

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 86

Issued by the authority of the Minister for Employment and Workplace Relations

Building and Construction Industry Improvement Act 2005

Building and Construction Industry Improvement (Accreditation Scheme) Amendment Regulations 2009 (No. 1)

The *Building and Construction Industry Improvement Act 2005* (the Act) and the *Building and Construction Industry Improvement (Accreditation Scheme) Regulations 2005* (the Accreditation Scheme Regulations) establish the Australian Government Building and Construction Occupational Health and Safety Accreditation Scheme (the Accreditation Scheme). The Accreditation Scheme is administered by the Federal Safety Commissioner, and imposes obligations on certain persons who wish to enter into building contracts funded by the Commonwealth or Commonwealth authorities.

Section 78 of the Act provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed.

These Regulations amend the Accreditation Scheme Regulations to exempt the Commonwealth and Commonwealth authorities from the requirement under the Act to engage builders accredited under the Accreditation Scheme when funding building work under the Nation Building and Jobs Plan (the Plan).

The Plan was announced by the Commonwealth Government in February 2009 as part of the Government's Economic Stimulus Package and includes building and construction initiatives, the details of which are published in the Government's *Updated Economic and Fiscal Outlook 2008-09*. As there are insufficient accredited builders available to perform the large scope of building works contemplated by the Plan, the Regulations ensure the Accreditation Scheme does not impinge upon the ability to complete those works within the Plan's timeframes.

Details of these Regulations are set out in the Attachment.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. They commence on the day after they are registered on the Federal Register of Legislative Instruments.

The Regulations have no compliance cost to business or impact on business and individuals or the economy.

Consultations were conducted in relation to the development of these Regulations with the Office of the Federal Safety Commissioner, and the Commonwealth Coordinator General within the Department of the Prime Minister and Cabinet.

ATTACHMENT

Details of the *Building and Construction Industry Improvement (Accreditation Scheme) Amendment Regulations 2009 (No. 1)*

Regulation 1 – Name of Regulations

This regulation provides that the Regulations are to be known as the *Building and Construction Industry Improvement (Accreditation Scheme) Amendment Regulations 2009 (No. 1)*

Regulation 2 – Commencement

This regulation provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 – Amendment of the *Building and Construction Industry Improvement (Accreditation Scheme) Regulations 2005*

This regulation provides that the *Building and Construction Industry Improvement (Accreditation Scheme) Regulations 2005* (the Accreditation Scheme Regulations) are amended in accordance with Schedule 1.

Schedule 1 – Amendments

Item [1] – Paragraph 24 (1) (f)

This item amends the punctuation in subregulation 24 (1) and is consequential to the amendment inserted by item 2 below.

Item [2] – After paragraph 24 (1) (f)

This item would insert new paragraph 24 (1) (g) in subregulation 24 (1).

This item exempts building work funded under the Commonwealth Government's Nation Building and Jobs Plan (the Plan) from having to be carried out by a builder accredited by the Australian Government Building and Construction Occupational Health and Safety Accreditation Scheme (the Accreditation Scheme). Details of the Plan are contained in Appendix B of the Government's *Updated Economic and Fiscal Outlook 2008-09* (the UEFO).

The *Building and Construction Industry Improvement Act 2005* (the Act) requires that certain building work funded by the Commonwealth or a Commonwealth authority must only be performed by builders accredited under the Accreditation Scheme, unless the building work is prescribed by regulations (subsection 35 (4)). Regulation 24 of the Accreditation Scheme Regulations sets out building work that is prescribed for these purposes.

Paragraph 24 (1) (g) adds to the circumstances listed in regulation 24. The item provides that where building work relates to an expense measure described in

Appendix B of the UEFO, the building work is prescribed for the purposes of subsection 35 (4) of the Act and is therefore not work to which the Accreditation Scheme applies. As the building work may be carried out under a single contract, or as part of a project consisting of a series of contracts, the amendment exempts both types of building work, and ensures that the Accreditation Scheme does not affect the ability to perform and complete building work funded under the Plan.