

# Building and Construction Legislation (Non-conforming Building Products—Chain of Responsibility and Other Matters) Amendment Bill 2017

Amendments during consideration in detail to be moved by  
The Honourable the Minister for Housing and Public Works and Minister  
for Sport

## 1 Clause 8 (Insertion of new ss 28A and 28B)

Page 12, lines 28 and 29—

*omit, insert—*

commission’s functions; or

*Note—*

For the commission’s functions, see section 7.

## 2 Clause 11 (Insertion of new pt 6AA)

Page 16, after line 15—

*insert—*

*code of practice* means a code of practice in  
force under section 74ADA.

## 3 Clause 11 (Insertion of new pt 6AA)

Page 18, line 17, before ‘practicable’—

*insert—*

reasonably

## 4 Clause 11 (Insertion of new pt 6AA)

Page 19, after line 5—

*insert—*

### **74ABA Extraterritorial application of part**

(1) This part applies both within and outside  
Queensland.

- (2) This part applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

## 5 Clause 11 (Insertion of new pt 6AA)

Page 20, after line 24—

*insert—*

### **74ADACode of practice about discharging duties**

- (1) The Minister may make a code of practice that states a way of discharging a duty a person has under this division.
- (2) A code of practice, or an instrument amending or repealing a code of practice, has no effect unless the Minister gives notice of its making.
- (3) A notice under subsection (2) is subordinate legislation.
- (4) A code of practice, or an instrument amending or repealing a code of practice, commences on the later of the following—
  - (a) the day the notice under subsection (2) commences;
  - (b) the day the code or instrument provides that it commences.
- (5) A code of practice expires 10 years after its commencement.
- (6) The Minister must ensure a copy of each code of practice as in force from time to time, and any document applied, adopted or incorporated by the code of practice, is made available on the department's website.

### **74ADB Use of code of practice in proceedings**

- (1) This section applies in a proceeding for an offence against this part.
- (2) A code of practice is admissible in the proceeding as evidence of whether or not a duty under this division has been complied with.
- (3) Nothing in this section prevents a person from introducing evidence of compliance with the duty in a way that is different from the code.

## **6 Clause 11 (Insertion of new pt 6AA)**

Page 25, lines 7 to 31 and page 26, lines 1 to 13—

*omit, insert—*

### **74AK Duty about representations about building products**

- (1) This section applies if a person in the chain of responsibility for a building product knows, or ought reasonably to know, that the association of the product with a building for an intended use does not, or will not, comply with the relevant regulatory provisions.
- (2) The person must not make a representation, or permit a representation to be made, that the association of the product with a building for the use complies, or will comply, with the relevant regulatory provisions.

Maximum penalty—1,000 penalty units.

## **7 Clause 29 (Amendment of s 114 (Protection))**

Page 86, lines 32 and 33 and page 87, lines 1 to 28—

*omit, insert—*

## 29 Amendment of s 114 (Protection)

- (1) Section 114(1), ‘publication act’—

*omit, insert—*

public interest act

- (2) Section 114(3)—

*omit, insert—*

- (3) Neither the State, the Minister, the commission nor a relevant officer of the commission incurs any liability for a public interest act.

- (3) Section 114(5), definition *publication act*—

*omit, insert—*

***public interest act*** means—

- (a) a disclosure or publication made by or for the commissioner in issuing a warning under section 20J(1)(i), or publishing information under section 20J(1)(k), about—
- (i) building work; or
  - (ii) the commercial or business reputation of any person associated with building work; or
  - (iii) the quality or standard of building work performed by any person; or
  - (iv) a building product being a non-conforming building product for a particular use; or
  - (v) the commercial or business reputation of a person in the chain of responsibility for a building product; or
  - (vi) a contravention or alleged contravention of this Act or the

operation or enforcement of this Act; or

- (b) a disclosure or publication made by or for the Minister in publishing a warning statement under section 74AZC; or
- (c) an act done by or for the Minister in relation to a recall order under section 74AW.

## 8 **Clause 31 (Amendment of sch 2 (Dictionary))**

Page 90, after line 24—

*insert—*

*code of practice*, for part 6AA, see section 74AA.

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