

NO.	RELEVANT SECTION	RELEVANT SUB-SECTION	RELEVANT OFFENCE PROVISION	MAXIMUM PENALTY UNITS	DEMERIT POINTS
Part 3 Licencing					
Division 7 Requirement to be Licenced					
1.	S 42B: Carrying out building work without a nominee	s 42B(1)	A licensee that is a company must not carry out, or undertake to carry out, building work unless the licensee has a nominee who holds a contractor's licence or a nominee supervisor's licence for the building work carried out, or undertaken to be carried out, under the company's class of licence.	250	10
2.	S 42D: Licensed contractor must not engage or direct unauthorised person for fire protection work	s 42D	A licensed contractor must not engage or direct an employee to carry out fire protection work unless the employee is authorised to carry out the work under this or another Act. This provision is an executive liability provision—see section 111B.	250	10
3.	S 43: Licensed contractor must ensure building work is personally supervised	s 43(1)	For a licensed contractor that is a company, the company and the company's nominee must each ensure that building work carried out by the contractor is personally supervised by: (a) the company's nominee; or (b) an officer or employee of the contractor who holds one of the following licences of the relevant class authorising supervision of the building work— (i) a nominee supervisor's licence; (ii) a site supervisor's licence; (iii) a fire protection occupational licence; (iv) an occupational licence; or (c) an individual who holds a contractor's licence of the relevant class.	200 (individual) 1000 (company)	8
4.	S 43: Licensed contractor must ensure building work is personally supervised	s 43(2)	For a licensed contractor that is an individual, the contractor must ensure that building work carried out by the contractor is personally supervised by— (a) the contractor; or (b) an employee of the contractor who holds one of the following licences of the relevant class authorising supervision of the building work— (i) a nominee supervisor's licence; (ii) a site supervisor's licence; (iii) a fire protection occupational licence;	200	8

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			(iv) an occupational licence; or (c) an individual who holds a contractor's licence of the relevant class.		
5.	S 43A: Licensed contractor must ensure building work is adequately supervised	s 43A(1)	For a licensed contractor that is a company, the company and the company's nominee must each ensure that building work carried out by the contractor is adequately supervised.	200 (individual) 1000 (company)	8
6.	S 43A: Licensed contractor must ensure building work is adequately supervised	s 43A(2)	For a licensed contractor that is an individual, the contractor must ensure that building work carried out by the contractor is adequately supervised.	200	8
7.	S 43B: Construction manager must ensure building work is personally supervised	s 43B(2)	For a construction manager that is a company, the company and the company's nominee must each ensure that building work carried out by licensed contractors under construction management trade contracts for the principal is personally supervised by— (a) the company's nominee; or (b) an officer or employee of the company who holds one of the following licences of the relevant class authorising supervision of the building work— (i) a nominee supervisor's licence; (ii) a site supervisor's licence; (iii) a fire protection occupational licence; (iv) an occupational licence; or (c) an individual who holds a contractor's licence of the relevant class.	200 (individual) 1000 (company)	8
8.	S 43B: Construction manager must ensure building work is personally supervised	s 43B(3)	For a construction manager that is an individual, the construction manager must ensure that building work carried out by licensed contractors under construction management trade contracts for the principal is personally supervised by— (a) the construction manager; or (b) an employee of the construction manager who holds one of the following licences of the relevant class authorising supervision of the building work— (i) a nominee supervisor's licence; (ii) a site supervisor's licence; (iii) a fire protection occupational licence; (iv) an occupational licence; or (c) an individual who holds a	200	8

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			contractor's licence of the relevant class.		
9.	S 43C: Construction manager must ensure building work is adequately supervised	s 43C(2)	For a construction manager that is a company, the company and the company's nominee must each ensure that the building work carried out by licensed contractors under construction management trade contracts for the principal is adequately supervised.	200 (individual) 1000 (company)	8
10.	S 43C: Construction manager must ensure building work is adequately supervised	s 43C(3)	For a construction manager that is an individual, the construction manager must ensure that the building work carried out by licensed contractors under construction management trade contracts for the principal is adequately supervised.	200	8
Part 3 Licencing					
Division 9A Monitoring continued satisfaction of financial requirements and compliance with parts 4 and 5, and schedule 1B					
11.	S 50C: Supply of financial records and other documents under approved audit program or for other reason	s 50C(4)	The licensee must comply with the written notice within 21 days after the licensee receives the written notice, unless the licensee has a reasonable excuse.	100	4
Part 3 Licencing					
Division 10 Miscellaneous					
12.	S 51A: Other offences relating to unlawful carrying out of building work	s 51A(1)	A licensed contractor must not help another person to carry out building work if the licensed contractor knows, or ought reasonably to know, that in carrying out the building work the other person is committing an offence against section 42.	250	10
13.	S 51A: Other offences relating to unlawful carrying out of building work	s 51A(2)	A licensed contractor must not carry out, or undertake to carry out, building work using a name, number or PIN other than the licensed contractor's name, number or PIN unless the contractor has a reasonable excuse.		10
14.	S 51B: Licensed contractor must not contract with unlicensed person	s 51B(2)	A licensed contractor must not contract with a person for the person to carry out the building work unless the person holds a	80 (1 st offence) 120 (2 nd offence)	8

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			contractor's licence of the appropriate class under this Act.	160 (3 rd or further offence)	
15.	S 53: Return of licence	s 53B(1)	A person must not give a document or information to the commission about a contractor's satisfaction of financial requirements stated in the board's policies if— (a) the person knows— (i) the document contains information that is false or misleading; or (ii) the information is false or misleading; or (b) the document contains information that is false or misleading or the information is false or misleading and the person did not take reasonable steps to make sure that the information was not false or misleading.	100; or 2 years imprisonment.	4
16.	S 56: Partnerships	s 56(2) in the circumstances of paragraph (b) of the penalty	Under 56(1)(d) the unlicensed person must not be— (i) an excluded individual; or (ii) a permanently excluded individual; or (iii) a convicted company officer; or (iv) a banned individual; or (v) a disqualified individual; or (vi) an excluded company; or (vii) a company for which a permanently excluded individual is a director, secretary, influential person or nominee; or (viii) a company for which a convicted company officer is a director, secretary, influential person or nominee; or (ix) a company for which a banned individual is a director, secretary, influential person or nominee; or (x) a company for which a disqualified individual is a director, secretary, influential person or nominee. If a condition imposed by the subsection above is contravened, each member of the partnership commits an offence.	200	8
Part 4A Building contracts other than domestic building contracts Division 2 All Building Contracts					

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17.	S 67G: Building contracts to be in writing	s 67G(1)	A building contractor <u>commits an offence if:</u> (a) the building contractor enters into a building contract, whether as the contracting party or the contracted party for the contract; and (b) the building contract is not put into writing— (i) if the reasonable cost of the building work the subject of the contract is more than \$10,000—before carrying out the building work is started; or (ii) if the reasonable cost of the building work the subject of the contract is \$10,000 or less—before carrying out the building work is finished.	80	4
18.	S 67G: Building contracts to be in writing	s 67G(2)	A building contractor <u>commits an offence if:</u> (a) the building contractor enters into a building contract, whether as the contracting party or the contracted party for the contract; and (b) the reasonable cost of the building work the subject of the building contract is \$10,000 or less; and (c) after the building contract is entered into but before the building contract has been put into writing, the reasonable cost of the building work the subject of the building contract becomes more than \$10,000 because of a variation of the building contract, whether or not the variation is the first variation of the building contract; and (d) the building contract, incorporating all variations, is not put into writing— (i) if no building work has been carried out under the contract—before carrying out building work under the contract is started; or (ii) otherwise—before there is further carrying out of building work under the contract.	80	4
19.	S 67G: Building contracts to be in writing	s 67G(3)	(3) A building contractor <u>commits an offence if:</u> (a) the building contractor enters into a building contract, whether as the contracting party or the	80	4

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			contracted party for the contract; and (b) the building contract is put into writing; and (c) the building contract, in writing, does not comply with the formal requirements for a building contract stated in subsection (4).		
20.	S 67I: Directions given under building contracts	s 67I(4)	If a direction is given other than in writing, the contracting party commits an offence if the direction is not given to the contracted party in writing within 3 business days after it was given other than in writing.	80	4
Part 4A Building contracts other than domestic building contracts					
Division 4 Warning for construction management trade contracts					
21.	S 67V: Offence of not warning that contract is construction management trade contract	s 67V(1) Construction Management Trade Contract	The contracting party for a construction management trade contract commits an offence if: (a) the construction management trade contract does not include a warning complying with subsection (2); and (b) the warning is not initialled by the contracted party for the contract.	80	4
Part 5 The statutory insurance scheme					
Division 4 Insurance premiums					
22.	S 68B: When insurance premium is payable by licensed contractor	s 68B(2) Statutory Insurance Scheme	The licensed contractor must collect from the consumer, and pay to the commission, the appropriate insurance premium before the first of the following to happen— (a) 10 business days elapse from the day the contract was entered into; (b) the residential construction work starts.	100	4
23.	S 68B: When insurance premium is payable by licensed contractor	s 68B(3) Statutory Insurance Scheme	A licensed contractor who is to carry out residential construction work that is speculative residential construction work must pay the appropriate insurance premium for the work before the work starts.	100	4
24.	S 68C: When insurance premium is payable by construction manager	s 68C(2)	If the construction manager holds a contractor's licence of the relevant class for the construction management contract, the manager must collect from the principal, and pay to the commission, the appropriate insurance premium before the first	100	4

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			of the following to happen— (a) 10 business days elapse from the day the manager is engaged under the contract; (b) the residential construction work starts.		
Part 6 Rectification of building work and remediation of consequential damage					
Division 3 Offences and defences					
25.	S 73: Offence to fail to comply with direction to rectify or remedy	s 73 Direction to Rectify	A person must not fail to rectify building work that is defective or incomplete, or to remedy consequential damage, as required by a direction given to the person under section 72(2).	250	10
Part 9 Inspectors					
26.	S 106B: Failure to produce document	s 106B(1)	A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.	200	8
Part 10 Miscellaneous					
27.	S 108A: Documents that must be kept for 7 years	s 108A(2)	The contractor must keep each of the following documents for 7 years from the date it is put into writing: (a) a building contract entered into by a building contractor and the plans, specifications and variations relating to the contract; (b) a building contractor's financial records relevant to the financial requirements stated in the board's policies.	100	4
28.	S 108B: False or misleading statement	s 108B(1)	A person must not state anything to the commission the person knows is false or misleading in a material particular.	100	4
29.	S 108C: False or misleading document	s 108C(1)	A person must not give the commission a document containing information the person knows is false or misleading in a material particular.	100	4
30.	S 108C: False or misleading document	s 108C(3)	A person must not make an entry in a document required or permitted to be made or kept under this Act knowing the entry to be false or misleading in a material particular.	100	4
Domestic Building Contracts – Schedule 1B					
31.	S 15: Copy of contract for building owner	sch 1B, s 15	Within 5 business days after entering into a regulated contract, the building contractor must give the building owner a readily legible	60	4

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			signed copy of the contract, including any plans and specifications for the subject work.		
32.	S 16: Copy of commencement notice	sch 1B, s 16(2)	This section applies to a level 2 regulated contract. Within 10 business days of starting the subject work at the building site, the building contractor must give the building owner a commencement notice signed by the contractor and stating— (a) the date the subject work started at the building site; and (b) the date for practical completion.	40	2
33.	S 17: Copies of certificate of inspection	sch 1B, s 17(2)	This section applies if the building contractor under a regulated contract is responsible for engaging a building certifier for the subject work under regulated contract (whether personally or as agent for the building owner). The building contractor must give the building owner a copy of each certificate of inspection issued by the building certifier for the subject work as soon as practicable after receiving the certificate.	20	2
34.	S 18: Copy of consumer building guide	sch 1B, s 18(2)	This section applies to a level 2 regulated contract. The building contractor must give the building owner a copy of the consumer building guide before the owner signs the contract.	20	2
35.	S 30: Contracted services must not start before regulated contract complies with requirements	sch 1B, s 30	The building contractor for a regulated contract must not start to provide the contracted services before the contract complies with the requirements of— (a) for a level 1 regulated contract—schedule section 13; or (b) for a level 2 regulated contract—schedule section 14.	100	10
36.	S 31: Foundations data	sch 1B, s 31(2)	This section applies if the subject work proposed for a regulated contract— (a) requires the construction or alteration of footings, or a concrete slab, for a building; or (b) may adversely affect the footings of a building or a concrete slab forming part of a building.	100	4

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			Before entering into the contract, the building contractor must obtain the foundations data that is appropriate for the building site, having regard to the following— (a) the Building Code of Australia; (b) the need for a drainage plan; (c) the need for engineer's drawings and computations; (d) the need for information on the fall of the land at the building site.		
37.	S 31: Foundations data	sch 1B, s 31(5)	The building contractor must give a copy of any foundations data obtained by the building contractor for this section to the building owner on payment by the building owner of the costs incurred by the building contractor in obtaining the data.	10	2
38.	S 33: Deposits	sch 1B, s 33(1)	The building contractor under a regulated contract must not , before starting to provide the contracted services at the building site, demand or receive a deposit under the contract of more than— (a) for a level 1 regulated contract (other than a contract mentioned in paragraph (c))—10% of the contract price; or (b) for a level 2 regulated contract (other than a contract mentioned in paragraph (c))—5% of the contract price; or (c) for a level 1 or 2 regulated contract under which the value of the off-site work is more than 50% of the contract price—20% of the contract price.	100	4
39.	S 34: Progress payments for regulated contracts	sch 1B, s 34(1)	The building contractor under a regulated contract must not claim an amount under the contract, other than a deposit, unless the amount— (a) is directly related to the progress of carrying out the subject work at the building site; and (b) is proportionate to the value of the subject work that relates to the claim, or less than that value. Example for paragraph (b)— The claimed amount is for half of the contract price for a regulated contract, less a 5% deposit, and is demanded after the completion of half of the subject work.	50	2

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40.	S 40: Variations must be in writing	sch 1B, s 40(2) Variations	The building contractor must give the building owner a copy of the variation in writing before the first of the following happens— (a) 5 business days elapse from the day the building contractor and the building owner agree to the variation; (b) any domestic building work the subject of the variation starts.	20	2
41.	S 40: Variations must be in writing	sch 1B, s 40(5)	The building contractor must not start to carry out any domestic building work the subject of the variation before the building owner agrees to the variation in writing. Maximum penalty—20 penalty units.	20	2
42.	S 41: General contents of document evidencing a variation	sch 1B, s 41(1)	The building contractor under a regulated contract must ensure a document evidencing a variation of the contract complies with the formal requirements for a variation.		2
43.	S 42: Extension of time	sch 1B, s 42(2)	A building contractor under a regulated contract must not seek to rely on an extension of time under the contract unless the contractor claimed for the extension of time in compliance with subsection (1).	20	2
44.	S 42: Extension of time	sch 1B, s 42(3)	A building contractor under a regulated contract must give the building owner a signed copy of a claim for an extension of time within 5 business days of the owner approving the claim.	20	2
45.	S 43: Building contractor does not acquire interest in land of resident owner	sch 1B, s 43(2)	A building contractor who lodges a caveat claiming an interest in land of a building owner under a domestic building contract knowing the owner to be a resident owner commits an offence.	100	4