

Building Regulation Reform in NSW 2022/23 – current and future

Existing legislation	DBP Act	RAB Act	BDC Act	EP&A Act	SOP Act	SSM Act	Building Products (Safety) Act Act	HB Act	Plumbing and Drainage Act and Gas and Electricity Act	Fair Trading Act	Related regulations, ancillary Acts and ministerial orders

Proposed legislation

1

Building Legislation Amendment (Building Classes) Regulation (Building Classes Bill)

Expands DBP and RAB to class 3 and 9c

Key

-
- Acts for which BCE Bill gives enforcement powers
-
- Acts being repealed and replaced with proposed legislation

Consultation Period for proposed bills 2, 3 and 4 closes 25 November 2022.

2

Building Bill

- a. Replaces Home Building Act (HB Act)
- b. Licence required for:
 - i. all building work (resi and commercial) – including physical and intellectual work
 - ii. other regulated work (eg fire safety, specialist work)
- c. Public register of licences to include track record
- d. Home building work:
 - i. clarifies ‘developers’ (same as RAB Act) – liable for statutory warranties
 - ii. statutory warranties extend to all home building work (incl under \$5K)
 - iii. new ‘fit for habitation’ test
 - iv. formal requirements for residential contracts remain
 - v. replaces ‘major defect’ with ‘serious defect’ (extended to 10 years for serious defects, 3 years for other defects)
 - vi. new dispute resolution process through Fair Trading
 - vii. insurance requirement for resi stays for all ‘major work’ contracts (exemptions may apply)
 - viii. prescribes variation and payment processes (eg maximum payment amounts)
- e. Brings EP&A Act certification and subdivision into the building system – new obligations on issue of OC
- f. Duty of care provisions from DBP clarified (all buildings, 10 years)
- g. Move Engineers Scheme from DBP to Building Bill to cover all building classes
- h. Interior designers and pre-purchase inspectors require licence

3

Building Compliance and Enforcement Bill (BCE Bill)

- a. Replaces RAB Act, covers **all** buildings
- b. Gives Dept enforcement powers across various other Acts - see above
- c. BWRO on all buildings, Undertakings, Stop Work and general compliance notice
- d. Notice of completion and ability to withhold OC on all buildings

4

Building and Construction Legislation Amendment Bill (Amendment Bill)

- a. Amends various other Acts
- b. Duties on supply chain
- c. Levies
- d. Duty on registered practitioners to ensure associates not phoenixing
- e. Changes to payment adjudication and retention trust money under SOP

5

Environmental Planning and Assessment (Development Certification and Fire Safety) Amendment (Fire Safety) Regulation 2022 (New Fire Safety Regs)

Amends existing Regs and DBP

6

Building and Other Fair Trading Legislation Amendment Bill 2022 (DLI and other amendments)

- a. Introduces decennial liability insurance
- b. DBP and RAB stop work orders and undertakings to be publicly available
- c. Increased penalties under RAB Act
- d. Ability to rectify serious defects without EPA approval/consent under RAB Act
- e. Expands scope of BWROs
- f. Expanded information sharing
- g. Misc. amendments to Explosives Act