolvency to protect consumers, subcontractors and suppliers. Disciplinary action can be taken under clause 53(1)(b). A penalty of a fine of up to \$10,000 may apply for failure to meet this requirement.

Clause 35 Notification of certain offences

Registered building service providers must give written notice to the Board within seven days of being charged with a serious offence. Providers must also give written notice if convicted of a serious offence or an offence against a law of the Commonwealth or any jurisdiction in connection with the provision of a building service. This may be grounds for disciplinary action under clause 53(1)(a) or, because the building service provider may no longer be considered to be a fit and proper person, under clause 53(1)(b). A penalty of a fine of up to \$10,000 may apply for failure to meet this requirement.

Clause 36 Notification of disciplinary action

A registered building service provider must give the Board written notice within seven days of any disciplinary action taken against the provider in respect of the licensing or registration of the provider under an Act prescribed by the regulations. Disciplinary action by other Boards or in other jurisdictions allows the Board to review eligibility or whether the practitioner is a fit and proper person. Disciplinary action can be taken under clause 53(1)(b). A penalty of a fine of \$10,000 applies for failure to comply with this clause.

Clause 37 Return of registration certificate

37(1) requires any provider whose registration is amended, suspended or cancelled to return his, her or its registration certificate to the Board within 14 days. The return of certificates minimises possibilities for their fraudulent use by others. A penalty of a fine of \$5,000 is provided for failure to comply with this requirement.

37(2) provides for the Board not to require a person to return a certificate, such as when the certificate is destroyed in a fire.

37(3) requires that the Board must return the registration certificate to the person as soon as practicable if the registration is amended or a suspension expires or is lifted.

PART 4 — OWNER-BUILDER APPROVALS

This Part will require owner-builders to show they have sufficient knowledge of the duties and responsibilities of an owner-builder before they can be issued with a building permit from the relevant local government. This is consistent with requirements in most other States in Australia. This is in addition to changes under the Building Bill that will require high risk parts of buildings to be inspected by a registered building practitioner. Together, these measures will improve the standard of owner-building in this State and protect owner-builders from claims by subsequent owners for poor or non-compliant work.

Division 1 — Preliminary

Clause 38 Terms used

This clause defines key terms in relation to owner-builders.

“building work” means:

“(a) the erection, assembly or construction of a building or a structure incidental to a building; or

(b) the renovation, alteration, extension, improvement or repair of a building or a structure incidental to a building; or

(c) the assembly, reassembly or securing of a relocated building or a relocated structure incidental to a building;

(d) changing ground levels of land for the purposes of work of a kind mentioned in paragraph (a), (b) or (c) to an extent that could adversely affect land beyond its boundaries;

(e) site work on any land for the purposes of, or required because of, work of a kind mentioned in paragraph (a), (b), (c) or (d), or in the definition of demolition work, including the placement of permanent retaining or other permanent protection structures; or

(f) other work of a kind prescribed by the regulations, but does not include work of a kind prescribed by the regulations for the purposes of this definition as not being building work;”

Clause 39 Meaning of owner

39(1) ensures that a person seeking approval to owner-build is the “owner”, which may include other persons who hold an interest in the land. Also, the owner need not be the sole owner. For example, an owner can be a tenant in common or joint tenant.

39(2) will allow for long term leasehold, native title and other types of interest.

Clause 40 When owner-builder approval is required

Owner-builder approval is intended to allow an individual to manage building work for his or her own residence, alterations, additions or renovations. In general owner-builder approval will likely be available for class 1 (single residential) buildings and associated class 10 (sheds, retaining walls, fences, etc.)

40(1), individuals who are not registered building service contractors in a class prescribed in the regulations must first obtain owner-builder approval from the Board under this Part to build a dwelling on their own land. This means a person who is a registered building practitioner, but not a registered building contractor, must also obtain approval as an owner-builder. Registration as a building practitioner is treated as sufficient knowledge of the duties and responsibilities of an owner-builder under clause 43(3)(b).

An owner will be restricted to one permit or series of permits on the same property, but having been granted a permit for one property, the owner cannot get approval as owner-builder for a different property within six years (45(2)(e)). This ensures any statutory building defect matters are managed by the owner-builder while still in residence and prevents an owner-builder carrying out a business of building or renovating houses without being registered.

40(2), corporations or other bodies cannot obtain owner-builder approval. A corporation or body wishing to undertake building work for itself can employ a registered building practitioner as a nominated supervisor and seek registration as a building services contractor.

Clause 41 Application by more than one person

This clarifies that the provisions of this Part apply to all of the owners (applicants) where there is more than one owner.

In 43(2)(c), an owner-builder approval will apply to all of the (joint) owners of the land. All joint owners must sign the application (to prevent one owner doing work that is not approved by other owners) and the approval is issued to all owners (so that obligations for quality of building work and restrictions on getting owner-builder approval within six years apply to all owners).

Clause 42 Approval issued to more than one person

Provides that if an owner-builder approval is granted jointly to more than one person, any references in this Part to the ‘person’ to whom the approval is granted is a reference to each of the persons. This clarifies that an approval issued under this Part applies to all of the owners (applicants) where there is more than one owner.

Division 2 — Grant of approval

Clause 43 Application for owner-builder approval

43(1) allows any individual person may apply to the Board to carry out owner-builder work.

43(2)(b)(i) an application must be accompanied by evidence, typically a copy of the certificate of title, to prove that the applicant is the owner of the land. This can be cross checked with Landgate for currency.

43(2)(b)(ii) requires applicants to demonstrate they have sufficient knowledge of the duties and responsibilities of owner-builders. In most cases, this will be demonstrated by completing an approved owner-builder course (clause 43(3)(a)). Applicants who work in the building industry (such as registered architects) may be able to demonstrate sufficient knowledge without completing an approved course.

Clause 44 Further information

These are usual provisions to allow the board to verify information and to deal with unusual or non-standard applications.

Clause 45 Decision on application for approval

45(2) requires the Board to approve an owner-builder application if the applicant satisfies the Board as to the following things:

- the applicant has provided all the information required in the application and by the Board, and paid the prescribed fee (45(2)(a));
- the application relates to owner-builder work on land owned by the applicant (45(2)(b)). The regulations will prescribe this to mean single residential (class 1 and associated class 10) on the owner's land;
- at least one of the applicants has sufficient knowledge of the duties and responsibilities of an owner-builder (45(2)(c)). This ensures there is at least one person capable of supervising the work and complying with owner-builder obligations. A typical example would be a husband and wife as joint tenants where only one will complete an owner-builder course and supervise the work;
- the applicant hasn't been issued with a building permit as an owner-builder in the last six years (45(2)(d)); and
- at least one owner is living or intends to live in the house to be built (45(2)(e)).

An owner-builder is entitled to build one house every six years. Six years is the statutory warranty period for a house built by a registered builder. If an owner-builder remains in residence for six years then any building defects should become apparent and can be fixed by the owner-builder prior to sale. The six year limit also provides an effective restriction on an unregistered person acting in effect as a registered builder by building as an owner-builder, selling, and then building again and so on, ad infinitum.

45(3)(a) allows for the owner of a house originally built by that owner as an owner-builder to get further approval to add to the house as an owner-builder. This allows for building in stages, or renovation, or addition of outbuildings or landscaping elements that may require a building permit.

45(3)(b) provides for consideration of special cases, such as re-location for work purposes, separation and divorce, and the like.

Clause 46 Duration of approval

Clause 46 provides six months from when owner-builder approval is granted to apply for a building permit under the Building Bill, before the owner-builder approval expires. Six months is considered a reasonable cut-off point in which to submit a building permit application after obtaining owner-builder approval, particularly as the Building Bill provides for an application for a building permit to be submitted when construction is ready to start.

46(2) means that the owner-builder approval remains valid while the building permit remains valid, which is typically until the building is completed.

Division 3 — Conditions on approval

Clause 47 Conditions of owner-builder approval

This confirms that owner-builder approval only allows owner builders to be named as the “builder” on a building permit. It is not an independent approval to construct a building and owner-builders must still apply for a building permit to carry out building work.

Clause 48 Conditions imposed by Board

The Board may impose conditions on an owner-builder approval at the time the approval is granted and during the currency of the approval.

Clause 49 Compliance with conditions

Failure by owner-builders to comply with the conditions of approval may result in cancellation of approval and/or a penalty of a fine of up to \$25,000.

Division 4 — Role of Board in respect of complaint about owner-builder

Clause 50 Grounds for cancellation of approval

The Board may cancel an owner-builder approval if the approval was granted because of incorrect or misleading information, contravention of a condition of approval or the Board becomes aware of facts that would have allowed the Board to refuse to grant the approval originally. This provides the Board with grounds to cancel approval, which is analogous to the disciplinary powers in Part 5 of the Bill relating to registered building service providers. Cancellation of approval will cause automatic suspension of a building permit under clause 35(b) of the Building Bill.

Clause 51 Board to decide what action to take in respect of complaint forwarded by the Building Commissioner

This allows the Building Commissioner to advise the Board about concerns relating to the conduct of an owner-builder. These may derive from a complaint by another party (for example, by a neighbour affected by building work), enforcement action by a permit authority, or evidence of poor or inappropriate building work discovered during audit or inspection. The powers given to the Board are analogous to disciplinary powers in Part 5 that apply to registered building service providers.

PART 5 — DISCIPLINARY MATTERS — REGISTERED BUILDING SERVICE PROVIDERS

Under this Part, the Board may also order the immediate suspension of a building service provider if it is of the opinion the provider has engaged in conduct that constitutes grounds for suspension or cancellation, is likely to continue the conduct and there is risk of significant loss or damage as a result of that conduct.

Division 1 — Preliminary

Clause 52 Application of Part

This clause explains that disciplinary action may be taken against registered (or formerly registered) building service providers and nominated supervisors in relation to conduct occurring when they were registered, whether or not disciplinary action has been taken against the building service contractor.

52(2) applies this Part to currently registered building service providers.

52(1) applies this Part retrospectively so that disciplinary action can be taken for issues arising under the repealed Acts and to prevent a person escaping disciplinary action by asking to have registration cancelled (26(1)(c)) or failing to renew registration.

Clause 53 Disciplinary matters

The disciplinary matters outlined in this clause are consistent with those in other registration Acts. Disciplinary matters apply only to registered building service providers and are different from offences, which can also apply to unregistered persons.

Other than minor disciplinary matters and interim disciplinary orders, all disciplinary matters are dealt with by the SAT, which has power to cancel the registration of providers and order fines not exceeding \$25,000. By contrast, all offences are prosecuted in a court of law.

53(1)(a) makes serious offences, offences against legislation administered by the Building Commissioner and other offences by building service contractors that render them unfit to carry out building services, disciplinary matters. This enables the Board to take further action against building service providers (e.g. imposing conditions of registration, cancellation of registration, etc) who commit offences under legislation administered by the Building Commission or by other agencies (including the Police under the Criminal Code), where the nature of the offence may warrant further consideration of the provider's continued involvement in the industry under the original conditions upon which registration was granted.

53(1)(b) refers to 17(1) and 18(1), which set out the initial requirements of registration for building service practitioners and contractors, respectively. Practitioners and contractors who fail to maintain those requirements may face disciplinary action. This covers, for example, failure to maintain suitable management and supervision arrangements (see also the discussion under subclauses 53(1)(f) and (g)). Convictions may also indicate a person is no longer a “fit and proper person” to be registered (clause 17(1)(c)) or may cause the SAT to declare the person an “ineligible person” under clause 60.

Under 53(1)(e) negligence or incompetence would be demonstrated by investigation by the Building Commissioner, the outcome of a consumer dispute lodged under clause 5 of the CRA Bill or, enforcement action taken by a permit authority under clause 36 of the Building Bill.

53(1)(f) allows the Board to examine actual performance on a single building service, notwithstanding that the building service contractor had arrangements in place for the management and supervision as required for registration under clause 18(1)(e) (see also the discussion under clause 53(1)(b)).

Clauses 53(1)(h) to (j) allow for disciplinary action if a building service provider makes false statements about finance, acts fraudulently or engages in harsh or unconscionable behaviour. Disciplinary action may take place in addition to other remedies the consumer may have under other legislation.

Failure of a registered building service provider to comply with an undertaking given by the provider to the Board or an order or direction of the Board may under 53(1)(k) be cause for disciplinary action.

53(1)(l) provides that failure to comply with orders issued under this Act, the CRA Bill or, the HBC Act.

53(1)(m) aims to prevent ineligible persons from being involved in the management of a registered building service provider.

53(3) means that failure to meet a standard on a single building service (e.g. a provision of the Building Code of Australia) is not necessarily a disciplinary matter, even though it may result in enforcement action by a permit authority under clause 36 of the Building Bill or, a building remedy order under clause 31 of the CRA Bill.

Clause 54 Relationship with other legislation

Clause 54 clarifies that nothing in this Part prevents a complaint from being made or an investigation being conducted into a matter under the CRA Bill, or for the Board or the SAT from dealing with a person in connection with a matter to which this Part relates.

Division 2 — Interim disciplinary orders

Clause 55 Interim disciplinary orders

This clause allows the Building Commissioner to issue an interim disciplinary order if the Board believes that a registered building service provider is acting in such a way that preventative action is needed pending full investigation and formal disciplinary proceedings. The order may prohibit a registered building service provider from carrying out a building service or require compliance to conditions the Board thinks fit in relation to the carrying out of the service specified in the order for a maximum period of 28 days.

Division 3 — Role of Board

Clause 56 Board to decide what action to take in respect of complaint forwarded by Building Commissioner

The Building Commissioner will advise the Board of potential disciplinary matters (a “complaint forwarded by the Building Commissioner”). The Building Commissioner cannot pursue disciplinary matters independently of the Board but may continue to deal with complaints under clause 19 of the CRA Bill.

Upon having a matter referred to it, the Board may ask the Building Commissioner to conciliate between the person making the original complaint and the registered building services provider (56(2)(b)) or investigate the matter (56(2)(c)). Otherwise, the Board must decide to take no further action (56(2)(a)), deal with the matter itself (56(2)(d) and clause 57) or refer the matter to the SAT (56(2)(e) and Division 4).

Clause 57 Board may deal with certain complaints

This clause provides for the Board, with the consent of the registered building service provider, to deal with minor disciplinary matters that are not serious enough to warrant a proceeding before the SAT.

A registered building service provider may consent to have the Board deal with a matter because the penalties available to the Board are less than those available to the SAT. Under this provision, the Board may impose a maximum fine of \$5,000. Where the Board believes its penalties may be inadequate, it retains the right to take action in the SAT.

This clause implements the principle behind recommendations 55 and 56 of the Final Report of the Inquiry into the Jurisdiction and Operation of the State Administrative Tribunal, which recommends that vocational registration bodies retain summary disciplinary powers in relation to minor disciplinary matters.

Division 4 — Proceedings in State Administrative Tribunal

Clause 58 Jurisdiction of State Administrative Tribunal

This clause sets out the actions the SAT may take if it is satisfied that a disciplinary matter exists in respect of a registered building service provider. This includes taking one or more of the following actions:

- issuing a caution or reprimand;
- imposing a condition on a registration;
- ordering the provider or the supervisor to complete a specified further course of training or education;
- suspend the registration of a provider for a period not exceeding two years;
- cancel the provider's registration and remove the provider from the register; and
- order that a penalty of a fine not exceeding \$25,000 be paid.

These are usual provisions for the SAT under registration statutes. Payment of the fine to the Building Commissioner is consistent with the principles of the *Sentencing Act 1995* that penalties for criminal offences go to the Consolidated Account and penalties for civil offences go to the agency that funds the prosecution.

Clause 59 Disciplinary action against nominated supervisor or officer of building service contractor

Where the SAT cancels or suspends the registration of a building service contractor, it may under 59(1) also order the suspension or cancellation of the registration of a nominated supervisor of the contractor. Under 59(2) the SAT may also impose a fine not exceeding \$25,000 on a nominated supervisor of the contractor, as well as any partner, director or any other person who is concerned in the management of the body, in connection with the breach of discipline.

59(3) in effect allows the SAT to take action against the actual wrongdoers in a body corporate (e.g. a director, a partner, manager, etc). This discourages the practice of using "phoenix companies", where a new company (often with little or no share capital) is set up by the same person(s) who were instrumental in previous company failures, often resulting in financial losses to consumers and other businesses that dealt with them. In the absence of penalties on key individuals behind phoenix companies, these persons would be able to use the limited liability protection afforded by company structures to operate indefinitely in this way.

Clause 60 Declaration of ineligible person

The SAT may declare an officer of a contractor whose registration has been cancelled or suspended to be an ineligible person for a period not exceeding three years. This prevents that person from being registered as, or being an officer of, a building service contractor (17(2)(b)). This clause is also aimed at discouraging the creation of "phoenix companies".

Clause 61 State Administrative Tribunal to provide information to Building Commissioner

This clause ensures the SAT provides sufficient information to enable the Board to keep the register up to date in respect of any orders issued by that tribunal.

Clause 62 Board may notify certain persons if registration suspended or cancelled

If the registration of a building service provider is suspended or cancelled, the Board may notify any relevant local government or person who has authority to issue a building permit. A building permit is suspended under clause 35 of the Building Bill if the builder named on the building permit ceases to be a registered building contractor or an approved owner-builder.

Clause 63 Other remedies not affected

This clause ensures that any disciplinary action taken against a building service provider does not affect a consumer's right to obtain restitution through any other dispute resolution process or by civil remedy.

PART 6 — REVIEW

This Part creates the requisite powers for a person aggrieved by a decision of the Board to have that decision reviewed by the SAT.

Clause 64 Review by SAT of certain decisions

This clause allows a person who is not satisfied (or 'aggrieved') by a decision of the Board to apply to have that decision reviewed by the SAT. The SAT is an independent tribunal that has power under its enabling legislation to overturn decisions of the Board ('reviewable decisions') that are listed in this clause.

PART 7 — BUILDING SERVICES BOARD

Part 7 establishes a Building Services Board and sets out its functions, powers and the rules governing its proceedings. Part 7 also sets out the Board's relationship with the Minister and the provision of administrative support by the Building Commissioner.

Division 1 — Establishment

Clause 65 Board established

Unlike the superseded BRB and PRB, which were bodies corporate and operated independently of the State, the Board under clauses 65 and 66 is not an independent body. It exists to oversee the registration and disciplinary processes when they are applied to individuals and bodies. All action to implement the decisions of the Board is taken by the Building Commissioner.

Clause 66 Status

Provides that the Board is an agent of the State and as such, has the status, immunities and privileges of the State.

Clause 67 Membership of Board

The Board will consist of the following members appointed by the Minister:

- an independent chair;
- two consumer representatives; and
- two members with experience as registered building services providers in each “occupation group” as defined and prescribed under clause 67(1).

As all the occupational groups relate to the building industry, the Board as a whole will be able to deal with general registration and disciplinary matters. The Board may set up committees (clause 88) with specialist representation to deal with specific issues relating to each occupational group.

The Minister is to designate one of the members to be the deputy chairperson of the Board to act when the chairperson is not available (67(3)).

Clause 68 Remuneration and allowances

The Minister may determine remuneration for a member of the Board or of a committee on the recommendation of the Public Sector Commissioner. This ensures that members are paid in accordance with current Government policy.

Division 2 — Functions and powers

Clause 69 Functions

The functions of the Board are to perform the functions that are conferred on it under this Act or any other Act and to advise the Minister and the Building Commissioner on matters to which this Act applies.

Clause 70 Powers

This is a standard provision to ensure the Board has powers necessary to carry out its functions under the Act. The scope of the Board's actions is limited by the functions it is given. The powers provided are generic powers, similar to those of other registration boards.

Clause 71 Delegation by Board

This provision gives the Board the flexibility to delegate functions to Board members, a committee or to the Building Commissioner. This allows for effective administration of the Board's functions. It cannot delegate decisions regarding the imposition of conditions on registration (clause 24), the amendment, suspension or cancellation of registration (clause 26) or in deciding what action to take in respect of a complaint forwarded to it by the Building Commissioner (clause 56).

Division 3 — Staff and services

Clause 72 Staff and services

The Board will not employ its own staff or operate independently of the Building Commission. All staff, systems, services and support to assist the Board in the performance of its functions will be provided by the Building Commissioner with the consent of the Director General of the Department of Commerce.

Division 4 — Relationship of Board with Minister

Clause 73 Directions by Minister

This is a standard provision in registration statutes providing power to the Minister responsible for the Act to give written directions to the Board regarding its functions and administration.

The Minister cannot give directions in relation to a particular person, application, complaint or proceeding (73(2)). Any direction must be included in the annual report of the Department and laid before both Houses of Parliament.

Clause 74 Minister to have access to information

The Minister has the usual powers contained in registration statutes for gaining access to Board information, except where that information may disclose the identity of persons. The Board must comply with any request by the Minister for information.

Division 5 — Constitution and proceedings of the Board

Subdivision 1 — General provisions

Clause 75 Term of office

Board members are to hold office for up to three years and are eligible for reappointment. The length of a term may be set at less than three years to provide for implementation of this Bill and future moves toward national licensing of building occupations.

Clause 76 Casual vacancies

As in other registration statutes, a Board member may resign by notice in writing given to the Minister. A member of the Board may be removed from office by the Minister for a number of reasons, including mental or physical incapacity, insolvency, extended absences without leave or misconduct.

Clause 77 Deputy chairperson acting as chairperson

This clause provides for the circumstances in which the deputy chairperson may perform the functions of the chairperson.

Clause 78 Alternate members

Where a member of the Board, other than the chairperson, is unable to act because of illness, absence or other cause, the Minister may appoint another person as an alternate member to act temporarily in the member's place. Alternate members will be appointed as and when the need arises.

Clause 79 Holding meetings

The first meeting and special meetings of the Board are to be convened by the chairperson. Normal meetings are to be held at times and places determined by the Board.

Clause 80 Quorum

A quorum for a meeting of the Board is not less than half of the members.

Clause 81 Presiding at meetings

This clause ensures that where the chairperson or deputy chairperson are not available, the members present can appoint one of their number as chairperson so the meeting can proceed.

Clause 82 Procedure at meetings

This is a normal provision in registration statutes for procedural matters, which allows the Board to determine its own procedures in areas not covered by the Act.

Clause 83 Voting

This is a normal provision in registration statutes that allows the chairperson to break a deadlock on a question under consideration by the Board by lodging a casting vote.

Clause 84 Inviting consultant to participate in meeting

This is a normal provision in registration statutes that ensures persons invited to a Board meeting to provide advice do not have a right to vote on any matter in question.

Clause 85 Holding meetings remotely

This is a normal provision in registration statutes to allow meetings to occur by telephone, video conferencing or other interactive means of communication developed in the future.

Clause 86 Resolution without meeting

Resolutions in writing signed or assented to by each Board member have effect as if they had been passed at a Board meeting. This provides an alternative to a formal meeting if members are travelling or otherwise not available, but are able to use electronic communication that does not replicate the to-and-fro interactions of a face to face meeting.

Clause 87 Minutes

The Board is to ensure that accurate records of its meetings (including those of its committees) are kept. The Building Commissioner will provide the staff and services to keep and distribute minutes and other Board papers.

Clause 88 Committees

The Board has the power to establish committees to assist it to perform its functions. Committees may include people who are not members of the Board but must include at least one Board member. A committee established under this provision is required to comply with directions given by the Board. This will assist the effectiveness and efficiency of the Board.

Committees will be useful for dealing with complex or unusual matters relating to one class of building service occupation, where a committee of experts can be established to advise the Board or act under delegation (clause 71).

Subdivision 2 — Disclosure of interests

Clause 89 Disclosure of interest

Members of the Board or a committee established by the Board are required to declare any material personal interest in a matter being considered by that body or an offence is committed. This clause aims to protect the integrity of decisions made by the Board or a committee for which members may have a vested, commercial or any other interest in the matter. A penalty of a fine of \$25,000 is provided for failure to disclose a relevant interest.

Clause 90 Voting by interested Board member

This clause prevents members of the Board from voting on or to be present for discussion on any matter in which they declare a material interest.

Clause 91 Section 90 may be declared inapplicable

A member may vote on a matter for which an interest has been declared if the Board passes a resolution stating that the members are satisfied that the interest should not disqualify the member from voting.

Clause 92 Quorum where section 90 applies

92(1) provides that a quorum of three members is required when dealing with a matter for which a member is disqualified from voting due to a declared interest.

92(2) provides that should there be a matter where so many Board members have an interest that a quorum of three cannot be achieved, the Minister can deal with the matter instead of the Board.

Clause 93 Minister may declare sections 90 and 92 inapplicable

The Minister may declare sections 90 or 92 inapplicable and, if so, must cause a copy of the declaration to be laid before each House of Parliament.

Division 6 — General

Clause 94 Information to be provided to Building Commissioner annually

The Board's activities are reported along with the Building Commissioner's activities in the annual report of the Department. This clause requires the Board to provide the necessary information. In practice, the Building Commissioner will provide the necessary staff and facilities under clause 72 to prepare this information for the annual report.

Clause 95 Moneys to be credited to Building Services Account

All fees, costs and other moneys paid or recovered under this Act, as well as certain fines (e.g. fines imposed by the SAT and fines imposed by the Board at minor disciplinary hearings), are to be credited to the Building Services Account.

Clause 96 Execution of documents by the Board

This clause provides the administrative process for executing documents. 96(2) allows the Board to authorise one or more people to execute documents, including the Building Commissioner or a member of the Building Commissioner's staff. 96(3) means that an executed document is taken to be valid, and the onus is on someone to prove it is not valid.

To provide certainty in any proceedings, this clause also provides that a document purporting to be executed in accordance with this clause is to be presumed to be duly executed until the contrary is shown.

PART 8 — GENERAL PROVISIONS

This Part contains general provisions needed to clarify and ensure the smooth operation of this Bill and the other building services Bills.

Clause 97 Offences by bodies corporate — liability of directors and others

This clause deals with the relationship between a body corporate and officers of a body corporate in relation to offences under the Act.

Officers of a body corporate have the same responsibility as a body corporate unless an offence was committed without the officer's consent or if the officer had taken all reasonable steps to prevent the commission of the offence.

Clause 98 Protection from liability

98(1) gives persons performing functions in good faith under this Act immunity from liability for any loss or damage. Typically, these will be public officers in the Building Commission, the Board and the SAT.

The protection in 98(2) applies to things done in good faith that are covered by this Bill, but could also be done even if the Bill was not enacted.

98(3) relieves the Crown of any vicarious liability for another person acting in good faith.

Clause 99 False or misleading information

This clause makes it an offence for a person to make a statement which the person knows is false or misleading in a material particular or, with reckless disregard as to whether or not the statement is false or misleading. A penalty of a fine of \$25,000 may be applied for making false or misleading statements.

Clause 100 Confidentiality of information

Creates an offence for a person carrying out functions under the Act to breach the confidentiality of information obtained under the Act, and carries a maximum penalty of \$25,000.

This does not apply to the recording, disclosure or use of statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates.

Clause 101 When a prosecution can be commenced

Prosecutions for an offence against this Act must be commenced within 3 years after the date on which the offence was allegedly committed.

Clause 102 Prosecutions

A prosecution for an offence against this Act may be taken by the Building Commissioner or a person authorised to do so by the Building Commissioner.

All prosecutions for offences against this Act must be heard in a court of summary jurisdiction constituted by a magistrate.

Clause 103 Evidentiary matters

This is a standard provision across many Western Australian statutes that sets out the standard evidentiary matters which will apply in proceedings under this Act.

In essence, the clause provides that in the absence of proof to the contrary, the authority of a person to take the proceedings, the authenticity of documents produced as evidence in the prosecution notice, that specified persons constituted the Board on a specified date, the dates when a person was registered, and so on, do not have to be proved in court.

Clause 104 Regulations

This provides a general regulation making power to complement specific regulations referred to in operative clauses of the Bill. The regulations may provide penalties for a contravention of a regulation not exceeding a fine of \$5,000.

Clause 105 Review of Act

This is a standard clause for all new legislation. The Minister is to review the operation of the Act in five years from its commencement and every fifth anniversary from that date to determine the effectiveness of the Act.

The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

PART 9 — REPEAL, SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

This Part repeals the legislation no longer required after the enactment of this Bill and its related bills and provides the necessary powers to enable a smooth transition.

Division 1 — General

Clause 106 *Interpretation Act 1984 not affected*

This confirms that the *Interpretation Act 1984* is not affected by the repeal of the BR Act and the Painters' Act.

Division 2 — Repeal

Clause 107 *Builders' Registration Act 1939 repealed*

Repeals the BR Act, thereby abolishing the BRB and the BDT.

Clause 108 *Painters' Registration Act 1961 repealed*

Repeals the Painters' Act and thereby abolishing the PRB.

Clause 109 *Builders' Registration Regulations repealed*

Repeals the regulations made under the BR Act.

Clause 110 *Painters' Registration (Infringement Notices) Regulations 2006 repealed*

Repeals the regulations for issuing infringement notices under the Painters' Act.

Clause 111 *Painters' Registration Board Rules 1962 repealed*

Repeals the board rules under the Painters' Act.

Clause 112 *Local Government (Building Surveyors) Regulations 2008 repealed*

Repeals the Local Government Regulations, thereby abolishing the Building Surveyors Qualifications Committee and the system of appointing building surveyors to the office of building surveyor for employment in local government agencies.

Division 3 — Savings and transitional matters

Subdivision 1 — Builders

Clause 113 **Terms used**

Sets out the meaning of the terms used in this subdivision of the Act.

Clause 114 **Registration continues**

Provides for the continued registration of persons registered under the BR Act. Individuals will be registered as both building practitioners and building contractors, while bodies will be registered as building contractors only.

Clause 115 Existing applications for registration

This clause ensures that applications made by persons before the commencement day can be dealt with by the new Board under the provisions of the repealed Act (i.e. the BR Act) and, if approved, are treated as if the persons were registered before the commencement date of the new Act.

Clause 116 Allegations of cause for disciplinary action made by former Board

Provides for action commenced under section 12D of the repealed Act before the commencement date to be continued and dealt with as if it was a proceeding under this Bill.

Clause 117 Disciplinary action: persons registered under repealed Act

The disciplinary provisions of this Bill and the CRA Bill will apply to any person registered under the BR Act in relation to conduct that occurred while the person was registered under that Act. However, this does not apply to conduct captured under this Bill that was not also a cause for disciplinary action under section 13 of the BR Act.

Clause 118 Devolution of assets and liabilities of former board

The assets and liabilities of the BRB, as well as its records and data, pass to the State upon the commencement of the Act.

Money is credited to the Building Services Account. The buildings owned by the BRB are to be sold and the proceeds credited to the Building Services Account.

Clause 119 Members of former board

Members of the BRB cease to be members on the commencement day.

Clause 120 Staff of former board

Provides for staff of the BRB to become employees of the Department of Commerce and for staff members' pay, service and conditions of employment, such as superannuation, to be continued.

Clause 121 Reporting in respect of former board

The Building Commissioner is to submit a final annual report to the Minister for the BRB for the period of the financial year from 1 July to the commencement day.

Clause 122 Completion of things commenced

Provides for the Board to complete anything commenced by the former Board if that thing is within the functions of the Board.

Clause 123 Continuing effect of things done

This clause provides for any other act, matter or thing done or omitted by the BRB, if it is not covered by another law and has relevance to the Board, is considered to have been done by the Board.

Clause 124 Agreements and instruments generally

Substitutes the Building Commissioner for the BRB in relation to any agreement or instrument subsisting immediately before the commencement of this Act to which the BRB was a party, thereby continuing that agreement.

Subdivision 2 — Painters

Clause 125 Terms used

Sets out the meaning of the terms used in this subdivision of the Act.

Clause 126 Painting commenced before commencement day

The repealed Painters' Act did not apply to the whole State. Painters in areas of the State where the Painters' Act did not apply but to which this Act will apply will need to apply for registration. Such persons who do not wish to seek registration or do not have the requisite qualifications or experience will be able to complete work they have started without acting in contravention of the Act.

Clause 127 Registration continues

Provides for the continuation of registration of persons registered under the Painters' Act. Individuals will be registered as both painting practitioners and painting contractors. Bodies will be registered as painting contractors only.

Clause 128 Existing applications for registration

This provision ensures that applications made by persons before the commencement day of the Act can be dealt with by the new Board under the provisions of the repealed Act (i.e. the Painters' Act) and, if approved, are treated as if the persons were registered before the commencement date of the new Act.

Clause 129 Allegations of cause for disciplinary action made by former board

Provides for action commenced under section 16(1) of the repealed Act before the commencement date to be continued and dealt with as if it was a proceeding under this Act.

Clause 130 Disciplinary action: persons registered under repealed Act

The disciplinary provisions of this Bill and the CRA Bill will apply to any person registered under the Painters' Act in relation to conduct that occurred while the person was registered under that Act. However, this does not apply to conduct captured under this Bill that was not also a cause for disciplinary action under section 16(2) of the Painters' Act.

Clause 131 Devolution of assets and liabilities of former board

The assets and liabilities of the PRB, as well as its records and data, pass to the State upon the commencement of the Act. Money will be credited to the Building Services Account. The PRB did not hold any land or buildings.

Clause 132 Members of former board

Members of the PRB cease to be members on the commencement day.

Clause 133 Staff of former board

Provides for staff of the PRB to become employees of the Department of Commerce and for staff members' pay, service and conditions of employment, such as superannuation, to be continued.

Clause 134 Reporting in respect of former board

The Building Commissioner is to submit a final annual report to the Minister for the PRB for the period of the financial year from 1 January to the commencement day.

Clause 135 Completion of things commenced

Provides for the Board to complete anything commenced by the former Board if that thing is within the functions of the Board.

Clause 136 Continuing effect of things done

This clause provides for any other act, matter or thing done or omitted by the PRB if it is not covered by another law and has relevance to the Board, is considered to have been done by the Board.

Clause 137 Agreements and instruments generally

Substitutes the Building Commissioner for the PRB in relation to any agreement or instrument subsisting immediately before the commencement of this Act to which the PRB was a party, thereby continuing on that agreement.

Subdivision 3 — Building Surveyors

Clause 138 Terms used

Sets out the meaning of the terms used in this subdivision of the Act.

Clause 139 Registration of certificate holders

Building surveyors who hold certificates of qualification granted under regulation 21 of the Local Government Regulations, will be registered as building service practitioners. Individuals or bodies who wish to be registered as building surveying contractors will have to apply for registration under this Bill.

Clause 140 Existing applications for certificate

Applications for certificates will be processed under the repealed regulations and if a certificate is granted will convert to registration as a building surveying practitioner (140(3)).

Clause 141 Members of former committee

Members of the Building Surveyors Qualifications Committee cease to be members on the commencement day.

Clause 142 Records of former committee

The records and data of the Building Surveyors Qualifications Committee pass to the Building Commissioner upon the commencement of the Act.

Clause 143 Agreements and instruments generally

Substitutes the Building Commissioner for the Building Surveyors Qualifications Committee in relation to any agreement or instrument subsisting immediately before the commencement of this Act to which the Building Surveyors Qualifications Committee was a party, thereby continuing that agreement.

Subdivision 4 — General provisions

Clause 144 Registration of documents

This lets the Building Commissioner give the Registrar of Titles, the Registrar of Deeds or any other person authorised by a written law, upon presentation of a schedule from the Building Commissioner, information to record and register documents to transfer all relevant property as set out in the transitional regulations. This ensures that all the property of the former boards is transferred to the Building Commissioner in accordance with the relevant laws.

Clause 145 Exemption from State tax

State taxes are not payable on any transfer of property from the boards to the Building Commissioner.

Clause 146 Transitional regulations

This clause provides for the Governor to make transitional regulations if needed. The purpose of the clause is to cater for any unforeseen requirement that may arise within the first 12 months of the commencement day in the event an issue has not been sufficiently covered by the Bill.

PART 10 — CONSEQUENTIAL AMENDMENTS

This Part sets out the consequential amendments under this Bill to take place. The amendments effectively supersede references to the BR Act and the Painters' Act by replacing them with references made under this Bill.

Division 1 – *Home Building Contracts Act 1991* amended

Clause 147 *Home Building Contracts Act 1991* amended

Notes that this Division amends the HBC Act.

Clause 148 **Section 3** amended

This clause inserts a definition of “building permit” and amends the definition of “building licence” to reflect the changes made by and the terminology used in the Bill.

Clause 149 **Section 25A** amended

Amends the definitions of “builder” and “owner-builder” to reflect the changes made by and the terminology used in the Bill.

Clause 150 **Section 25B** amended

Replaces BRB with the new Board in section 25B, which refers to the statutory declaration required to be given to that body by prospective owner-builders.

Clause 151 **Section 25F** amended

The Building Bill uses the term “building permit” instead of the current term “building licence”. Clause 151 changes the reference to “building licence” in section 25F, which relates to the seven year period in which an owner-builder may not enter into a sale contract without first entering into a policy of home indemnity insurance, to include references to “building permit”.

Clause 152 **Section 25FA** amended

Prohibits a building service contractor in a prescribed class from selling, within three years, land upon which a dwelling was constructed under a building permit issued to that contractor in the capacity of an owner-builder, unless agreed to by the Minister by the issue of an order.

Clause 153 **Section 25G** amended

Changes a reference to “building licence” to include references to “building permit”.

Clause 154 **Section 31B** amended

Provides for the Building Commissioner to issue to each person who is authorised to give infringement notices under section 31B a certificate stating that the person is so authorised.

Division 2 – Other Acts amended

Clause 155 *Constitution Acts Amendment Act 1899* amended

Replaces references in Schedule V Part 3 to the BRB of Western Australia, the Municipal Building Surveyors Examination Committee and the PRB with the new Board. This relates to the offices a Member of Parliament must vacate before taking a seat in Parliament.

Clause 156 *Local Government (Miscellaneous Provisions) Act 1960* amended

This provision deletes Part XV Division 1A of the Local Government Act dealing with the qualifications and appointment of local government building surveyors.

Clause 157 *Sentencing Act 1995* amended

This provision deletes references in Schedule 1 to the BR Act and the Painters' Act.

Clause 158 *State Administrative Tribunal Act 2004* amended

This replaces references in Schedule 1 to the BR Act and the Painters' Act with this Bill.

Clause 159 *Travel Agents Act 1985* amended

This provision replaces references in the Schedule to the BR Act and the Painters' Act with this Bill. Persons applying for a travel agent's licence who are or have been registered under those Acts must state whether their registration has ever been suspended or cancelled, which can provide grounds for refusal to grant a travel agent's licence.

APPENDIX: PENALTIES

Introduction

The schedule below lists all penalties in the following bills

- *Building Bill*;
- *Building Services (Complaint Resolution and Administration) Bill*; and
- *Building Services (Registration) Bill*.

The penalties are based on Building Commission assessment of the severity of the offence, consistency with national licensing legislation, and in consideration of Parliamentary Counsel suggestions. A general guide to the penalties as assessed is provided in Table 1.

Penalties for offences are listed at the maximum level for an individual. The maximum levels for a corporation are 5 times that level under the provisions of the *Sentencing Act 1995*.

Parliamentary Counsel has advised that the State Administrative Tribunal and the courts have discretion to tailor penalties to fit the severity of the offence and the risk factors peculiar to the occupation. It is envisaged, therefore, that maximum penalties applied in relation to unregistered painting would be significantly less than offences by builders, given that breaches of the law by builders would be likely to have greater consequences on the public.

TABLE 1: Guide to Penalties:

Severity of Offence	Proposed Penalty
Low	<ul style="list-style-type: none">• \$5 000 fine.
Medium	<ul style="list-style-type: none">• \$10 000 fine.
High	<ul style="list-style-type: none">• \$25 000 fine.
Severe	<ul style="list-style-type: none">• For a first offence: \$50 000;• For a second offence: \$75 000; and• For a third or subsequent offence: a fine of \$100 000 and 12 months imprisonment (as per section 42 of the <i>Sentencing Act 1995</i>).

Infringement Notices

Some provisions of the bills will be enforced through the issuing of infringement notices in accordance with the *Criminal Procedure Act 2004* and the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. Generally, infringement notices can be issued for non indictable or less serious offences and where guilt is a clear matter of fact, such as failure to display a sign. In such cases, a modified penalty of not more than 20% of the offence may be applied.

SCHEDULE

Building Bill

Clause No.	<i>Clause Title</i>	Severity of Offence	Penalty in Bill
9	<i>No building work without a building permit</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
10	<i>No demolition work without a demolition permit</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
29	<i>Compliance with building or demolition permit</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
30	<i>Display of building or demolition permit details</i>	Medium	A fine of \$10 000.
33	<i>Notice of completion</i>	Medium	A fine of \$10 000.
34	<i>Notice of cessation</i>	Medium	A fine of \$10 000.
37	<i>All buildings to comply with applicable building standards</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
38	<i>All demolition work to comply with applicable building standards</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
41	<i>Certain buildings not to be occupied or used without an occupancy permit</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.

Clause No.	Clause Title	Severity of Offence	Penalty in Bill
42	<i>Display etc. of, occupancy permit details</i>	Medium	A fine of \$10 000.
43	<i>Occupation, use of buildings to comply with occupancy permits</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
44	<i>Compliance with occupancy permit</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
76	<i>No encroachment without consent or court order</i>	High	A fine of \$25 000.
77	<i>Other land not to be adversely affected without consent or court order</i>	High	A fine of \$25 000.
78(1), (2) & (3)	<i>No protection structure in or on other land without consent or court order</i>	78(1) High 78(2) & (3) Medium	A fine of \$25 000. A fine of \$10 000.
79(1) & (2)	<i>Certain work not to affect party walls etc, without consent or court order</i>	79(1) High 79(2) Medium	A fine of \$25 000. A fine of \$10 000.
80(1), (2) & (3)	<i>Fences etc, not to be removed without consent or court order</i>	80(1) Medium 80(2) & (3) Low	A fine of \$10 000. A fine of \$5 000.
81(2), (3) to (6)	<i>No access to other land without consent or court order, and notification</i>	81(2) Medium 81(3) to (6) Low	A fine of \$10 000. A fine of \$5 000.
84	<i>When notice about effect on other land required</i>	Medium	A fine of \$10 000.

Clause No.	Clause Title	Severity of Offence	Penalty in Bill
86	<i>Application for court orders if no consent</i>	Medium	A fine of \$10 000.
97	<i>Identity cards</i>	Low	A fine of \$5 000.
104	<i>Directions generally</i>	Medium	A fine of \$10 000.
105	<i>Obstruction of authorised persons etc</i>	Medium	A fine of \$10 000.
115	<i>Compliance with building order</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
116	<i>Obstruction in relation to building order</i>	Medium	A fine of \$10 000.
146	<i>Confidentiality</i>	High	A fine of \$25 000.
147	<i>False or misleading information</i>	High	A fine of \$25 000.
149	<i>Regulations</i>	Low	A fine not exceeding \$5 000.

Building Services (Complaint Resolution and Administration) Bill

Clause No.	Clause Title	Severity of Offence	Penalty in Bill
25	<i>Attendance at conciliation proceeding</i>	Low	A fine of \$5 000.
47	<i>Provision of information and documents to Building Commissioner</i>	Medium	A fine of \$10 000.
53	<i>Failure to comply with order: offence</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
61	<i>Identity cards</i>	Low	A fine of \$5 000.
70	<i>Obstruction</i>	Medium	A fine of \$10 000.
71	<i>Directions Generally</i>	Medium	A fine of \$10 000.
78	<i>Restricting access to dangerous situations</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
80	<i>Remediation notice</i>	Severe	For a first offence, a fine of \$50 000. For a second offence, a fine of \$75 000. For a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.
90	<i>Disclosure of material personal interest</i>	High	A fine of \$25 000.
103	<i>Confidentiality</i>	High	A fine of \$25 000.
104	<i>False or misleading information</i>	High	A fine of \$25 000.
109	<i>Regulations</i>	Low	A fine not exceeding \$5 000.

Building Services (Registration) Bill

Clause No.	Clause Title	Severity of Offence	Penalty
4	<i>Restriction on use of titles</i>	High	A fine of \$25 000.
5	<i>Claims as to registration</i>	High	A fine of \$25 000.
6	<i>Advertising entitlement to carry out prescribed building service when not registered</i>	High	A fine of \$25 000.
7	<i>Carrying out prescribed building service when not registered</i>	High	A fine of \$25 000.
8	<i>Advertisements by building service contractor</i>	Low	A fine of \$5 000.
22(1) & (3)	<i>Effect of not having nominated supervisor</i>	(1) High (3) Medium	A fine of \$25 000. A fine of \$10 000.
25	<i>Compliance with conditions</i>	High	A fine of \$25 000.
32	<i>Notification of change of address</i>	Medium	A fine of \$10 000.
33	<i>Notification of change in eligibility</i>	Medium	A fine of \$10 000.
34	<i>Notification of financial difficulty</i>	Medium	A fine of \$10 000.
35	<i>Notification of certain offences</i>	Medium	A fine of \$10 000.
36	<i>Notification of disciplinary action</i>	Medium	A fine of \$10 000.
37	<i>Return of registration certificate</i>	Low	A fine of \$5 000.
49	<i>Compliance with conditions</i>	High	A fine of \$25 000.
57	<i>Board may deal with certain complaints</i>	Low	A fine of a specified amount not exceeding \$5 000.
58	<i>Jurisdiction of State Administrative Tribunal</i>	High	A fine not exceeding \$25 000.
89	<i>Disclosure of interest</i>	High	A fine of \$25 000.

Clause No.	Clause Title	Severity of Offence	Penalty
99	<i>False or misleading information</i>	High	A fine of \$25 000.
100	<i>Confidentiality of information</i>	High	A fine of \$25 000.
104	<i>Regulations</i>	Low	A fine of \$5 000.