

Schedule 5 Code of conduct

1 Duties apply to registered certifiers when acting as registered certifiers

- (1) For the purposes of section 32(1) of the Act, this Schedule is the code of conduct for registered certifiers.
- (2) A registered certifier is required to comply with this code of conduct.
- (3) The requirements set out in this Schedule apply to a person only in the person's capacity as a registered certifier.
- (4) Nothing in this Schedule affects the duty of a registered certifier to comply with requirements placed on the registered certifier by or under the Act or any other Act or law.
- (5) A registered certifier who fails to comply with this code of conduct is guilty of an offence.
Maximum penalty—
 - (a) in the case of an individual—100 penalty units, or
 - (b) in the case of a body corporate—200 penalty units.

2 Requirement to act in public interest

- (1) A registered certifier must act in the public interest.
- (2) A registered certifier must take all reasonable steps to ensure that the registered certifier does not adversely affect—
 - (a) the health or safety of a person, or
 - (b) the safety of a person's property.
- (3) A registered certifier must not adversely affect the amenity of a person's property to an unreasonable extent.
- (4) A registered certifier must not act improperly for private benefit to the registered certifier or any other person.

3 Requirement to abide by standards expected by the community

A registered certifier—

- (a) must apply all relevant building laws, regulations, safety standards and guidelines reasonably and without favour, and
- (b) must act with honesty, integrity and impartially, and
- (c) must not unreasonably discriminate against any person or organisation, and
- (d) must not knowingly act or enter into any conduct that could bring, or tend to bring, the profession of certifiers into disrepute, and
- (e) must exercise reasonable care and attention.

4 Requirement to act within level of competence, expertise and area of registration

- (1) A registered certifier must not carry out certification work that is not authorised by the registered certifier's registration or is beyond the registered certifier's competence and expertise.
- (2) A registered certifier must seek and properly consider specialist advice if an aspect of certification work is beyond the registered certifier's competence and expertise.
- (3) A registered certifier must not carry out certification work negligently.

5 Requirement to maintain satisfactory level of competence

A registered certifier must ensure that the registered certifier remains informed of developments in building design and practice, business management principles, and the law relevant to performing the registered certifier's functions.

6 Requirement to avoid conflicts of interest

- (1) A registered certifier must be objective, impartial and free of any conflict of interest.
- (2) A registered certifier must not improperly use their status, position, powers or duties for the purpose of obtaining, either directly or indirectly, any personal benefit or benefit for a relative or close associate.
- (3) A registered certifier must not solicit or accept an improper benefit.
- (4) A registered certifier must take all reasonable steps to ensure that a relative or close associate of the registered certifier does not solicit or accept any improper benefit.
- (5) A registered certifier must take all reasonable steps to manage and avoid conflicts of interest.
- (6) In this clause—
improper benefit means a gift, hospitality or other benefit that could reasonably—
 - (a) be expected to give rise to a conflict of interest, or
 - (b) be perceived as an inducement (or attempted inducement) or reward for—
 - (i) doing or not doing something, or
 - (ii) showing or not showing favour or disfavour to any person.

7 Requirement not to misinform or mislead

- (1) A registered certifier must not misinform or mislead any person or body about any matter relating to the carrying out of certification work.
- (2) A registered certifier must not misrepresent the registered certifier's qualifications, experience or expertise to any person or body.
- (3) A registered certifier must take all reasonable steps to ensure that a person who engages the registered certifier to carry out certification work is made aware of any matter affecting the registered certifier's registration that may impact on the carrying out of the certification work.

8 Requirement to obtain and consider all facts

- (1) A registered certifier must take all reasonable steps to obtain and document all available facts relevant to the carrying out of certification work.
- (2) A registered certifier must take all reasonable steps to ensure that the decisions and actions of the registered certifier are based on the consideration of all relevant facts that are available to the registered certifier.

9 Requirement to document reasons for decisions

A registered certifier must maintain clearly documented reasons for decisions made when carrying out certification work that set out the following—

- (a) the decision made,
- (b) the reasons for making the decision,
- (c) the findings of fact that the reasons were based upon,
- (d) the evidence for those findings.

10 Requirement to maintain confidentiality

- (1) A registered certifier must not disclose confidential information acquired in the course of being a registered certifier except—
 - (a) with the consent of the person to whom the duty of confidentiality is owed, or
 - (b) where the disclosure is otherwise authorised or required by law.
- (2) A registered certifier must not use confidential information acquired in the course of being a registered certifier to secure a benefit for the registered certifier or a relative or close associate of the registered certifier.
- (3) A registered certifier must take all reasonable steps to ensure that confidential information acquired in the course of being a registered certifier is held securely by the registered certifier.

11 Supervision

A registered certifier must ensure that—

- (a) a person does not carry out certification work under the supervision of the registered certifier unless the registered certifier's registration authorises the supervision, and
- (b) any certification work carried out under supervision is carried out competently.