

PARLIAMENT OF VICTORIA

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**Building Legislation Amendment Bill 2023**

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PARLIAMENT OF VICTORIA

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Introduced in the Assembly

**Building Legislation Amendment  
Bill 2023**

A Bill for an Act to amend the **Building Act 1993**, the **Architects Act 1991**, the **Domestic Building Contracts Act 1995**, the **Building and Construction Industry Security of Payment Act 2002**, the **Victorian Civil and Administrative Tribunal Act 1998**, the **Sale of Land Act 1962**, the **Owners Corporations Act 2006**, the **Cladding Safety Victoria Act 2020** and for other purposes.

**The Parliament of Victoria enacts:**

**Part 1—Preliminary**

**1 Purposes**

The purposes of this Act are—

(a) to amend the **Building Act 1993**—

5

(i) to provide for the appointment of a State Building Surveyor; and

Part 1—Preliminary

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- 5
- (ii) to provide for the appointment of a Building Monitor; and
- (iii) to provide further in relation to the sharing of information and data; and
- (iv) to provide for changes to categories of building practitioner; and
- (v) to insert an offence relating to building practitioners; and
- 10
- (vi) to require that relevant building surveyors give certain information to persons to whom building permits are issued; and
- (vii) to provide for building manuals to be prepared and updated by owners and updated by owners corporations in respect of certain buildings; and
- 15
- (viii) to provide for additional purposes for which money may be paid out of the Cladding Safety Victoria account; and
- 20
- (ix) to make changes to the delegation powers of the Victorian Building Authority; and
- (x) to make other consequential and miscellaneous amendments; and
- 25
- (b) to amend the **Architects Act 1991** to make changes to the governance and procedures of the Architects Registration Board of Victoria; and
- 30
- (c) to amend the **Domestic Building Contracts Act 1995** in relation to the disclosure and sharing of information and data by conciliation officers under that Act; and
-

- 5
- (d) to amend the **Building and Construction Industry Security of Payment Act 2002** in relation to the disclosure of information under that Act; and
- 10
- (e) to amend the **Victorian Civil and Administrative Tribunal Act 1998** in relation to the disclosure and sharing of information and data under that Act; and
- 15
- (f) to amend the **Sale of Land Act 1962** to insert an offence relating to the provision of an approved building manual to a purchaser of land; and
- 20
- (g) to amend the **Owners Corporations Act 2006** in relation to the provision of an approved building manual at the first meeting of an owners corporation; and
- 25
- (h) to amend the **Cladding Safety Victoria Act 2020** to make consequential amendments.

## 2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 February 2024, it comes into operation on that day.

## **Part 2—Amendment of the Building Act 1993 in relation to appointment of State Building Surveyor**

### **3 Definitions and interpretation**

- 5 (1) In the heading to section 3 of the **Building  
Act 1993**, after "**Definitions**" insert  
"**and interpretation**".
- (2) In section 3(1) of the **Building Act 1993** insert  
the following definitions—
- 10 "***Architects Registration Board of Victoria*** has  
the same meaning as in the **Architects  
Act 1991**;
- binding determination*** means a determination  
issued under section 206E by the State  
15 Building Surveyor;
- building system*** includes the building and  
plumbing industries and the building system  
regulators;
- building system regulators*** includes all of the  
20 following—
- (a) the Authority;
  - (b) relevant building surveyors;
  - (c) municipal building surveyors;
  - (d) plumbing inspectors appointed under  
25 section 221ZZY;
  - (e) councils;
  - (f) the Building Appeals Board;
  - (g) the Architects Registration Board of  
Victoria;
-

Part 2—Amendment of the Building Act 1993 in relation to appointment of  
State Building Surveyor

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- 5
- (h) the Building Regulations Advisory Committee;
  - (i) the Plumbing Advisory Council;
  - (j) the Business Licensing Authority;
  - (k) the Director of Consumer Affairs Victoria;
  - (l) Cladding Safety Victoria;
  - (m) Energy Safe Victoria;
- 10
- Business Licensing Authority* has the same meaning as in the **Business Licensing Authority Act 1998**;
- chief dispute resolution officer* has the same meaning as in the **Domestic Building Contracts Act 1995**;
- 15
- Cladding Safety Victoria* has the same meaning as in the **Cladding Safety Victoria Act 2020**;
- Director of Consumer Affairs Victoria* means the person who, for the time being, is employed as Director of Consumer Affairs Victoria under the **Public Administration Act 2004**;
- 20
- plumbing laws* has the same meaning as in section 221B;
- State Building Surveyor* means the person appointed under section 206(1) as the State Building Surveyor;"
- 25
- (3) After section 3(3) of the **Building Act 1993** insert—
- '(4) Any reference in this Act to building work or plumbing work having to be carried out or completed in accordance with, or having to comply with, or not being in breach of, the
- 30
-



- 5 following laws relating to building work and plumbing work is taken to include a reference to that building work or plumbing work having to be carried out or completed in accordance with, or to comply with, or to not be in breach of, a provision of those laws as interpreted by any binding determination that applies to that provision—
- 10 (a) "this Act";
- (b) "the building regulations";
- (c) "the plumbing laws";
- (d) "the regulations made under Part 12A of this Act".

15 **4 Application of new building regulations or binding determinations to building work**

- (1) **Insert** the following heading to section 10 of the **Building Act 1993**—
- "Application of new building regulations or binding determinations to building work".**
- 20 (2) In section 10(1) of the **Building Act 1993**—
- (a) after "to a building regulation" **insert** "or a binding determination that applies to a building regulation";
- 25 (b) after "commences" **insert** "or the binding determination comes into effect".
- (3) In section 10(2) of the **Building Act 1993**—
- (a) after "to a building regulation" **insert** "or a binding determination that applies to a building regulation";
- 30 (b) after "commenced" **insert** "or the binding determination came into effect".

(4) In section 10(3) of the **Building Act 1993**, after "amendment" **insert** "or binding determination".

(5) In section 10(4) of the **Building Act 1993**, after "to a building regulation," **insert** "or a binding determination,".

5

### **5 Various offences relating to carrying out building work**

(1) In section 16(2) of the **Building Act 1993**, after "that work" **insert** "and any binding determination that applies to the carrying out of that work".

10

(2) In section 16(4A) of the **Building Act 1993**, for "and the building permit" **substitute** ", the building permit and any binding determination that applies to the carrying out of that work".

15

(3) In section 16B(3) of the **Building Act 1993**—

(a) in paragraph (c), for "that work." **substitute** "that work; or";

(b) after paragraph (c) **insert**—

"(d) any binding determination that applies to the carrying out of that work.".

20

### **6 Refusal of building permit**

In section 24(1)(a) of the **Building Act 1993**, for "Act and the building regulations" **substitute** "Act, the building regulations and any binding determination that applies to the carrying out of that building work".

25

### **7 Application and effect of building regulations**

In section 157(b) of the **Building Act 1993**, after "building regulations" (where secondly occurring) **insert** ", including any binding determination that applies to that provision,".

30

**8 Modification of building regulations**

After section 160(4) of the **Building Act 1993**  
**insert—**

- 5           "(5) A determination made by the Building  
Appeals Board under subsection (2)(b) in  
relation to a provision of the building  
regulations must not be inconsistent with any  
binding determination that applies to that  
provision."

10           **9 Application for determination in respect of building  
design**

(1) In section 160A(1) of the **Building Act 1993—**

- (a) after "complies with" **insert** "a provision of";  
(b) for "in" **substitute** "by a provision of".

15           (2) After section 160A(2) of the **Building Act 1993**  
**insert—**

- 20           "(3) A determination made by the Building  
Appeals Board under subsection (1) in  
relation to a provision of this Act, the  
building regulations or any document  
applied, adopted or incorporated by a  
provision of the building regulations must  
not be inconsistent with any binding  
determination that applies to that provision."

25           **10 Application for modification of building regulations  
relating to access for persons with disabilities**

After section 160B(6) of the **Building Act 1993**  
**insert—**

- 30           "(6A) A determination of the Building Appeals  
Board made under subsection (1)(b) in  
relation to an access provision of the  
building regulations must not be inconsistent

with any binding determination that applies to that provision."

**11 Grounds for disciplinary action**

5 For section 179(1)(a)(i) of the **Building Act 1993 substitute—**

"(i) a provision of this Act or the regulations including any binding determination that applies to that provision; or".

**12 Grounds for disciplinary action**

10 For section 187R(1)(a)(i) of the **Building Act 1993 substitute—**

"(i) a provision of this Act or the regulations including any binding determination that applies to that provision; or".

15 **13 Chief executive officer**

In section 203(6) of the **Building Act 1993**, for "or the Plumbing Advisory Council" **substitute** ", the Plumbing Advisory Council or the State Building Surveyor".

20 **14 New Division 3 inserted in Part 12**

After Division 2 of Part 12 of the **Building Act 1993 insert—**

**"Division 3—State Building Surveyor**

**206 Appointment of State Building Surveyor**

25 (1) The Authority may, after obtaining the written approval of the Minister, appoint a natural person who is an employee of the Authority as the State Building Surveyor.

Part 2—Amendment of the Building Act 1993 in relation to appointment of  
State Building Surveyor

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- 5
- (2) The State Building Surveyor holds office on the terms and conditions determined by the Authority.
- (3) The State Building Surveyor is eligible for reappointment.
- (4) The State Building Surveyor must not engage in paid employment outside the office of the State Building Surveyor without the permission of the Authority.
- 10
- (5) The Authority must not appoint as the State Building Surveyor a person who is—
- (a) a Commissioner; or
  - (b) the chief executive officer; or
  - 15 (c) a member of the Building Appeals Board, the Building Regulations Advisory Committee or the Plumbing Advisory Council.
- (6) The Authority may appoint, with the approval of the Minister, a natural person who is an employee of the Authority to act as the State Building Surveyor for a period of no more than 6 months during which—
- 20
- (a) there is a vacancy in the office of the State Building Surveyor; or
  - 25 (b) the State Building Surveyor is on leave or for any reason unable to perform their functions.
- (7) A person appointed to act as the State Building Surveyor under subsection (6) may perform all the functions of the State Building Surveyor.
- 30

- 5
- (8) The Authority may, with the Minister's approval, remove the person appointed as the State Building Surveyor or the acting State Building Surveyor from office if—
- (a) the person refuses, neglects or fails to perform the functions or carry out the duties of the State Building Surveyor; or
- 10 (b) the person demonstrates inefficiency or misconduct in carrying out the functions of the State Building Surveyor; or
- 15 (c) the person is convicted of an indictable offence, or an offence which, if committed in Victoria, would be an indictable offence; or
- (d) a ground for removal of the person under their contract of employment with the Authority is established.
- 20 (9) An act or decision of the State Building Surveyor is not invalid merely because of a defect or irregularity in, or in connection with, the appointment of the State Building Surveyor.
- 25 (10) Subsections (2), (3), (4), (5) and (9) apply to a person appointed as the acting State Building Surveyor as if that person were the State Building Surveyor.

**206A Objectives of the State Building Surveyor**

The State Building Surveyor has the following objectives—

- 5 (a) to be a primary source of technical expertise on the standards and requirements for building and plumbing work to the building and plumbing industries and the building system regulators to facilitate compliant building and plumbing work and sound building and plumbing practices;
- 10
- 15 (b) to encourage improvements to regulatory oversight and practices within the building system to facilitate high quality outcomes in Victoria's built environment;
- (c) to support improvements to practices within the building surveying profession.

**206B Functions of the State Building Surveyor**

- 20 (1) The State Building Surveyor has the following functions—
- 25 (a) to prepare and issue binding determinations on interpreting the standards and requirements for building work and plumbing work that are prescribed by this Act, the building regulations and the plumbing laws;
- 30 (b) to provide expert technical advice and guidance in relation to building work and plumbing work to building surveyors and persons involved in the building and plumbing industries

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Part 2—Amendment of the Building Act 1993 in relation to appointment of  
State Building Surveyor

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- including by way of publishing  
guidance materials which may include  
technical and educative advice;
- 5 (c) to advise the Minister in relation to  
significant strategic and regulatory  
issues within the building and plumbing  
industries;
- 10 (d) to represent the State on bodies  
developing national building and  
plumbing standards and requirements;
- 15 (e) to monitor councils' delivery of their  
building control functions and to  
provide councils with advice and  
support on the performance of those  
functions;
- 20 (f) to support the delivery of the  
Authority's functions by providing  
technical advice relating to building  
work and plumbing work to the  
Authority;
- 25 (g) to engage with building system  
regulators to enhance the standards and  
practices within the building and  
plumbing industries;
- 30 (h) to monitor developments and trends  
relevant to building and plumbing  
standards and building work and  
plumbing work in the State to support  
the delivery of the other functions of  
the State Building Surveyor;
- (i) to provide training and education on  
technical matters relating to building  
work, plumbing work and building  
surveying work to building surveyors
-



Part 2—Amendment of the Building Act 1993 in relation to appointment of  
State Building Surveyor

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and persons and bodies involved in the building and plumbing industries and on the functions performed by building surveyors;

5 (j) to monitor and report on the performance of the building surveying industry generally including on the carrying out of the State Building Surveyor's regulatory functions under  
10 this Act and the regulations;

(k) to carry out any other function conferred on the State Building Surveyor by or under this Act or any other Act.

15 (2) When performing the functions under this section, the State Building Surveyor must engage closely with building system regulators and other stakeholders in the building and plumbing industries in order to  
20 meet the State Building Surveyor's objectives.

**206C Powers of the State Building Surveyor**

25 Subject to this Act, the State Building Surveyor has the power to do all things necessary or convenient to be done for or in connection with the performance of the State Builder Surveyor's functions to enable the achievement of the State Building Surveyor's objectives under this Act.

30 **206D Delegation powers of the State Building Surveyor**

The State Building Surveyor may, by instrument, delegate to any person appointed or engaged by the Authority under

section 204 (other than as a consultant) any  
function of the State Building Surveyor.

**206E State Building Surveyor may issue  
binding determinations**

- 5 (1) The State Building Surveyor may issue a  
binding determination on the interpretation  
of a technical standard or requirement for  
building work or plumbing work that is  
10 prescribed by this Act, the building  
regulations or the plumbing laws.
- (2) A binding determination issued under this  
section must not be inconsistent with this  
Act or the regulations.
- (3) The State Building Surveyor must—
- 15 (a) cause a binding determination issued  
under this section to be published in the  
Government Gazette and on the  
Authority's website; and
- 20 (b) ensure that the binding determination  
remains so published during the period  
that it is in effect.
- (4) A binding determination issued under this  
section comes into effect on the later of the  
following days—
- 25 (a) the day on which the determination is  
published in the Government Gazette;
- (b) any commencement day specified in  
the determination.
- 30 (5) A binding determination issued under this  
section expires 10 years after the day on  
which it was issued."
-

**15 Authority may resolve disputes concerning interpretation of plumbing regulations**

- 5 (1) In section 221ZZN(1) of the **Building Act 1993**, after "plumbing regulations" (where secondly occurring) **insert** "including any binding determination that applies to that provision".
- 10 (2) In section 221ZZN(2) of the **Building Act 1993**, after "plumbing regulations" (where secondly occurring) **insert** "including any binding determination that applies to that provision".
- (3) After section 221ZZN(3) of the **Building Act 1993 insert**—
- 15 "(3A) An application for a declaration must be accompanied by the fee set out in the regulations."

**16 Modification of plumbing regulations**

- After section 221ZZO(1) of the **Building Act 1993 insert**—
- 20 "(1A) A declaration of the Authority under this section that a provision of the plumbing regulations applies with specified variations to specified plumbing work must not be inconsistent with any binding determination that applies to that provision."

25 **17 Grounds on which disciplinary action may be taken**

- For section 221ZZZG(1)(d) of the **Building Act 1993 substitute**—
- 30 "(d) he or she has breached any requirement of a provision of this Act or the regulations made under this Part including any binding determination that applies to that provision;".

**Part 3—Amendment of the Building  
Act 1993 in relation to appointment of  
Building Monitor**

**Division 1—Amendment of the Building Act 1993**

5           **18 Definitions**

(1) In section 3(1) of the **Building Act 1993** insert  
the following definitions—

*"Building Monitor* means the person appointed  
under section 208 as the Building Monitor;

10           *domestic building affected party* means any of the  
following—

15           (a) a person who engages, or proposes to  
engage, another person to carry out the  
following work on land owned by the  
person—

                  (i) any work on a home constructed  
on that land in which the person  
resides;

20           (ii) any work in relation to the  
construction of a home on that  
land in which the person intends  
to reside;

25           (b) a person who enters into a contract to  
purchase land from a person who under  
the contract must engage a person to  
carry out work in relation to the  
construction of a home on that land in  
which the first mentioned person  
intends to reside;

30           (c) an owner of a home;

Part 3—Amendment of the Building Act 1993 in relation to appointment of  
Building Monitor

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- (d) an owner of a home who is affected by any building work being carried out on an adjoining property;

*home* has the same meaning that it has in the **Domestic Building Contracts Act 1995**;

- (2) In section 3(1) of the **Building Act 1993**, in the definition of *building system regulators*, after paragraph (i) insert—

"(ia) the Building Monitor;"

## 19 Objectives of Act

In section 4(1) of the **Building Act 1993**—

- (a) in paragraph (g), for "industry." substitute "industry;"

- (b) after paragraph (g) insert—

"(h) to address issues in the building system experienced by domestic building affected parties."

## 20 New section 127AA inserted

After section 127 of the **Building Act 1993**  
insert—

### "127AA Immunity for Building Monitor and acting Building Monitor

- (1) The Building Monitor or an acting Building Monitor is not liable for anything done or omitted to be done in good faith—

- (a) in carrying out a function under this Act or the regulations; or

- (b) in the reasonable belief that the act or omission was in the exercise of carrying out a function under this Act or the regulations.

Part 3—Amendment of the Building Act 1993 in relation to appointment of  
Building Monitor

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5 (2) Any liability resulting from an act or omission that would, but for subsection (1), attach to the Building Monitor or an acting Building Monitor attaches instead to the State."

**21 Offence for owner-builder to sell building without report or insurance**

In section 137B(7) of the **Building Act 1993**, the definition of *home* is **repealed**.

10 **22 Modification of building regulations**

In section 160(3)(d) of the **Building Act 1993**, after "authority" **insert** "other than the Building Monitor".

**23 Functions of the Authority**

15 After section 197(ia)(ii) of the **Building Act 1993** **insert**—

"(iii) to support the Building Monitor in performing the functions of the Building Monitor;"

20 **24 Appointment of State Building Surveyor**

After section 206(5)(a) of the **Building Act 1993** **insert**—

"(ab) the Building Monitor; or".



Part 3—Amendment of the Building Act 1993 in relation to appointment of  
Building Monitor

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- 5
- (5) The Building Monitor is entitled to be paid the remuneration and allowances determined by the Governor in Council.
- (6) The **Public Administration Act 2004** (other than Part 3, except as provided by section 16, of that Act) applies to the Building Monitor in respect of the office of the Building Monitor.
- 10
- (7) The Building Monitor is a public entity for the purposes of the **Public Administration Act 2004**.
- 15
- (8) Despite anything to the contrary in the **Financial Management Act 1994**, the Building Monitor is not a public body within the meaning of that Act.
- 20
- (9) The Building Monitor must not—
- (a) directly or indirectly engage in any paid or unpaid employment in the building industry or the plumbing industry outside the functions of the Building Monitor without the prior approval of the Minister; or
- 25
- (b) be appointed to an office, or as a member of any body established, under this Act (other than the Building Regulations Advisory Committee and the Plumbing Advisory Council) or the **Domestic Building Contracts Act 1995**, the **Architects Act 1991** or
- 30
- the **Cladding Safety Victoria Act 2020**.
-



**208A Vacancy in office of Building Monitor**

The office of the Building Monitor becomes vacant if the Building Monitor—

- 5
- (a) resigns by notice in writing given to the Minister; or
  - (b) becomes insolvent under administration; or
  - (c) is found guilty or convicted of—
    - 10 (i) an indictable offence; or
    - (ii) an offence that, if committed in Victoria, would be an indictable offence; or
  - (d) is removed from the office.

**208B Removal from office of Building Monitor**

- 15
- (1) The Governor in Council, on the recommendation of the Minister, may remove the Building Monitor from office at any time if, in the reasonable opinion of the Minister—
    - 20 (a) the Building Monitor for any reason refuses, neglects, fails or is unable to carry out the functions of the office; or
    - (b) the Building Monitor engages in misconduct including when carrying out the functions of the office; or
    - 25 (c) a ground for removal of the Building Monitor specified in the instrument of appointment has been established.
  - (2) If the Building Monitor is removed from the office under this section, the Minister must
  - 30 cause to be laid before each House of

Parliament a full statement of the grounds of the removal within 10 sitting days of that House after the removal.

**208C Acting Building Monitor**

- 5 (1) The Governor in Council may, by instrument, appoint a person to act in the office of the Building Monitor for a period not exceeding 6 months—
- 10 (a) during a vacancy in the office; or
- (b) during any period when the Building Monitor is absent or is, for any other reason, unable to perform the functions of the office.
- 15 (2) Subject to subsection (3), the Minister may, by instrument, appoint a person to act in the office of Building Monitor for a period not exceeding one month—
- 20 (a) during a vacancy in that office; or
- (b) during any period when the Building Monitor is absent or is, for any other reason, unable to perform the functions of the office.
- 25 (3) The Minister may not appoint a person to act in the office of the Building Monitor under subsection (2) for consecutive periods of time.
- (4) A period of appointment under this section must be specified in the instrument of appointment.

Part 3—Amendment of the Building Act 1993 in relation to appointment of Building Monitor

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- 5
- (5) A person appointed to act in the office of the Building Monitor under this section may perform all the functions of the Building Monitor.
- (6) Sections 208(3) and (5) to (9) and 208D apply to a person appointed to act as the Building Monitor as if that person were the Building Monitor.

**208D Validity of decisions of Building Monitor**

10 An act or decision of the Building Monitor is not invalid merely because of a defect or irregularity in, or in connection with, the appointment of the Building Monitor.

**Subdivision 3—Objectives, functions and general powers of Building Monitor**

**208E Objectives of the Building Monitor**

The objectives of the Building Monitor are—

- 20
- (a) to improve domestic building affected parties' experiences of the building system by advocating for their interests at a systemic level and providing independent expert advice to the Minister and to persons and bodies involved in the building system; and
- 25
- (b) to create a central point for the identification of critical and systemic issues that affect domestic building affected parties; and
- 30
- (c) to empower domestic building affected parties by promoting awareness of systemic issues that relate to the building industry, the plumbing

industry and building system regulators  
and options to address any such issues.

**208F Functions of the Building Monitor**

The functions of the Building Monitor are—

- 5
- (a) to advise and make recommendations  
to the Minister on systemic issues and  
risks that affect domestic building  
affected parties; and
- 10
- (b) to report on research conducted on the  
nature of specific systemic issues that  
affect domestic building affected  
parties; and
- 15
- (c) to advocate on behalf of domestic  
building affected parties as a cohort at a  
system-wide level on issues or matters  
affecting domestic building affected  
parties that require reform; and
- 20
- (d) to collect and analyse information and  
data on the systemic issues that affect  
domestic building affected parties; and
- (e) to monitor improvements to domestic  
building affected parties' experiences as  
a result of legislative reform; and
- 25
- (f) to develop and promote educational  
materials and strategies in order to  
reduce consequences for domestic  
building affected parties; and
- 30
- (g) to engage with all relevant persons and  
bodies involved in or performing  
functions in the building system; and
-

- 5
- (h) to support any work that assists in the achievement of the Building Monitor's objectives; and
  - (i) to carry out any other function conferred on the Building Monitor under this Act.

**208G General powers of the Building Monitor**

- 10
- (1) Subject to this Act, the Building Monitor has power to do all things necessary or convenient to be done for or in connection with the performance of the Building Monitor's functions and to enable the Building Monitor to achieve the objectives of the Building Monitor under this Act.
- 15
- (2) In exercising the Building Monitor's powers, the Building Monitor must comply with any relevant requirements specified by or under any other Act.

**208H Staff**

20

The Building Monitor may enter into agreements or arrangements for the use of the services of any staff or contractors of the Department for the purposes of carrying out the Building Monitor's functions under this

25

Act.

**208I Delegation**

30

The Building Monitor may, by instrument, delegate any function, power or duty of the Building Monitor to a person employed by the Secretary to the Department under Part 3 of the **Public Administration Act 2004**.

### **Subdivision 4—Strategic plan**

#### **208J Building Monitor must implement a strategic plan**

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- 10
- 15
- 20
- 25
- (1) The Building Monitor must—
    - (a) within 4 months after being appointed for the first time, prepare a strategic plan for the term for which the Building Monitor has been appointed and submit the plan to the Minister for approval; and
    - (b) if appointed for a second time, within 6 months after the appointment, prepare a strategic plan for the term for which the Building Monitor has been appointed and submit the plan to the Minister for approval.
  - (2) A strategic plan prepared under subsection (1) must contain the following—
    - (a) a vision statement;
    - (b) a mission statement;
    - (c) the values of the Building Monitor;
    - (d) a description of strategic initiatives to be taken by the Building Monitor to enable the Building Monitor to meet the Building Monitor's objectives;
    - (e) information on how the Building Monitor intends to evaluate whether the objectives of the Building Monitor are met;

- (f) any other goals to be met, or strategies to be taken, by the Building Monitor as required by the Minister from time to time.
- 5 (3) The Minister may—
- (a) approve a strategic plan submitted under subsection (1); or
- (b) ask the Building Monitor to re-submit an amended strategic plan.
- 10 (4) On approval of a strategic plan by the Minister, the Building Monitor must publish the strategic plan on the Building Monitor's website.
- 15 (5) Despite subsection (1), a strategic plan approved by the Minister remains in force until the Minister approves a later strategic plan.

### **Subdivision 5—Information gathering powers of Building Monitor**

20 **208K Building Monitor may request information or data from certain persons or bodies**

- 25 (1) If the Building Monitor believes on reasonable grounds that a person or body specified in subsection (3) has information (including personal information) or data that is relevant to the performance of the functions of the Building Monitor under this Division, the Building Monitor may, after consulting with the person or body, give a written notice to the person or body requiring the person or body to provide the
- 30

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information or data specified in the notice to  
the Building Monitor.

- 5
- (2) A person or body referred to in  
subsection (3) that receives a notice to  
provide information or data under  
subsection (1)—
- 10
- (a) is authorised to provide the information  
or data to the Building Monitor; and
- (b) must provide the information or data to  
the Building Monitor—
- 15
- (i) within any time agreed with the  
Building Monitor; and
- (ii) in the format specified in the  
notice or as agreed with the  
Building Monitor; and
- (c) must ensure that the information or data  
provided is comprehensive and relevant  
to the Building Monitor's request.
- 20
- (3) For the purposes of subsection (1), the  
persons or bodies are the following—
- 25
- (a) the Authority;
- (b) the Architects Registration Board of  
Victoria;
- (c) Cladding Safety Victoria;
- (d) the chief dispute resolution officer;
- (e) the Director of Consumer Affairs  
Victoria;
- (f) a council;
- (g) the Secretary to the Department;



(h) the Secretary to the Department of  
Government Services;

(i) VCAT;

(j) any other prescribed person or body.

5 (4) In this section, information or data that  
VCAT may be requested to provide to the  
Building Monitor under subsection (1) is  
limited to information or data of a class of  
10 information or data that is prescribed for the  
purposes of section 38AA of the **Victorian  
Civil and Administrative Tribunal  
Act 1998**.

**208L Building Monitor must not publish certain  
information or data**

15 The Building Monitor must not publish or  
authorise the publication of any personal  
information or data, or commercially  
sensitive information or data, that has not  
20 first been de-identified or aggregated with  
similar information or data (as the case  
requires) before it is published.

**208M Improper disclosure or use of information  
or data**

25 The Building Monitor or any person  
assisting or acting on behalf of the Building  
Monitor must not use or disclose information  
(including personal information) or data  
obtained in the course of performing the  
30 functions of the Building Monitor under this  
Division unless—

- 5
- (a) the use or disclosure of the information or data is for the purposes of performing the Building Monitor's functions under this Act; or
- (b) the information or data is shared under an information sharing arrangement under section 259AB; or
- 10 (c) the disclosure of the information or data is required or permitted under another Act.

Penalty: 60 penalty units.

### **Subdivision 6—Establishment of Building Monitor Reference Group**

#### **208N Minister may establish a Building Monitor Reference Group**

- 15
- (1) The Minister may establish a Building Monitor Reference Group (the **Group**) which must be comprised of not less than 5 members including the Building Monitor.
- 20 (2) The purposes of the Group are to provide information and advice to the Building Monitor concerning systemic issues and other matters facing, or experienced by, domestic building affected parties.
- 25 (3) The chair of the Group is the Building Monitor.
- (4) Subject to subsection (5), the remaining members of the Group are to be appointed by instrument by the Minister and must be any
- 30 one of the following persons—
- (a) a domestic building affected party;

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- 5
- (b) a representative of a person or body that represents the interests of domestic building affected parties;
- (c) an expert in domestic building affected parties' matters.
- (5) The Minister must not appoint a person to be a member of the Group who—
- 10
- (a) is a registered building practitioner, an architect who is registered under the **Architects Act 1991** or an endorsed building engineer; or
- (b) in the opinion of the Minister, has a conflict of interest in being appointed as a member of the Group.
- 15
- (6) A member of the Group may be appointed for a period not exceeding 2 years and that period must be specified in the instrument of appointment.
- (7) A member of the Group may be reappointed.
- 20
- (8) The Minister may determine the terms and conditions of appointment of the members of the Group, which must be specified in the instrument of appointment.
- 25
- (9) The members of the Group are entitled to the remuneration, allowances and any expenses incidental to their appointment that are specified in the instrument of appointment.
- 30
- (10) The chair of the Group may determine the terms of reference and the procedures of the Group including how often the Group meets.
- (11) A member of the Group may resign by giving a written notice to the Minister.
-

- (12) The Minister may remove a member of the Group for any reason that the Minister considers to be appropriate in the circumstances.

5

**208O Review of Building Monitor Reference Group**

10

- (1) The Minister must ensure that a review is undertaken of any Building Monitor Reference Group established under section 208N to determine whether the purposes of the Group and the criteria for membership of the Group support the Building Monitor in meeting the objectives of the Building Monitor.

15

- (2) The Minister must ensure that the review is undertaken within 3 years after the Building Monitor Reference Group is established and that a report of the review is prepared.

20

**Subdivision 7—Building Monitor Issues Report**

**208P Building Monitor Issues Report**

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- (1) The Building Monitor must prepare an annual Building Monitor Issues Report (the *Report*) within the first year of the Building Monitor's appointment and for every subsequent year of appointment in accordance with this section.

30

- (2) During the preparation of the Report, the Building Monitor must—
- (a) consult with the Minister about any proposed recommendations to be made to the Minister in the Report; and

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- 5
- (b) consult with any person or body involved or performing functions in the building system or in respect of which the Building Monitor proposes to make recommendations in relation to the person's or body's area of responsibility in the Report; and
  - (c) consult with domestic building affected parties, including by way of chairing the Building Monitor Reference Group.
- 10
- (3) In the Report the Building Monitor—
- (a) must specify the systemic issues that affect domestic building affected parties that have been identified by the Building Monitor; and
  - 15
  - (b) may advise and make recommendations to the Minister on ways to address the issues that affect domestic building affected parties identified in the Report; and
  - 20
  - (c) must specify—
    - (i) the methods and frequency of consultation with domestic building affected parties by the Building Monitor including by way of chairing the Building Monitor Reference Group; and
    - 25
    - (ii) subject to sections 208L and 208M, the information or data relied on by the Building Monitor to inform the findings and any recommendations contained in the Report; and
    - 30
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- (d) must include the following—
    - (i) a summary of the Building Monitor's findings stemming from research conducted by the Building Monitor;
    - (ii) when and to whom a notice under section 208K(1) was given and the type of information or data required under the notice;
    - (iii) whether the Building Monitor is a party to—
      - (A) any information sharing arrangement under section 259AB; or
      - (B) any other information or data collection or sharing arrangements or agreements;
    - (iv) details of progress made against the strategic plan referred to in Subdivision 4;
    - (v) a summary of all activities conducted by the Building Monitor for the purposes of performing the Building Monitor's functions under this Division, whether those activities have been completed or not.
  - (4) After preparing the Report the Building Monitor must—
    - (a) promptly publish the Report on the Building Monitor's website; and

- 5 (b) give a written notice to each person or  
body that is subject to a  
recommendation in the Report, to  
advise the person or body of that  
recommendation and the requirement  
under subsection (5) to respond to the  
Building Monitor within the required  
time.
- 10 (5) A person or body who receives a notice  
about a recommendation in the Report under  
subsection (4)(b) must provide a written  
response to the Building Monitor within  
6 months after the publication of the Report  
stating—
- 15 (a) whether or not the person or body  
agrees with the recommendation; and
- (b) if the person or body agrees with the  
recommendation, how and when the  
person or body intends to implement or  
20 support that recommendation.

### **Subdivision 8—Review of office of Building Monitor**

#### **208Q Review of office of Building Monitor**

- 25 (1) The Minister must ensure that a review is  
undertaken within 3 years after the first  
Building Monitor is appointed to determine  
whether there is an ongoing need for the  
office of the Building Monitor.
- 30 (2) Further reviews must be undertaken by the  
Minister within 6 years after the anniversary  
of the completion of the first review under  
subsection (1).

5 (3) The Minister must ensure that a copy of a review required under this section is laid before each House of Parliament within 7 sitting days of that House after the review is completed."

## 26 Information sharing arrangements

In section 259AB(7) of the **Building Act 1993**, in the definition of *relevant agency*, after paragraph (c) **insert**—  
10 "(ca) the Building Monitor;"

## 27 Membership and procedure

For section 210(2)(n) of the **Building Act 1993** **substitute**—  
15 "(n) one is to be the Building Monitor or a person nominated by the Building Monitor to represent the Building Monitor and who must be employed by the Secretary to the Department."

## 28 Membership and procedure

20 For section 211B(2)(k) of the **Building Act 1993** **substitute**—  
25 "(k) one is to be the Building Monitor or a person nominated by the Building Monitor to represent the Building Monitor and who must be employed by the Secretary to the Department."



**Division 2—Consequential amendments to other  
Acts**

**29 Amendment of the Domestic Building Contracts  
Act 1995**

5                   After section 52I(2)(d) of the **Domestic Building  
Contracts Act 1995** insert—

10                   "(da) to the Building Monitor in response to a  
                      requirement to provide information or data  
                      under a notice given to the chief dispute  
                      resolution officer under section 208K of the  
                      **Building Act 1993** by the Building Monitor;  
                      or".

**30 Amendment of the Victorian Civil and  
Administrative Tribunal Act 1998**

15                   For section 38AA of the **Victorian Civil and  
Administrative Tribunal Act 1998** substitute—

**"38AA Disclosure of information or data by  
Tribunal**

                      It is a function of the Tribunal—

20                   (a) to disclose information or data of a  
                      prescribed class of information or data  
                      to the Victorian Building Authority or a  
                      relevant agency in accordance with an  
                      information sharing arrangement under  
25                   section 259AB of the **Building  
Act 1993** entered into by the Tribunal;  
                      and

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- (b) to provide information or data of a prescribed class of information or data to the Building Monitor, which is required by the Building Monitor under a notice given to the Tribunal under section 208K(1) of the **Building Act 1993**."

## Part 4—Further amendments to the Building Act 1993 and other Acts

### Division 1—Amendment of the Building Act 1993

#### 31 Definitions

- 5 (1) In section 3(1) of the **Building Act 1993** insert the following definitions—

"*approved building manual* means a building manual for a building, which has been approved by the relevant building surveyor under section 41B(1);

10 *Department* means the Department of Transport and Planning;

15 *land affected by an owners corporation* has the same meaning as in section 3 of the **Owners Corporations Act 2006**;

*personal information* has the same meaning as in the **Privacy and Data Protection Act 2014**;"

- 20 (2) In section 3(1) of the **Building Act 1993**, in the definition of *building practitioner*, after paragraph (c) insert—

"(d) a building consultant; or"

- 25 (3) In section 3(1) of the **Building Act 1993**, in the definition of *building practitioner*, for paragraph (e) substitute—

"(e) a building designer; or

#### Note

30 The category of building practitioner previously described as draftsperson who carries on a business of preparing plans for building work or preparing documentation relating to permits or permit

applications has been renamed as building designer.  
See the relevant transitional and savings provisions in  
section 285."

5 (4) In section 3(1) of the **Building Act 1993**, in the  
definition of *building practitioner*, after  
paragraph (g) **insert**—

"(ga) a site supervisor; or".

10 (5) In section 3(1) of the **Building Act 1993**, in the  
definition of *building practitioner*, for  
paragraph (h) **substitute**—

"(h) a project manager—".

15 (6) In section 3(1) of the **Building Act 1993**, at the  
foot of the definition of *building practitioner*  
**insert**—

"**Note**

20 The category of building practitioner previously described in  
paragraph (h) as a person responsible for a building project  
or any stage of a building project and who belongs to a class  
or category of people prescribed to be building practitioners  
has been renamed as project manager. See the relevant  
transitional and savings provisions in section 285."

### **32 New section 17A inserted**

After section 17 of **Building Act 1993 insert**—

25 "**17A Relevant building surveyor must give  
owner of land or building an information  
statement**

30 (1) This section applies if a person has applied  
to a building surveyor for the issue of a  
building permit for building work in relation  
to a building of a prescribed class of  
building.

---

- 5 (2) The relevant building surveyor must, within 10 working days after issuing the building permit, give the owner of the building or the land to which the building work under the permit relates an information statement in the prescribed form and manner that contains the prescribed information.

Penalty: 60 penalty units.

**Note**

10 See the relevant transitional and savings provision that relates to this subsection in section 285.

- 15 (3) The failure of a relevant building surveyor to comply with subsection (2) after issuing a building permit does not affect the validity of that building permit."

**33 Notice to Secretary to Department**

- (1) In the heading to section 18D of the **Building Act 1993** omit "of Environment, Land, Water and Planning".
- 20 (2) In section 18D(2) of the **Building Act 1993** omit "of Environment, Land, Water and Planning".

**34 Requirement for occupancy permit**

- (1) In section 21(1)(b) of the **Building Act 1993**, for "out." substitute "out; and".
- 25 (2) After section 21(1)(b) of the **Building Act 1993** insert—
- 30 "(c) whether a draft building manual must be given to the relevant building surveyor with the application for any required occupancy permit."

**35 Refusal of building permit**

In section 24(4A) of the **Building Act 1993** omit "of Environment, Land, Water and Planning".

**36 New sections 41A and 41B inserted**

5 After section 41 of the **Building Act 1993** insert—

**"41A Requirement to provide a draft building manual with an application for an occupancy permit**

10 (1) A person referred to in section 41(a), who intends to apply for an occupancy permit in respect of the construction of a new building of a prescribed class of building, must  
15 prepare a draft building manual for the building in accordance with the regulations and ensure that the draft building manual accompanies the application made to the relevant building surveyor.

**Note**

20 See the relevant transitional and savings provision that relates to this subsection in section 285.

(2) If the construction of a building referred to in subsection (1) has been carried out under more than one staged permit, the requirement  
25 under subsection (1) applies only in respect of the application for the final occupancy permit.

**41B Approval of building manual**

30 (1) The relevant building surveyor may approve a draft building manual accompanying an application for an occupancy permit if the relevant building surveyor is satisfied that the draft building manual meets all the

requirements prescribed in the regulations for preparation of the draft building manual.

- 5
- (2) On approving a draft building manual under subsection (1), the relevant building surveyor must record the approval in the approved building manual.
- 10
- (3) The relevant building surveyor must give a copy of an approved building manual to the applicant for the occupancy permit at the same time at which the relevant building surveyor issues the occupancy permit to the applicant.
- 15
- (4) If the applicant for the occupancy permit is not the owner of the building to which the approved building manual relates, the applicant must give the copy of the approved building manual to that owner."

### **37 Refusal of occupancy permit**

- 20
- (1) In section 44(b) of the **Building Act 1993**, for "the compliance certificate." **substitute** "the compliance certificate; and".
- (2) After section 44(b) of the **Building Act 1993** **insert—**
- 25
- "(c) in the case of an application described in section 41A(1), if the relevant building surveyor has not approved the draft building manual required to accompany the application."

**38 New sections 44A to 44D inserted**

After section 44 of the **Building Act 1993**  
**insert—**

5       **"44A Applicant for occupancy permit must give approved building manual to owners corporation**

10       An applicant for an occupancy permit who is given a copy of an approved building manual for a building on land affected by an owners corporation by the relevant building surveyor under section 41B(3), must give the copy of the approved building manual to the owners corporation for the building at the first meeting of the owners corporation  
15       (within the meaning of section 66 of the **Owners Corporations Act 2006**).

20       Penalty: 60 penalty units, in the case of a natural person;  
              300 penalty units, in the case of a body corporate.

**44B Owners corporation must update an approved building manual**

25       An owners corporation that is given a copy of an approved building manual under section 44A by an applicant for an occupancy permit must keep and update the approved building manual in accordance with the regulations.

Penalty: 300 penalty units.



**44C Owner of building must update an approved building manual**

5

An owner of a building that is on land not affected by an owners corporation who has been given a copy of an approved building manual by a relevant building surveyor under section 41B(3) or (4) or by a person from whom the owner purchased the land, must keep and update the approved building manual in accordance with the regulations.

10

Penalty: 60 penalty units, in the case of a natural person;  
300 penalty units, in the case of a body corporate.

15

**44D Offence to include false or misleading information in a building manual**

20

A person who prepares a draft building manual or any updates to an approved building manual must not knowingly or recklessly include false or misleading information in the draft building manual or the updates to the approved building manual.

25

Penalty: 60 penalty units, in the case of a natural person;  
300 penalty units, in the case of a body corporate."

**39 Functions of private building surveyor**

In section 76 of the **Building Act 1993**—

30

(a) in paragraph (c), for "Part 5." substitute "Part 5;";

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(b) after paragraph (c) **insert**—

"(d) the approving of draft building manuals under section 41B(1)."

**40 New section 128A inserted**

5 After section 128 of the **Building Act 1993**  
**insert**—

**"128A Immunity for building surveyor in relation to approving a draft building manual**

10 A relevant building surveyor is not liable for anything done or omitted to be done in good faith in approving a draft building manual under section 41B(1)."

**41 New section 169D substituted for sections 169D and 169E**

15 For sections 169D and 169E of the **Building Act 1993** substitute—

**"169D Offence to carry out work as a building practitioner unless registered**

20 (1) A person must not carry out work that is of a kind prescribed to be carried out by a category or class of building practitioner (other than a builder) unless the person is registered under this Part in that category or  
25 class of building practitioner and the registration authorises the carrying out of that kind of work.

Penalty: 500 penalty units, in the case of a natural person;  
30 2500 penalty units, in the case of a body corporate.

- (2) Subsection (1) does not apply to the following persons who carry out a kind of work prescribed for the purposes of subsection (1)—
- 5 (a) a person who is authorised under this Act or the building regulations to carry out that kind of work on behalf of a building surveyor;
- 10 (b) a natural person who is registered as an architect under Part 3 of the **Architects Act 1991**, if the carrying out of that kind of work is an architectural service;
- 15 (c) a member of an approved partnership (within the meaning of the **Architects Act 1991**), if the carrying out of that kind of work is an architectural service;
- 20 (d) an approved company (within the meaning of the **Architects Act 1991**) or a director of such an approved company, if the carrying out of that kind of work is an architectural service;
- 25 (e) a person who is working under the supervision of a person who is registered as an architect under Part 3 of the **Architects Act 1991** to obtain experience on practical architectural work in order to meet the requirement in section 10(b) of that Act, if the carrying out of that kind of work is an architectural service;
- 30 (f) an endorsed building engineer, if the carrying out of that kind of work is a professional engineering service."
-

**42 Offence to carry out domestic building work under a major domestic building contract**

(1) For the heading to section 169F of the **Building Act 1993** substitute—

5                   "**Offence to carry out domestic building work under a major domestic building contract**".

(2) In section 169F(2) of the **Building Act 1993**—

(a) after "an unregistered person" insert "or an unlicensed person";

10                   (b) for paragraph (b) substitute—

"(b) the person carries out that work as an employee of a builder registered under section 171(1)(a), whose registration authorises the carrying out of that work, in the course of the person's employment with that builder; or".

15                   (c) in paragraphs (a), (c) and (d), for "the unregistered person" substitute "the person".

20                   (3) In section 169F(3) of the **Building Act 1993**, for "the unregistered person" substitute "the person".

(4) In section 169F(4) of the **Building Act 1993**—

(a) for "An unregistered person" substitute "A person";

25                   (b) for "the unregistered person" substitute "the person".

(5) In section 169F(5) of the **Building Act 1993**—

30                   (a) in the definition of *licensed building employee*, for "out building work" substitute "out domestic building work";

---

- (b) in the definition of *registered builder*, for "out building work" **substitute** "out domestic building work".

**43 Delegation of Minister's functions**

5 In section 189(2) of the **Building Act 1993** omit "of Environment, Land, Water and Planning".

**44 Functions of the Authority**

In section 197 of the **Building Act 1993**—

- 10 (a) in paragraph (h), for "builders" **substitute** "building practitioners";
- (b) after paragraph (i) **insert**—
- "(ia) to provide, gather or obtain information (including advice) or data for analysis for any of the following purposes—
- 15 (i) to assist the Minister in administering this Act;
- (ii) to assist the Authority in performing any of its other functions under this Act;"

20 **45 Section 199 substituted**

For section 199 of the **Building Act 1993** **substitute**—

**"199 Delegation by the Authority**

- 25 (1) The Authority may, by instrument, delegate to any person any of its functions except a function under section 80D, 205M or 206(1).
- (2) Despite subsection (1), the Authority may, by instrument, delegate a function under section 80D or 205M to the chief executive officer or the State Building Surveyor.
- 30

- 5 (3) A person to whom a function has been delegated under subsection (1) or (2) (other than the State Building Surveyor) may subdelegate the function to another person if the instrument of delegation authorises the subdelegation of that function.
- 10 (4) The State Building Surveyor may subdelegate any function delegated to the State Building Surveyor under subsection (1) to another person if the instrument of delegation authorises the subdelegation of that function.
- 15 (5) An authorisation under subsection (3) or (4) may be made subject to any conditions or limitations that are specified in the instrument of delegation that authorises the subdelegation."

**46 Payments out of the Cladding Safety Victoria account**

20 After section 205DB(1)(c) of the **Building Act 1993** insert—

- "(ca) the amounts authorised by the Minister for any one or more of the following purposes—
- 25 (i) determining whether cladding rectification work is required to be carried out to improve the safety of a building and the nature and scope of such cladding rectification work;
- 30 (ii) the carrying out, or to facilitate the carrying out, of cladding rectification work;
- (iii) overseeing the activities described in subparagraphs (i) and (ii); and"
-

**47 Section 259AB substituted**

For section 259AB of the **Building Act 1993** substitute—

**"259AB Information sharing arrangements**

- 5 (1) The Authority may enter into, or approve of, an arrangement (an *information sharing arrangement*) with one or more relevant agencies for the purpose of—
- 10 (a) the sharing or exchanging of information, between the Authority and a relevant agency that is a party to the arrangement, which—
- 15 (i) has been acquired by the Authority in performing its functions or acquired by the relevant agency in performing its functions; or
- 20 (ii) has been disclosed to the Authority or the relevant agency under that arrangement or another information sharing arrangement to assist in the performance of the Authority's functions or the relevant agency's functions; or
- 25 (b) the sharing or exchanging of information, between any 2 or more relevant agencies that are parties to the arrangement, which—
- 30 (i) has been acquired by any one of those relevant agencies in performing its functions; or
-

- 5 (ii) has been disclosed to any one of those relevant agencies under that arrangement or another information sharing arrangement to assist in the performance of its functions.
- 10 (2) Subject to subsection (3), under an information sharing arrangement, the Authority and a relevant agency are authorised by virtue of this section—
- 15 (a) to request and receive information (including personal information) held by another party to the arrangement; and
- 15 (b) to disclose information (including personal information) to another party to the arrangement.
- 20 (3) The information that may be exchanged or shared under subsection (2)—
- 25 (a) between the Authority and a relevant agency must be reasonably necessary to assist in the performance of the Authority's functions under this Act or the functions of the relevant agency; and
- 30 (b) between a relevant agency and another relevant agency must be information that—
- (i) the receiving relevant agency could have requested from the Authority under paragraph (a); or
-



- (ii) is reasonably necessary to assist in the performance of the relevant agency's functions under this Act.
- 5 (4) Without limiting subsections (2) and (3), the Authority may also (whether as part of an information sharing arrangement or otherwise)—
- 10 (a) refer any matter (including any complaint) with respect to work carried out by a building practitioner or building employee, plumbing work or the provision of architectural services or engineering services to a building regulator or law enforcement agency; or
- 15 (b) receive any matter of a type described in paragraph (a) from a building regulator or law enforcement agency; or
- 20 (c) conduct a joint investigation into any matter of a type described in paragraph (a) with a building regulator or law enforcement agency.
- 25 (5) Any building regulator or law enforcement agency referred to in subsection (4) is, despite any other Act or law of the State, authorised to refer a matter referred to in subsection (4) to the Authority or to conduct an investigation into the matter jointly with
- 30 the Authority.
- (6) This section does not limit—
- (a) the powers of the Authority under this Act; or

- 5
- (b) the operation of any other Act under which a relevant agency is authorised or required to disclose information to another person or body; or
- (c) the giving of information—
- 10
- (i) to a court or tribunal in the course of legal proceedings; or
- (ii) pursuant to an order of a court or tribunal; or
- (iii) to the extent reasonably required to enable the investigation or the enforcement of a law of the State or of any other State or a Territory or of the Commonwealth; or
- 15
- (iv) with the written authority of the Minister; or
- (v) with the written authority of the person to whom the information relates.
- 20
- (7) In this section—
- building regulator*** means a municipal council or an agency of the Commonwealth, Victoria or another State or a Territory or of another
- 25
- jurisdiction that carries out functions under an enactment in relation to building, plumbing, architectural services or engineering services that relate to any work that relates to building work;
- 30
- information*** includes a document or a copy of a document and data;
-

*law enforcement agency* means—

- 5 (a) Victoria Police within the meaning of the **Victoria Police Act 2013** or the police force of another State or a Territory or of an overseas jurisdiction; or
- 10 (b) the Australian Federal Police within the meaning of the Australian Federal Police Act 1979 of the Commonwealth; or
- 15 (c) the Australian Crime Commission established under section 7 of the Australian Crime Commission Act 2002 of the Commonwealth; or
- 20 (d) any other authority or person responsible for the investigation or prosecution of offences against the laws of the State or of the Commonwealth or of another State or a Territory or an overseas jurisdiction;

25 *plumbing work* has the same meaning as in section 221C;

*relevant agency* means any of the following—

- 30 (a) a building regulator;
- (b) a law enforcement agency;
- (c) the Director of Consumer Affairs Victoria;

- 5
- (d) the chief dispute resolution officer;
- (e) the Architects Registration Board of Victoria;
- (f) the Victorian Managed Insurance Authority;
- (g) VCAT;
- (h) Cladding Safety Victoria;
- 10
- (i) the Victorian WorkCover Authority within the meaning of the **Workplace Injury Rehabilitation and Compensation Act 2013**;
- (j) the Business Licensing Authority;
- 15
- (k) the Commissioner of State Revenue referred to in section 62 of the **Taxation Administration Act 1997**;
- (l) a council;
- 20
- (m) a Department Head within the meaning of the **Public Administration Act 2004**;
- (n) any other agency of the State or of the Commonwealth or another State or a Territory or of an overseas jurisdiction;
- 25
- (o) any other person or body that exercises functions in the public interest that involve protecting the interests of users of services of building practitioners, building
- 30

employees, plumbers, architects or  
endorsed building engineers;

(p) any other prescribed person or  
body."

5

**48 General regulation-making powers**

(1) After section 261(1)(bb) of the **Building Act 1993**  
**insert—**

"(bc) building manuals including, but not limited  
to, the following—

10

(i) the information that must be contained  
in, or accompany, a draft building  
manual;

(ii) the format of a draft building manual;

15

(iii) the requirements for keeping, updating  
and providing access to an approved  
building manual;"

(2) For section 261(1)(ha) of the **Building Act 1993**  
**substitute—**

20

"(ha) specifying the kind of work that a category  
or class of registered building practitioner  
(other than a builder) is authorised to carry  
out by that registration;"

**49 New sections 285 and 286 inserted**

After section 284 of the **Building Act 1993**  
**insert—**

**"285 Transitional and saving provisions  
relating to the Building Legislation  
Amendment Act 2023**

5

(1) Despite the substitution of section 210(2)(n)  
by section 27 of the amending Act—

10

(a) the Building Regulations Advisory  
Committee remains the same body and  
continues in operation; and

15

(b) the member of the Building  
Regulations Advisory Committee  
appointed under section 210(2)(n)  
immediately before the commencement  
of section 27 of the amending Act  
remains in office for the remainder of  
that member's term of office.

20

(2) Despite the substitution of section  
211B(2)(k) by section 28 of the amending  
Act—

25

(a) the Plumbing Advisory Council  
remains the same body and continues in  
operation; and

30

(b) the member of the Plumbing Advisory  
Council appointed under section  
211B(2)(k) immediately before the  
commencement of section 28 of the  
amending Act remains in office for the  
remainder of that member's term of  
office.

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- 5 (3) A person registered in the category of  
draftsperson in a prescribed class of  
draftsperson before the commencement of  
section 31(3) of the amending Act  
(the *former registration*) is taken to be  
registered in the category of building  
designer in the prescribed class of building  
designer equivalent to that prescribed class  
10 of draftsperson on and from the  
commencement of section 31(3) (the *new  
registration*) and any condition imposed on  
the former registration is taken to be imposed  
on the new registration.
- 15 (4) An application made under section 170(1)  
for the registration of a person in the  
category of a draftsperson in a prescribed  
class of draftsperson received but not  
determined by the Authority before the  
20 commencement of section 31(3) of the  
amending Act is taken to be an application  
for registration of that person in the category  
of building designer in the prescribed class  
of building designer equivalent to that  
prescribed class of draftsperson.
- 25 (5) A person registered in the category of a  
person responsible for a building project or  
any stage of a building project in a  
prescribed class of person responsible for a  
30 building project or any stage of a building  
project before the commencement of  
section 31(5) of the amending Act  
(the *former registration*) is taken to be  
registered in the category of project manager  
in the prescribed class of project manager  
35 equivalent to that prescribed class of person  
responsible for a building project or any
-

- 5 stage of a building project on and from the commencement of section 31(5) (the *new registration*) and any condition imposed on the former registration is taken to be imposed on the new registration.
- 10 (6) An application made under section 170(1) for the registration of a person in the category of a person responsible for a building project or any stage of a building project in a prescribed class of person responsible for a building project or any stage of a building project received but not determined by the Authority before the commencement of section 31(5) of the amending Act is taken to be an application for registration of that person in the category of project manager in the prescribed class of project manager equivalent to that prescribed class of a person responsible for a building project or any stage of a building project.
- 15
- 20 (7) Section 17A(2), as inserted by section 32 of the amending Act, does not apply in respect of a building permit issued for building work in respect of a class of building, if the application for the permit was received by the relevant building surveyor but the permit was not issued before that class of building was prescribed for the purposes of section 17A(2) as inserted by section 32 of the amending Act.
- 25
- 30 (8) Section 41A(1), as inserted by section 36 of the amending Act, does not apply in respect of an application for an occupancy permit in relation to the construction of a new building of a prescribed class of building, if that class
- 35



of building was prescribed before the application for the occupancy permit was received by the relevant building surveyor.

(9) In this section—

5

*amending Act* means the **Building Legislation Amendment Act 2023**.

### **286 Transitional regulations**

10

(1) The Governor in Council may make regulations containing provisions of a transitional nature, including matters of an application or savings nature, arising as a result of the enactment of the **Building Legislation Amendment Act 2023**, including any repeals and amendments made as a result of the enactment of that Act.

15

(2) Regulations under this section may—

20

(a) have a retrospective effect to a day that is not before the day on which the **Building Legislation Amendment Act 2023** receives the Royal Assent; and

(b) be of limited or general application; and

(c) differ according to time, place or circumstance; and

25

(d) leave any matter or thing to be decided by a specified person or class of person.

30

(3) To the extent to which any provision of the regulations under this section takes effect from a date that is earlier than the date of its making, the provision does not operate so as—

- 5 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its making; or
- 10 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its making.
- 15 (4) Regulations under this section have effect despite anything to the contrary in any Act (other than the **Building Legislation Amendment Act 2023** or the **Charter of Human Rights and Responsibilities Act 2006**) or in any subordinate instrument.
- 20 (5) The following are not required for any proposed statutory rule that is to be made under this section—
- (a) consultation under section 6 of the **Subordinate Legislation Act 1994**;
- (b) the preparation of a regulatory impact statement under section 7 of the **Subordinate Legislation Act 1994**.
- 25 (6) This section is **repealed** on 1 December 2027."

**50 Schedule 2—Procedures for building permits and occupancy permits**

- 30 In clause 1(b) of Schedule 2 to the **Building Act 1993**, after "this clause" **insert** "or under this Act".

**51 Statute law revision amendment**

The heading to Part 4 of Schedule 10 to the **Building Act 1993** is repealed.

**Division 2—Consequential amendments to other Acts**

5

**52 Amendment of the Domestic Building Contracts Act 1995**

After section 52I(2)(c) of the **Domestic Building Contracts Act 1995** insert—

10

"(ca) for the purpose of an information sharing arrangement entered into by the chief dispute resolution officer under section 259AB of the **Building Act 1993**; or".

15

**53 Amendment of the Building and Construction Industry Security of Payment Act 2002**

In section 49 of the **Building and Construction Industry Security of Payment Act 2002**, after "under this Act" (where secondly occurring) insert "or under Subdivision 2 of Division 1A of Part 11 or Division 3 of Part 11 of the **Building Act 1993**".

20

**54 Amendment of the Victorian Civil and Administrative Tribunal Act 1998**

25

(1) At the foot of section 34(3)(b) of the **Victorian Civil and Administrative Tribunal Act 1998** insert—

"Note

There are information sharing functions of the Tribunal under sections 38AA and 147A."

- (2) After section 38 in Division 4 of Part 2 of the **Victorian Civil and Administrative Tribunal Act 1998** insert—

**"38AA Disclosure of information or data by Tribunal**

It is a function of the Tribunal to disclose information or data of a prescribed class of information or data to the Victorian Building Authority or a relevant agency in accordance with an information sharing arrangement under section 259AB of the **Building Act 1993** entered into by the Tribunal."

**55 Amendment of the Owners Corporations Act 2006**

After section 67(1)(d) of the **Owners Corporations Act 2006** insert—

"(da) a building manual approved by a relevant building surveyor under section 41B(1) of the **Building Act 1993**;"

**56 Amendment of the Sale of Land Act 1962**

After section 15 of the **Sale of Land Act 1962** insert—

**"15A Approved building manual must be given to purchaser of land**

- (1) On the settlement of a contract for the sale of land, on which there is a building in respect of which a building manual has been approved by a relevant building surveyor under section 41B(1) of the **Building Act 1993**, the vendor of the land must give an up-to-date copy of the approved building manual to the purchaser of the land.

Penalty: 60 penalty units, in the case of a natural person;  
300 penalty units, in the case of a body corporate.

5 (2) Subsection (1) does not apply if the land is affected by an owners corporation."

**57 Amendment of the Cladding Safety Victoria Act 2020**

10 In section 42(1) of the **Cladding Safety Victoria Act 2020**, for "205DB(1)(b), (c) and (2)" substitute "205DB(1)(b), (c), (ca) and (2)".

## **Part 5—Amendment of the Architects Act 1991**

### **58 Appointment of panel**

5 After section 21A(1) of the **Architects Act 1991**  
**insert—**

"(1A) A person may be appointed to a panel for a period of up to 5 years specified in the instrument of appointment."

### **59 Section 22 substituted**

10 For section 22 of the **Architects Act 1991**  
**substitute—**

#### **"22 Remuneration**

15 A person appointed under section 21A is entitled to receive any fees or allowances determined by the Minister."

### **60 Section 47 substituted**

For section 47 of the **Architects Act 1991**  
**substitute—**

#### **"47 Membership**

20 (1) The Board is to consist of at least 3 and no more than 9 members appointed by the Governor in Council on the recommendation of the Minister.

25 (2) In recommending members of the Board, the Minister must ensure that—

(a) at least 3 of the members—

(i) are architects; and

30 (ii) each have demonstrated experience in a leadership role within the building industry; and

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- 5
- (b) each member has the skills, knowledge or experience in relation to at least one of the following—
- (i) administration of regulatory arrangements for the building industry;
- (ii) public engagement and communications;
- 10 (iii) risk management;
- (iv) public administration or governance;
- (v) financial, accounting or program management;
- (vi) strategic planning;
- 15 (vii) architecture; and
- (c) collectively, the members of the Board have the skills, knowledge or experience in relation to the matters set out in paragraph (b)."

20 **61 Section 48 repealed**

Section 48 of the **Architects Act 1991** is repealed.

**62 Terms of appointment**

25 In section 49(1) of the **Architects Act 1991**, for "3 years" substitute "5 years".

**63 Remuneration**

- (1) In section 50 of the **Architects Act 1991** omit "(1)".
- 30 (2) In section 50 of the **Architects Act 1991**, for "Governor in Council" substitute "Minister".
-

**64 Vacancies**

In section 51(2) of the **Architects Act 1991**, after "Council" **insert** ", on the recommendation of the Minister,".

5

**65 Chairperson**

(1) For section 52(1) of the **Architects Act 1991** **substitute**—

10

"(1) The Minister must appoint one of the members of the Board to be Chairperson of the Board."

(2) In section 52(3) of the **Architects Act 1991**, for "for re-election as Chairperson" **substitute** "to be re-appointed as Chairperson by the Minister".

15

(3) Section 52(4) of the **Architects Act 1991** is **repealed**.

**66 Deputy Chairperson**

(1) For section 53(1) of the **Architects Act 1991** **substitute**—

20

"(1) The Minister must appoint one of the members of the Board to be Deputy Chairperson of the Board."

(2) In section 53(3) of the **Architects Act 1991**, for "for re-election as Deputy Chairperson" **substitute** "to be re-appointed as Deputy Chairperson by the Minister".

25

(3) Section 53(4) of the **Architects Act 1991** is **repealed**.

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**67 Procedure of Board**

For section 54(4) of the **Architects Act 1991**  
**substitute—**

- 5           "(4) A majority of the members of the Board  
constitute a quorum, which must include the  
Chairperson or the Deputy Chairperson."

**68 New section 57B inserted**

After section 57A of the **Architects Act 1991**  
**insert—**

10           "**57B Strategic plan**

- (1) Within 3 months of the commencement of  
this section, the Board must prepare a 4-year  
strategic plan and submit a draft of the plan  
to the Minister for approval.
- 15           (2) The Board must prepare and submit a draft  
of a 4-year strategic plan to the Minister for  
approval within 6 months before the expiry  
of each previous approved plan.
- 20           (3) A strategic plan prepared under  
subsection (1) or (2) must contain the  
following—
- (a) a vision statement;
  - (b) a mission statement;
  - (c) a statement of values;

25           (d) objectives to be met during the course  
of the plan;

  - (e) details of the strategic initiatives which  
will enable the Board to meet those  
objectives.
-

- 5
- 10
- 15
- 20
- (4) The Minister on receiving a draft of a strategic plan submitted under subsection (1) or (2) may—
    - (a) approve the plan; or
    - (b) reject the plan and ask the Board to submit an amended draft of the plan for approval by the Minister, which contains or addresses the changes requested by the Minister.
  - (5) If a strategic plan prepared under subsection (1) or (2) has been approved by the Minister, the Board must—
    - (a) adopt and implement the plan; and
    - (b) publish the plan, and keep it published, on its website.
  - (6) A strategic plan that has been approved by the Minister expires 4 years after the approval.
  - (7) The Board must in its annual report of operations prepared for the purposes of section 45 of the **Financial Management Act 1994** report on its progress in implementing its strategic plan."

**69 New Division 4 inserted in Part 10**

After Division 3 of Part 10 of the **Architects Act 1991** insert—

**"Division 4—Building Legislation Amendment Act 2023**

5

**80 Transitional and savings provisions—  
Building Legislation Amendment Act 2023**

(1) In this Division—

10

*amending Act* means the **Building Legislation Amendment Act 2023**;

*commencement day* means the commencement of Part 5 of the amending Act.

15

(2) Despite the amendments made to section 21A by section 58 of the amending Act—

20

(a) if a person is appointed to a panel immediately before the commencement day and the instrument of appointment provides for a fixed term of appointment, the person continues to be appointed until the end of that term; or

25

(b) if a person is appointed to a panel immediately before the commencement day and the instrument of appointment does not provide for a fixed term of appointment, the person continues to be appointed as follows—

30

(i) if the person was appointed within 3 years before the commencement day, the person continues to be appointed until the end of 5 years

- 5 after the date of the person's  
appointment;
- (ii) if the person was appointed during  
the period commencing 5 years  
and ending 3 years before the  
commencement day, the person  
continues to be appointed until the  
end of 3 years after the  
commencement day;
- 10 (iii) if the person was appointed before  
5 years before the commencement  
day, the person continues to be  
appointed until the end of one year  
after the commencement day.
- 15 (3) Despite the amendments made to Part 6 by  
Part 5 of the amending Act—
- (a) the Board is taken to be the same body  
and continues in operation; and
- 20 (b) a member of the Board appointed  
immediately before the commencement  
day continues to be appointed in  
accordance with the instrument of  
appointment until the end of the term of  
the appointment; and
- 25 (c) a person appointed as Chairperson or  
Deputy Chairperson of the Board  
immediately before the commencement  
day continues to be so appointed until  
the end of the term of the appointment;
- 30 and

5

- (d) the requirement in section 47(2)(d), as inserted by section 60 of the amending Act, that the Minister must ensure that the members of the Board collectively have certain skills, knowledge or experience does not apply until on or after 1 July 2024."

## **Part 6—Repeal of this Act**

### **70 Repeal of this Act**

This Act is **repealed** on 1 February 2025.

#### **Note**

5

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.