

Building and Construction Legislation Amendment Regulation 2022

1 Name of Regulation

This Regulation is the *Building and Construction Legislation Amendment Regulation 2022*.

2 Commencement

This Regulation commences as follows—

- (a) for Schedules 1[1]–[5] and [7] and 3—on the date of assent to the *Building and Construction Legislation Amendment Act 2022 (the Act)*,
- (b) for Schedules 1[6] and 2—on the day that is 6 months after the date of assent to the Act.

Schedule 1 Amendment of Strata Schemes Management Regulation 2016

[1] Clause 44 Interpretation

Omit the definitions of *authorised professional association* and *strata inspector panel* from clause 44(2).

Insert in alphabetical order—

co-regulation scheme has the same meaning as in the Act, Part 10A.

strata inspector panel has the same meaning as in the Act, Part 10A.

[2] Clauses 45 and 45B

Omit the clauses.

[3] Clause 45A Register of members of strata inspector panel

Omit “An authorised professional association must keep a register of members of a strata inspector panel established by the association that contains the following particulars in relation to each member” from clause 45A(1).

Insert instead “For the Act, section 188ZK(4), a register of current and former members of a strata inspector panel kept by an authorised professional association must include the following information about each member”.

[4] Clause 45A(4)

Omit the subclause.

[5] Clauses 49B and 49C

Insert after clause 49A—

49B Events to be notified by APAs

The following events are specified for the Act, section 188M(1)(g)—

- (a) a change in circumstances that may affect the APA’s ability to comply with a requirement or condition imposed on the APA by or under the Act,
- (b) a change in circumstances that may affect the ability of a member of the strata inspection panel maintained by the APA to exercise building inspector functions.

49C Co-regulation scheme of APAs

- (1) For the Act, section 188ZC(3)(a), the co-regulation scheme of an APA, when providing for a process for the receipt, assessment and determination of applications for appointment to the strata inspector panel maintained by the APA, must include the following—
 - (a) a process for managing actual or perceived conflicts of interest in assessing an application,
 - (b) objective assessment and verification criteria,
 - (c) a process for assessing the competence of applicants,
 - (d) a process for the internal review of decisions made by the APA in relation to the receipt, assessment and determination of applications,
 - (e) a process for imposing conditions on a person’s appointment to the panel.

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- (2) For the Act, section 188ZC(3)(b), the co-regulation scheme of an APA must provide for a process for assessing the probity of a member of the strata inspector panel maintained by an APA that includes checks in relation to whether the member—
- (a) is subject to a current court order, whether in a personal capacity or otherwise, or
 - (b) has been declared bankrupt, or
 - (c) has been refused insurance, whether in a personal capacity or otherwise, or
 - (d) has been removed as a director of a corporation, or
 - (e) has been investigated for, charged with or convicted of a serious offence, including an offence involving fraud or dishonesty.

[6] Clause 51 Maturity dates for building bond

Omit “3 years”. Insert instead “4 years”.

[7] Schedule 5 Penalty notice offences

Insert in appropriate order in the matter relating to **Offences under the Act**—

Section 188D(1)	(a) \$5,000, for an individual, or
	(b) \$10,000, for a body corporate
Section 188D(2)	(a) \$5,000, for an individual, or
	(b) \$10,000, for a body corporate
Section 188L(3)	\$3,000
Section 188R(3)	\$5,000
Section 188T(5)	\$1,650
Section 188U(4)	\$1,650
Section 188V(2)	\$1,100
Section 188ZE	\$5,000
Section 193(3)	\$1,500

Schedule 2 Amendment of Building and Construction Industry Security of Payment Regulation 2020

[1] **Clause 5 Definitions**

Omit the definition of *approved ADI*.

[2] **Clause 6, heading**

Omit “\$20 million”. Insert instead “\$10 million”.

[3] **Clause 6**

Omit “\$20 million” wherever occurring. Insert instead “\$10 million”.

[4] **Clauses 8, 9 and 15**

Omit “approved ADI” wherever occurring.
Insert instead “authorised deposit-taking institution”.

[5] **Clauses 20B–20D**

Insert after clause 20A—

20B Additional information to be included in payment claim

For the Act, section 13(2A), a payment claim arising from an owner occupier construction contract must be accompanied by the information form, if any, approved by the Secretary.

20C Circumstances in which review application may be made

- (1) For the Act, section 26AB(1)(b), the minimum amount is \$100,000.
- (2) For the Act, section 26AB(2)(a), the minimum amount is \$100,000.

20D Information to be included in review application

- (1) For the Act, section 26AD(6)(b), the following must be included in, or accompany, a review application—
 - (a) the original application,
 - (b) the original determination,
 - (c) the payment claim relating to the original application,
 - (d) if the original respondent is the review applicant—the payment schedule given to the original claimant and received by the original adjudicator,
 - (e) if submissions by the original claimant or original respondent were received by the original adjudicator—the submissions,
 - (f) if the original adjudicator considered other information in making the original determination—the other information.
- (2) Words used in this clause have the same meaning as in the Act, Part 3, Division 2, Subdivision 2.

[6] **Schedule 1 Penalty notice offences**

Insert in appropriate order in the material relating to **Offences under the Act**—

Section 13(8A)	\$2,200	\$11,000
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Schedule 3 Amendments relating to education and training notices

3.1 Building and Development Certifiers Regulation 2020

Schedule 7 Penalty notice offences

Insert in appropriate order in the material relating to **Offences under the Act**—

Section 118B(1)	\$2,750	\$8,250
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3.2 Design and Building Practitioners Regulation 2021

Schedule 5 Penalty notice offences

Insert in appropriate order in the material relating to **Offences under the Act**—

Section 94B(1)	\$2,750	\$8,250
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3.3 Home Building Regulation 2014

Schedule 7 Penalty notice offences

Insert in appropriate order in the material relating to **Offences under the Act**—

Section 138C(1)	\$2,750	\$8,250
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