



# **Building Energy Efficiency Disclosure Act 2010**

**No. 67, 2010**

## **Compilation No. 6**

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## About this compilation

### This compilation

This is a compilation of the *Building Energy Efficiency Disclosure Act 2010* that shows the text of the law as amended and in force on 14 September 2022 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# An Act to promote the disclosure of information about the energy efficiency of buildings, and for related purposes

## Part 1—Preliminary

### 1 Short title

This Act may be cited as the *Building Energy Efficiency Disclosure Act 2010*.

### 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2010
2. Sections 3 to 72	1 July 2010.	1 July 2010

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

Section 2A

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**2A Object**

The object of this Act is:

- (a) to promote the disclosure of information about the energy efficiency of buildings; and
- (b) to contribute to the achievement of Australia's greenhouse gas emissions reduction targets.

**3 Definitions**

In this Act:

**accredited assessor** means a person who is accredited as an assessor under Division 1 of Part 3, but does not include a person whose accreditation has been suspended or revoked.

**auditing authority** means:

- (a) the Secretary; or
- (b) a person or body appointed by the Secretary under section 33.

**auditor** means a person appointed as an auditor under section 34.

**Australia's greenhouse gas emissions reduction targets** means:

- (a) if:
  - (i) Australia's current nationally determined contribution was communicated in accordance with Article 4 of the Paris Agreement in June 2022; and
  - (ii) that nationally determined contribution has not been adjusted in accordance with paragraph 11 of Article 4 of the Paris Agreement;

the greenhouse gas emissions reduction targets set out in paragraphs 10(1)(a) and (b) of the *Climate Change Act 2022*;  
or

- (b) in any other case—the greenhouse gas emissions reduction targets included in:



- (i) Australia's current nationally determined contribution communicated in accordance with Article 4 of the Paris Agreement; or
- (ii) if that nationally determined contribution has been adjusted in accordance with paragraph 11 of Article 4 of the Paris Agreement—that nationally determined contribution, as adjusted and in force from time to time.

**building energy efficiency certificate** means a certificate issued under section 13A.

**civil penalty provision** has the same meaning as in the Regulatory Powers Act.

**constitutional corporation** means a corporation to which paragraph 51(xx) of the Constitution applies.

**Court** means:

- (a) the Federal Court of Australia; or
- (b) the Federal Circuit and Family Court of Australia (Division 2).

**current**: a building energy efficiency certificate is **current** for the period set out in the certificate under paragraph 13A(2)(d).

**current energy efficiency rating** means an energy efficiency rating set out in a current building energy efficiency certificate.

**disclosure affected area of a building** means an area of a building, other than an exempt area, that is:

- (a) used or capable of being used as an office; and
- (b) of a kind determined by the Minister under subsection 10(2) to be disclosure affected.

**disclosure affected building** means a building, other than an exempt building, that is:

- (a) used or capable of being used as an office; and
- (b) of a kind determined by the Minister under subsection 10(1) to be disclosure affected.

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**energy efficiency disclosure obligation** means an obligation under section 11, subsection 12(6) or section 15.

**entity** has the same meaning as in the *Income Tax Assessment Act 1997*.

**exempt area**, of a building, means an area exempted under section 17 or 17A.

**exempt building** means a building exempted under section 17 or 17A.

**inviting an offer to lease**, in relation to a building or an area of a building, has a meaning affected by section 5.

**inviting an offer to purchase**, in relation to a building, has a meaning affected by section 4.

**inviting an offer to sublease**, in relation to a building or an area of a building, has a meaning affected by section 5.

**issue day**: see section 13.

**issuing authority** means:

- (a) the Secretary; or
- (b) a person or body approved by the Secretary under section 71A.

**lighting energy efficiency assessment** means:

- (a) in relation to a building—an assessment of the energy efficiency of the lighting for the building that might reasonably be expected to remain if the building is sold, let or sublet; or
- (b) in relation to an area of a building—an assessment of the energy efficiency of the lighting for the area that might reasonably be expected to remain if the area is let or sublet.

**monitoring powers** has the meaning given by section 37.

**monitoring warrant** is a warrant issued under section 47.

***non-assessable***, in relation to a building or an area of a building:  
see section 17.

***offer to let***, in relation to a building or an area of a building, has a meaning affected by section 5.

***offer to sell***, in relation to a building, has a meaning affected by section 4.

***offer to sublet***, in relation to a building or an area of a building, has a meaning affected by section 5.

***Paris Agreement*** means the Paris Agreement, done at Paris on 12 December 2015, as amended and in force for Australia from time to time.

Note: The Agreement is in Australian Treaty Series 2016 No. 24 ([2016] ATS 24) and could in 2022 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

***person assisting*** an auditor has the meaning given by section 38.

***registered***, in relation to a building energy efficiency certificate, means registered on the Building Energy Efficiency Register.

***Regulatory Powers Act*** means the *Regulatory Powers (Standard Provisions) Act 2014*.

***reviewable decision*** has the meaning given by section 67.

***Secretary*** means the Secretary of the Department.

***start day***: see section 13.

***wholly-owned subsidiary*** has the same meaning as in the *Income Tax Assessment Act 1997*.

#### **4 Offering to sell and inviting offers to purchase a building**

##### *Offering to sell*

- (1) A person is taken to offer to sell a building if the person offers to enter into a contract under which a contingent obligation or right to sell the building would be created.
- (2) A person is taken to continue to offer to sell a building if the person continues to offer to enter into a contract under which a contingent obligation or right to sell the building would be created.

##### *Inviting offers to purchase*

- (3) A person is taken to invite an offer to purchase a building if the person invites an offer to enter into a contract under which a contingent obligation or right to purchase the building would be created.
- (4) A person is taken to continue to invite an offer to purchase a building if the person continues to invite an offer to enter into a contract under which a contingent obligation or right to purchase the building would be created.

#### **5 Offering to let or sublet and inviting offers to lease or sublease a building or an area of a building**

##### *Offering to let or sublet*

- (1) A person is taken to offer to let a building or an area of a building (a *space*) if the person offers to enter into a contract under which a contingent obligation or right to let the space would be created.
- (2) A person is taken to continue to offer to let a space if the person continues to offer to enter into a contract under which a contingent obligation or right to let the space would be created.
- (3) A person is taken to offer to sublet a space if the person offers to enter into a contract under which a contingent obligation or right to sublet the space would be created.

- (4) A person is taken to continue to offer to sublet a space if the person continues to offer to enter into a contract under which a contingent obligation or right to sublet the space would be created.

*Inviting offers to lease or sublease*

- (5) A person is taken to invite an offer to lease a space if the person invites an offer to enter into a contract under which a contingent obligation or right to lease the space would be created.
- (6) A person is taken to continue to invite an offer to lease a space if the person continues to invite an offer to enter into a contract under which a contingent obligation or right to lease the space would be created.
- (7) A person is taken to invite an offer to sublease a space if the person invites an offer to enter into a contract under which a contingent obligation or right to sublease the space would be created.
- (8) A person is taken to continue to invite an offer to sublease a space if the person continues to invite an offer to enter into a contract under which a contingent obligation or right to sublease the space would be created.

### **5A Application to wholly-owned subsidiaries**

This Act does not apply in relation to an offer to enter into a contract between:

- (a) an entity and a wholly-owned subsidiary of the entity; or
- (b) wholly-owned subsidiaries of an entity.

### **6 Further subleases**

To avoid doubt, where a person has taken a sublease of a disclosure affected building or a disclosure affected area of a building (a *disclosure affected space*), the person is subject to the energy efficiency disclosure obligations:

- (a) if the person offers or continues to offer to sublet the disclosure affected space—in the same way as a lessee would

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be subject to those obligations if the lessee offered or continued to offer to sublet the space; and

- (b) if the person invites offers or continues to invite offers to sublease the disclosure affected space—in the same way as a lessee would be subject to those obligations if the lessee invited or continued to invite offers to sublease the space.

## 7 Relationship with State and Territory law

This Act is not intended to displace or limit a law of a State or Territory imposing a disclosure obligation in relation to the sale, lease or sublease of a building or an area of a building, unless the law is directly inconsistent with this Act.

## 8 Act binds the Crown

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.
- (3) The protection in subsection (2) does not apply to an authority of the Crown.

## 9 External Territories

This Act extends to all the external Territories.

## **Part 2—Obligations to disclose energy efficiency information**

### **10 Buildings and areas of buildings affected by energy efficiency disclosure obligations**

- (1) The Minister may, by legislative instrument, determine that a specified kind of building is disclosure affected.
- (2) The Minister may, by legislative instrument, determine that a specified kind of area of a building is disclosure affected.

### **11 No sale, lease or sublease without a building energy efficiency certificate**

- (1) If a constitutional corporation owns a disclosure affected building, the corporation must not do any of the following unless a current building energy efficiency certificate for the building is registered:
  - (a) offer, or continue to offer, to sell the building;
  - (b) invite offers, or continue to invite offers, to purchase the building;
  - (c) offer, or continue to offer, to let the building;
  - (d) invite offers, or continue to invite offers, to lease the building.

Civil penalty: 1,000 penalty units.

- (2) If a constitutional corporation leases a disclosure affected building, the corporation must not do any of the following unless a current building energy efficiency certificate for the building is registered:
  - (a) offer, or continue to offer, to sublet the building;
  - (b) invite offers, or continue to invite offers, to sublease the building.

Civil penalty: 1,000 penalty units.

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- (3) If a constitutional corporation owns a building, the corporation must not do any of the following:
- (a) offer, or continue to offer, to let a disclosure affected area of the building;
  - (b) invite offers, or continue to invite offers, to lease a disclosure affected area of the building;
- unless a current building energy efficiency certificate for the area is registered.

Civil penalty: 1,000 penalty units.

- (4) If a constitutional corporation leases a disclosure affected area of a building, the corporation must not do any of the following unless a current building energy efficiency certificate for the area is registered:
- (a) offer, or continue to offer, to sublet the area;
  - (b) invite offers, or continue to invite offers, to sublease the area.

Civil penalty: 1,000 penalty units.

- (5) A constitutional corporation that contravenes a requirement of this section in relation to a continuing offer or a continuing invitation commits a separate contravention in respect of each day during which the person fails to comply with that requirement, including the day of the making of a relevant civil penalty order under the Regulatory Powers Act and any subsequent day.

- (6) Subsections (1) to (4) do not apply if:
- (a) an offer to let or sublet a building or an area of a building is made and, at the time the offer is made, a term of 12 months or less is proposed; and
  - (b) at no time while the offer is continuing is a term of more than 12 months proposed.

- (7) Subsections (1) to (4) do not apply if:
- (a) an invitation to make offers to lease or sublease a building or an area of a building is made and, at the time the invitation is made, a term of 12 months or less is proposed; and



- (b) at no time while the invitation is continuing is a term of more than 12 months proposed.
- (8) In working out, for the purposes of subsections (6) and (7), whether the term proposed for a lease or sublease is a period of 12 months or less, include in the period any options to extend the lease or sublease.

## **12 Rights of a prospective purchaser, lessee or sublessee**

- (1) If:
- (a) a person (the *owner*) owns a disclosure affected building; and
  - (b) the owner offers to sell the building, or invites offers to purchase the building; and
  - (c) a constitutional corporation (the *prospective purchaser*) has an interest, in good faith, in accepting the offer or making an offer in response to the invitation;
- the prospective purchaser may give notice in writing to the owner at any time while the offer or invitation continues, requiring the owner to give the prospective purchaser a current building energy efficiency certificate for the building that has been registered.
- (2) If:
- (a) a person (the *owner*) owns a disclosure affected building; and
  - (b) the owner offers to let the building, or invites offers to lease the building; and
  - (c) a constitutional corporation (the *prospective lessee*) has an interest, in good faith, in accepting the offer or making an offer in response to the invitation;
- the prospective lessee may give notice in writing to the owner at any time while the offer or invitation continues, requiring the owner to give the prospective lessee a copy of a current building energy efficiency certificate for the building that has been registered.
- (3) If:
- (a) a person (the *lessee*) leases a disclosure affected building; and

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- (b) the lessee offers to sublet the building, or invites offers to sublease the building; and
- (c) a constitutional corporation (the *prospective sublessee*) has an interest, in good faith, in accepting the offer or making an offer in response to the invitation;

the prospective sublessee may give notice in writing to the lessee at any time while the offer or invitation continues, requiring the lessee to give the prospective sublessee a copy of a current building energy efficiency certificate for the building that has been registered.

(4) If:

- (a) a person (the *owner*) owns a building; and
- (b) the owner offers to let a disclosure affected area of the building, or invites offers to lease such an area; and
- (c) a constitutional corporation (the *prospective lessee*) has an interest, in good faith, in accepting the offer or making an offer in response to the invitation;

the prospective lessee may give notice in writing to the owner at any time while the offer or invitation continues, requiring the owner to give the prospective lessee a copy of a current building energy efficiency certificate for the area that has been registered.

(5) If:

- (a) a person (the *lessee*) leases a disclosure affected area of a building; and
- (b) the lessee offers to sublet the area, or invites offers to sublease the area; and
- (c) a constitutional corporation (the *prospective sublessee*) has an interest, in good faith, in accepting the offer or making an offer in response to the invitation;

the prospective sublessee may give notice in writing to the lessee at any time while the offer or invitation continues, requiring the lessee to give the prospective sublessee a copy of a current building energy efficiency certificate for the area that has been registered.

- (5A) Despite subsections (2) to (5), a person may not give notice in writing under any of those subsections if:
- (a) the term proposed for the lease or sublease at the time the offer or invitation is made is 12 months or less, including any options to extend the lease or sublease; and
  - (b) at no time while the offer or invitation is continuing is a term of more than 12 months proposed.
- (6) If a person is, by notice given in accordance with this section, required to give another person a copy of a current building energy efficiency certificate for a building or an area of a building that has been registered, the person must do so as soon as is reasonably practicable.

Civil penalty:

- (a) for an individual—350 penalty units; and
- (b) for a body corporate—1,000 penalty units.

### **13 Building energy efficiency certificates—applications**

- (1) In this Act:

***issue day***, in relation to a building energy efficiency certificate for a building or an area of a building, means the day on which the certificate is issued under subsection 13A(1).

***start day***, in relation to a building energy efficiency certificate for a building or an area of a building, means:

- (a) the issue day for the certificate; or
- (b) a later day specified in the certificate as the start day.

- (2) A person may apply to an issuing authority for a building energy efficiency certificate for a building or an area of a building.
- (3) The application must:
- (a) be in writing, in a form approved by the Secretary; and
  - (b) include the following:

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- (i) an energy efficiency rating for the building (or the building in which the area is located);
    - (ii) a lighting energy efficiency assessment for the building or the area;
    - (iii) the start day the person seeks; and
  - (c) meet any other requirements determined by the Secretary under subsection (6).
- (4) The energy efficiency rating must satisfy one of the following conditions:
- (a) the rating was worked out by an accredited assessor by applying the assessment methods and standards determined under section 21;
  - (b) an auditing authority:
    - (i) provided or approved the rating; and
    - (ii) is satisfied that the rating was worked out by applying the assessment methods and standards determined under section 21.
- (5) The lighting energy efficiency assessment must satisfy one of the following conditions:
- (a) the assessment was performed by an accredited assessor by applying the assessment methods and standards determined under section 21;
  - (b) an auditing authority:
    - (i) provided or approved the assessment; and
    - (ii) is satisfied that the assessment was performed by applying the assessment methods and standards determined under section 21.
- (6) The Secretary may, by legislative instrument, make a determination for the purposes of paragraph (3)(c).

Note: For who is an issuing authority, see section 71A.

**13A Building energy efficiency certificates—issue**

- (1) An issuing authority may, on application under section 13, issue a building energy efficiency certificate for a building or an area of a building if the issuing authority is satisfied that:
  - (a) the application meets the requirements of subsections 13(3), (4) and (5); and
  - (b) the energy efficiency rating is appropriate for the building (or the building in which the area is located), applying the methods and standards determined under section 21; and
  - (c) the lighting energy efficiency assessment is appropriate for the building or the area, applying the methods and standards determined under section 21.
- (2) The certificate must set out the following:
  - (a) the energy efficiency rating for the building (or the building in which the area is located);
  - (b) the lighting energy efficiency assessment for the building or the area;
  - (c) the start day for the certificate (which may be different from the start day sought by the applicant);
  - (d) the period for which the certificate is current;
  - (e) any other information determined by the Secretary under subsection (4).
- (3) For paragraph (2)(d), the period set out in the certificate must be a period of no more than 12 months beginning on the start day set out in the certificate.
- (4) The Secretary may, by legislative instrument, make a determination for the purposes of paragraph (2)(e).

**14 Building Energy Efficiency Register**

- (1) The Secretary is to maintain, or cause to be maintained, a register, to be known as the Building Energy Efficiency Register, in which the Secretary includes particulars of building energy efficiency certificates.

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- (2) The Register may include information about the following:
  - (a) current building energy efficiency certificates and those that are no longer current;
  - (b) current exemptions under section 17 and those that are no longer current;
  - (c) variations and revocations of such exemptions.
- (3) The Secretary must delete, or cause to be deleted, the particulars of a building energy efficiency certificate from the Register if the Secretary is notified in writing by an auditing authority that:
  - (a) in the case of a building energy efficiency certificate for a building:
    - (i) the energy efficiency rating specified in the certificate for the building is not that which, applying the assessment methods and standards determined under section 21, is appropriate for the building; or
    - (ii) the assessment of the energy efficiency of the lighting for the building that might reasonably be expected to remain if the building is sold, let or sublet is not that which, applying the assessment methods and standards determined under section 21, is appropriate for the building; or
  - (b) in the case of a building energy efficiency certificate for an area of a building:
    - (i) the energy efficiency rating specified in the certificate for the building in which the area is located is not that which, applying the assessment methods and standards determined under section 21, is appropriate for the building; or
    - (ii) the assessment of the energy efficiency of the lighting for the area that might reasonably be expected to remain if the area is let or sublet is not that which, applying the assessment methods and standards determined under section 21, is appropriate for the area.
- (4) If particulars of a building energy efficiency certificate for a building are deleted from the Register, the Secretary may notify

any person who the Secretary reasonably believes is currently the owner of the building, or a lessee or sublessee of the building or an area of the building, of that fact.

- (5) If particulars of a building energy efficiency certificate for an area of a building are deleted from the Register, the Secretary may notify any person who the Secretary reasonably believes is currently the lessee or sublessee of the area of that fact.
- (6) The Register must be maintained by electronic means and be made available for inspection on the internet.
- (7) The Register is not a legislative instrument.

### **15 Advertisements to include energy efficiency ratings**

- (1) If a constitutional corporation owns a disclosure affected building, the corporation must not advertise or continue to advertise the building for sale or lease unless:
  - (a) a current energy efficiency rating for the building is included in the advertisement; and
  - (b) the rating is expressed in the advertisement in a manner determined by the Secretary by legislative instrument.

Civil penalty: 1,000 penalty units.

- (2) If a constitutional corporation leases a disclosure affected building, the corporation must not advertise or continue to advertise the building for sublease unless:
  - (a) a current energy efficiency rating for the building is included in the advertisement; and
  - (b) the rating is expressed in the advertisement in a manner determined by the Secretary by legislative instrument.

Civil penalty: 1,000 penalty units.

- (3) If a constitutional corporation owns a building, the corporation must not advertise or continue to advertise a disclosure affected area of the building for lease unless:

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- (a) a current energy efficiency rating for the building is included in the advertisement; and
- (b) the rating is expressed in the advertisement in a manner determined by the Secretary by legislative instrument.

Civil penalty: 1,000 penalty units.

- (4) If a constitutional corporation leases a disclosure affected area of a building, the corporation must not advertise or continue to advertise the area for sublease unless:
  - (a) a current energy efficiency rating for the building is included in the advertisement; and
  - (b) the rating is expressed in the advertisement in a manner determined by the Secretary by legislative instrument.

Civil penalty: 1,000 penalty units.

- (5) A constitutional corporation that contravenes a requirement of this section in relation to a continuing advertisement commits a separate contravention in respect of each day during which the person fails to comply with that requirement, including the day of the making of a relevant civil penalty order under the Regulatory Powers Act and any subsequent day.
- (6) Subsections (1) to (4) do not apply if:
  - (a) a constitutional corporation advertises or continues to advertise a building or an area of a building for lease or sublease; and
  - (b) the term proposed for the lease or sublease in the advertisement is 12 months or less, including any options to extend the lease or sublease; and
  - (c) at no time while the advertisement is continuing is a term of more than 12 months proposed.



**17 Exemptions on application***Application for an exemption*

- (1) A person may apply to the Secretary for a building or an area of a building to be exempt from the operation of section 11, 12 or 15.
- (2) The application must:
  - (a) be in writing in a form approved by the Secretary; and
  - (b) include information of a kind prescribed by regulation; and
  - (c) be accompanied by the fee (if any) prescribed by regulation.

*Granting an exemption*

- (3) The Secretary may grant the exemption:
  - (a) if the Secretary is satisfied that the building or the area is used for police or security operations; or
  - (b) if the Secretary is satisfied that the building or the area is non-assessable (see subsections (7) and (8)); or
  - (c) in circumstances prescribed by regulation for the purposes of this paragraph.
- (4) The Secretary must give the applicant written notice of the Secretary's decision under subsection (3).

*Varying or revoking an exemption*

- (5) The Secretary may vary or revoke an exemption by giving notice in writing to:
  - (a) the applicant; and
  - (b) any other person whose interest in the building or the area is registered with a land titles office (however described).
- (6) Subsection (5) does not limit subsection 33(3) of the *Acts Interpretation Act 1901*.

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### *Meaning of non-assessable*

- (7) A building is **non-assessable** if it is not possible to work out an energy efficiency rating for the building, or perform a lighting energy efficiency assessment for the building, because of the characteristics of the building.
- (8) An area of a building is **non-assessable** if it is not possible to work out an energy efficiency rating for the building in which the area is located, or perform a lighting energy efficiency assessment for the area, because of the characteristics of the building or the area.

### **17A Automatic exemptions**

A building or an area of a building is exempt from the operation of section 11, 12 or 15 if circumstances specified in a determination under paragraph 21(1)(d) apply to the building or the area.

### **18 Information gathering**

- (1) This section applies if:
  - (a) a person asks an accredited assessor to assess a building or an area of a building for the purposes of applying for a building energy efficiency certificate for the building or area; and
  - (b) the person does so in order to satisfy an energy efficiency disclosure obligation.
- (2) The accredited assessor may, by written notice, request the Secretary to require an owner, lessee or sublessee of the building or area to give the assessor information that is:
  - (a) necessary for the purposes of the assessment; and
  - (b) of a kind specified in the notice;if the assessor reasonably believes that the person possesses the information.
- (3) At the written request of the accredited assessor, the Secretary may, by written notice, require the owner, lessee or sublessee of the building or the area to give the information to the assessor

within the period specified in the notice. The period must end at least 14 days after the day on which the notice is given.

- (4) At the written request of the accredited assessor, the Secretary may, by written notice, require an owner, lessee or sublessee of the building or area of a building to give the assessor access to a place in or associated with the building or area if access to the place is necessary for the purposes of the assessment.
- (5) A notice given under subsection (4) to an owner, lessee or sublessee must specify the day and time on which access by the accredited assessor is required. However, the day and time on which access is required under the notice must be reasonable.

*Civil penalty provision*

- (6) An owner, lessee or sublessee to whom notice is given in accordance with this section must comply with the notice.

Civil penalty:

- (a) for an individual—200 penalty units; and
  - (b) for a body corporate—500 penalty units.
- (7) If a person contravenes subsection (6) by failing to give access at a day and time on which access is required under a notice, the person commits a separate contravention of that subsection in respect of each day after the day required under the notice, including a day of the making of the relevant civil penalty order and any subsequent day.

Note: If a person contravenes subsection (6) by failing to give information within the period specified in the notice, under section 93 of the Regulatory Powers Act, the person commits a separate contravention of that subsection in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

## **19 Offences relating to information obtained or generated in applying for a certificate**

- (1) A person commits an offence if:
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- (a) the person:
  - (i) is given information in response to a notice given or purportedly given under subsection 18(3); or
  - (ii) otherwise obtains or generates information for the purposes of obtaining a building energy efficiency certificate; and
- (b) the person does any of the following:
  - (i) copies, or makes a record of, the information;
  - (ii) uses the information;
  - (iii) discloses the information to any person.

Penalty: Imprisonment for 2 years.

- (2) Subsection (1) does not apply if:
  - (a) the information is copied, recorded, used or disclosed for the purposes of obtaining a building energy efficiency certificate; or
  - (b) the information is copied, recorded, used or disclosed in, or in connection with, an audit conducted under Part 4; or
  - (c) the information is copied, recorded, used or disclosed in circumstances in which the conduct is permitted, either expressly or by implication, under this Act; or
  - (d) the information is copied, recorded, used or disclosed for the purposes of proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* (false or misleading information or documents) that relates to this Act; or
  - (e) the information is copied, recorded, used or disclosed for the purposes of proceedings for an offence against section 149.1 of the *Criminal Code* (obstruction of Commonwealth public officials) that relates to this Act; or
  - (f) the information is copied, recorded, used or disclosed with the consent of:
    - (i) in the case of information given in response to a notice given or purportedly given under subsection 18(3)—the person who gave the information; and

- (ii) in the case of information otherwise obtained for the purposes of obtaining a building energy efficiency certificate—the person from whom the information was obtained; and
- (iii) in the case of information generated for the purposes of obtaining a building energy efficiency certificate—the person on whose behalf the accredited assessor made an application for the certificate; or
- (g) the information is already publicly available.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code*).

## **20 Damages for failure to properly carry out assessments**

- (1) An accredited assessor who carries out an assessment of a disclosure affected building for the purposes of applying for a building energy efficiency certificate must, in doing so:
  - (a) work out the proposed energy efficiency rating for the building by applying the assessment methods and standards determined under section 21; and
  - (b) perform a lighting energy efficiency assessment for the building by applying the assessment methods and standards determined under section 21; and
  - (c) comply with the assessor's conditions of accreditation.
- (2) An accredited assessor who carries out an assessment of a disclosure affected area of a building for the purposes of applying for a building energy efficiency certificate must, in doing so:
  - (a) work out the proposed energy efficiency rating for the building by applying the assessment methods and standards determined under section 21; and
  - (b) perform a lighting energy efficiency assessment for the area by applying the assessment methods and standards determined under section 21; and
  - (c) comply with the assessor's conditions of accreditation.

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- (3) If one of the following persons suffers damage as a result of a failure to comply with a duty under this section, the person may recover damages for any loss suffered as a result of that failure in a Court:
- (a) if the certificate is sought for a disclosure affected building:
    - (i) the owner of the building; and
    - (ii) if all or part of the building is let—the lessor and lessee under the lease; and
    - (iii) if all or part of the building is sublet—the sublessor and sublessee under the sublease;
  - (b) if the rating or certificate is sought for a disclosure affected area of a building:
    - (i) the owner of the building; and
    - (ii) the lessor and lessee under a lease of the area; and
    - (iii) if the area is sublet—the sublessor and sublessee under the sublease.

Note: This section does not provide for recovery of damages in relation to approval by an auditing authority of energy efficiency ratings or lighting energy efficiency assessments.

## 21 Methods and standards of assessment

- (1) The Secretary may, by legislative instrument, determine:
- (a) the assessment methods and standards to be applied in working out the energy efficiency rating for a building; and
  - (b) the assessment methods and standards to be applied in performing a lighting energy efficiency assessment for the building; and
  - (c) the assessment methods and standards to be applied in performing a lighting energy efficiency assessment for the area; and
  - (d) the circumstances in which a building or an area of a building is exempt for the purposes of section 17A.
- (2) Without limiting subsection (1), the Secretary may determine an assessment method or standard by applying, adopting or incorporating, with or without modification, any matter contained

in any other instrument or writing as in force at a particular time or as in force from time to time.

## Part 3—Accreditation of assessors

### Division 1—Accreditation

#### 24 Application for accreditation

- (1) A person may apply to the Secretary to become an accredited assessor.
- (2) The application must:
  - (a) be in writing in a form approved by the Secretary; and
  - (b) include information of the prescribed kind; and
  - (c) be accompanied by the prescribed fee.

#### 25 Accreditation of assessors

- (1) The Secretary must refuse to accredit a person as an assessor if:
  - (a) the person has been convicted of an offence against Division 137 of the *Criminal Code* for the provision of false or misleading information or documents in, or in connection with, an application for a building energy efficiency certificate; or
  - (b) the person has been convicted of an offence against Division 137 of the *Criminal Code* for the provision of false or misleading information in, or in connection with, an audit conducted under Part 4; or
  - (c) the Secretary is satisfied that the person has otherwise provided false or misleading information in, or in connection with, a rating of the energy efficiency of a building on which another person might rely for any purpose; or
  - (d) the person has been convicted of an offence against Division 137 of the *Criminal Code* for the provision of false or misleading information in, or in connection with, an application for accreditation or renewal of accreditation; or



- (e) the person has not successfully completed the prescribed training.
- (2) The Secretary may refuse to accredit a person as an assessor if:
- (a) in a case where the person has previously been accredited as an assessor:
    - (i) the person has been found in proceedings for damages brought under section 20 not to have properly applied the assessment methods and standards determined under section 21 for the purposes of working out a proposed energy efficiency rating or performing a lighting energy efficiency assessment for a building or an area of a building; or
    - (ii) the Secretary is otherwise reasonably satisfied that the person has not properly applied the assessment methods and standards determined under section 21 for the purposes of working out a proposed energy efficiency rating or performing a lighting energy efficiency assessment for a building or an area of a building; or
    - (iii) the person has failed to comply with a condition of accreditation; or
  - (b) in any case:
    - (i) the Secretary is satisfied that the person needs to undertake further training before the person can properly apply the assessment methods and standards determined under section 21 and the person has not successfully completed that training; or
    - (ii) the Secretary is satisfied that the person does not have the qualifications or experience necessary to properly apply the assessment methods and standards determined under section 21; or
  - (c) the Secretary is satisfied that the person will not be able to satisfy a condition of accreditation prescribed under subsection 27(1) that is relevant to the person.
- (3) Otherwise, the Secretary must accredit the person.

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- (4) The Secretary must notify the person in writing of the Secretary's decision on the application.

**26 Period of accreditation**

The Secretary may accredit a person as an assessor for a period of no less than 12 months and no more than 3 years.

**27 Conditions of accreditation**

- (1) The regulations may prescribe conditions to be imposed on the accreditation of all or a specified class of assessors.
- (2) The Secretary may impose additional conditions on the accreditation of an assessor.
- (3) Without limiting subsection (2), those conditions may include:
- (a) a condition that the assessor may work out energy efficiency ratings or perform lighting energy efficiency assessments only under the supervision of an auditor; and
  - (b) a condition that the assessor is to undertake specified further training while accredited.
- (4) The Secretary may, at any time, vary or revoke a condition imposed under subsection (2).
- (5) The Secretary must notify a person in writing of any condition imposed under subsection (2) on the person's accreditation as an assessor, and the variation or revocation of such a condition.
- (6) A notice given under subsection (5) is not a legislative instrument.

## **Division 2—Suspension and revocation of accreditation**

### **28 Suspension of accreditation**

- (1) The Secretary may suspend the accreditation of a person as an assessor if:
  - (a) the person has been found in proceedings for damages brought under section 20 not to have properly applied the assessment methods and standards determined under section 21 for the purposes of working out a proposed energy efficiency rating or performing a lighting energy efficiency assessment for a building or an area of a building; or
  - (b) the Secretary is otherwise reasonably satisfied that the person has not properly applied the assessment methods and standards determined under section 21 for the purposes of working out a proposed energy efficiency rating or performing a lighting energy efficiency assessment for a building or an area of a building; or
  - (c) the person has failed to comply with a condition of accreditation.
- (2) The Secretary must notify a person in writing of a decision to suspend the person's accreditation

### **29 Lift of suspension**

- (1) The Secretary may lift the suspension of the accreditation of a person if the Secretary is satisfied that:
  - (a) the issues that resulted in accreditation being suspended have been addressed; and
  - (b) any other action necessary to ensure the person will properly apply the assessment methods and standards determined under section 21 and comply with the conditions of accreditation has been or will be taken.

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- (2) If the accreditation of a person expires before a suspension of that accreditation is lifted, the Secretary may waive all or a specified part of:
- (a) the requirement under paragraph 24(2)(b) to produce information on the application by the person for accreditation; and
  - (b) the requirement under paragraph 24(2)(c) to pay a fee on the application by the person for accreditation.
- (3) The Secretary must notify a person in writing of:
- (a) a decision to lift the suspension of the person's accreditation; and
  - (b) a decision to waive all or part of a requirement under paragraph 24(2)(b) or (c).

**30 Revocation of accreditation**

- (1) The Secretary must revoke the accreditation of a person as an assessor if:
- (a) the person has been convicted of an offence against Division 137 of the *Criminal Code* for the provision of false or misleading information or documents in, or in connection with, an application for a building energy efficiency certificate; or
  - (b) the person has been convicted of an offence against Division 137 of the *Criminal Code* for the provision of false or misleading information in, or in connection with, an audit conducted under Part 4; or
  - (c) the Secretary is satisfied that the person has otherwise provided false or misleading information in, or in connection with, a rating of the energy efficiency of a building on which another person might rely for any purpose; or
  - (d) the person has been convicted of an offence against Division 137 of the *Criminal Code* for the provision of false or misleading information in, or in connection with, an application for accreditation or renewal of accreditation.

- (2) The Secretary may revoke the accreditation of a person as an assessor in the following circumstances:
- (a) the person has been found in proceedings for damages brought under section 20 not to have properly applied the assessment methods and standards determined under section 21 for the purposes of working out an energy efficiency rating or performing a lighting energy efficiency assessment for a building or an area of a building;
  - (b) the Secretary is otherwise reasonably satisfied that the person has not properly applied the assessment methods and standards determined under section 21 for the purposes of working out an energy efficiency rating or performing a lighting energy efficiency assessment for a building or an area of a building;
  - (c) the person has failed to comply with a condition of the person's accreditation.
- (3) The Secretary must notify a person in writing of a decision to revoke the person's accreditation.

## Division 3—General provisions relating to accreditation

### 31 Register of Accredited Assessors

- (1) The Secretary must maintain, or cause to be maintained, a register, to be known as the Register of Accredited Assessors.
- (2) The Register is to contain:
  - (a) the name of each accredited assessor; and
  - (b) the registration number for each accredited assessor; and
  - (c) any other information that the Secretary considers relevant in assisting a person in engaging an accredited assessor to work out an energy efficiency rating or perform a lighting energy efficiency assessment for the purposes of applying for a building energy efficiency certificate.
- (3) The Register must be maintained by electronic means and be available for inspection on the internet.
- (4) The Register is not a legislative instrument.

### 32 Offence—holding out to be an accredited assessor

A person commits an offence if:

- (a) the person (the *defendant*) makes a statement (whether orally, in a document or in any other way); and
- (b) the statement might reasonably lead another person to believe that, at a particular time, the defendant is or was an accredited assessor; and
- (c) at that time, the defendant is not or was not an accredited assessor.

Penalty: 60 penalty units.

## **Part 4—Auditing accredited assessors**

### **Division 1—Appointment of auditing authority and auditors**

#### **33 Auditing authority**

- (1) The Secretary may, by written instrument, appoint a person or body as an auditing authority.
- (2) An auditing authority has the following functions:
  - (a) to direct auditors in performing their work to ensure that:
    - (i) accredited assessors properly apply the assessment methods and standards determined under section 21 in working out ratings and performing assessments for the purposes of applying for building energy efficiency certificates; and
    - (ii) the ratings and assessments are not influenced by any conflict of interest;
  - (b) to provide or approve ratings and assessments for building energy efficiency certificates;
  - (c) such other functions as are conferred by this Act or the regulations.
- (3) An auditing authority must perform its functions in accordance with any policies notified to the auditing authority in writing by the Secretary.
- (4) An auditing authority must notify the Secretary in writing as soon as is reasonably practicable if it becomes apparent as a result of an audit of an assessment carried out by an accredited assessor that:
  - (a) in relation to a building for which a building energy efficiency certificate is current:
    - (i) the energy efficiency rating specified in the certificate for the building is not that which, applying the

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assessment methods and standards determined under section 21, is appropriate for the building; or

- (ii) the lighting energy efficiency assessment for the building is not that which, applying the assessment methods and standards determined under section 21, is appropriate for the building; and
- (b) in relation to an area of a building for which a building energy efficiency certificate is current:
  - (i) the energy efficiency rating specified in the certificate for the building in which the area is located is not that which, applying the assessment methods and standards determined under section 21, is appropriate for the building; or
  - (ii) the lighting energy efficiency assessment for the area is not that which, applying the assessment methods and standards determined under section 21, is appropriate for the area.

(5) A policy made under subsection (3) is not a legislative instrument.

**34 Auditors**

- (1) The Secretary may, by written instrument, appoint any of the following persons as an auditor:
  - (a) an APS employee;
  - (b) a member of the civil or public service of a State or Territory;
  - (c) a person engaged by the Commonwealth as an auditor under contract or otherwise.
- (2) The Secretary may only appoint a person as an auditor if the Secretary is satisfied that the person has the skills and experience necessary to perform the functions described in subsection (3).
- (3) The functions of an auditor are to:
  - (a) conduct audits of:
    - (i) energy efficiency ratings and lighting energy efficiency assessments worked out or performed by accredited



- assessors for the purposes of applying for building energy efficiency certificates; and
- (ii) such ratings and assessments provided or approved by auditing authorities; and
  - (iii) applications for exemptions under section 17; and
  - (iv) the documentation and record keeping of accredited assessors and other persons in relation to such ratings, assessments and applications; and
- (b) supervise ratings and assessments by accredited assessors to ensure that:
- (i) the assessment methods and standards determined under section 21 are properly applied; and
  - (ii) the ratings and assessments are properly documented; and
  - (iii) the records of ratings and assessments are properly kept.
- (3A) Without limiting subsection (3), an auditor may conduct an audit of a rating, assessment or application by doing no more than reviewing documents relating to the assessment, rating or application.
- (4) An auditor must perform his or her functions in accordance with any directions given by an auditing authority.
- (5) If a direction is given in writing, the direction is not a legislative instrument.

### **35 Identity cards**

- (1) The Secretary must issue an identity card to an auditor.

#### *Form of identity card*

- (2) The identity card must:
- (a) be in the form prescribed by the regulations; and
  - (b) contain a recent photograph of the auditor.

**Part 4** Auditing accredited assessors

**Division 1** Appointment of auditing authority and auditors

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*Offence*

- (3) A person commits an offence if:
- (a) the person has been issued with an identity card; and
  - (b) the person ceases to be an auditor; and
  - (c) the person does not, as soon as practicable after so ceasing, return the identity card to the Secretary.

Penalty: 1 penalty unit.

- (4) An offence against subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

*Defence—card lost or destroyed*

- (5) Subsection (3) does not apply if the identity card was lost or destroyed.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code*).

*Auditor must carry card*

- (6) An auditor must carry his or her identity card at all times when exercising powers as an auditor.

## Division 2—Powers of auditors

### 36 Auditor may enter a building, an area of a building or an associated place by consent or under warrant

- (1) An auditor may exercise the powers under this section for the purpose of determining whether an accredited assessor has properly applied the assessment methods and standards determined under section 21 for the purposes of working out a proposed energy efficiency rating or performing a lighting energy efficiency assessment for a building or an area of a building.
- (2) The auditor may:
  - (a) enter the building or area, and any place associated with the building or area (an *associated place*); and
  - (b) exercise the monitoring powers set out in section 37.
- (3) However, an auditor is not authorised to enter a building, an area or an associated place unless:
  - (a) the occupier of the building, area or associated place has consented to the entry and the auditor has shown his or her identity card if required by the occupier; or
  - (b) the entry is made under a monitoring warrant.

Note: If entry to a building, an area or an associated place is with the occupier's consent, the auditor must leave the building, area or associated place if the consent ceases to have effect: see section 40.

### 37 Monitoring powers of auditors

- (1) The following are the *monitoring powers* that an auditor may exercise in relation to a building, an area or an associated place under section 36:
  - (a) the power to observe any activity conducted in the building, area or associated place;
  - (b) the power to inspect, or take measurements of, any thing in the building, area or associated place;

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- (c) the power to make any still or moving image or any recording of the building, area or associated place or any thing in the building, area or associated place;
- (d) the power to inspect any document in the building, area or associated place;
- (e) the power to take extracts from, or make copies of, any such document;
- (f) the power to take into the building, area or associated place such equipment and materials as the auditor requires for the purpose of exercising powers in relation to the building, area or associated place;
- (g) the powers set out in subsections (2) and (3).

*Operating electronic equipment*

- (2) The **monitoring powers** include the power to operate electronic equipment in the building, area or associated place to see whether:
  - (a) the equipment; or
  - (b) a disk, tape or other storage device that:
    - (i) is in the building, area or associated place; and
    - (ii) can be used with the equipment or is associated with it;contains information that is relevant to determining whether an accredited assessor has properly applied the assessment methods and standards determined under section 21.
- (3) The **monitoring powers** include the following powers in relation to information described in subsection (2) found in the exercise of the power under that subsection:
  - (a) the power to operate electronic equipment in the building, area or associated place to put the information in documentary form and remove the documents so produced from the building, area or associated place;
  - (b) the power to operate electronic equipment in the building, area or associated place to transfer the information to a disk, tape or other storage device that:
    - (i) is brought to the building, area or associated place for the exercise of the power; or

- (ii) is in the building, area or associated place and the use of which for that purpose has been agreed in writing by the occupier of the building, area or associated place;  
and remove the disk, tape or other storage device from the building, area or associated place.
- (4) An auditor may operate electronic equipment as mentioned in subsection (2) or (3) only if he or she believes on reasonable grounds that the operation of the equipment can be carried out without damage to the equipment.

### **38 Persons assisting auditors**

*Auditors may be assisted by other persons*

- (1) An auditor may, in entering a building, an area or an associated place under section 36 and in exercising monitoring powers in relation to the building, area or associated place, be assisted by other persons if that assistance is necessary and reasonable. A person giving such assistance is a **person assisting** the auditor.

*Powers of a person assisting the auditor*

- (2) A person assisting the auditor may:
  - (a) enter the building, area or associated place; and
  - (b) exercise monitoring powers in relation to the building, area or associated place, but only in accordance with a direction given to the person by the auditor.
- (3) A power exercised by a person assisting the auditor as mentioned in subsection (2) is taken for all purposes to have been exercised by the auditor.
- (4) If a direction is given under paragraph (2)(b) in writing, the direction is not a legislative instrument.

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### 39 Auditor may ask questions and seek production of documents

*Entry with consent*

- (1) If an auditor is authorised to enter a building, an area or an associated place because the occupier has consented to the entry, the auditor may ask the occupier to:
  - (a) answer any questions that are put by the auditor and that relate to determining whether an accredited assessor has properly applied the assessment methods and standards determined under section 21; and
  - (b) produce any document that is requested by the auditor and that relates to whether an accredited assessor has properly applied the assessment methods and standards determined under section 21.

*Entry under a monitoring warrant*

- (2) If an auditor is authorised to enter a building, an area or an associated place by a monitoring warrant, the auditor may require any person in the building, area or associated place to:
  - (a) answer any questions that are put by the auditor and that relate to determining whether an accredited assessor has properly applied the assessment methods and standards determined under section 21; and
  - (b) produce any document that is requested by the auditor and that relates to whether an accredited assessor has properly applied the assessment methods and standards determined under section 21.

*Offence*

- (3) A person commits an offence if:
  - (a) the person is subject to a requirement under subsection (2); and
  - (b) the person fails to comply with the requirement.

Penalty: 30 penalty units.

- (4) An individual is not required to answer a question or produce a document if the answer or document might tend to incriminate the individual or expose the individual to a penalty.
- (5) Subsection (3) does not apply to the extent that the person is not capable of complying with the requirement.

Note: The defendant bears an evidential burden in relation to the matters in subsections (4) and (5) (see subsection 13.3(3) of the *Criminal Code*).

## Division 3—Obligations of auditors

### 40 Consent

- (1) An auditor must, before obtaining the consent of an occupier of a building, an area or an associated place for the purposes of paragraph 36(3)(a), inform the occupier that the occupier may refuse consent.
- (2) A consent has no effect unless the consent is voluntary.
- (3) A consent may be expressed to be limited to entry during a particular period. If so, the consent has effect for that period unless the consent is withdrawn before the end of that period.
- (4) A consent that is not limited as mentioned in subsection (3) has effect until the consent is withdrawn.
- (5) If an auditor entered a building, an area or an associated place because of the consent of the occupier, the auditor and any person assisting the auditor must leave the building, area or associated place if the consent ceases to have effect.

### 41 Announcement before entry under warrant

- (1) An auditor must, before entering a building, an area or an associated place under a monitoring warrant:
  - (a) announce that he or she is authorised to enter the building, area or associated place; and
  - (b) show his or her identity card to the occupier of the building, area or associated place, or to another person who apparently represents the occupier, if the occupier or other person is present in the building, area or associated place; and
  - (c) give any person in the building, area or associated place an opportunity to allow entry to the building, area or associated place.



- (2) However, an auditor is not required to comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the building, area or associated place is required to ensure that the effective execution of the warrant is not frustrated.
- (3) If:
- (a) an auditor does not comply with subsection (1) because of subsection (2); and
  - (b) the occupier of the building, area or associated place, or another person who apparently represents the occupier, is present in the building, area or associated place;
- the auditor must, as soon as practicable after entering the building, area or associated place, show his or her identity card to the occupier or other person.

#### **42 Auditor to be in possession of warrant**

If a monitoring warrant is being executed in relation to the building, area or associated place, an auditor executing the warrant must be in possession of the warrant or a copy of the warrant.

#### **43 Details of warrant etc. to be given to occupier**

- If:
- (a) a monitoring warrant is being executed in relation to a building, an area or an associated place; and
  - (b) the occupier of the building, area or associated place, or another person who apparently represents the occupier, is present in the building, area or associated place;
- an auditor executing the warrant must, as soon as practicable:
- (c) make a copy of the warrant available to the occupier or other person (which need not include the signature of the magistrate who issued it); and
  - (d) inform the occupier or other person of the rights and responsibilities of the occupier or other person under Division 4.

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#### 44 Compensation for damage to electronic equipment

- (1) This section applies if:
  - (a) as a result of electronic equipment being operated as mentioned in this Part:
    - (i) damage is caused to the equipment; or
    - (ii) the data recorded on the equipment is damaged; or
    - (iii) programs associated with the use of the equipment, or with the use of the data, are damaged or corrupted; and
  - (b) the damage or corruption occurs because:
    - (i) insufficient care was exercised in selecting the person who was to operate the equipment; or
    - (ii) insufficient care was exercised by the person operating the equipment.
- (2) The Commonwealth must pay the owner of the equipment, or the user of the data or programs, such reasonable compensation for the damage or corruption as the Commonwealth and the owner or user agree on.
- (3) However, if the owner or user and the Commonwealth fail to agree, the owner or user may institute proceedings in the Federal Court of Australia for such reasonable amount of compensation as the Court determines.
- (4) In determining the amount of compensation payable, regard is to be had to whether the occupier of the building, area or associated place, or the occupier's employees or agents, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment.
- (5) Compensation is payable out of money appropriated by the Parliament.
- (6) In this section:

**damage**, in relation to data, includes damage by erasure of data or addition of other data.

## **Division 4—Occupier's rights and responsibilities**

### **45 Occupier entitled to observe execution of warrant**

- (1) If:
  - (a) a monitoring warrant is being executed in relation to a building, an area or an associated place; and
  - (b) the occupier of the building, area or associated place, or another person who apparently represents the occupier, is present in the building, area or associated place;the occupier or other person is entitled to observe the execution of the warrant.
- (2) The right to observe the execution of the warrant ceases if the occupier or other person impedes that execution.
- (3) This section does not prevent the execution of the warrant in 2 or more areas at the same time.

### **46 Occupier to provide auditor with facilities and assistance**

- (1) The occupier of a building, an area or an associated place to which a monitoring warrant relates, or another person who apparently represents the occupier, must provide:
  - (a) an auditor executing the warrant; and
  - (b) any person assisting the auditor;with all reasonable facilities and assistance for the effective exercise of their powers.
- (2) A person commits an offence if:
  - (a) the person is subject to subsection (1); and
  - (b) the person fails to comply with that subsection.

Penalty: 30 penalty units.

## Division 5—Monitoring warrants

### 47 Monitoring warrants

#### *Application for warrant*

- (1) An auditor may apply to a magistrate for a warrant under this section in relation to a building, an area of a building or any place associated with a building or an area of a building (an ***associated place***).

#### *Issue of warrant*

- (2) The magistrate may issue the warrant if the magistrate is satisfied, by information on oath or affirmation, that it is reasonably necessary that one or more auditors should have access to the building, area or associated place for the purpose of determining whether an accredited assessor has properly applied the assessment methods and standards determined under section 21 for the purposes of working out a proposed energy efficiency rating for the building or performing a lighting energy efficiency assessment for the building or an area of the building.
- (3) However, the magistrate must not issue the warrant unless the auditor or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.

#### *Content of warrant*

- (4) The warrant must:
  - (a) describe the building, area or associated place to which the warrant relates; and
  - (b) state that the warrant is issued under this section; and
  - (c) state that the warrant is issued for the purpose of determining whether an accredited assessor has properly applied the

assessment methods and standards determined under section 21 for the purposes of working out a proposed energy efficiency rating for the building or performing a lighting energy efficiency assessment for the building or an area of the building; and

- (d) authorise one or more auditors (whether or not named in the warrant) from time to time while the warrant remains in force:
  - (i) to enter the building, area or associated place; and
  - (ii) to exercise the powers set out in Division 2 in relation to the building, area or associated place; and
- (e) state whether the entry is authorised to be made at any time of the day or during specified hours of the day; and
- (f) specify the day (not more than 6 months after the issue of the warrant) on which the warrant ceases to be in force.

## Division 6—Powers of magistrates

### 48 Powers of magistrates

#### *Powers conferred personally*

- (1) A power conferred on a magistrate by this Part is conferred on the magistrate:
  - (a) in a personal capacity; and
  - (b) not as a court or a member of a court.

#### *Powers need not be accepted*

- (2) The magistrate need not accept the power conferred.

#### *Powers to be exercised in accordance with an agreement*

- (3) The magistrate must not exercise a power conferred by this Part unless the conferral of the power is in accordance with an agreement between the Commonwealth and the State or Territory concerned.

#### *Protection and immunity*

- (4) A magistrate exercising a power conferred by this Part has the same protection and immunity as if he or she were exercising the power:
  - (a) as the court of which the magistrate is a member; or
  - (b) as a member of the court of which the magistrate is a member.

## **Part 5—Enforcement**

### **Division 1—Obtaining information and documents**

#### **49 Secretary may obtain information or documents**

- (1) If the Secretary reasonably believes that a person has:
  - (a) knowledge of information; or
  - (b) custody or control of documents;relating to whether a civil penalty provision of this Act has been complied with, the Secretary may give a written notice to the person requiring the person to provide the information or produce the documents to the Secretary.
- (2) The notice must specify:
  - (a) the period within which the person must comply with the notice; and
  - (b) the manner in which the person must comply with the notice.
- (3) The specified period mentioned in paragraph (2)(a) must end at least 14 days after the notice is given.

#### **50 Failure to comply with a notice**

- (1) A person commits an offence if the person fails to comply with a notice given under section 49.  
  
Penalty: 30 penalty units.
- (2) An offence under subsection (1) is an offence of strict liability.  
  
Note: For strict liability, see section 6.1 of the *Criminal Code*.
- (3) An individual is not required to provide the information or produce a document if the information or document might tend to incriminate the individual or expose the individual to a penalty.

**Part 5** Enforcement

**Division 1** Obtaining information and documents

**Section 50**

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- (4) Subsection (1) does not apply to the extent that the person is not capable of complying with the notice.

Note: The defendant bears an evidential burden in relation to the matters in subsections (3) and (4) (see subsection 13.3(3) of the *Criminal Code*).



## **Division 2—Civil penalties**

### **51 Civil penalty provisions**

#### *Enforceable civil penalty provisions*

- (1) Each civil penalty provision of this Act is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

#### *Authorised applicant*

- (2) For the purposes of Part 4 of the Regulatory Powers Act, the Secretary is an authorised applicant in relation to the civil penalty provisions of this Act.
- (3) The Secretary may, in writing, delegate to an SES employee or acting SES employee in the Department the Secretary's powers and functions as an authorised applicant in relation to the civil penalty provisions of this Act.
- (4) In exercising powers or performing functions delegated under subsection (3), the delegate must comply with any directions of the Secretary.

#### *Relevant court*

- (5) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions of this Act:
  - (a) the Federal Court of Australia;
  - (b) the Federal Circuit and Family Court of Australia (Division 2).

**Section 52**

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*Maximum amount of pecuniary penalty*

- (6) Despite subsection 82(5) of the Regulatory Powers Act, the pecuniary penalty payable under a civil penalty order under Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions of this Act, must not be more than the amount worked out under section 52 of this Act.

*Extension to external Territories*

- (7) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions of this Act, extends to every external Territory.

*Liability of Crown*

- (8) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions of this Act, does not make the Crown liable to a pecuniary penalty.
- (9) The protection in subsection (8) does not apply to an authority of the Crown.

**52 Maximum amount of pecuniary penalty**

- (1) Subject to this section, the pecuniary penalty payable by a person under a civil penalty order under Part 4 of the Regulatory Powers Act, as that Part applies in relation to a civil penalty provision of this Act, must not exceed the pecuniary penalty specified for the civil penalty provision in this Act.
- (2) If:
- (a) the contravention is of a requirement under section 11 in relation to a continuing offer or a continuing invitation; and
  - (b) the contravention is in respect of one or more days that fall after the first day on which the offer or invitation is made;
- the pecuniary penalty must not exceed 100 penalty units for each day that falls after the first day.

- (3) If:
- (a) the contravention is of a requirement under section 15 in relation to a continuing advertisement; and
  - (b) the contravention is in respect of one or more days that fall after the first day on which advertising began;
- the pecuniary penalty must not exceed 100 penalty units for each day that falls after the first day.
- (4) If:
- (a) the contravention is of a requirement under section 18 in relation to giving information within a period specified in a notice; and
  - (b) the contravention is in respect of one or more days that fall after the end of that period;
- the pecuniary penalty must not exceed 20 penalty units for an individual and 50 penalty units for a body corporate for each day that falls after the end of that period.
- (5) If:
- (a) the contravention is of a requirement under section 18 in relation to giving access to a place at a day and time specified in a notice; and
  - (b) the contravention is in respect of one or more days that fall after the day specified;
- the pecuniary penalty must not exceed 20 penalty units for an individual and 50 penalty units for a body corporate for each day that falls after the day specified.

## Division 3—Infringement notices

### 53 Infringement notices

#### *Provisions subject to an infringement notice*

- (1) A civil penalty provision of this Act is subject to an infringement notice under Part 5 of the Regulatory Powers Act.

Note: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

#### *Infringement officer*

- (2) For the purposes of Part 5 of the Regulatory Powers Act, the Secretary is an infringement officer in relation to the provisions mentioned in subsection (1).

#### *Relevant chief executive*

- (3) For the purposes of Part 5 of the Regulatory Powers Act, the Secretary is the relevant chief executive in relation to the provisions mentioned in subsection (1).

#### *Delegation by the Secretary*

- (4) The Secretary may, in writing, delegate to an SES employee or acting SES employee in the Department the Secretary's powers and functions as an infringement officer or as the relevant chief executive in relation to the provisions mentioned in subsection (1).
- (5) In exercising powers or performing functions delegated under subsection (4), the delegate must comply with any directions of the Secretary.

#### *Single infringement notice dealing with multiple contraventions*

- (6) Despite subsection 103(3) of the Regulatory Powers Act, an infringement officer may give a person a single infringement

notice relating to multiple contraventions of subsection 18(6) that are alleged to have occurred because the person failed to give access to a place at a particular day and time specified in a notice under subsection 18(4) and continued to fail to do so after that day and time.

*Amount payable under an infringement notice*

- (7) Despite subsections 104(2) and (3) of the Regulatory Powers Act, the amount to be stated in an infringement notice for the purposes of paragraph 104(1)(f) of that Act in relation to a civil penalty provision of this Act must not exceed an amount equal to:
- (a) if the notice relates to only one alleged contravention of the provision by the person—one-tenth of the maximum penalty that a Court could impose on the person for that contravention; or
  - (b) if the notice relates to more than one alleged contravention of the provision by the person—one-tenth of the amount worked out by adding together the maximum penalty that a Court could impose on the person for each alleged contravention.

*Time limits on representations seeking withdrawal of notice*

- (8) If a person to whom an infringement notice has been given in relation to a provision mentioned in subsection (1) wishes to make written representations to the Secretary under subsection 106(1) of the Regulatory Powers Act:
- (a) the person must do so within 28 days after the infringement notice is given; and
  - (b) despite paragraph 106(3)(a) of the Regulatory Powers Act, the Secretary need not take into account any representations in relation to the infringement notice made after the end of that period.

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*Extension to external Territories*

- (9) Part 5 of the Regulatory Powers Act, as it applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

## **Division 4—Other matters**

### **65 Energy Efficiency Non-disclosure Register**

- (1) The Secretary is to maintain, or cause to be maintained, a register, to be known as the Energy Efficiency Non-disclosure Register.
- (2) Where there are 2 or more instances of non-disclosure by a person in a period of 12 months, the Secretary must record the number of instances of non-disclosure by the person on the Register and the date on which each instance of non-disclosure occurred or began unless the Secretary exercises the discretion under subsection (4).
- (3) Each of the following is an *instance of non-disclosure* by a person:
  - (a) the person is given an infringement notice under Part 5 of the Regulatory Powers Act in relation to a civil penalty provision of this Act;
  - (b) a Court makes a civil penalty order under the Regulatory Powers Act against the person for a contravention of section 11, subsection 12(6) or section 15.
- (4) The Secretary may withhold or delete an instance of non-disclosure from the Register if the Secretary is satisfied that the instance is not part of a continuing pattern of conduct demonstrating a disregard for the requirements of this Act in relation to the disclosure of building energy efficiency information.
- (5) The Secretary must remove, or cause to be removed, an instance of non-disclosure by a person from the Register if:
  - (a) the instance was included on the Register because the person was given an infringement notice and the notice is subsequently withdrawn; or
  - (b) the instance was included on the Register because a Court made a civil penalty order against the person and that order is overturned on appeal.

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- (6) The Register must be maintained by electronic means and be made available for inspection on the internet.
- (7) The Register is not a legislative instrument.

**66 Evidentiary certificate relating to the Building Energy Efficiency Register**

- (1) The Secretary may issue a written evidentiary certificate stating:
  - (a) whether or not a current building energy efficiency certificate for a building or an area of a building was registered on a day specified; and
  - (b) the energy efficiency rating for the building or area that was specified in the certificate; and
  - (c) the lighting energy efficiency assessment for the building or area that was specified in the certificate.
- (2) In any proceedings, an evidentiary certificate issued under subsection (1) is prima facie evidence of the matters stated in it.
- (3) A document purporting to be a certificate issued under subsection (1) must, unless the contrary is established, be taken to be such a certificate and to have been properly given.



## Part 6—Miscellaneous

### 67 Reviewable decisions

Each of the following decisions is a *reviewable decision*:

<b>Reviewable decisions</b>		
<b>Item</b>	<b>Decision</b>	<b>Provision under which decision is made</b>
1A	To refuse to issue a building energy efficiency certificate	Section 13A
1B	To issue a building energy efficiency certificate with a start day other than the start day included in the application for the certificate	Section 13A
1	To refuse to grant an exemption from the operation of section 11, 12 or 15	Subsection 17(3)
2	To revoke or vary the grant of an exemption from the operation of section 11, 12 or 15	Subsection 17(5)
7	To refuse to accredit a person as an assessor	Section 25
8	To impose additional conditions on the accreditation of an assessor	Subsection 27(2)
9	To vary or revoke a condition on the accreditation of an assessor	Subsection 27(4)
10	To suspend the accreditation of a person as an assessor	Subsection 28(1)
11	To refuse to lift the suspension of accreditation of a person as an assessor	Subsection 29(1)
12	To refuse to waive all or a specified part of the requirement under paragraph 24(2)(b) to produce information or under paragraph 24(2)(c) to pay a fee	Subsection 29(2)

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**Reviewable decisions**

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<b>Item</b>	<b>Decision</b>	<b>Provision under which decision is made</b>
13	To revoke the accreditation of a person as an assessor	Section 30

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**68 Internal review of certain decisions**

- (1) A person may apply in writing to the Secretary for review of a reviewable decision if:
  - (a) the decision was made by:
    - (i) a delegate of the Secretary; or
    - (ii) an issuing authority other than the Secretary; and
  - (b) the person's interests are affected by the decision.
- (2) An application for review of a decision must be made within:
  - (a) 28 days after the person is notified of the decision; or
  - (b) such longer period as the Secretary allows.
- (3) An application for review of a decision must:
  - (a) set out the reasons for making the application; and
  - (b) be in a form approved by the Secretary.
- (4) After receiving an application for review of a decision, the Secretary must review the decision and:
  - (a) affirm the decision under review; or
  - (b) vary the decision under review; or
  - (c) set aside the decision under review and make a decision in substitution for it.
- (5) A decision of the Secretary under subsection (4) takes effect:
  - (a) on a day, provided in the decision, that is after the decision was made; or
  - (b) if a day is not so provided—on the day on which the decision was made.

**69 Administrative review of certain decisions**

An application may be made to the Administrative Appeals Tribunal for review of the following decisions:

- (a) a reviewable decision made by the Secretary personally;
- (b) a decision of the Secretary under subsection 68(4).

**70 Protection of information obtained or generated by issuing authorities, auditors etc.**

(1) A person commits an offence if:

(a) the person:

- (i) obtains or generates information in the course of making a decision whether to issue a building energy efficiency certificate; or
- (ii) obtains or generates information in, or in connection with, an audit conducted under Part 4; or
- (iii) obtains or generates information in the course of exercising powers or performing functions under this Act; or
- (iv) obtains or generates information in the course of exercising powers or performing function under the Regulatory Powers Act, as it applies in relation to this Act; and

(b) the person does any of the following:

- (i) copies, or makes a record of, the information;
- (ii) uses the information;
- (iii) discloses the information to any person.

Penalty: Imprisonment for 2 years.

(2) Subsection (1) does not apply if:

- (a) the information is copied, recorded, used or disclosed for the purposes of issuing a building energy efficiency certificate; or
- (b) the information is copied, recorded, used or disclosed in, or in connection with, an audit conducted under Part 4; or

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- (c) the information is copied, recorded, used or disclosed for the purposes of ensuring compliance with this Act; or
- (d) the information is copied, recorded, used or disclosed in circumstances in which the conduct is permitted, either expressly or by implication, under this Act; or
- (e) the information is copied, recorded, used or disclosed for the purposes of proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* (false or misleading information or documents) that relates to this Act; or
- (f) the information is copied, recorded, used or disclosed for the purposes of proceedings for an offence against section 149.1 of the *Criminal Code* (obstruction of Commonwealth public officials) that relates to this Act; or
- (g) the information is copied, recorded, used or disclosed for the purposes of producing de-identified information for the purposes of research or planning; or
- (h) the information is already publicly available.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the *Criminal Code*).

## 71 Delegations

- (1A) The Secretary may, in writing, delegate to an APS employee who holds or performs the duties of an Executive Level 2 position, or an equivalent position, in the Department, any or all of the Secretary's powers or functions under the following:
  - (a) section 13A (issuing building energy efficiency certificates);
  - (b) section 17 (granting exemptions);
  - (c) section 18 (information gathering);
  - (d) section 25 (accrediting or refusing to accredit assessors);
  - (e) paragraph 33(2)(b) (providing or approving ratings and assessments for building energy efficiency certificates).
- (1) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department any or all of the Secretary's powers or functions under this Act, other than the following:

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- (a) this power of delegation;
  - (e) the Secretary's powers under section 15 (determining manner of advertisement);
  - (f) the Secretary's powers under section 21 (determining assessment methods and standards);
  - (g) the Secretary's power under subsection 33(1) (appointment of auditing authority);
  - (h) the Secretary's power under subsection 33(3) (policies for auditing authority);
  - (i) the Secretary's power under subsection 65(4) (withholding or deleting an instance of non-disclosure);
  - (j) the Secretary's power under subsection 66(1) (issue of evidentiary certificate);
  - (k) the Secretary's power under subsection 68(4) (internal review of certain decisions);
  - (l) the Secretary's power under section 71A (approving an issuing authority).
- (2) The Secretary may, in writing, delegate to an issuing authority approved under section 71A:
- (a) the Secretary's powers under subsections 14(4) and (5); and
  - (b) any of the Secretary's powers and functions under Part 3.
- (3) In exercising powers or performing functions delegated under subsection (1) or (2), the delegate must comply with any directions of the Secretary.

**71A Issuing authorities**

- (1) The Secretary may, by written instrument, approve a person or body as an issuing authority.
- (2) The Secretary must not approve a person or body as an issuing authority unless the Secretary is satisfied that:
  - (a) the person or body has the competencies necessary to apply the assessment methods and standards determined under

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section 21 to decide whether energy efficiency ratings or lighting energy efficiency assessments are appropriate; and

- (b) the person or body has systems in place to ensure that building energy efficiency certificates are issued in good faith.

- (3) An instrument under subsection (1) is not a legislative instrument.

**72 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be

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## Endnotes

### Endnote 1—About the endnotes

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incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.



**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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#### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Building Energy Efficiency Disclosure Act 2010	67, 2010	28 June 2010	s 3–72: 1 July 2010 (s 2(1) item 2) Remainder: 28 June 2010 (s 2(1) item 1)	
Federal Circuit Court of Australia (Consequential Amendments) Act 2013	13, 2013	14 Mar 2013	Sch 1 (item 60): 12 Apr 2013 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 8 (item 10): 24 June 2014 (s 2(1) item 9)	—
Building Energy Efficiency Disclosure Amendment Act 2015	1, 2015	25 Feb 2015	1 July 2015 (s 2)	Sch 1 (items 60, 61)
Regulatory Powers (Standardisation Reform) Act 2017	124, 2017	6 Nov 2017	Sch 3: 6 Nov 2018 (s 2(1) item 3)	Sch 3 (items 13–15)
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021	13, 2021	1 Mar 2021	Sch 2 (items 156, 157): 1 Sept 2021 (s 2(1) item 5)	—
Climate Change (Consequential Amendments) Act 2022	38, 2022	13 Sept 2022	Sch 1 (items 4, 5): 14 Sept 2022 (s 2(1) item 1)	—

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s 2A.....	ad No 38, 2022
s 3 .....	am No 13, 2013; No 31, 2014; No 1, 2015; No 124, 2017; No 13, 2021; No 38, 2022
s 5A.....	ad No 1, 2015
s 8 .....	am No 124, 2017
<b>Part 2</b>	
s 11 .....	am No 1, 2015; No 124, 2017
s 12 .....	am No 1, 2015
s 13 .....	rs No 1, 2015
s 13A.....	ad No 1, 2015
s 14 .....	am No 1, 2015
s 15 .....	am No 1, 2015; No 124, 2017
s 16 .....	rep No 1, 2015
s 17 .....	rs No 1, 2015
s 17A.....	ad No 1, 2015
s 18 .....	am No 1, 2015; No 124, 2017
s 19 .....	am No 1, 2015
s 20 .....	am No 1, 2015
s 21 .....	am No 1, 2015
s 22 .....	rep No 1, 2015
s 23 .....	rep No 1, 2015
s 23A.....	rep No 1, 2015
<b>Part 3</b>	
<b>Division 1</b>	
s 25 .....	am No 1, 2015
s 27 .....	am No 1, 2015
<b>Division 2</b>	
s 28 .....	am No 1, 2015

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 30 .....	am No 1, 2015
<b>Division 3</b>	
s 31 .....	am No 1, 2015
<b>Part 4</b>	
<b>Division 1</b>	
s 33 .....	am No 1, 2015
s 34 .....	am No 1, 2015
<b>Division 2</b>	
s 36 .....	am No 1, 2015
<b>Division 5</b>	
s 47 .....	am No 1, 2015
<b>Part 5</b>	
<b>Division 1</b>	
s 49 .....	am No 124, 2017
<b>Division 2</b>	
Division 2 .....	rs No 124, 2017
s 51 .....	rs No 124, 2017
	am No 13, 2021
s 52 .....	rs No 124, 2017
<b>Division 3</b>	
Division 3 .....	rs No 124, 2017
s 53 .....	rs No 124, 2017
s 54 .....	rep No 124, 2017
s 55 .....	rep No 124, 2017
s 56 .....	rep No 124, 2017
s 57 .....	rep No 124, 2017
s 58 .....	rep No 124, 2017
s 59 .....	rep No 124, 2017
s 60 .....	rep No 124, 2017
s 61 .....	am No 1, 2015
	rep No 124, 2017

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 62 .....	rep No 124, 2017
s 63 .....	rep No 124, 2017
s 64 .....	rep No 124, 2017
<b>Division 4</b>	
s 65 .....	am No 124, 2017
s 66 .....	am No 1, 2015
<b>Part 6</b>	
s 67 .....	am No 1, 2015
s 68 .....	am No 1, 2015
s 70 .....	am No 124, 2017
s 71 .....	am No 1, 2015
s 71A.....	ad No 1, 2015