



# **Building and Construction Industry Improvement Amendment (OHS) Act 2007**

**No. 153, 2007**

**An Act to amend the *Building and Construction  
Industry Improvement Act 2005*, and for related  
purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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**An Act to amend the *Building and Construction  
Industry Improvement Act 2005*, and for related  
purposes**

*[Assented to 24 September 2007]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Building and Construction Industry  
Improvement Amendment (OHS) Act 2007*.

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## 2 Commencement

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

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	24 September 2007
2. Schedule 1, item 1	The day on which this Act receives the Royal Assent.	24 September 2007
3. Schedule 1, item 2	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	1 October 2007 (see F2007L03846)
4. Schedule 1, items 3 to 5	The day on which this Act receives the Royal Assent.	24 September 2007

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

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

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### ***Building and Construction Industry Improvement Act 2005***

#### **1 Section 34**

Omit “Secretary” (wherever occurring), substitute “Federal Safety Commissioner”.

#### **2 Part 2 of Chapter 4**

Repeal the Part, substitute:

### **Part 2—Accreditation scheme for Commonwealth building work**

#### **35 Accreditation scheme**

##### *Accreditation scheme*

- (1) The regulations may prescribe an accreditation scheme for persons who wish to carry out building work funded by the Commonwealth or a Commonwealth authority.
- (2) The regulations must provide for the Federal Safety Commissioner to be the accrediting authority under the scheme.
- (3) The regulations may prescribe fees for applications made under the regulations.

##### *Commonwealth building work to be carried out by accredited persons*

- (4) The Commonwealth or a Commonwealth authority must not fund building work unless:
  - (a) contracts for the building work entered into with builders will be entered into with builders who are accredited persons; and
  - (b) at the time of the funding, the Commonwealth or Commonwealth authority, as the case may be, takes

appropriate steps to ensure that builders will be accredited persons when they carry out the building work.

This subsection does not apply to building work prescribed by the regulations.

- (5) For the purposes of this section, the Commonwealth or a Commonwealth authority funds building work if it:
- (a) pays for, or otherwise funds or finances, the building work (whether directly or indirectly); or
  - (b) facilitates the carrying out of the building work by entering into, or otherwise funding or financing (whether directly or indirectly), a pre-construction agreement that relates to the building work.
- (6) If another Commonwealth provision is inconsistent with subsection (4), subsection (4) prevails to the extent of the inconsistency unless the other provision expressly refers to this section.
- (7) Failure to comply with subsection (4) does not affect the validity of anything done by the Commonwealth or a Commonwealth authority in relation to building work.
- (8) In this section:

**accredited person** means a person who is accredited under the accreditation scheme.

**builder**, in relation to building work, means a person who carries out any of the building work.

**Commonwealth authority** means a Commonwealth authority within the meaning of the *Commonwealth Authorities and Companies Act 1997*.

**Commonwealth provision** means a provision of a law of the Commonwealth.

**pre-construction agreement** means an agreement to lease or transfer land, a building or a part of a building on the condition, or on conditions that include the condition, that building work will be carried out on the land, the building or the part of the building.

### 3 After paragraph 65(5)(a)

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Insert:

(aa) the entrusted person is a designated ABC official; and

Note: The heading to subsection 65(5) is altered by adding at the end “*by a designated ABC official*”.

#### **4 Subsection 65(8)**

Insert:

*designated ABC official* means:

- (a) a person covered by paragraphs (a) to (e) or (j) of the definition of *designated official* in this subsection; or
- (b) a person acting under a delegation under this Act from a person covered by paragraph (a) of this definition.

#### **5 Transitional—consultants**

- (1) This item applies if, immediately before the commencement of item 1 of this Schedule, a person is engaged as a consultant under section 34 of the *Building and Construction Industry Improvement Act 2005*.
  - (2) The person’s engagement has effect from the commencement of item 1 as if the person were engaged under section 34 of the *Building and Construction Industry Improvement Act 2005* as amended by that item.
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[*Minister’s second reading speech made in—  
House of Representatives on 29 March 2007  
Senate on 12 September 2007*]

(39/07)

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