

## Media Release

Wednesday 24 June 2026

### How the overhaul of Victoria's building regulation laws may impact architects and their work

There have been many amendments to the legislation regulating building work and the building industry over the last two years. This follows a string of builder insolvencies and other consumer protection issues. Set out below is a summary of some of the changes and we have asked Frances Hall Special Counsel from Weir Legal and Consulting to provide commentary on how they may impact architects and their work.

#### Domestic Building Contracts

There have been amendments to the *Domestic Building Contracts Act*. The amendments are directed at boosting consumer protection and providing clarification on how the Act applies between developers and builders. The most relevant change for architects is that the preparation of plans and specifications is no longer considered to be 'domestic building work'.

Other relevant changes include:

- providing a definition of 'developer' (a person arranging for the construction of two or more homes which are intended for sale);
- the requirements in the Act won't apply to agreements between developers and builders (save that the statutory warranties will still apply, as will the requirement for builders to be registered domestic builders and some other minimum contract terms);
- it will be easier for owners to terminate a building contract;
- a contract can only include a cost escalation clause where the contract price exceeds \$1m and the cost increase cannot exceed 5% of the contract price;
- the 5-day cooling off period applies whether legal advice is obtained or not;
- the process for variations under the contract will be the same whether the variation is caused by the builder or the owner;
- the limits on each progress payment will be varied if a modern method of construction (such as modular or offsite prefabrication) has been used.

**Commencement date: Most reforms take effect on 1 December 2026**

*Frances Hall highlights the following implications for architects:*

*"The change regarding preparation of plans and specifications means that this work when carried out by architects is not 'domestic building work' for the purpose of the Act. The remaining changes are relevant for architects to understand if they are administering a contract for domestic building work or otherwise assisting or advising clients undertaking that work."*

<https://www.legislation.vic.gov.au/as-made/acts/domestic-building-contracts-amendment-act-2025>

#### Home Warranty Scheme

Domestic building warranty insurance, mandatory for domestic building work valued more than

\$10,000 in Victoria, has been replaced by a scheme known as the 'Home Warranty Scheme'. It applies to domestic building work for developments up to 3 storeys, where the contract value exceeds \$20,000. Builders entering into contracts for that work must obtain insurance from the Building and Plumbing Commission.

The previous domestic building insurance only applied where a builder died, disappeared or became insolvent. This insurance is 'first resort' insurance, meaning a homeowner can lodge a claim where the domestic building work is incomplete, defective or non-compliant. Homeowners can also claim where a builder refuses to comply with a rectification order issued by the BPC or an order made by VCAT. There are time limits: 2 years for non-major defects and 6 years for major defects, together with a monetary limit of \$400,000 (with a schedule of deductibles applying).

**Commencement date: 1 July 2026**

*Frances Hall highlights the following implications for architects:*

*"This insurance will cover non-compliances arising from design issues. It does not change the liability position for architects for non-compliant designs, but BPC will, as the insurer, have a right of subrogation to pursue design practitioners where it has paid out a claim based on a non-compliant design. Architects will still be able to rely on their PII, but if there is an increase in design claims there may be an increase in premiums for PII."*

<https://www.legislation.vic.gov.au/as-made/acts/building-legislation-amendment-buyer-protections-act-2025>

**Rectification Orders**

The Building Act has been amended to enable the BPC to issue rectification orders.

These orders are binding directives requiring the carrying out of rectification work in relation to a building. They can be issued during construction or up to 10 years after completion of construction (unlike the existing 'Direction to Fix' power).

The order can bind builders, subcontractors and developers, depending on how it is drafted and each named party will bear legal responsibility for complying with it. It will be within the discretion of the BPC as to when it issues a rectification order. A claim by an owner under the new First Resort Home Warranty Scheme will be one of the bases on which an order can be made. Unusually, any affected person, including the builder and the home owner will have the right to appeal to VCAT against a decision by BPC to issue a rectification order or a refusal to issue one.

Failure to comply with a rectification order will be a prosecutable offence and will make the non-compliant party liable to disciplinary proceedings (if they are a builder) and/or a costs order. Where a rectification order is not complied with for a class 2-4 building that is incomplete, the BPC can prevent the developer from registering a plan of subdivision or obtaining an occupancy permit.

**Commencement date: 1 July 2026**

*Frances Hall highlights the following implications for architects:*

*"Rectification orders can't be issued to architects. For architects administering contracts or who are otherwise engaged during the construction phase, they should be aware of the possibility that a rectification order may be issued during the construction phase and of the need for the named parties to comply with it. This may have implications for the completion date of the project. Rectification orders can be issued for any type of defect or non-compliance, including a non-compliance arising from*

*design, which may trigger a corresponding claim against design consultants by the builder or developer for the cost of the rectification work.”*

<https://www.legislation.vic.gov.au/as-made/acts/building-legislation-amendment-buyer-protections-act-2025>

### **Developer Bonds**

Whilst the First Resort Home Warranty Scheme will not apply to apartment developments over 3 storeys, there will instead be a requirement for the developer to lodge a financial bond with the BPC before it applies for an occupancy permit for the new build, being 2% of the build cost. Where defects are identified in the building post-completion, the owner’s corporation or other nominated person will be able to lodge a claim against the bond, to use the money for necessary rectification works.

The bond will be held by the BPC until a building assessor has carried out a preliminary post-completion inspection (within 15-18 months after the occupancy permit is issued) and then, if defects were identified, a final inspection to (within 21-24 months) to ensure any identified defects have been resolved.

**Commencement date: 1 July 2026 was stated by government but more likely to be 2027**

*Frances Hall highlights the following implications for architects:*

*“Where administering contracts for which a developer bond applies, architects should be aware of the requirement to lodge the bond and of the risk to the developer, should there be significant defects in the building work, which might trigger a claim against the bond by the OC or other persons.”*

<https://www.legislation.vic.gov.au/as-made/acts/building-legislation-amendment-buyer-protections-act-2025>

### **Minimum Financial Requirements for Builders**

Amendments were passed to the Building Act in 2025 that enable the Victorian Government to impose minimum financial requirements on builders. The Government subsequently proposed to pass regulations which would have imposed financial requirements on building practitioners registered with the BPC in the category of domestic building work and applicants for that category of registration.

Those requirements were to include a ratio of assets to liabilities and a requirement that revenue not exceed a prescribed multiple of the builder’s net tangible assets.

This was intended to protect consumers and rebuild public confidence in domestic builders and followed similar provisions which apply in Queensland. Following stakeholder feedback, this requirement was abandoned and the BPC will now issue guidelines to domestic builders about what BPC will require for insurance to be issued to them under the First Home Resort Warranty Scheme. It isn’t yet known what those guidelines will require.

**Commencement date (for guidelines): Not known**

*Frances Hall highlights the following implications for architects:*

*“This will not directly affect architects but they should be broadly aware of the guidelines (once issued) if they are assisting and advising clients who are undertaking domestic building work.”*

<https://www.legislation.vic.gov.au/as-made/acts/building-legislation-amendment-buyer-protections-act-2025>

## **BPC**

Under legislation passed by the Victorian Parliament in mid-May 2026, the BPC was established as a new entity and its powers were moved over to sit in legislation that is separate to the long-standing Building Act. It consolidates the old Victorian Building Authority (which was re-badged last year as the BPC) with domestic building insurance part of the Victorian Managed Insurance Authority and the Domestic Building Disputes Resolution Victoria.

The new legislation gives BPC additional powers, including significantly increased civil penalties, an expanded scope for infringement notices and a greater ability to pursue directors of companies personally for compliance failures by companies. This comes in the wake of numerous insolvencies of builders.

**Commencement date: 1 July 2027 at the latest**

<https://www.legislation.vic.gov.au/as-made/acts/building-and-plumbing-administration-and-enforcement-act-2026>

## **Building Appeals Tribunal**

Many architects will be familiar with the Building Appeals Board. This was a technical board with the jurisdiction to hear disputes about protection work, appeals against building notices and orders and to consider applications for approval to modify building regulations, among other things. The BPAE Act replaces the Building Appeals Board with the Building Appeals Tribunal. Whilst the jurisdiction of the new tribunal is the same as the old BAB, the new Act modernises the composition, processes and governance of the new Tribunal.

**Commencement date: 1 July 2027 at the latest**

*Frances Hall highlights the following implications for architects:*

*“For those architects who assist their clients at a BAB hearing, the new BAT may have altered processes.”*

<https://www.legislation.vic.gov.au/as-made/acts/building-and-plumbing-administration-and-enforcement-act-2026>

## **Decennial insurance for apartment buildings**

The *Building Legislation and Treasury Legislation (Tax Relief) Amendment Bill*, which is currently before the Victorian Parliament, introduced, among other things, a power for government to set out minimum requirements for decennial liability insurance for residential apartment buildings. Decennial liability insurance is issued by the private insurance market and responds to claims for serious defects in new apartment buildings for a 10-year period post the issuing of the occupancy permit. This type of insurance is currently able to be sold in NSW. The NSW government has legislated to say that ‘approved’ decennial liability insurance can be an alternative to developers paying a 2% bond, however, there is not yet an approved product in NSW.

Decennial liability insurance is proposed to be optional in Victoria and would operate as an alternative to the developer bond. It is contemplated that it could become compulsory in future instead of developer bonds.

**Commencement date: Assuming the bill passes Parliament, 1 July 2026**

*Frances Hall highlights the following implications for architects:*

*“This will not change the liability position for architects in respect of design non-compliance. However, as insurers offering decennial insurance will have a right of subrogation, insurers may choose to pursue design practitioners where a claim is made by a developer under decennial insurance for design issues. Architects will still be able to rely on their PII, but if there is an increase in design claims by subrogated insurers there may be an increase in premiums for PII.”*

<https://www.legislation.vic.gov.au/bills/building-legislation-and-treasury-legislation-tax-relief-amendment-bill-2026>

### **Security of Payment amendments**

The longstanding *Building and Construction Industry Security of Payment Act* has been significantly amended following a number of state and federal reviews of the operation of security of payments regimes throughout Australia. The changes are intended to simplify the operation of the security of payments regime.

The most important changes are to abolish the ‘excluded amounts’ provisions, which previously drew a complicated distinction between claimable and non-claimable variations and to abolish the concept of ‘reference dates’ which were required to accrue before a payment claim could be lodged. A payment claim can now be lodged from the last day of each month in which work is carried out. There are also extended time to serve a payment claim and payment claims can no longer be served during the holiday shutdown period between 22 December and 10 January. This prevents a long-standing practice of claims being lodged just before Christmas to prevent the respondent from being able to prepare a proper response.

There are further changes foreshadowed to the SOPA regime but at present, it has not been extended to contracts between residential builders and homeowners.

### **Commencement date: 15 April 2026**

*Frances Hall highlights the following implications for architects:*

*“For architects who are administering contracts to which the SOPA regime applies, the process should be somewhat simplified.”*

<https://www.legislation.vic.gov.au/as-made/acts/building-legislation-amendment-fairer-payments-jobsites-and-other-matters-act-2025>

### **Place of Public Entertainment (POPE)/building order landslide amendments**

The bill currently before Parliament, in addition to proposing to introduce decennial insurance also proposes reforms to the process for obtaining permits for places of public entertainment. The current regime is unnecessarily complex, with Councils having to apply to a complex test to determine whether a POPE permit is required with separate permits required for temporary structures used within the place of public entertainment. The changes seek to simplify the permit process and ensure that permits are required for higher-risk events and not for lower-risk events.

In addition, the bill proposes to give Councils and the BPC additional powers under the building notice and building order regime to address risks that arise in relation to properties where there has been a condition-altering event that fundamentally comprises the integrity and stability of land, such as a flood, landslide, earthquake or coastal erosion. This addresses a gap that has become increasingly

evident where the instability of land poses a risk to other houses surrounding it, but Councils and the BPC lacked the power to require steps to be taken to shore up the land, as their powers related to buildings or building work, not to land per se.

**Commencement date: Assuming the bill passes Parliament, 1 July 2026**

*Frances Hall highlights the following implications for architects:*

*“Architects should be aware that this power exists and may affect clients who have land that is or has become unstable.”*

<https://www.legislation.vic.gov.au/bills/building-legislation-and-treasury-legislation-tax-relief-amendment-bill-2026>

### **Cladding Safety Victoria**

Cladding Safety Victoria has been dismantled, now that its program of rectifying high-risk buildings with combustible cladding is finalised. It completed replacement of cladding on over 400 buildings during its existence. The portion of the building permit levy that was collected to fund CSV will be replaced by a new component of levy known as the Building Reform Levy to fund the operation of BPC. That levy will be calculated based on projects exceeding \$1.5 million in value for class 2-8 buildings in non-regional Victoria.

**Commencement date: 1 July 2026**

*Frances Hall highlights the following implications for architects:*

*“Architects should be aware this may reduce the cost of building permits for which the cladding rectification levy will no longer be payable.”*

<https://www.legislation.vic.gov.au/as-made/acts/cladding-safety-victoria-repeal-act-2026>

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