

TASMANIA

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**OCCUPATIONAL LICENSING AMENDMENT  
BILL 2026**

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**OCCUPATIONAL LICENSING AMENDMENT  
BILL 2026**

*(Brought in by the Minister for Small Business, Trade and  
Consumer Affairs, the Honourable Guy Barnett)*

**A BILL FOR**

**An Act to amend the *Occupational Licensing Act 2005*, the  
*Building Act 2016* and the *Residential Building Work  
Contracts and Dispute Resolution Act 2016***

Be it enacted by Her Excellency the Governor of Tasmania, by  
and with the advice and consent of the Legislative Council and  
House of Assembly, in Parliament assembled, as follows:

**PART 1 – PRELIMINARY**

**1. Short title**

This Act may be cited as the *Occupational  
Licensing Amendment Act 2026*.

**2. Commencement**

The provisions of this Act commence on a day  
or days to be proclaimed.

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**PART 2 – OCCUPATIONAL LICENSING ACT 2005  
AMENDED**

**3. Principal Act**

In this Part, the *Occupational Licensing Act 2005\** is referred to as the Principal Act.

**4. Section 3 amended (Interpretation)**

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *document*:

*excluded person* means a person that is an excluded person for the purposes of this Act under section 37AC;

- (b) by inserting the following definition after the definition of *owner builder permit*:

*permanently excluded person* means a person that is declared to be a permanently excluded person under section 37G;

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**5. Section 22A amended (Obligation to hold building services licence)**

Section 22A of the Principal Act is amended by inserting after subsection (2) the following subsection:

(2A) Nothing in subsection (2)(b), (ba) and (bb) authorises an excluded person or a permanently excluded person to manage or carry out building services work, or to enter into a contract to manage or carry out building services work, under the authority of a prescribed building services licence held by another person.

**6. Section 28 amended (Insurance cover for contractors)**

Section 28(2) of the Principal Act is amended by inserting “section 37F or” after “under”.

**7. Sections 37AB, 37AC, 37AD, 37AE and 37AF inserted**

Before section 37A of the Principal Act, the following sections are inserted in Division 3A:

**37AB. Interpretation of Division**

In this Division –

*bankruptcy event*, in relation to a person, means the occurrence of any of the following events:

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- (a) the person applies to take the benefit of any law for the relief of bankrupt or insolvent debtors;
- (b) the person becomes bankrupt;

***construction company*** means an organisation, whether incorporated or unincorporated, that directly or indirectly –

- (a) carries out construction work in this State or in any other State or a Territory; or
- (b) carried out construction work in this State or in any other State or a Territory during the period of 2 years immediately before a specified event occurred to that organisation;

***construction work*** includes –

- (a) building services work; and
- (b) building work, within the meaning of the *Building Act 2016*;

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***excluded licence*** means a building services licence that is within a class of building services licences that is prescribed for the purposes of this definition;

***influential person*** – see section 37AD;

***insolvency event***, in relation to a body corporate, means that, for the benefit of a creditor –

- (a) a provisional liquidator, liquidator, administrator or controller is appointed to the body corporate; or
- (b) the body corporate is wound up or is ordered to be wound up;

***permitted individual*** means an individual declared by the Administrator under section 37AE to be a permitted individual for the purposes of this Division;

***prescribed building services licence*** means a building services licence that is within a class of building services licences that is prescribed for the purposes of this definition, but does not include a building services licence that is an excluded licence;

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*specified event* means a bankruptcy event or an insolvency event.

**37AC. Excluded person**

- (1) An individual is an excluded person for the purposes of this Act if –
  - (a) a bankruptcy event occurs in relation to the individual; and
  - (b) less than 3 years have elapsed since the bankruptcy event occurred.
  
- (2) Subject to subsection (3), an individual is also an excluded person for the purposes of this Act if –
  - (a) an insolvency event occurs in relation to a construction company; and
  - (b) less than 3 years have elapsed since the insolvency event occurred; and
  - (c) the individual –
    - (i) was, at the time at which the insolvency event occurred, a director or secretary of, or an influential person in relation to, the construction company; or

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- (ii) was, at any time within the period of 2 years immediately preceding the insolvency event, a director or secretary of, or an influential person in relation to, the construction company.
- (3) Subsections (1) and (2) do not apply to an individual in respect of a specified event if the individual has been declared a permitted individual for the specified event.
- (4) Subsection (2) does not apply in respect of an individual if the Administrator makes a determination that, at the time at which the individual ceased to be an influential person, director or secretary in relation to the construction company, the company was solvent.
- (5) A body corporate is an excluded person for the purposes of this Act if –
- (a) an insolvency event occurs in relation to the body corporate; and
  - (b) less than 3 years have elapsed since the insolvency event occurred.
- (6) An organisation, whether incorporated or unincorporated, is an excluded person for the purposes of this Act if that

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organisation has a director, secretary, partner or influential person who is an excluded person or a permanently excluded person.

- (7) Despite subsection (6), an organisation is taken never to have been an excluded person by reason only that a director, secretary, partner or influential person of the organisation becomes an excluded person or a permanently excluded person if –
- (a) the organisation did not know, and could not reasonably have been expected to know, that the person was an excluded person or a permanently excluded person; or
  - (b) the organisation becomes aware that the person is an excluded person or a permanently excluded person and, within 28 days after becoming so aware, removes the person from the relevant position.

**37AD. Influential person**

- (1) In this section –

*professional* means a person who provides professional advice to more than one client, but does not include a person who provides professional advice to a client in

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the person's capacity as an employee of the client;

***regulator*** means –

- (a) a person employed by a State, a local government body or the Commonwealth; or
  - (b) a person engaged by a State, a local government body or the Commonwealth to provide a particular service or carry out a particular activity; or
  - (c) an agent of a person mentioned in paragraph (b) if, in that capacity, the agent provides the service or carries out the activity the person is engaged to provide or carry out.
- (2) For the purposes of this Division, an influential person, in relation to an organisation (whether incorporated or unincorporated), means an individual, other than a director, secretary or partner of the organisation, who is in a position to control or substantially influence the organisation's conduct.
- (3) For the purpose of this Division, influential person does not include –

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- (a) a professional, only because the advice given by the professional influences the organisation's conduct; or
  - (b) a regulator, only because the regulator, when exercising a power or performing a function under an Act or other law, influences the organisation's business; or
  - (c) an administrator, controller, provisional liquidator or liquidator within the meaning of section 9 of the Corporations Act.
- (4) Without limiting subsection (2), a person may be an influential person in relation to an organisation if the person –
- (a) is the chief executive officer or general manager of the organisation, or holds an equivalent position in the organisation; or
  - (b) is acting in a position mentioned in paragraph (a); or
  - (c) directly or indirectly owns, holds or controls 50% or more of the shares in the organisation, or 50% or more of a class of shares in the organisation; or

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- (d) gives instructions to an officer, director, secretary or partner of the organisation and that person generally acts on those instructions; or
  - (e) makes, or participates in making, decisions that affect the whole or a substantial part of the organisation's business or financial standing; or
  - (f) engages in conduct or makes representations that would cause someone else reasonably to believe the person controls, or substantially influences, the organisation's business.

**37AE. Permitted individual**

- (1) An individual may apply in writing to the Administrator to be declared a permitted individual for a specified event.
- (2) An application under subsection (1) must state the reasons why the Administrator should declare the individual to be a permitted individual for the specified event.
- (3) If the individual is a director, secretary, partner or influential person in relation to an organisation that is the holder of a building services licence, that organisation is taken to be a party to the

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application and may make submissions to the Administrator about the application.

- (4) The Administrator may declare an individual to be a permitted individual for a specified event only if satisfied that the individual took all reasonable steps to avoid the coming into existence of the circumstances that resulted in the happening of the specified event.
- (5) An individual who is declared to be a permitted individual for a specified event is taken not to be an excluded person in respect of that specified event.
- (6) If an application under this section is refused, the individual may not make another application in relation to the same specified event.

**37AF. Applications for determinations under section 37AC**

- (1) A person may apply in writing to the Administrator for a determination for the purposes of section 37AC(4).
- (2) An application under this section must –
  - (a) be in an approved form, if any; and
  - (b) be accompanied by the prescribed fee, if any; and

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- (c) include any information requested by the Administrator.
  - (3) In deciding an application under subsection (1), the Administrator may have regard to any matter the Administrator considers relevant.
  - (4) The Administrator must –
    - (a) decide the application as soon as practicable; and
    - (b) give written notice of the decision, including reasons, to the applicant.

**8. Section 37A amended (Application for building services licence)**

Section 37A of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(b)(iii) “development.” and substituting “development; and”;
- (b) by inserting the following subparagraph after subparagraph (iii) in subsection (2)(b):
  - (iv) details of the following:
    - (A) any specified events that have occurred to the applicant;

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(B) in the case of an applicant that is an organisation (whether incorporated or unincorporated), any specified event that has occurred in relation to a director or secretary of the organisation, or an influential person in relation to the organisation;

(C) if the applicant has been a director or secretary of, or an influential person in relation to, a construction company in respect of which a specified event has occurred, details of that specified event.

(c) by inserting the following subsection after subsection (4):

(5) In deciding whether to issue a licence, the Administrator may make inquiries and investigations that are reasonable and appropriate in the circumstances.

**9. Section 37B amended (Determination of application)**

Section 37B of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1)(a) “may issue” and substituting “subject to subsection (1A), may issue”;
  - (b) by inserting the following subsection after subsection (1):
    - (1A) The Administrator must refuse an application for a prescribed building services licence if –
      - (a) the Administrator is satisfied that the applicant is an excluded person, unless the applicant establishes that exceptional circumstances exist; or
      - (b) the applicant has been declared to be a permanently excluded person.

**10. Section 37C amended (Certain organisations may apply for building services licence)**

Section 37C of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (3):
  - (3A) A person may not be nominated as a licensed person under subsection (2)(c) in respect of a

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prescribed building services licence if the person is an excluded person or a permanently excluded person.

(b) by inserting the following subsection after subsection (4):

(4A) The Administrator must refuse an application made under subsection (1) for a prescribed building services licence if –

(a) the Administrator is satisfied that the applicant, or the person nominated to be the licensed person for the applicant, is an excluded person unless the applicant establishes that exceptional circumstances exist; or

(b) the applicant, or the person nominated to be the licensed person for the applicant, is a permanently excluded person.

(c) by omitting from subsection (5)(c) “Corporations Act.” and substituting “Corporations Act; or”;

(d) by inserting the following paragraph after paragraph (c) in subsection (5):

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- (d) has become an excluded person or a permanently excluded person.

**11. Section 37D amended (Continuation of building services licence held by certain organisations)**

Section 37D of the Principal Act is amended by inserting after subsection (8) the following subsection:

- (9) The Administrator must not accept a person nominated under subsection (3)(b)(ii), (3)(b)(iii), (4)(b), (4)(c) or (6) if the nominated person is an excluded person or a permanently excluded person.

**12. Section 37E amended (Deemed registration of holder of building services licence)**

Section 37E of the Principal Act is amended by inserting after subsection (6) the following subsections:

- (6A) The Administrator must, by written notice, disqualify a person from holding a prescribed building services licence by virtue of holding deemed registration if satisfied that the person is an excluded person unless the Administrator is satisfied that exceptional circumstances exist.

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- (6B) Before disqualifying a person under subsection (6A), the Administrator must give the person written notice of the Administrator’s intention to disqualify the person from holding a prescribed building services licence by virtue of holding deemed registration.
- (6C) A notice under subsection (6B) must –
- (a) state that the Administrator considers the person to be an excluded person; and
  - (b) identify the specified event that has resulted in the person being considered to be an excluded person; and
  - (c) set out the reasons why the Administrator considers the person to be an excluded person; and
  - (d) state that the person may make a submission to the Administrator within the period specified in the notice.
- (6D) The Administrator must consider any submissions made by the person within the period specified under subsection (6C)(d) before disqualifying a person under subsection (6A).
- (6E) A disqualification under this section does not render unlawful any prescribed work

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carried out by the person before the person receives notice of the disqualification.

**13. Sections 37F, 37G, 37H, 37I and 37J inserted**

After section 37E of the Principal Act, the following sections are inserted in Division 3A:

**37F. Cancellation of prescribed building services licence**

- (1) The Administrator must, by written notice, cancel a prescribed building services licence if the Administrator is satisfied that the holder of the licence is an excluded person unless the Administrator is satisfied that exceptional circumstances exist.
- (2) Before cancelling a prescribed building services licence under subsection (1), the Administrator must give the licence holder written notice of the Administrator's intention to cancel the licence.
- (3) A notice under subsection (2) must –
  - (a) identify the specified event that has resulted in the licence holder being considered to be an excluded person; and
  - (b) set out the reasons why the Administrator considers that the

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licence holder is an excluded person; and

- (c) state that the licence holder may make a submission to the Administrator about the specified event within the period specified in the notice.
- (4) The Administrator must consider any submissions made by the licence holder within the period specified under subsection (3)(c) before cancelling a licence.
- (5) The cancellation of a licence does not render unlawful any prescribed work carried out by a person before the person receives notice of the cancellation.

**37G. Permanent exclusion of persons**

- (1) The Administrator may, by written notice, declare a person to be a permanently excluded person if, on a second occasion, a prescribed building services licence held by the person is cancelled under section 37F.
- (2) The Administrator may only make a declaration under subsection (1) if the period between the cancellations is less than 5 years.
- (3) Before making a declaration under subsection (1), the Administrator must give the person written notice that –

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- (a) states the Administrator’s intention to make the declaration; and
  - (b) sets out the reasons for the proposed declaration; and
  - (c) explains the effect of the person being declared a permanently excluded person; and
  - (d) states that the person may make a written submission to the Administrator in respect of the proposed declaration within the period specified in the notice.
- (4) The Administrator must consider any submissions made by the person within the period specified under subsection (3)(d) before deciding whether to make the declaration.
- (5) For the purposes of this section, where 2 or more cancellations of a prescribed building services licence arise, in substance, out of the same circumstances, the Administrator may treat those cancellations as a single cancellation.

**37H. Revocation of declaration**

- (1) A person declared to be a permanently excluded person may apply in writing to the Administrator for revocation of the declaration.

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- (2) On receiving an application under subsection (1), the Administrator may revoke the declaration if the Administrator considers it appropriate to do so, having regard to any matters the Administrator considers relevant.

**37I. Publication of details of excluded persons and permanently excluded persons**

- (1) In this section –

*relevant details*, for a person, means –

- (a) the person’s full name and business address; and
  - (b) any other name by which the person is, or has been, known; and
  - (c) in the case of an excluded person, the period of the 3-year exclusion; and
  - (d) such other particulars as may be prescribed.
- (2) The Administrator may make the following information publicly available on a website operated by, or on behalf of, the Administrator:
- (a) relevant details of persons whose applications for licences have been refused under section 37B(1A);

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- (b) relevant details of persons whose applications for licences have been refused under section 37C(4A);
  - (c) relevant details of persons who have been disqualified under section 37E(6A) from holding a prescribed building services licence by virtue of holding deemed registration;
  - (d) relevant details of persons whose licences have been cancelled under section 37F;
  - (e) relevant details of persons declared to be permanently excluded persons under section 37G.
- (3) Before deciding whether to publish a person's relevant details under subsection (2), the Administrator must –
- (a) give the person written notice of the proposed publication, including the relevant details proposed to be published; and
  - (b) invite the person to make written submissions to the Administrator within the period specified in the notice; and
  - (c) consider any submissions received within that period.

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- (4) After considering any submissions received under subsection (3), the Administrator may, if the Administrator considers it appropriate in the circumstances, decide to –
- (a) publish the person’s relevant details; or
  - (b) not publish the person’s relevant details; or
  - (c) publish only some of the person’s relevant details.
- (5) The Administrator may publish relevant details (or some of the relevant details) for a person under this section only if –
- (a) the Administrator has decided under subsection (4) to publish those details; and
  - (b) any period for applying for review of the decision, or for appealing against a decision made on review, has ended; and
  - (c) any such review or appeal has been finally determined or is not proceeded with.

**37J. Offences if excluded person or permanently excluded person employed**

- (1) An organisation, whether incorporated or unincorporated, that holds a prescribed

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building services licence must not employ, appoint or engage a person as a director, secretary, partner or influential person if the person is an excluded person or a permanently excluded person.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 400 penalty units; or
  - (b) an individual, a fine not exceeding 200 penalty units.
- (2) It is a defence in proceedings for an offence under subsection (1) if the defendant establishes that –
- (a) the defendant did not know, and could not reasonably have been expected to know, that the director, secretary, partner or influential person was an excluded person or a permanently excluded person; or
  - (b) after becoming aware that the director, secretary, partner or influential person was an excluded person or a permanently excluded person, the defendant removed the person from the relevant position within 28 days.

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- (3) A person commits an offence if the person accepts appointment as, or continues to act as, a director, secretary, partner or influential person for an organisation, whether incorporated or unincorporated, that holds a prescribed building services licence while the person is an excluded person or a permanently excluded person.

Penalty: A fine not exceeding 200 penalty units.

- (4) An organisation, whether incorporated or unincorporated, must not use a prescribed building services licence to enter into a contract for building services work with another person if a director, secretary, partner or influential person for that organisation is an excluded person or a permanently excluded person.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 400 penalty units; or
- (b) an individual, a fine not exceeding 200 penalty units.

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**14. Section 49 amended (Registers)**

Section 49(4) of the Principal Act is amended by omitting paragraph (k).

**15. Section 79 amended (Reviewable decisions)**

Section 79(1)(a) of the Principal Act is amended as follows:

- (a) by inserting “section 37AC(4), section 37AE,” after “section 37A(3),”;
- (b) by inserting “section 37B(1A), section 37C(4A), section 37E(6A), section 37F(1), section 37G(1), section 37H(2), section 37I(4)(a) or (c),” after “section 37B(1)(a) or (b),”.

**16. Section 91 amended (Notice of intent to take disciplinary action)**

Section 91 of the Principal Act is amended as follows:

- (a) by omitting subparagraph (iii) from subsection (2)(b);
- (b) by omitting subsection (5) and substituting the following subsection:
  - (5) The Administrator may, for the purposes of determining whether disciplinary action should be taken against a licence holder,

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conduct such investigations as the  
Administrator thinks fit.

**17. Section 92 repealed**

Section 92 of the Principal Act is repealed.

**18. Section 93 amended (Disciplinary action)**

Section 93(1) of the Principal Act is amended as  
follows:

- (a) by omitting “a recommendation of a disciplinary panel” and substituting “the licence holder’s written response, if any, to a notice under section 91”;
- (b) by omitting from paragraph (g) “, including the reasonable costs of that person attending the disciplinary panel”.

**19. Section 94 repealed**

Section 94 of the Principal Act is repealed.

**20. Section 104A inserted**

After section 104 of the Principal Act, the  
following section is inserted in Part 11:

**104A. Review of amendments made by  
*Occupational Licensing Amendment Act 2026***

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- (a) cause a review of the amendments enacted by the *Occupational Licensing Amendment Act 2026* to be made in respect of the 5-year period commencing on the commencement of this section; and
- (b) ensure that the review is completed, and cause a copy of a report of the review to be laid before each House of Parliament, within 6 years after the commencement of this section.

**21. Schedule 5 amended (Transitional and Savings Provisions)**

Schedule 5 to the Principal Act is amended by inserting after clause 9 in Division 3 of Part 4 the following Part:

**PART 5 – PROVISIONS RELATING TO THE *OCCUPATIONAL LICENSING AMENDMENT ACT 2026***

**1. Interpretation of Part**

In this Part –

*commencement day* means the day on which section 7 of the *Occupational Licensing Amendment Act 2026* commences;

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*former Act* means the provisions of the *Occupational Licensing Act 2005* as in force immediately before the commencement day.

**2. Transitional provision for specified events**

Despite section 37AB, for the purposes of Division 3A, a specified event does not include a bankruptcy event or an insolvency event that occurred, or commenced, before the commencement day.

**3. Transitional provision for disciplinary panel**

- (1) This clause applies if, immediately before the commencement day, a disciplinary matter that has been referred to a disciplinary panel under section 92 of the former Act has not been concluded.
- (2) On and from the commencement day –
  - (a) the referral of the matter to the disciplinary panel is taken to be revoked; and
  - (b) the disciplinary panel is taken to be dissolved in relation to that matter.
- (3) As soon as practicable after the commencement day, the disciplinary panel must give to the Administrator –

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Part 2 – Occupational Licensing Act 2005 Amended

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- (a) all documents and other material provided to, or obtained by, the panel in relation to the matter; and
  - (b) any report, draft findings or other record prepared by the panel in relation to the matter.
- (4) On and from the commencement day, the matter is to be dealt with by the Administrator under this Act as in force on and after that day as if –
  - (a) the matter had not been referred to a disciplinary panel; and
  - (b) any investigation undertaken by the panel had been undertaken by the Administrator.
- (5) Without limiting subclause (4), the Administrator may –
  - (a) have regard to any documents or other material provided under subclause (3); and
  - (b) take disciplinary action under section 93.

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Part 3 – Building Act 2016 Amended

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**PART 3 – BUILDING ACT 2016 AMENDED**

**22. Principal Act**

In this Part, the *Building Act 2016*\* is referred to as the Principal Act.

**23. Section 99A inserted**

After section 99 of the Principal Act, the following section is inserted in Division 3:

**99A. Excluded person not to perform notifiable building work**

A person must not perform any notifiable building work if the person is an excluded person, or a permanently excluded person, under the *Occupational Licensing Act 2005*.

Penalty: In the case of –

- (a) a natural person, a fine not exceeding 100 penalty units; or
- (b) a body corporate, a fine not exceeding 500 penalty units.

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**24. Section 148A inserted**

After section 148 of the Principal Act, the following section is inserted in Division 3:

**148A. Excluded person not to perform permit building work**

A person must not perform permit building work if the person is an excluded person, or a permanently excluded person, under the *Occupational Licensing Act 2005*.

Penalty: In the case of –

- (a) a natural person, a fine not exceeding 100 penalty units; or
- (b) a body corporate, a fine not exceeding 500 penalty units.



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- (b) an individual, a fine not exceeding 300 penalty units.

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Part 5 – Repeal of Act

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**PART 5 – REPEAL OF ACT**

**27. Repeal of Act**

This Act is repealed on the first anniversary of the day on which its last uncommenced provision commenced.