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Proclamation of the Building Professionals Act 2005

The Building Professionals Board (BPB) is pleased to announce that the *Building Professionals Act 2005* (the Act) was proclaimed on 25 January 2007.

The proclamation (and therefore the commencement of the Act) is in two stages. **The first stage commenced on 25 January 2007.** The following parts of the Act commenced on that date:

- Part 1 *Preliminary*
- Part 2 Division 1 *Accreditation Scheme*, section 95 and clause 6 of Schedule 2 - to allow the accreditation scheme to be made
- Part 7 *Constitution and Management of the Board* (except section 77 Functions of the Board), and Schedule 1 Part 1 - to allow the Board to be established and to meet together for the first time
- Section 83 *Disclosure and misuse of information*
- Section 89 *Personal liability*
- Section 94 *Regulations* – to allow the Regulation to be made.
- Schedule 3.6 *Public Finance and Audit Act 1983*

The **second stage**, involving the commencement of the remaining provisions of the Act, will allow the Board to commence accrediting applicants as accredited certifiers, hear complaints against accredited certifiers, and carry out investigations into the work and activities of certifying authorities. These provisions **will commence on 1 March 2007.**

Building Professionals Regulation 2007

The BPB is also pleased to announce that the Building Professionals Regulation 2007 (the Regulation) **was gazetted on 25 January 2007.**

The majority of the new requirements in the Regulation **will commence on 1 March 2007**, concurrently with the balance of the uncommenced provisions of the Act. Part 1 *Preliminary* and clause 5 (to allow the accreditation scheme to include an assessment process) commenced on 25 January 2007.



The Building Professionals Board

On 26 January 2007, the Minister for Planning announced the appointments to the new Building Professionals Board (the Board). The Board members are:

- Mr John Murray AM, President
- Mr Graham Miller, Deputy President
- Ms Christine Paull
- Mr Geoffrey Douglass

The members bring a wealth of experience to the Board.

Mr John Murray has 15 years experience as the former CEO of the Master Builders Association of Australia, with experience as a solicitor and as a representative of the Australian building industry on industry consultative committees within Australia and overseas. Mr Murray is currently a professional company director, industry policy consultant and an accredited adjudicator.

Mr Graham Miller is Associate Professor, Head of School of Construction, Property and Planning at the University of Western Sydney. He has also held Board member positions with the Australian Institute of Building and other industry committees.

Ms Christine Paull is a Senior Member of the NSW Consumer, Trader and Tenancy Tribunal. She has an extensive legal background and has published a book which informs consumers and builders of their rights and obligations under the Home Building Act and other relevant laws.

Mr Geoffrey Douglass is the Development and Building Coordinator at Newcastle City Council. He has 15 years experience as a building surveyor in local government.

Further information on the new Board members will soon be available at www.bpb.nsw.gov.au.

It is expected that the Board will hold its first meeting, in accordance with the Act, in early February 2007.

Accreditation Scheme for Accredited Certifiers

The accreditation scheme for accredited certifiers **will be gazetted on 2 February 2007**.

The requirements of the accreditation scheme **will commence on 1 March 2007**, together with the main provisions of the Regulation and the Act.

Figure 1 indicates the relevant dates for the commencement of the Board, Act, Regulation and scheme.

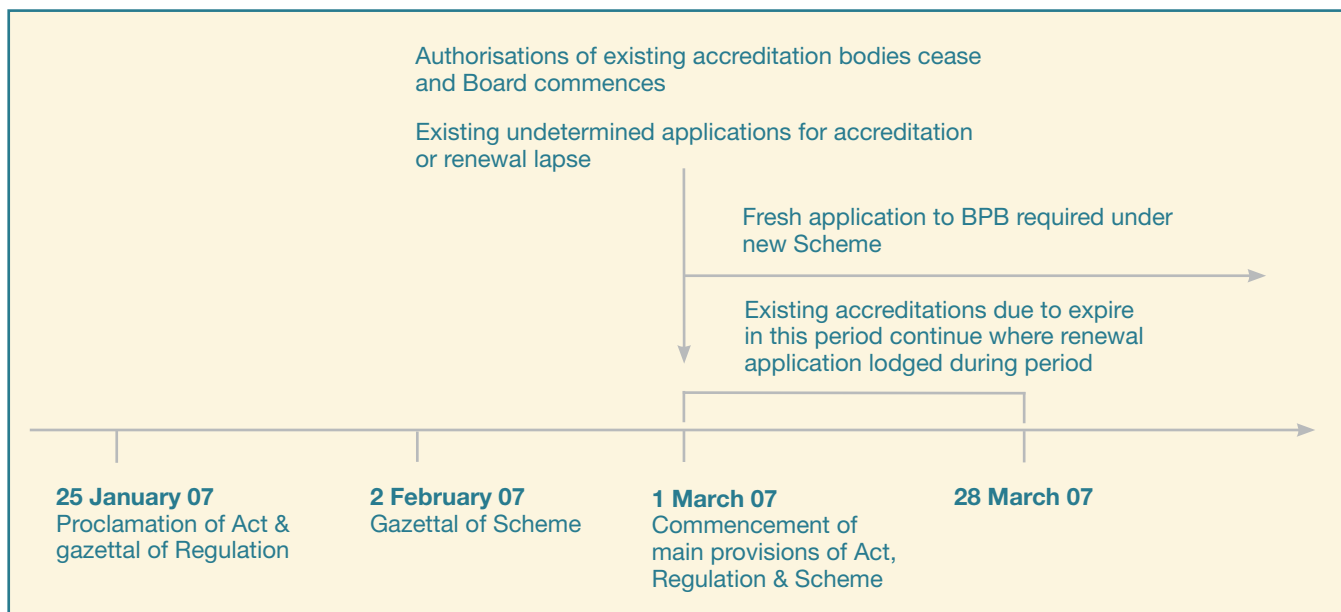


Figure 1: Proclamation of the Act until commencement of the Board

Transitional arrangements for accreditation

Applicants for accreditation and accredited certifiers need to be aware of the processes that will apply during the period following the proclamation of the Act, and gazettal of the Regulation and accreditation scheme, and their commencement on 1 March 2007.

Accreditation before 1 March 2007

Existing accreditation bodies (Department of Planning, Engineers Australia, Professional Surveyors' Occupational Association and Planning Institute of Australia) will continue to accept applications for accreditation and the renewal of accreditation in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act) before 1 March 2007. These applications may be determined by these accreditation bodies before 1 March 2007.

Accreditation applications not determined before 1 March 2007

The existing accreditation bodies are likely to currently have applications before them for new accreditations and for renewals of accreditation (re-accreditations) that they have not yet determined. Any of these applications that have not been determined by an accreditation body by 1 March 2007 will lapse on that date. The authorisation of the existing accreditation bodies will cease on 1 March 2007 and the Board will be the only accreditation body in NSW for accredited certifiers.

Where an existing application lapses on 1 March 2007, the applicant will need to make a fresh application to the BPB under the new Accreditation Scheme.

Accreditation after 1 March 2007

After 1 March 2007, any accreditation that was issued by one of the four existing accreditation bodies before that date will continue in force until the date set out on the certificate of accreditation issued by the accreditation body. Certifiers who have such a certificate of accreditation will be able to continue to carry out the work authorised by that certificate and will be subject to the same conditions and limitations.

If an existing accredited certifier's accreditation is **due to expire at any time from 1 March 2007 to 28 March 2007, inclusive**, the certifier needs to apply to the Board before 29 March 2007 to have their accreditation renewed. Provided the certifier lodges an application to renew their accreditation before 29 March 2007, the savings and transitional provisions in the Regulation allow the accreditation to continue until the application is determined (unless the accreditation is otherwise suspended or cancelled).

Existing certifiers whose accreditation is **due to expire after 28 March 2007**, must lodge their application to renew their accreditation with the Board before their accreditation is due to expire.

If an existing certifier's accreditation expires after 28 March 2007 and the certifier has not lodged his/her application to renew his/her accreditation before the date of expiry of the accreditation, the accreditation will lapse and the certifier will need to lodge an application for accreditation as a new applicant; renewal applications lodged after expiry of an accreditation will not be accepted. A certifier whose accreditation expires in this situation will not be able to continue to work as a certifier unless and until a new accreditation is granted by the Board.

Applications under the new Act and Scheme

Application forms for accreditation and the renewal of accreditations will soon be available at www.bpb.nsw.gov.au.

What happens to existing complaints and investigations?

Until 1 March 2007, the existing accreditation bodies will continue to receive complaints, investigate complaints and initiate disciplinary proceedings before the Administrative Decisions Tribunal (ADT).

From 1 March 2007, complaint investigations commenced but not finalised by the former accreditation bodies will be taken over by the Board. Other investigations commenced by the Department of Planning but not completed by 1 March 2007 will also be taken over by the Board.

Complaints and investigations taken over by the Board will be subject to the new processes set out in the Act, however the provisions of the EP&A Act or relevant code of conduct that applied at the time of the alleged conduct will continue to apply.

Any disciplinary proceedings pending or before the ADT that have not been finalised before the commencement of the Act, Regulation and Scheme on 1 March 2007 will also be taken over by the Board and may be continued if the Board so determines.

Further information

The proclamation of the commencement of the Act and the Regulation can be found in the NSW Government Gazette of 25 January 2007. Copies of the Act and Regulation can be obtained from www.legislation.nsw.gov.au.

Copies of the Accreditation Scheme will be available from 2 February 2007 from www.bpb.nsw.gov.au.

The Minister for Planning's Media Release on the appointments of the Board members can be found at www.planning.nsw.gov.au.

The BPB will issue further advice on the new provisions of the Act, Regulation and Scheme before March 2007, particularly in relation to the transitional arrangements for existing certifiers.

Subscribing to the BPBulletin

To receive future issues of the BPBulletin, please email:
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