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Property Law Intensive: Property Developers Act 2024 (ACT)

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Introduction



Significance of the Act

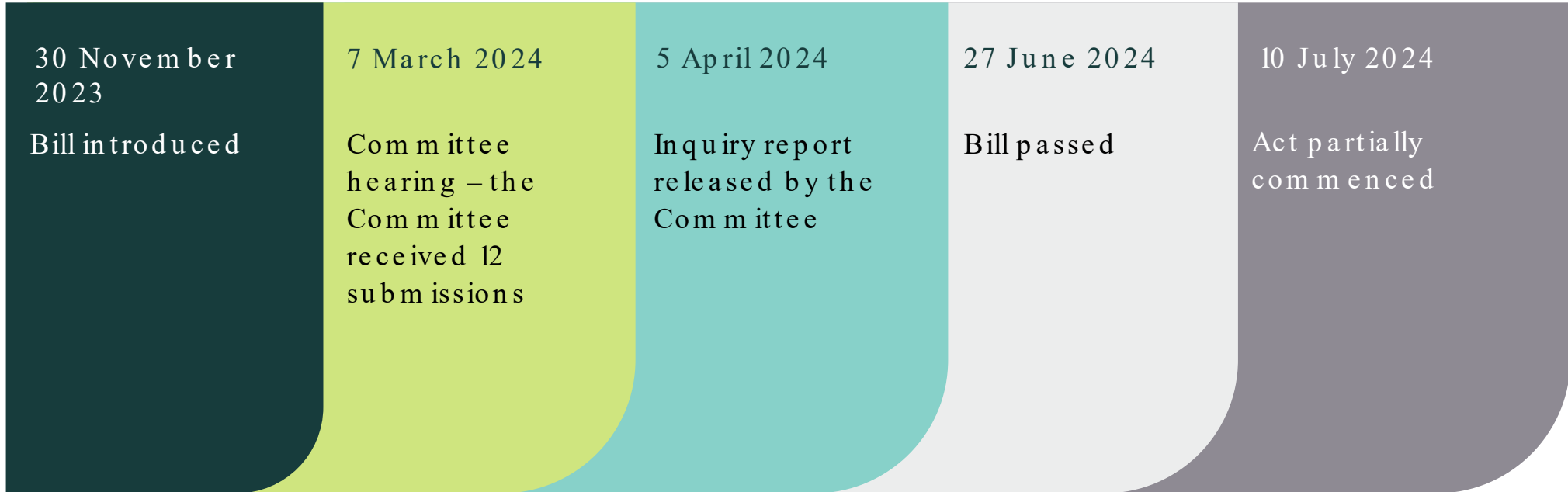
Introduces significant reforms to the property development sector including:

- A licensing regime requiring a person to be licensed as a property developer to undertake certain residential development activities; and
- A rectification orders regime including personal director liability.

The Act has attracted widespread commentary including both support and criticism .

Tim e lin e

Road to the Act



Timeline

What has happened since the Act partially commenced:



Commencement of the Act

Sections that have already commenced

- Part 1 – Preliminary
- Part 3 – Rating entities
- Part 5 – Rectification orders, stop work orders and undertakings
- Part 6 – Enforcement
- Part 9 – Information sharing
- Part 10 – Notification and review of decisions
- Part 11 – Miscellaneous
- Part 12 – Transitional
- Schedule 1 – Reviewable decisions
- All remaining provisions (except for licence requirement provisions and Schedule 2)

Sections yet to commence

Licence requirement provisions and Schedule 2 (consequential amendments to other legislation) will commence on 1 October 2026



02

The Act



Objects of the Act - s 6(1)

- Protect the public by ensuring :
 - residential development activities are undertaken by competent property developers with the capacity to perform those activities; and
 - property developers are responsible and accountable for the activities they undertake.
- Promote public confidence in the standard of residential development activities.

How will the objects be achieved? – s 6(2)

The objects are to be achieved by:

- 1 Establishing a licensing scheme for certain residential development activities to be undertaken only by licensed property developers
- 2 Imposing standards of practice and competency for licensed property developers
- 3 Requiring property developers to rectify serious or possible serious defects in regulated residential buildings they arrange to construct
- 4 Providing for monitoring and enforcement of compliance with the Act



Key Definitions – Dictionary

Regulated Residential Building

A class 1 or class 2 building (or a building that contains a class 2 building), constructed as part of a project to construct 3 or more dwellings **BUT** does not include a building excluded by regulation.

Examples:

- ✓ Constructing 20 detached class 1 houses on a large in fill site.
- ✓ Buying 6 adjoining blocks in a greenfield suburb and engaging an architect and builder to construct matching class 1 row houses on the block.
- ✗ Single dwellings, dual occupancies or adding secondary dwellings.

Residential Building Work

Means building work in relation to a regulated residential building **BUT** does not include building work excluded by regulation.

Examples:

- ✓ Engaging a builder to demolish a house and replace it with a building containing 4 apartments and a shared basement.
- ✗ Engaging a builder to alter an existing class 2 building by adding 2 more dwellings.

Residential Development Activities

Includes undertaking or arranging of residential building work to be undertaken and marketing and selling regulated residential buildings including off the plan.

Refresher – Building Classifications

Applies

Class 1
Houses

Class 2
Apartments

Does not apply

Class 3
Boarding house, guest house, hostel or backpackers

Class 4
Sole dwelling within a non-residential building

Class 5
Office buildings used for professional or commercial purposes

Class 6
Shops, restaurants and cafes

Class 7
Storage-type buildings

Class 8
Factories

Class 9
Hospitals, aged care buildings, public assembly buildings

Class 10
Non-habitable buildings

Key Definitions – Exclusions – Part 4 of Regulations

Regulated Residential Building (reg 11)

A building used by an aged care provider as part of a retirement village is excluded.

Residential Building Work (reg 12)

Building work in relation to a building mentioned in regulation 11 is excluded.

Key Definitions – Exclusions – Part 4 of Regulations

Aged Care Provider

means an aged care provider that is:

- a) an approved provider under the Aged Care Quality and Safety Commission Act 2018 (Cth); and
- b) registered as a public benevolent institution under the Australian Charities and Not-for-profits Commission Act 2012 (Cth).

Retirement Village

see the Retirement Villages Act 2012 (ACT), section 10, which states:

Retirement village—

(a) means a complex containing residential premises that are—

- (i) predominantly or exclusively occupied, or intended to be predominantly or exclusively occupied, by retired people who have entered into village contracts with an operator of the complex; or
- (ii) prescribed by regulation; but

(b) does not include any of the following:

- (i) any building or part of a building used or intended to be used for the provision of residential care under the Aged Care Act 1997 (Cth) by an approved provider under that Act;
- (ii) a building or part of a building intended to be used for the provision of respite care under the Aged Care Act 1997 (Cth);
- (iii) a mobile home park;
- (iv) residential premises that are the subject of a residential tenancy agreement to which the housing commissioner is a party;
- (v) a boarding house;
- (vi) accommodation provided in a complex for employees of the complex who are not residents of the retirement village;
- (vii) residential premises that are the subject of a residential tenancy agreement—
 - (A) to which the operator of a retirement village is a party; and
 - (B) that contains a term to the effect that this Act does not apply to the premises;
- (viii) any other place prescribed by regulation.



What applies now?

Rectification orders, stop work orders and compliance undertakings – application

Applies to residential building work for which a development approval is **given** on or after 11 July 2024 (s 44(1)).

However, what does a development approval being 'given' mean?

Unclear how a development approval being 'given' will be interpreted.

Question as to whether the regime will apply in circumstances where a development approval was given before 11 July 2024 but an amendment or a correction is approved after 11 July 2024.

Possibility that an amended or corrected development approval may constitute a development approval being 'given' for the purposes of the Act - could include amendments or corrections of a minor or technical nature.

Rectification orders, stop work orders and compliance undertakings – definition of 'property developer' (s 46(1))

A 'property developer' means any of the following:

A person who contracts/ arranges for/ facilitates/ otherwise causes (whether directly or indirectly) the building work to be done.

The owner of the land when the building work is undertaken.

The principal builder of the building work.

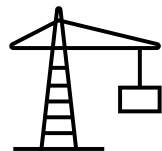
For a regulated residential building under a units plan – the developer.

A person prescribed by regulation.

Note: means many developers for a project

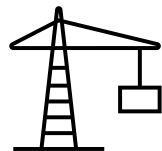
Rectification orders, stop work orders and compliance undertakings – definition of 'property developer' (s 46(1))

Note: the definition of 'property developer' is broader than just licensees!



Rectification orders, stop work orders and compliance undertakings – definition of 'property developer' (s 46(2))

Exclusions: a regulation may exclude a person from the definition of property developer



Rectification orders, stop work orders and compliance undertakings – definition of 'property developer' (s 46(2)) – exclusions (reg 8(1))

(a) a person who contracts or arranges for, or facilitates or otherwise causes the residential building work to be undertaken only because they -

(i) provide advice in relation to the building work in their capacity as a professional

(ii) provide an assessment or certification service in relation to the building work in accordance with the Construction Occupations (Licensing) Act 2004 or an operational Act under that Act

(iii) provide a financial service in relation to the building work

(iv) act in their capacity as a person engaged to undertake a particular part of the building work, and are not engaged as the principal builder or to make decisions in relation to the building work more generally

(v) act in their capacity as an employee or subcontractor of a person excluded under subparagraph (iv)

(vi) act in their capacity as an employee of a property developer for the building work

(vii) act in their capacity as a registered liquidator of a property developer for the building work

(viii) are a buyer under an off-the-plan contract, including a buyer who later sells their interest under the contract

(b) a person licensed to undertake the residential building work under the Construction Occupations (Licensing) Act 2004 in the occupation class of owner-builder.

Rectification orders, stop work orders and compliance undertakings – exclusions (reg 8(2)) – key definitions

Assessment or certification process

means any of the following services within the meaning of the Construction Occupations (Licensing) Act 2004 (ACT):

- (a) a building assessment service;
- (b) a building certification service;
- (c) an exemption assessment service;
- (d) a plumbing plan certification service;
- (e) a works assessment service.

Financial service

See the Corporations Act 2001 (Cth), section 766A, which states:

Subject to any exceptions set out in the regulations, a person provides a **financial service** if they:

- (a) provide financial product advice; or
- (b) deal in a financial product; or
- (c) make a market for a financial product; or
- (d) operate a registered scheme; or
- (da) operate the business and conduct the affairs of a CCIV; or
- (e) provide a custodial or depository service; or
- (ea) provide a crowd-funding service; or
- (eb) provide a claims handling and settling service; or
- (ec) provide a superannuation trustee service; or
- (f) engage in conduct of a kind prescribed by regulations made for the purposes of this paragraph.

Rectification orders, stop work orders and compliance undertakings – exclusions (reg 8(2)) – key definitions

Off-the-plan contract

means a contract for the sale of—

- (a) a unit for residential use before the units plan for the unit is registered; or
- (b) a residence (other than a unit) on land identified in the contract before the certificate of occupancy for the residence is issued; or
- (c) vacant land for residential use identified in the contract before the Crown lease for the land is registered.

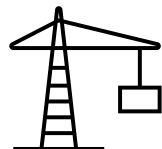
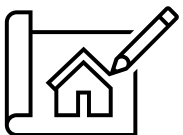
Professional

- (a) means a person who provides professional advice to more than 1 client; but
- (b) does not include a person who provides professional advice to a client in their capacity as an employee of the client.

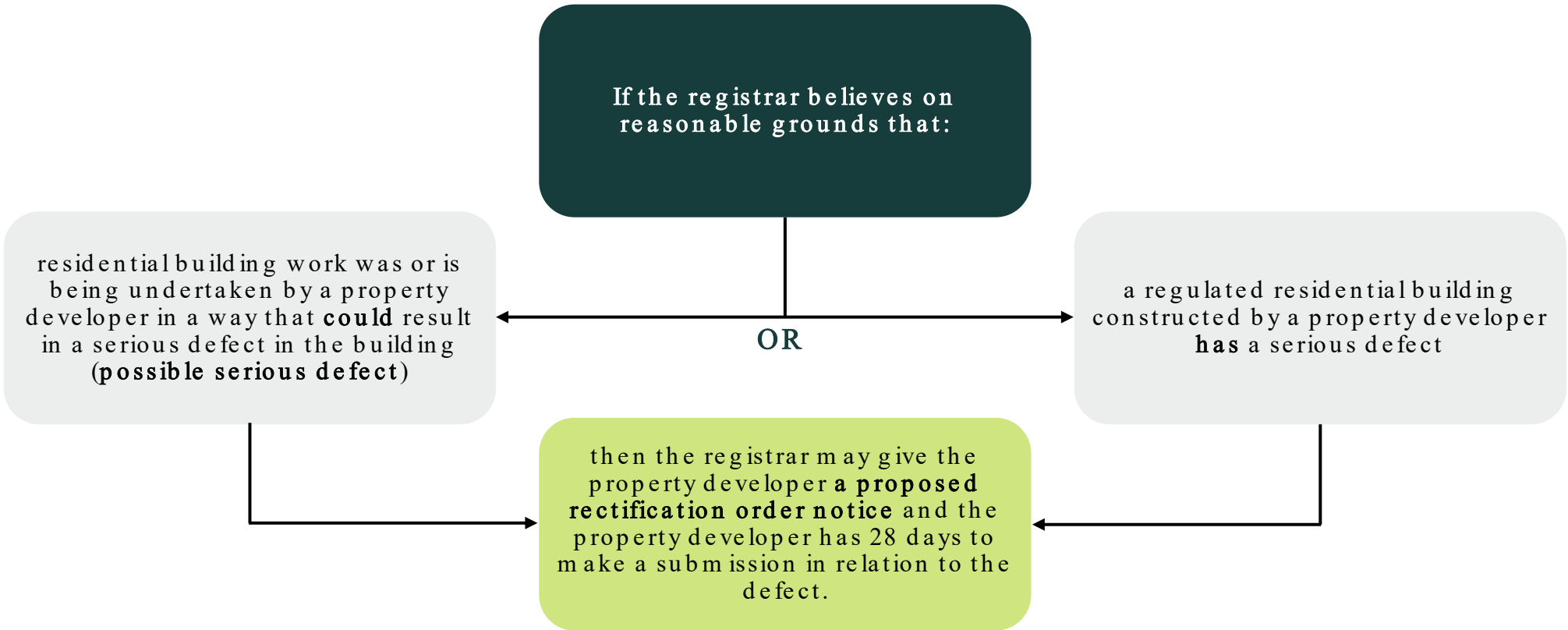
Rectification orders, stop work orders and compliance undertakings – definition of 'serious defect' (s 47(1))

Serious defect, in relation to a building, means:

- a defect in a building element that is attributable to a failure to comply with a performance requirement of the building code, the relevant Australian Standards or relevant approved plans for the building work; **or**
- a defect in a building product or element that:
 - is attributable to defective design, defective work, or materials; **and**
 - causes or is likely to cause:
 - inability to live in or use any part of the building for its intended purpose; **or**
 - destruction of any part of the building; **or**
 - threat of collapse of any part of the building; **or**
- a thing prescribed by regulation.



Rectification Orders – Notice (s 48)

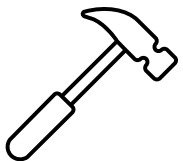


Note: rectification orders can therefore be given in respect of buildings which already have a serious defect or in respect of work which could result in a possible serious defect.

Rectification Orders – Making orders (s 49)

If the registrar, after considering the property developer's submission, is satisfied it is appropriate to make a rectification order, they may make a rectification order requiring any of the following:

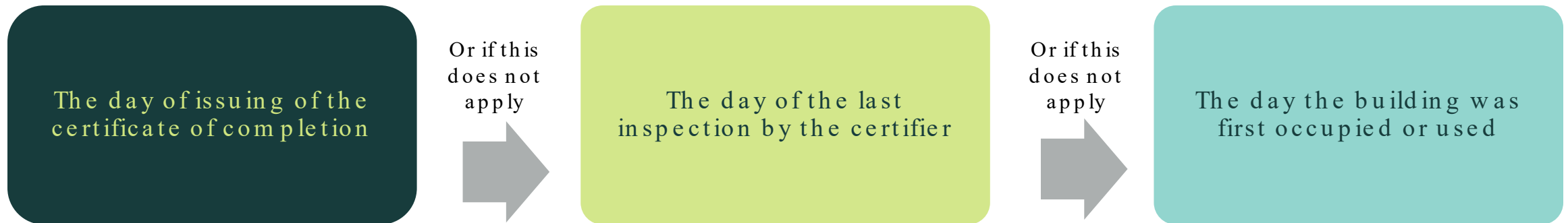
- the property developer to rectify the serious or possible serious defect within a period (not less than a month);
- stated information to be given to the registrar about the required rectification work; or
- any other thing reasonably necessary to ensure the required rectification work is done.



Rectification Orders – 10-year period (s 49(4)-(6))

The ability for the registrar to make a rectification order is linked to a 10-year period.

'10-year period' means the period within which a building action may be brought in relation to the residential building work under s 142(1) of the Building Act 2004 (ACT) and commences on:

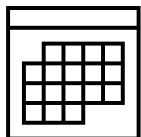


Rectification Orders – 10-year period (s 49(4))

A rectification order can be issued within the 10-year period except:

- if the registrar first became aware of the defect in the last 6 months of the 10-year period, the order can be issued up to a year after the date the registrar became aware; or
- if a proposed rectification order notice is issued before the 10-year period ends, the order can be issued up to a year after the notice.

Note: this means there is no clear end date – could potentially be up to 11 years



Rectification Orders – more than 1 property developer (s 51)

There may be multiple 'property developers' on a project

If there is more than 1 property developer in relation to residential building work, a rectification order may be given to 2 or more property developers.

The order applies jointly and severally (i.e. each property developer is liable for the entirety of the rectification order).

The order is not affected by any existing or future claim a person may make against another person, or any existing or future proceeding in relation to a claim, in relation to the residential building work to which the order relates.

Example: if owners of an apartment building have commenced proceedings against the builder for defects and there are also proceedings on foot between the property developer and the builder, the registrar may issue a rectification order against the builder and property developer regardless of those proceedings.

Rectification Orders – Other Provisions

Emergency rectification orders – s 50

If the serious defect or possible serious defect needs to be rectified urgently to protect the health or safety of people, property or the environment, the registrar may give to the property developer an emergency rectification order without giving the property developer a proposed rectification order notice.

Access orders – s 53

If a rectification order is made against a person, the registrar may order the occupier of the land to permit it reasonable access to the land within a stated period to allow the rectification order to be complied with.

Rectification by the Territory – s 55

If a person contravenes a rectification order, then the Territory may authorise a person to carry out the works in the order and the non-complying party is liable for such costs.

Rectification Orders – Personal Liability (s 52)

If:



then, the registrar, if satisfied that it is appropriate to do so, may make a rectification order **against each person who was a director of the property developer at or after the time the residential building work was undertaken** as if they were the property developer.

Note: directors of Territory, State or Commonwealth entities and any person excluded by regulation are exempt from these provisions. Other persons may be excluded by regulation.

Rectification Orders – Personal Liability (s 52) – Excluded Directors (reg 9)



If the property developer is a registered community housing provider—a person who was a director of the registered community housing provider.



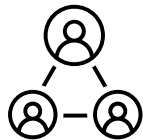
If the property developer is a wholly-owned subsidiary of a registered community housing provider—a person who was a director of the subsidiary.

Registered community housing provider means an entity registered under the Community Housing Providers National Law as a community housing provider.

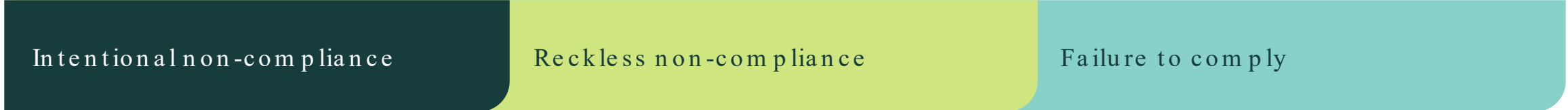
Rectification Orders – Personal Liability (s 52)

In considering whether it is appropriate to make a rectification order against a director, the registrar must consider:

- if a latent defects insurance policy or similar insurance policy covers the work required to rectify the serious defect; and
- any other matter prescribed by regulation – **note** nothing has been prescribed (yet).



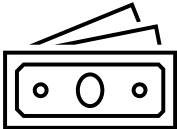
Rectification Orders – Penalties (s 54)



- Corporations - \$1,620,000
- Individuals – \$320,000

- Corporations - \$810,000
- Individuals – \$160,000

- Corporations - \$40,500
- Individuals – \$8,000



Stop work orders (s 60)

The registrar may give the property developer a stop work order requiring the property developer to stop residential building work if:

The work is being, or is likely to be, undertaken by a property developer in a way that could result in:

- significant harm or loss to the public or occupiers of the building; or
- significant damage to property.

The work is being undertaken and a person is required to hold a licence and:

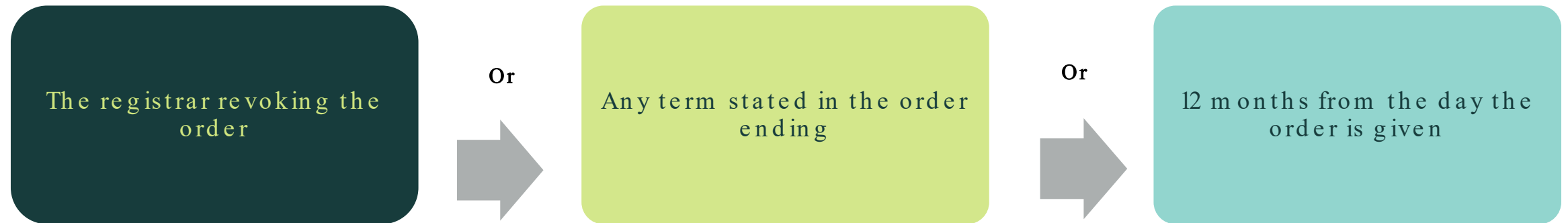
- no person holds a licence; or
- a person holds a licence however regulatory action is, or is proposed to be, taken against the licensee or the licence prevents the work being undertaken.

Note: this section has not commenced

Note: there is no further explanation within the Act as to what circumstances constitute conduct that could result in significant harm or loss to the public or occupiers or significant damage to property. There is a risk that this could be interpreted broadly and stop work orders could be given in a variety of circumstances.

Stop work orders (s 60)

The stop work order ends on the earliest of:



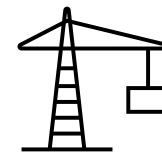
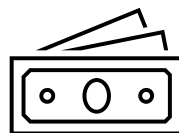
Compliance undertakings (s 62)

The registrar may accept a compliance undertaking in relation to residential building work from a property developer or a director of a property developer (if the developer has been wound-up, deregistered or placed into administration, receivership, or liquidation).

The compliance undertaking may include an undertaking by the property developer or director to do the following:

- take action in relation to a serious defect or possible serious defect in a building or contravention of the Act; or
- provide financial security to the registrar that may be claimed by the Territory to meet the costs of rectifying a serious defect or possible serious defect in the building.

Note: the same maximum fines apply as for rectification orders.



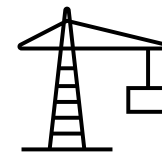
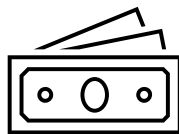
Compliance cost notices (s 64)

This section applies if the registrar does either of the following (**compliance action**):

- gives a person a rectification order or stop work order;
- accepts a compliance undertaking from a person.

The registrar may give the person a written notice (**a compliance cost notice**) requiring the person to pay all or any reasonable costs incurred by the Territory (including remuneration and other administrative costs) relating to:

- monitoring and ensuring that any required rectification work the subject of a compliance action is done;
- investigations leading to the taking of a compliance action;
- preparation of a compliance action including legal costs; and
- any other matter related to the compliance action.



Other sections that have commenced

Enforcement (Part 6)

There are a number of enforcement powers under the Act including the power for an authorised person to:

- direct a relevant person to give information (s 71);
- enter premises to monitor compliance with the Act or in accordance with a warrant (s 73); and
- seize things from a premises (s 84).

Review of decisions (ss 113-116)

The Act allows for an internal review process and for parties to apply to ACAT for a review of decisions identified as ACAT reviewable decisions under the Act (which includes the giving of a rectification order or stop work order).

Miscellaneous (Part 11)

There are various miscellaneous provisions including:

- the Minister may determine qualifications, experience, continuing professional development or other competencies that a person must have to be a licensee (s 118); and
- the Minister must, after the end of the Act's 5th year of operation, review the operation and effectiveness of the Act (s 123).



What sections are awaiting commencement?

When is a licence required? (s 7)

Development Applications - Planning Act 2023 (ACT)	Building Applications - Building Act 2004 (ACT)	Off-the-plan Contracts - Civil Law (Sale of Residential Property) Act 2003 (ACT)
<p>Building or altering a regulated residential building on land</p> <p>Note: if applying for a 'significant amendment' of a development approval given prior to 1 October 2026, then the applicant needs a licence. 'Significant amendment' is defined as an amendment to increase the GFA of the building by more than 10% or to vary the lease (s 162B).</p>	<p>Applications for residential building work:</p> <ul style="list-style-type: none">• building approval;• building commencement notice; and• certificate of occupancy.	<p>Selling and advertising of off-the-plan residential property.</p>

Note: the Territory, Commonwealth and States, including Territory, Commonwealth and State entities are excluded from the requirements to hold a licence.

Related entities

Note: a related entity may hold the licence

A **related** entity of a person, means—

- (a) for a corporation—a corporation that holds all of the issued share capital of the corporation; or
- (b) an entity prescribed by regulation.

Question – Building Act 2004 (ACT)

Do you need a licence to apply for a certificate of occupancy for a development with a building approval issued prior to 1 October 2026?

Answer – Building Act 2004 (ACT)

No!

The requirement to hold a licence as a condition for the issue of a certificate of occupancy only applies if section 28AA applies (s 69(1)(c)).



Section 28AA provides that if a person is required to hold a licence then it is a condition of the building approval that the residential building work may only be carried out by a person with a licence – this section commences on 1 October 2026.



Accordingly, building approvals issued prior to 1 October 2026 for residential building work are not subject to the condition in section 28AA and therefore holding a licence is not a condition for the issue of a certificate of occupancy.

Licence – Application (s 11)

An application must include:



Note: ACT Government has provided in its guidance material that each licence application must include a ratings report.

Who is a 'suitable person'? (s 9)

The registrar must consider the following in relation to the applicant:

Character and history of compliance

Demonstration of an ability to comply with the Act and relevant laws

Operational and financial capacity to undertake residential development activities

Compliance with any competency requirement

Any previously held licences that have been cancelled or suspended

If the applicant is an individual – whether the applicant has been insolvent, disqualified from managing a corporation or was an executive officer of a corporation when it was placed into administration, receivership or liquidation

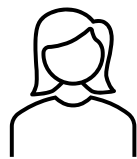
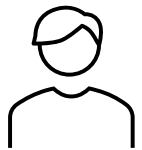
Any matter prescribed by regulation



Application – if the applicant is a corporation (s 9(2))

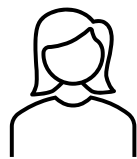
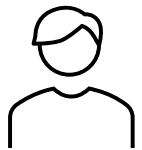
The registrar may also consider the criteria for a 'suitable person' in relation to the following:

- an associated entity or key person for the corporation; and
- a former associated entity or key person for the corporation.



Who is a 'key person'? (s 8(1))

- A director or secretary of the corporation or a related corporation.
- A person who is in a position to control or significantly influence the corporation's conduct including an individual who:
 - directly or indirectly holds or controls 25% or more of the shares in the corporation;
 - gives instructions to an officer of the corporation;
 - makes, or participates in making, decisions that affect the whole or a substantial part of the corporation's business or financial standing; or
 - engages in conduct or makes representations that would cause someone to reasonably believe that the person controls or substantially influences the corporation's business.



Who is a 'key person'? (s 8(2), (4))

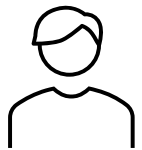
A key person **does not** include:

- a professional, only because the advice given by the professional influences the corporation's conduct;
- a regulator, only because the regulator influences the corporation's business; or
- an administrator, controller, provisional liquidator or liquidator.

A 'professional':

- means a person who provides professional advice to more than 1 client; but
- does not include a person who provides professional advice to a client in the person's capacity as an employee of the client.

Example: a lawyer or accountant, employed in that capacity by a firm of lawyers or accountants engaged by a corporation to give the corporation advice on a particular matter



Information prescribed by regulations (reg 5)

The following information is prescribed -

(a) The information mentioned in the Act, section 25 (2) (a), (b), (e) and (j).

s 25(2)(a) - the licensee's registered business name

s 25(2)(b) - if the licensee operates the business under another name, their business's trading name

s 25(2)(e) - their ABN or ACN

s 25(2)(j) - their address for service

(b) If the applicant is a corporation:

(i) the director identification number of any person who is a director or has been a director at any time since the relevant day (which is 1 October 2025); and

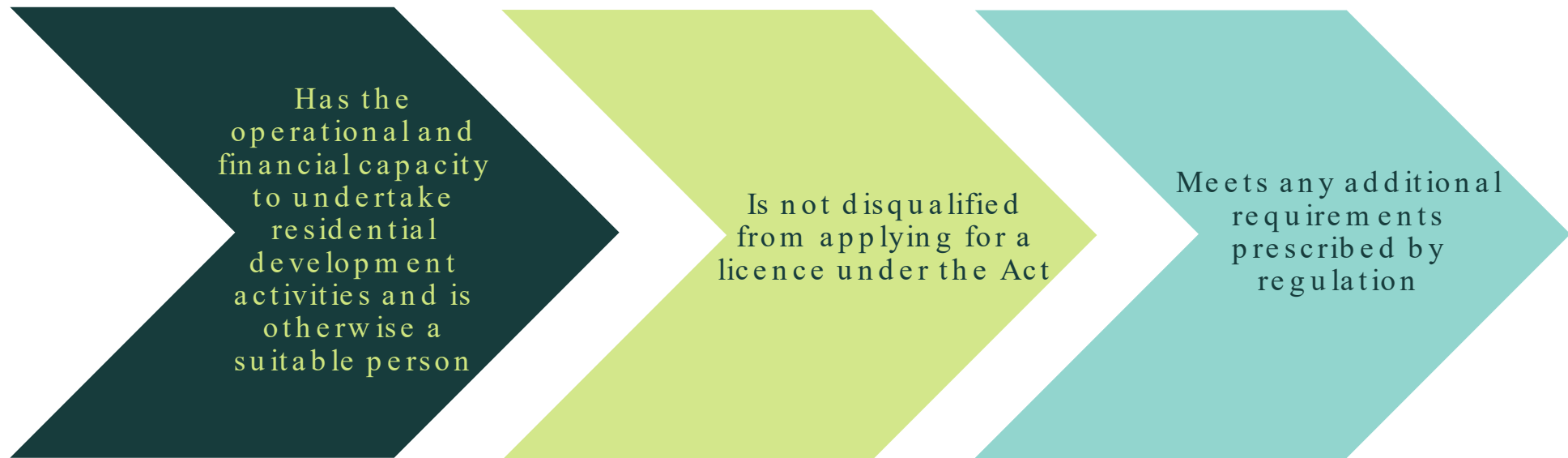
(ii) details about any entity that is an associated entity or has been an associated entity at any time since the relevant day; and

(iii) if a current or former associated entity of the applicant is a corporation, the director identification number of any person who is a director or has been a director at any time since the relevant day.

c) If the applicant is a registered community housing provider, evidence of the applicant's registration.

Licence – Eligibility (s 12)

An applicant is eligible if the applicant:



Note:

- Licences have a term of 7 years – apply for renewal of licence before the licence ends (ss 13, 20)
- The registrar must keep a public register of licensed property developers (s 25)

Automatic licence suspension (s 31)



If licence fee not paid



For an individual, if the licensee becomes bankrupt or personally insolvent



For a corporation, if the licensee is the subject of a winding-up order or has a controller or administrator appointed

Regulatory action (s 32)

Regulatory action against a licensee means any of the following:

Reprimanding the licensee

Directing the licensee to undergo an assessment of their qualifications, experience, and competencies or their operational and financial capacity

Directing the licensee to undertake specified training

Imposing or amending a condition on their licence

Suspending their licence for a fixed period or until a specific event occurs

Cancelling their licence

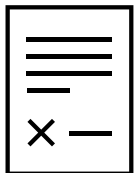
Regulatory action

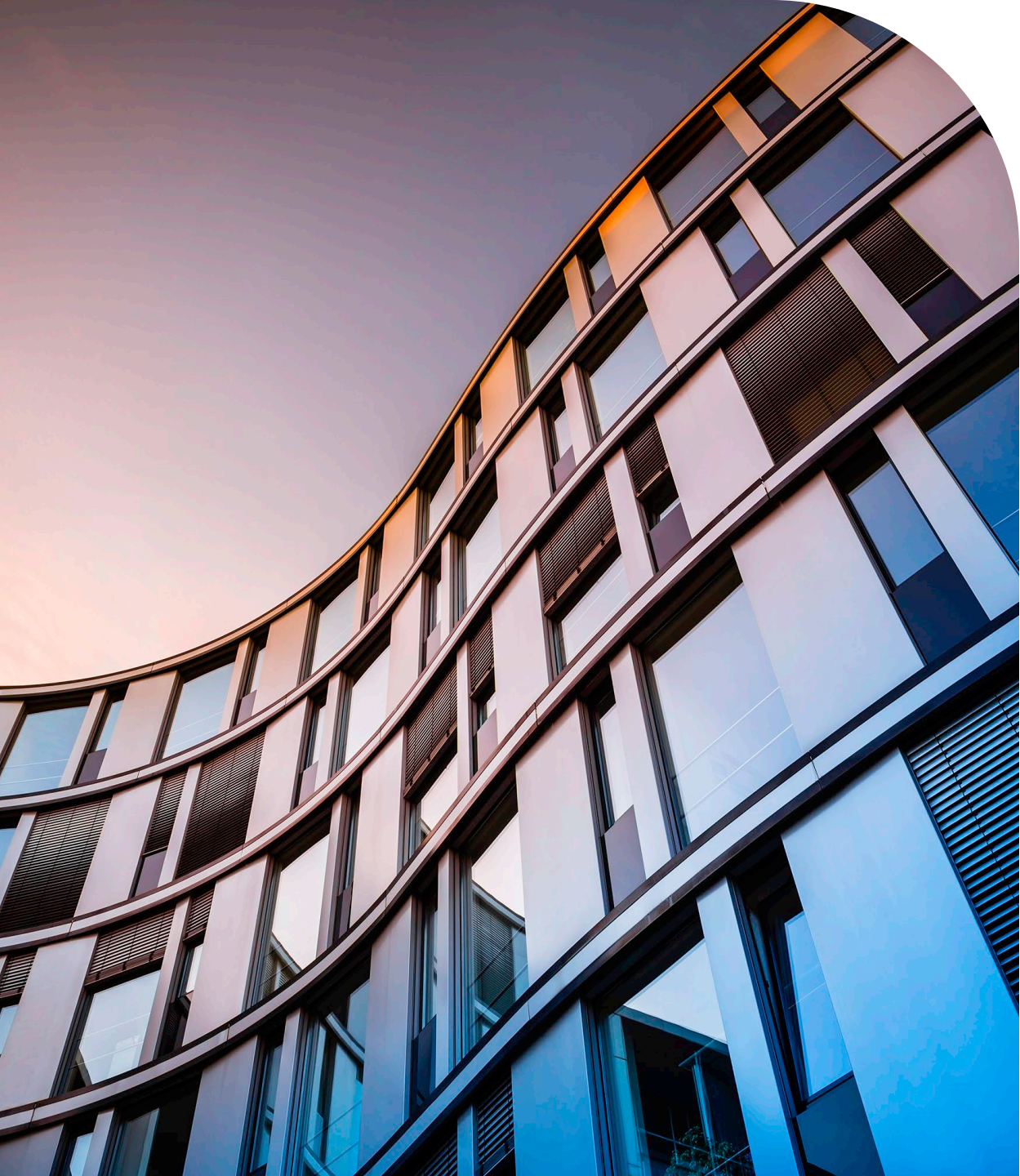
Grounds for regulatory action include:

- knowingly or recklessly using false information in a licence application;
- failure to comply with a condition of a licence; and
- the licensee stops being eligible to be licensed, has been convicted of an indictable offence or has contravened the Act (s 33).

If the registrar proposes to take regulatory action, the registrar must first give a show cause notice to the licensee and the licensee has 28 days to give submissions (s 34).

Note: if the registrar proposes to immediately cancel or suspend a licence it must be in the public interest to do so (s 38(b)).





Amendments to the Building Act 2004 (ACT)

Defective building work (s 89F)

An affected party may give notice to the builder and any property developer within 2 years after the completion day for the residential building work requiring the defective work to be rectified.

Affected party means the owner of the building or the land or a person prescribed by regulation (but does not include a person excluded by regulation).

Completion day under the Building Act 2004 (ACT) means the later of the day the work is completed or the day the contract relating to the work ends.

This section does not affect the right of an affected party to claim damages for loss or damage resulting from the defect that is reasonably foreseeable.

Reverse onus – the work is presumed to be defective and able to be rectified unless proven otherwise.

Note: This provision does not apply to work carried out before, or under a contract entered into before, commencement of this section (being 1 October 2026).



Amendments to the Civil Law
(Sale of Residential Property) Act
2003 (ACT)

What is an off-the-plan contract? (s 19AA)

A contract for the sale of:



A unit for residential use before the units plan for the unit is registered

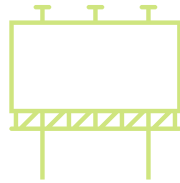


A residence (other than a unit) on land identified in the contract before the certificate of occupancy for the residence is issued

Off-the-plan contracts – licence requirements



A seller commits an offence if the seller enters into an off-the-plan contract for the sale of regulated residential building and the seller does not hold a property developer licence (s 19AB).



A person commits an offence if that person advertises the sale of a regulated residential building under an off-the-plan contract and the advertisement does not contain the property developer licence number of the seller (s 19AC).

Note: these provisions only apply to the sale of a **regulated residential building** under an off-the-plan contract

Off-the-plan contracts – disclosure requirements

Before a buyer and seller enter into an off-the-plan contract, the seller must give the buyer a disclosure statement including:

- if the seller is required to hold a property developer licence – the licence number of the seller and a statement about the property developers register;
- the fixtures, fittings and finishes that are included in each residence; and
- any other matter prescribed by regulation (s 19AD).



If disclosure statement is not provided by the seller then the buyer may rescind the contract:

- if the seller has not given the buyer the disclosure statement – at any time before the contract is completed; or
- if the seller gives the buyer the disclosure statement after the contract is signed – within 21 days after the day the disclosure statement is given to the buyer (s 19AE).



Regulations – matters that could be included

~~Further criteria for a 'suitable person'~~

~~Requirements for rating reports~~

Information required in licence applications

~~Eligibility requirements for licences~~

Definition of 'property developer' – inclusions and exclusions

Definition of 'regulated residential building' – exclusions

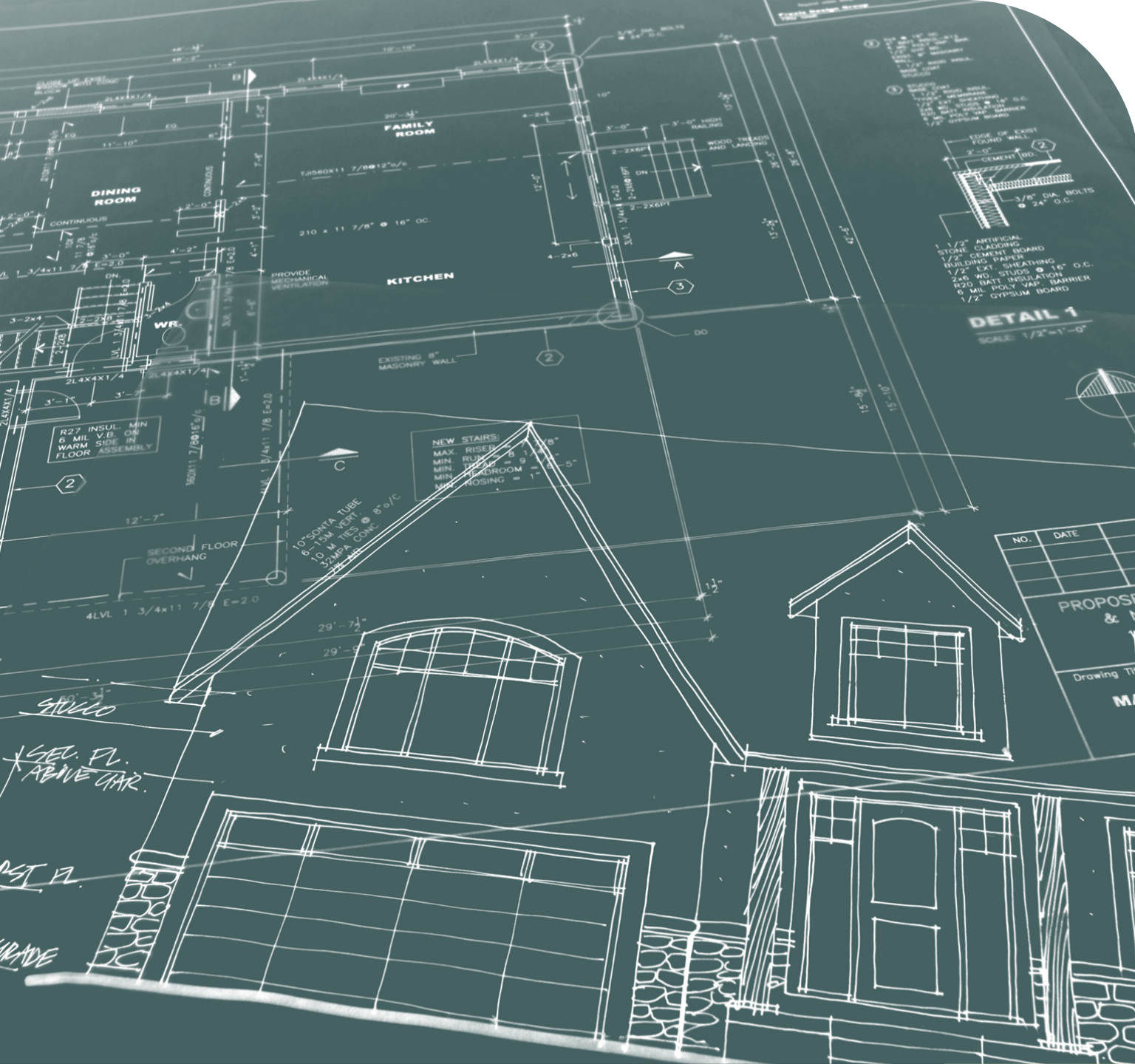
~~Considerations the registrar must take into account in making rectification orders against directors if developer wound up~~

~~Matters for inclusion in off-the-plan disclosure statements~~



03

Further Legislative Instruments



Code of Practice

Code of Practice (s 117 and reg 13)

A relevant property developer must comply with the code of practice.

A **'relevant property developer'** is:

- (a) a licensee; and
- (b) a person who arranges for residential building work to be undertaken (reg 13).

Code of Practice – key sections in the Act

Licence conditions (s 19(1)(a))

A licence is subject to the condition that the licensee must comply with the Act, (including an approved code of practice).

Grounds for regulatory action (s 33(g))

A ground for regulatory action against a licensee includes if the licensee has contravened the Act (including an approved code of practice), or any relevant law.

Powers of authorised person to enter premises (s 73(1)(c))

An authorised person may enter premises at any time to monitor compliance with the Act (including an approved code of practice).

Code of Practice – Penalties (s 95)

Intentional non-compliance

- Corporations - \$162,000
- Individuals – \$32,000



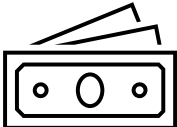
Reckless non-compliance

- Corporations - \$81,000
- Individuals – \$16,000



Failure to comply

- Corporations - \$40,500
- Individuals – \$8,000



1. Comply with the law

A relevant property developer must comply with –



the Act and any applicable subordinate legislation under the Act; and



any other laws relevant to their work, conduct and organisation.

2. Act in a professional manner and meet a standard reasonably expected of a relevant property developer

A relevant property developer must –

(a) act with honesty, integrity, and in a professional manner;

(b) act in good faith and fairly (for example, fair contracting practices);

(c) not unreasonably discriminate against a person or organisation;

(d) provide commercially reasonable terms and conditions, and not engage in collusive or anti-competitive business practices;

(e) use transparent and ethical sales practices;

(f) not knowingly act, or engage in conduct that could bring, the profession of property development, or perceptions of the quality of buildings in the ACT, into disrepute; and

(g) promptly notify the relevant government authority where in the course of their work they become aware of, or hold a reasonable suspicion of, unlawful activity, or a matter that creates an immediate or imminent risk to health and safety.

3. Act within licence

A relevant property developer must not undertake regulated residential property development activities that do not fall within their licence requirements, including any conditions on their licence.



4. Maintain professional competency

A licensed property developer must maintain their professional competency requirements, as determined by the Minister under section 118 of the Act.



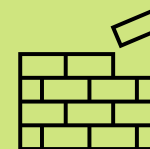
5. Must not falsify, misrepresent, or exaggerate qualifications and experience

A relevant property developer must not falsify, misrepresent, or exaggerate their qualifications or experience.



6. Maintain adequate capacity

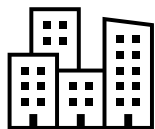
A relevant property developer must take reasonable steps to maintain adequate resourcing to ensure there is capacity to deliver the residential building work they undertake.



7. Insurance

A licensed property developer must obtain appropriate insurance for the regulated residential building projects they undertake.

Licensed property developers should give consideration to obtaining latent defect insurance to cover the work required to rectify serious defects, or possible serious defects, for these projects.



8. Quality assurance and risk management

A relevant property developer must:

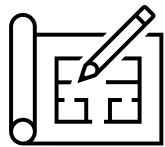
- a. have appropriate systems that provide for quality assurance and risk management relevant to the nature and scale of their development activities; and
- b. cooperate with an independent review of any aspect of the property development activity if requested by the Registrar, or as instructed by an authority under any other relevant law.



9. Oversight

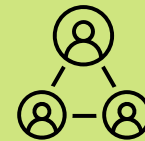
A relevant property developer must take all reasonable steps to ensure that any person engaged to perform services or works in relation to a property development project is appropriately skilled and qualified, and holds appropriate licences, registrations, and insurances.

A relevant property developer must maintain continuing oversight throughout the lifecycle of a development project.

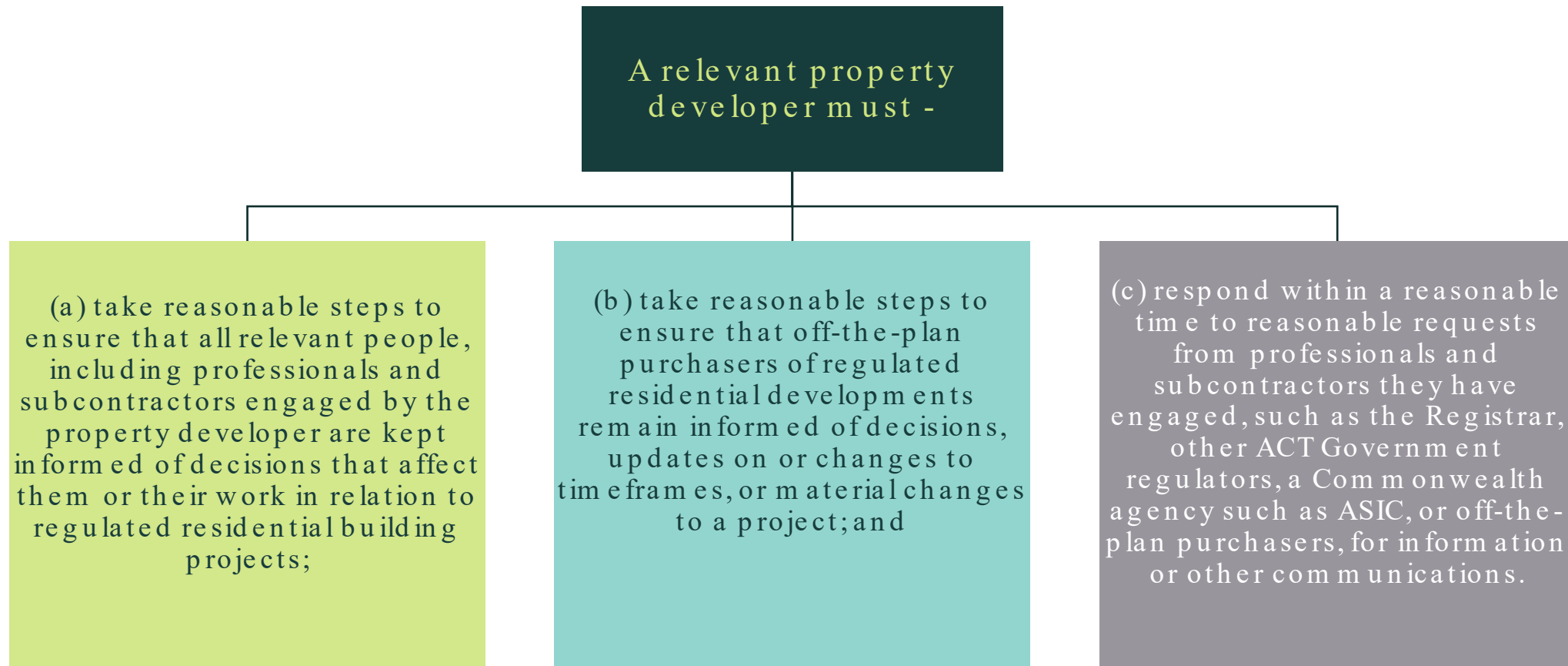


10. Duty not to misinform or mislead

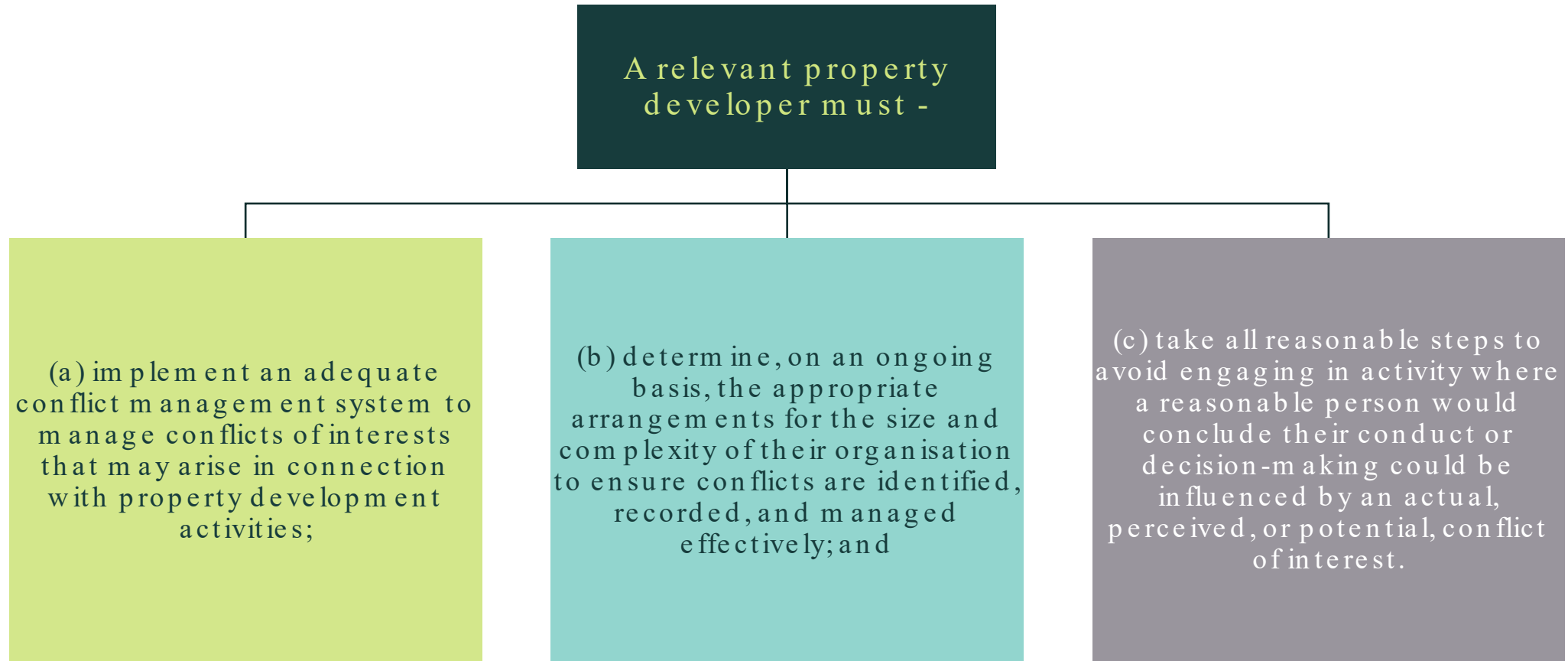
A relevant property developer must not misinform, mislead, or deceive, any parties in connection with the provision of property development activities.



11. Inform and communicate with clients and contractors



12. Manage conflicts of interest



13. Influence, coercion, and bias

A relevant property developer must not engage in behaviour that influences, coerces, or biases the action or decision of another party involved in regulated residential building activity where the outcome of that action or decision made by that party results in, or has the potential to result in, unfair outcomes for purchasers, owners, or occupiers, or to result in a contravention of:

- (a) the Act;
- (b) a direction given from the Registrar; or
- (c) a relevant law.



14. Disclose benefits in relation to appointment of strata manager

A relevant property developer must disclose to an off-the-plan purchaser, or to the Registrar if requested, if a strata management company has been engaged to provide the strata management services for a regulated residential building, and the property developer (or associated entity or key person) is receiving a financial benefit or any other benefit as part of this arrangement.



15. Maintain confidentiality

A relevant property developer must not disclose confidential information obtained, except where the relevant person has granted consent, or there is a legal or professional duty to disclose the confidential information.



16. Manage complaints

A relevant property developer must take reasonable steps to minimise and resolve complaints or disputes that arise in relation to property development activities, including:

(a) having appropriate processes for managing and responding to enquiries and complaints in a fair and timely manner;

(b) where complaints are made, advising complainants about the complaints process;

(c) documenting decisions in relation to complaints; and

(d) retaining documentation that sets out decisions in relation to complaints.

17. Retain and provide records

A relevant property developer must retain records for a period of 10 years in relation to:

(a) the property developer licence under the Act. Records must include applications for registration and renewal of a licence, rating reports, and information on regulated residential development projects carried out under the licence; and

(b) information prescribed in this Code of Practice (for example, in relation to disclosures of benefits in relation to a strata manager).

A property developer must comply with any request from the Registrar to provide information about and/or copies of records relating to regulated residential building work they have undertaken while licensed under the Act.



Property Developers (Fees) Determination 2025

Relevant section	Fee description	Fee payable (excl GST) 1.10.25/30.06.26	Fee payable (excl GST) 2026/2027*
Section 11	Application fee for initial licence (online)	\$1,000.00	TBA
Section 11	Application fee for initial licence (in person/post/email)	\$1,043.60	TBA
Section 13	Application fee for licence renewal (online)	N/A	\$1,000.00
Section 13	Application fee for licence renewal (in person/post/email)	N/A	\$1,043.60
Section 20	Licence fee (7 years)	\$1,000.00 per year**	TBA
Section 20	Licence fee (7 years) pay upfront	\$7,000.00	TBA
Section 20	For a registered community housing provider - developer licensing activity-based fee***	N/A	Nil per dwelling
Section 20	For any other person - developer licensing activity-based fee***	N/A	\$500.00 per dwelling
Section 22	Variation to remove or amend information made to a licence application or renewal (online)	\$500.00	TBA
Section 22	Variation to remove or amend information made to a licence application or renewal (in person/post/email)	\$543.60	TBA

*Note 1: This is only an indication of fees applicable in 2026-2027.

** Note 2: The Determination contains a formula for a non-standard licence term.

*** Note 3: An activity-based fee is payable, upon issue of a Building Approval for a regulated residential building, charged based on the number of regulated residential dwellings to be constructed.

Registered community housing provider means an entity registered under the Community Housing Providers National Law as a community housing provider.

Application Fee (s 11)
\$1,000.00 (online)
\$1,043.60 (in person, post, email)

Licence granted by the Registrar

Licence Fee – 7 years (s 20)
\$7,000.00 (upfront) or
\$1,000.00 per year

7 years later

Issue of Building Approval

Need to vary the licence?

If not a registered community housing provider

If a registered community housing provider

Activity-based Fee (s 20)
\$500.00 per dwelling

Activity-based Fee (s 20)
\$0.00 per dwelling

Variation Fee (s 22)
\$500.00 (online)
\$543.30 (in person, post, email)

Renewal Application Fee (s 13)
\$1,000.00 (online)
\$1,043.60 (in person, post, email)



Property
Developers (Rating
Entity – Equifax
Australasia Credit
Ratings) Approval
2025

Recap – Rating reports and rating entities

- If requested by the registrar, a licence application must include a rating report (s 11(2)(b)). Note: ACT Government has provided in its guidance material that each licence application must include a ratings report.
- A rating report means a written report –
 - prepared by a rating entity;
 - that assesses the operational and financial capacity of the applicant or licensee to undertake residential development activities; and
 - that satisfies any other requirement prescribed by regulation (s 10).
- The registrar may request a rating report be provided if a licensee applies to vary a licence under s 22 or notifies the registrar of a change of circumstances under s 23.
- The director-general may approve an entity to prepare rating reports (s27(1)).



Property Developers (Rating Entity – Equifax Australasia Credit Ratings) Approval 2025

Equifax is now an approved rating entity (and currently the only approved rating entity)



Standard Conditions of Approval

1

Approved rating entities must not refuse a request for a rating by a property developer that is undertaking, or intends to undertake, residential development activity.

2

Unless there are exceptional circumstances, rating reports must be provided to the person who applied for the report within 10 weeks of the initial request.

3

Approved rating entities must provide the person who applied with a mechanism to securely share the report with the Construction Occupations Registrar (the registrar).

4

Approved rating entities must comply with any reasonable request for information from the Director-General or delegate.

5

Approved rating entities must notify the Director-General or delegate if they intend to vary the fees, they charge for preparing rating reports.

6

Rating reports must include details of associated entities and key persons of an applicant, as defined in section 8 of the Act.

7

Rating reports must contain sufficient information to assist the registrar to determine whether a licensee or an applicant for a licence is a suitable person based on the criteria detailed in section 9 of the Act.



04

Key Takeaways



The rectification orders regime
and stop work orders regime
apply now

Actions to consider – rectification and stop work orders





Mandatory licensing commences
on 1 October 2026 and licensing
applications are open now

What we don't know

How does an SPV show that it is a 'suitable person'?

If you lodge an amendment or request a correction to a development approval approved before 11 July 2024 will this trigger the application of the rectification order and stop work order regime?

How does an SPV get an adequate ratings report?
How is an SPV assessed?

What circumstances constitute conduct that could result in significant harm or loss to the public or occupiers or significant damage to property to justify a stop work order?





05

Trade Licensing

Trade Licensing in the ACT – Watch This Space

On 11 March 2026, the ACT Government announced that it was exploring options to extend trade licensing

The following six additional trades are being considered: carpentry, concreting, brick and block laying, waterproofing, roof plumbing and fire protection

Consultation is now open until 21 April 2026

Preliminary Timeline





06

Questions?

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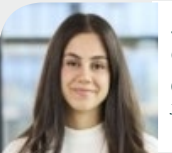
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