



**MANSFIELD SHIRE**

**Instrument of Delegation and Authorisation**  
**by the**  
**Municipal Building Surveyor**

*Effective 29 January 2021*



## **Municipal Building Surveyor Package**

The Municipal Building Surveyor Package comprises:

1. S12. Explanatory Notes
2. S12. Instrument of Delegation and Authorisation by the Municipal Building Surveyor



## S12 Explanatory Notes – Municipal Building Surveyor Package

### Explanatory Notes – MBS Delegations and Authorisations

#### What is the Instrument of Delegation and Authorisation by the Municipal Building Surveyor? How is this Instrument different to the other Instruments in the Staff Package?

The Instrument of Delegation and Authorisation (**S12**), contained in this by the Municipal Building Surveyor (**MBS**) Package, is a separate Instrument which is intended to be used by the MBS to delegate their powers, functions and duties under the *Building Act 1993* (**Building Act**) and *Building Regulations 2018* (**Regulations**), and to authorise persons to exercise their powers under certain parts of the Building Act.

It is different to the other Instruments of Delegation and Authorisation included in the Staff Package (see documents S1 to S11A) because those documents deal with the delegation of the *powers of Council* and authorisations or appointments that may be made *by Council* (or by its Chief Executive Officer (**CEO**), where they have been delegated Council's power to make delegations and appointments).

The S12 does not involve delegation *by Council* of its powers to members of staff (pursuant to s 11 of the *Local Government Act 2020* (**LGA**), or other legislation) or *Council* authorising or appointing persons to relevant positions (under s 224 of the *Local Government Act 1989* or other legislation). Rather, the S12 involves the MBS delegating their powers, duties and functions under the Building Act and the Regulations, and authorising persons to exercise some of their powers under that legislation.

#### The need for an MBS Instrument of Delegation and Authorisation

Under the Building Act, the MBS has certain powers by virtue of being an MBS. The MBS has the power to delegate these powers, and to authorise certain persons to exercise some of the powers of the MBS. More specifically:

- s 216B of the Building Act allows the MBS appointed by Council to delegate their powers (as opposed to the powers of that Council) under the Building Act or the Regulations to any person employed, or engaged, by the Council who is registered as a building surveyor or building inspector under Part 11 of the Building Act whose registration authorises the carrying out of the work required for performing the functions to be delegated by the MBS; and
- s 228A of the Building Act allows the MBS to authorise a person to be an authorised person for the purpose of exercising the powers of the MBS under Division 2 of Part 13 of the Building Act.

The S12 was created to assist a Council's MBS to make the delegation or authorisations that they are empowered to make under the legislation. The S12 is only relevant where the MBS wishes to delegate their powers to another registered building surveyor or registered building inspector under Part 11 of the Building Act whose registration authorises the carrying out of the work required for performing the functions to be delegated by the MBS.

In Councils where there are no other registered building surveyors or registered building inspectors under Part 11 of the Building Act whose registration authorises the carrying out of the work required for performing the functions to be delegated by the MBS, the MBS will not be able to delegate their powers pursuant to s 216B. However, the MBS can still authorise some persons to be authorised persons in relation to some specified powers of the MBS, as provided for under s 228A of the Building Act.



## What powers can the MBS delegate?

The Building Act, and the Regulations, set out certain powers, functions and duties that are conferred or imposed on Councils. These powers can be delegated by Councils pursuant to s 11 of the LGA. This delegation is dealt with in our Instrument of Sub-Delegation by the CEO to Members of Council Staff (**S7**).

In addition, the Building Act, and the Regulations, also confer or impose certain powers, functions and duties on building surveyors (including an MBS). These powers of the MBS are distinct to the powers of Council under that legislation. It is only these powers, duties and functions of the MBS under the Building Act, and the Regulations, that an MBS can delegate. An MBS cannot delegate (or sub-delegate) any powers of the Council.

## To whom can the MBS delegate its powers?

The MBS can delegate any of their functions to a registered building surveyor or registered building inspector, under s 216B of the Building Act, other than the power to delegate, provided that the person is employed, or engaged, by the Council, is registered as a building surveyor or a building inspector under Part 11 of the Building Act whose registration authorises the carrying out of the work required for performing the functions to be delegated by the MBS.

## MBS cannot sub-delegate Council's powers delegated to them by Council

It should be noted that while the Building Act, and the Regulations, set out powers that are given to an MBS (which it can delegate through the S12), an MBS may also have powers conferred on them through other sources.

For example, it is possible (and common) for a Council to delegate the Council's own powers under the Building Act or other relevant legislation to a person who holds the position of MBS. This is usually done through an Instrument of Delegation by the Council to Members of Council Staff (such as the MBS) (**S6**) or S7. Where this occurs, the MBS will have delegated powers which they can exercise *on behalf of the Council* (as opposed to their own powers that they would exercise in their own right). While an MBS can delegate to other building surveyors *their powers* under the Building Act, it cannot sub-delegate any powers of the Council which the Council has resolved to delegate to the MBS (only the MBS can exercise those delegated powers).

## What should the MBS consider in making the Instrument?

The S12 is made by the MBS (i.e. it is the MBS, and not Council or the CEO, who signs the document).

The MBS should first determine whether such an Instrument of Delegation and Authorisation is needed. The MBS will then need to consider whether the template Instrument is appropriate or requires amendment. For instance, the MBS may need to decide whether they wish to delegate *all* of their powers or only *some* of their powers (in which case, the Schedule to the Instrument would need to be amended accordingly to omit any provisions that are not to be delegated).

In some cases, it may not be appropriate for the MBS to delegate their powers (for instance, where the Council does not employ other registered building surveyors, or registered building inspectors, to whom those powers can be delegated). However, it may still be possible for the MBS to authorise persons to exercise their powers under Division 2 of Part 13 of the Building Act. Where this is the situation, the MBS can amend the Instrument so that it only provides for the authorisation (by deleting those provisions in the Instrument which are relevant to delegations).



### Instrument of Delegation and Authorisation

In exercise of the powers conferred by ss 216B and 228A of the *Building Act 1993 (Act)*, by **this Instrument of Delegation and Authorisation, I, as Municipal Building Surveyor of Mansfield Shire Council –**

- 1. delegate each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) ) to the member of Council staff, or person engaged described opposite each such duty and/or function and/or power in column 3 of the Schedule;
- 2. record that a reference in the Schedule to



**"BS" means Building Surveyor**

- 3. appoint the following person to be an authorised person for the purposes of exercising the powers of the municipal building surveyor under Division 2 of Part 13 of the Act:

**3.1 Wayne Allen**

- 4. record that on the coming into force of this Instrument of Delegation and Authorisation each delegation under the Instrument of Delegation is revoked;
- 5. declare that this Instrument of Delegation and Authorisation –
  - 5.1 comes into force immediately upon its execution;
  - 5.2 must be exercised in accordance with any guidelines or policies which Council from time to time adopts, and -
  - 5.3 is subject to any conditions and limitations set out in the Schedules

Dated: 29 January 2021

<b>Signed</b> by Robert Skinner, Municipal Building Surveyor, Mansfield Shire Council	)	
in the presence of the Chief Executive Officer, Mansfield Shire Council (witness):	)	
		



## Delegation Sources

Building Act 1993 .....	7
Cladding Safety Victoria Act 2020 .....	22
Building Regulations 2018 .....	24



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.10(2)	Power to be satisfied and to certify in writing that substantial progress was made on the design of a building before a building regulation or amendment commenced.	BS	
s.10(4)	Power to agree with owner of building or land that a building regulation or amendment is to apply	BS	
s.17	Function of receiving application for a building permit	BS	
s.18A(2)	Duty to provide to Development Victoria without delay notice setting out information in s 18A(2)(a) and a copy of any relevant planning permit, in certain circumstances where s 18A(1) is satisfied	BS	
s.18B(2)	Duty to give notice of an application which satisfies s 18B(1), to the Commissioner of State Revenue	BS	
s 18D(2)	Duty to, within 14 days after receiving an application, give to the Secretary to the Department of Environment, Land, Water and Planning a notice of the application, a copy of the application and any documents that accompany the application	BS	Where the municipal building surveyor is the relevant building surveyor
s.19	Duty to decide application for building permit by either issuing permit, issuing permit with conditions or refusing permit	BS	
s.21(1)	Duty to specify in building permit whether occupancy permit is required under s 21(2) for the whole or part of the building	BS	
s.21(2)	Duty to consider whether building work is minor or does not compromise the suitability of the building for occupation	BS	



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.23	Duty to notify the reporting authority of permit and give the reporting authority a copy of the permit, where issues a building permit which differs from or fails to implement the recommendations in the reporting authority's report under Schedule 2 on the application for the permit	BS	Does not apply to classes of buildings set out in r 1805 of the Building Regulations 2018
s.24(1)	Duty to not issue building permit unless satisfied of matters set out in s 24(1), subject to s 24A	BS	
s.24(2)	Duty to not issue building permit that imposes on the applicant lesser or greater standards or requirements than those prescribed by this Act or building regulations, unless permitted to do so by this Act or the building regulations.	BS	
s.24(3)	Duty to not issue building permit if notice is required to be given to the Development Victoria under s 18A unless the Victorian Building Authority (VBA) has notified the relevant building surveyor under s 51ZA of the Development Victoria Act 2003 that, either charges are not payable, or if charges are payable, that they have been paid or an agreement has been entered into.	BS	
s.24(4)	Duty to not issue a building permit for the carrying out of building work on land in respect of which there is a GAIC recording (within the meaning of Part 9B of the Planning and Environment Act 1987), unless the applicant produces a certificate relating to that liability as set out in (a) - (d)	BS	
s 24(4A)	Duty to not issue a building permit for the carrying out of building work on land in respect of which there is a levy recording (within the meaning of the Melbourne Strategic Assessment (Environment Mitigation Levy) Act 2020 (Vic)) unless the applicant produces any of the certificates set out in s 24(4A)(a) – (c) issued by the Secretary to the Department of Environment, Land, Water and Planning under that Act	BS	





<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.24(5)	Duty to not issue building permit in respect of building work unless satisfied that any community infrastructure levy payable under Part 3B of the Planning and Environment Act 1987 has been paid to the relevant agency or an agreement has been entered for payment	BS	
s 24(6)	Duty not to issue a building permit in relation to building work unless satisfied by the applicant of the criteria set out in s 24(6)(a) and (b)	BS	Where the municipal building surveyor is the 'relevant building surveyor'  Subject to s 269 of the Building Regulations 2018
s 24(7)	Duty not to issue a building permit in relation to building work unless satisfied by the applicant of the criteria set out in s 24(7)(a) and (b)	BS	Where the municipal building surveyor is the 'relevant building surveyor'  Subject to s 269 of the Building Regulations 2018
s 24A(1)	Power to consider whether satisfied of the matters set out in s 24A(1)(a) – (d)	BS	
s 24A(3)	Power to consider application for a building permit for domestic building work where cost of the work exceeds the prescribed amount and the work is not to be carried out under a major domestic building contract, subject to duty to not issue the permit unless satisfied of matters in s 24A(3)	BS	For applications accepted on or before 4 July 2016, this applies to work which exceeds \$12,000, rather than the prescribed amount
s.25	Duty to notify applicant for a permit in writing without delay of refusal of permit and reasons refusal	BS	
s 25AA(1)	Function of receiving notification that the person is the new owner of the land	BS	Where the municipal building surveyor is the relevant building surveyor



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.25A	Function of receiving notice of changes to the engagement of a building practitioner, an endorsed building engineer or an architect	BS	Note: this amendment is not yet in force and will commence on 1 July 2021, unless proclaimed earlier
s.28(1)	Power to issue building permit for carrying out of building work that does not comply with building regulations if the work is to be carried out on, or in connection with a building included on the Heritage Register, subject to s24	BS	
s.28(3)	Duty to take into account certain matters in deciding application for a building permit in respect of a building to which s 28(1) applies	BS	
s.29(1)	Power to refuse to issue building permit for construction of a building in certain circumstances	BS	
s.29(2)	Duty to not refuse to issue building permit on the sole ground that the owner may without notice to the Council dispose of the land to the Crown or a public statutory body	BS	
s.29B(1) and (3)	Function of receiving notice from the responsible authority	BS	
s.29B(2)	Duty to suspend consideration of application for building permit upon receipt of notice under s 29B(1)	BS	
s.29B(5)	Duty, in making decision under s 24, to consider the requirements of the relevant planning scheme as amended when given notice of amendment under s 29B(3)(c)	BS	
s.30(1)	Duty to give Council a copy of permit, plans and other documents lodged with permit application	BS	



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 30(1A)	Duty to give a copy of any other prescribed documents, relating to the application for the building permit or the permit, to the relevant council	BS	Where the municipal building surveyor is the 'relevant building surveyor'
s.30B(a)	Duty to certify documents and lodgement fees paid on approved checklist	BS	Only applies to building permits issued on or after 4 July 2016
s.30B(b)	Duty to give certified checklist to Council at same time as giving documents required under s 30	BS	Only applies to building permits issued on or after 4 July 2016
s.33(1)	Function of being notified after completion of each mandatory notification stage of building work for which a permit has been issued under Part 3	BS	
s.33(2)	Power to direct person to stop carrying out work after completion of mandatory notification stage	BS	
s 34	Duty to cause building work to be inspected in person upon being notified of completion of mandatory notification stage of building work for which a building permit has been issued under Part 3	BS	Where the municipal building surveyor is the relevant building surveyor
s.35	Power to cause building work for which permit issued under Part 3 to be inspected at any time, whether or not mandatory notification stage completed	BS	
s 35A(1)	Duty to ensure that a record of the inspection is made upon completion of an inspection under ss 34 or 35	BS	Where the municipal building surveyor is the relevant building surveyor
s 35A(2)	Duty to give a copy of the record made under s 35A(1) upon written request	BS	Where the municipal building surveyor is the relevant building surveyor
s 35A(2)(b)	Function to request and receive a copy of a record made under s 35A(1)	BS	Where the MBS is the MBS for the municipal district in which the building work was inspected



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 35B	Duty not to cause a person to carry out an inspection under ss 34 or 35 unless the criteria in ss 35B(a) or 35B(b) is met	BS	Where the municipal building surveyor is the relevant building surveyor
s.37A(2)	Duty to give a direction to fix building work to relevant person where reasonable belief that building work fails to comply with this Act, building regulations or building permit	BS	
s.37A(3)	Power to authorise building surveyor or relevant building inspector to give oral direction to fix building work to relevant person	BS	
s.37D(2)	Duty to give written direction to fix building work where not satisfied at the end of prescribed period following an oral direction that building work complies with this Act, building regulations or building permit	BS	
s.37G(1)	Function of receiving request to extend period to comply with building direction	BS	
s.37G(3)	Power to grant extension of period for compliance with direction to fix building work received under s.37G(2)	BS	
s.37G(4)	Duty to give written notice of extension of time granted under s 37G(3) to builder	BS	
s.37HA	Power to stay operation of a direction to fix building work where subject of conciliation	BS	
s.37I(1)	Power to revoke direction to fix building work	BS	
s.37I(2)	Duty to give written notice of revocation of direction to fix building work	BS	
s.37J	Duty to give prescribed documents in relation to direction to fix building work to relevant owner and any other prescribed person	BS	Where the municipal building surveyor is the 'relevant building surveyor'
s 37J	Function of receiving documents	BS	Where the municipal building surveyor is the 'relevant building surveyor' and in turn a 'prescribed person'
s.37K(1)	Duty to give written notice to VBA of failure to comply with a written direction to fix building work within 7 days of failure to comply	BS	



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.38(1)	Duty to issue notice of final inspection following inspection of final mandatory notification stage, if occupancy permit not required and all directions complied with	BS	
s.41	Function of receiving application for occupancy permit	BS	
s.43	Duty to decide application for occupancy permit under Division 1 of Part 5 by either issuing permit, issuing permit with conditions or refusing permit	BS	
s.44	Duty to not issue occupancy permit in certain circumstances	BS	
s.47	Duty to notify the reporting authority without delay and give copy of permit to the reporting authority, if issues occupancy permit which differs from or fails to implement recommendations in the reporting authority's report under Schedule 2	BS	Does not apply to classes of building set out in r 1805 of the Building Regulations 2018
s.48	Duty to notify applicant of refusal of permit under Division 1 of Part 5 and reasons for refusal	BS	
s.53	Function of receiving application for an occupancy permit	BS	
s.55	Duty to not issue occupancy permit under Division 2 of Part 5 unless the place to which the permit applies is suitable for occupation for the public entertainment or class of public entertainment for which the permit is sought	BS	
s.56	Duty to decide application for occupancy permit under Division 2 of Part 5 by either issuing permit, issuing permit with conditions or refusing permit	BS	
s.57(1)(a)	Power to approve the siting of a temporary structure	BS	

**Building Act 1993**

<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.59	Power to issue combined occupancy permit if requirements of Division 1 and Division 2 of Part 5 are satisfied	BS	
s.60	Duty to notify the reporting authority without delay and give copy of permit to the reporting authority, if issues occupancy permit which differs from or fails to implement recommendations in the reporting authority's report under Schedule 2	BS	
s.62	Duty to notify applicant of refusal of permit under Division 2 of Part 5 and reasons for refusal	BS	
s.63	Power to cause any place of public entertainment for which an occupancy permit has been issued under Division 2 of Part 5 to be inspected from time to time to determine whether or not the permit is being complied with	BS	
s.64	Power to approve occupation on a temporary basis of a building for which there is not or could not be issued an occupancy permit appropriate to the use of the building	BS	
s.66	Power to approve form of application under Division 3 of Part 5	BS	
s.67	Duty to decide application for approval to occupy a building on a temporary basis by either issuing approval, issuing approval with conditions or refusing approval	BS	
s.69	Duty to notify applicant in writing of refusal and reason for refusal of approval to occupy building on temporary basis	BS	
s.70	Power to amend a permit or approval issued under Part 5, on an application by the owner of the building or land or if the amendment is necessary in the public interest	BS	
s.71	Power to cancel a permit or approval if obtained by fraud or misrepresentation	BS	
s.72	Power to cancel occupancy permit issued under Division 1 of Part 5 in certain situations	BS	



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.73(1)	Duty to give Council a copy of permit, approval, amendment, plans or other documents lodged with application	BS	
s.73(1A)	Duty to give Council a copy of other prescribed documents relating to application	BS	
s.81(4)	Duty to not complete the first private building surveyor's functions in respect of the building work without the written consent of the VBA, where the appointment of a private building surveyor is terminated under s 81(3)	BS	
s.82	Duty to comply with direction of the VBA where appointment of private building surveyor is terminated and the MBS is to complete the private building surveyor's functions	BS	
s.83T(2)	Function of receiving information from manager appointed by the VBA under s 83B	BS	
s.84(1)	Function of receiving notification of proposed building work where owner is required to undertake protection work in respect of an adjoining property before or during the carrying out of building work for which a building permit is required must	BS	
s.85(1)(b)	Function of receiving notice from adjoining building owner regarding proposed protection works	BS	
s.87(1)	Duty to examine the proposal for protection work and determine the appropriateness or otherwise of the work upon receipt of notice under s 85(1)(b)	BS	
s.87(2)(a)	Power, in the case of notice under s 85(b)(ii), to ask owner for more information before making determination under s 87(1)	BS	
s 87(2)(b)	Duty to make copy of information available to adjoining owner	BS	
s.87(3)	Power make any inquiries and not to give any person a hearing	BS	
s87(4)	Duty to give notice of determination under s 87	BS	



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.92	Duty to make available to adjoining owner, on request, for inspection, without charge, plans, drawings and specifications of proposed building work at any time after notice of intention to commence building work is given under Part 7	BS	
s.101(1)	Function of receiving plans showing protection work	BS	
s.101(2)	Duty to give a copy of documents to Council	BS	
s.102	Power to make an emergency order under Division 1 of Part 8 if the MBS is of the opinion that the order is necessary because of danger arising out of the condition or use or proposed use of a building, land on which building work is carried out or a place of public entertainment	BS	
s 103(2)	Power to permit any person to enter, use or occupy a building, land or a place of public entertainment	BS	
s 104(5)	Function of receiving the results of the destructive testing of the building product or material from an owner or builder referred to in s 104(4)	BS	
s.105(2)	Duty to cause an emergency order to be served on the person to whom it is directed without delay after it is made	BS	
s.105(3)	Duty to give a copy of an emergency order to any private building surveyor appointed to perform a function in relation to a building, land or place to which the order relates	BS	
s.105B	Power to cancel an emergency order in some circumstances, by giving a written notice to the person to whom the notice was directed	BS	
s.106	Power to cause a building notice to be served on an owner of a building, land or place of public entertainment if believes that one of the circumstances specified in s 106(a) - (d) exists	BS	s 118A: must only cause building notice to be served if direction to fix building work not complied with, or satisfied it is not possible or appropriate to give a direction to fix the building work
s.110	Power to cancel building notice after considering any representations made by owner under s 109	BS	





<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.111(1)	Power to make building order under s 111 after the end of the time allowed by the building notice for making representations	BS	s 118A: must only make building order if direction to fix building work not complied with, or satisfied it is not possible or appropriate to give a direction to fix the building work
s 111(2)	Duty to consider any representations made by the owner concerned before making an order	BS	
s 111(4)	Power to permit a person entering, using or occupying a building, land or place of public entertainment	BS	
s 111(9)	Function of receiving the results of the destructive testing of the building product or materials from the owner or builder referred to in s 111(8)	BS	
s.112(1)	Power to make a building order that requires an owner or other person to stop building work	BS	Subject to s 107
s.112(6)	Power to exempt any part of the building work from a building order under s 112, if the relevant building surveyor considers that it is necessary for the building work to be carried out in accordance with s 112(6)(a)-(c)	BS	
s.113	Power to make a building order requiring the owner of a building, land on which building work is being or is proposed to be carried out or a place of public entertainment, to carry out work without first serving a building notice, if it is believed that the work required to be carried out is of a minor nature	BS	Subject to s 107
s.114(2)	Duty to cause building order to be served on person to whom it is directed without delay	BS	
s.116(2)	Power to amend or cancel a building order or refuse to amend or cancel a building order after considering request under s 116(1)	BS	
s.116(4)	Duty to inform the owner in writing, without delay, of the relevant building surveyor's decision under s 116(2)	BS	



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 119	Power to direct a person to obtain a building permit, or to comply with the Regulations, when carrying out work in accordance with an emergency order or building order in force under Part 8 of the Act	BS	Where the municipal building surveyor is the relevant building surveyor
s.120 (2)	Duty to inspect work notified as completed under s 120(1) and either report to Council that emergency order or building order has been fully complied with or require that order be fully complied with	BS	
s.121	Power to cause work to be carried out if an owner fails to carry out work as required by an emergency order or building order	BS	
s.122	Duty to take necessary action if required by Minister	BS	
s.124	Power to request assistance of a police officer, to evacuate a building, land or place of entertainment in accordance with emergency order, or in removing persons from building, land or place in which work is being carried out in accordance with emergency order	BS	
s.125(1)	Duty to give a copy of notice or order to Council	BS	
s.125(2)	Duty to give a written notice of the compliance, amendment or cancellation to Council	BS	
s.150	Power to refer to Building Appeals Board any dispute with owner about exercise of powers under s 228D(6)(ab)	BS	
s.156	Power to refer to Building Appeals Board any dispute about estimate of costs of work	BS	
s.157	Power to refer to Building Appeals Board a dispute about a building, building work or proposed building work which concerns the application or effect of any provision of the building regulations or whether any provision of the building regulations is or has been complied with	BS	
s.160	Power to make application to the Building Appeals Board for a determination that a provision of the building regulations does not apply or applies with the modifications or variations specified in the application	BS	



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.160A	Power to make application to the Building Appeals Board for a determination that a particular design of a building or an element of a building complies with this Act, the building regulations or any document applied, adopted or incorporated in the building regulations	BS	
s 162(1)(a)(iii) and (c)	Function of being consulted by Building Appeals Board	BS	
s 176A(g)	Power to request that a registered building practitioner or, in the case of a registered body corporate, the nominee director of the registered building practitioner, produce their certificate of registration for inspection	BS	
s 187O	Power to request a licensed building employee to produce their licence certificate for inspection	BS	
s 188AA(3)	Duty to comply with any relevant direction issued under s 188AA(1) in carrying out a function under the Building Act 1993 and Building Regulations 2018	BS	
s 205HA	Duty to refuse building permit application if the circumstances described in s 205HA(a) and (b) apply	BS	
s.205I(1)	Duty to estimate the cost of the building work and without delay give the VBA and applicant written notice of the estimate	BS	Where the municipal building surveyor is the relevant building surveyor
s 205I(2)	Duty to estimate the cost of the whole of the building work, estimate the cost of the stage of the building work and, without delay, give the VBA and applicant written notice of the matters specified in s 205I(3)	BS	Where the municipal building surveyor is the relevant building surveyor
s.205J(1)	Duty to keep certain records, make those records available, forward the amounts received to the VBA and give periodic returns to the VBA	BS	
s.205M	Duty to follow a direction given by the VBA	BS	
s.205M(4)	Power to make submissions to the VBA about the proposed direction or recommendation	BS	



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s.205M(5)	Function of receiving a copy of a direction or recommendation from the VBA	BS	
s.216C(1)(a)	Function of issuing building permits where appointed for land outside the municipal district	BS	
s.216C(1)(b)	Function of carrying out inspections of buildings and building work under part 4 where appointed for land outside the municipal district	BS	
s.216C(1)(c)	Function of issuing occupancy permits and temporary approvals under part 5 where appointed for land outside the municipal district	BS	
s.216(3)	Power to use the title of municipal building surveyor in carrying out functions under s 216 of the Act	BS	Power of a MBS appointed under s216C(1) of the Act in respect of land outside the municipal district
s.216C(2) & (4)	Power to carry out outside the municipal district any function, other than those specified in s 216C(1), conferred on a private building surveyor by this Act or the regulations	BS	Power of a MBS appointed under s216C(1) of the Act in respect of land outside the municipal district
s.225(d)	Duty to assist the Minister and obey all directions given by the Minister in the exercise of any of the powers of the Minister under s 224	BS	
s.227E(1)	Power to inspect, either separately or jointly with chief officer, any safety or emergency installations, equipment or services or any records or reports relating to the operation and maintenance of any safety or emergency installations, equipment or services	BS	
s.227E(2)	Function of receiving from chief officer a report of an inspection by the chief officer under s 227E(1)	BS	
s.227E(3)	Duty to ensure that owner of building or place of public entertainment that has been inspected under s 227E(1) is provided with inspection report signed by the MBS, within 10 business days of inspection	BS	



<b>Building Act 1993</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 228A(1)	Power to authorise a person to exercise all or any of the powers under Part 13 Division 2 where satisfied that the person to be authorised is appropriately qualified or has successfully completed appropriate training	BS	
s 228A(3)	Power to authorise a person to exercise all or any of the powers under Part 13 Division 2 Subdivision 4 where satisfied that the person to be authorised is appropriately qualified or has successfully completed appropriate training	BS	
s 228B(1)	Duty to issue documentation that complies with s 228B(4) to a person authorised by the MBS under s 228A	BS	
s 234E(2)	Power to apply for an injunction	BS	
s.236(7)	Function of providing consent to remove or deface an order or notice put up under ss 236(4) or 236(4A)	BS	
s.238(1)	Power to rely on certificate by a registered building practitioner in a prescribed category, class of practitioners or an endorsed building engineer that building work or proposed building work of a prescribed class complies with any provision of the Building Act 1993 or the regulations	BS	Note: this amendment is not yet in force and will commence on 1 July 2021, unless proclaimed earlier
sch 2, cl 2(1)	Power to require applicant to provide additional information or documents or to amend application before dealing with or dealing further with application	BS	
sch 2, cl 3(1)	Power to refuse application if additional information or document or amended application is not supplied within the time specified	BS	
sch 2, cl 3(2)	Duty to give applicant 30 days notice in writing of intention to refuse application	BS	
sch2, cl 4(1)	Duty to not decide an application that is required by this Act or regulations to be reported on or consented to, without obtaining report or consent from the reporting authority	BS	
sch 2, cl 4(2)	Duty to give copy of application to each reporting authority within prescribed time	BS	

**Building Act 1993**

<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
sch 2, cl 4(3)	Duty to forward to a reporting authority with the copy of an application, any fees paid to the building surveyor under clause 1(e)	BS	
sch 2, cl 5(3)	Power not to obtain a report or consent from a reporting authority if the applicant notifies that they have applied for or intends to apply for that report or consent, or supplies a copy of the report made in the last 12 months or of the consent	BS	
sch 2, cl 6(1)	Power to proceed to decide an application without a report being obtained if a copy of the report is not supplied by the reporting authority (other than a Council or an officer of a Council) within the prescribed time	BS	
sch 2, cl 6A(2)	Power to proceed to decide an application without a report being obtained if a copy of the report is not supplied by a responsible authority under the Planning and Environment Act 1987 within the prescribed time	BS	
sch 2, cl 7(1)	Duty to consider any report of a reporting authority supplied under Schedule 2 before deciding the relevant application for a permit	BS	
sch 2, cl 7(2)	Duty to implement recommendations of a prescribed reporting authority in relation to a prescribed matter in deciding application	BS	
sch 2, cl 7(3)	Power to not implement any of the recommendations in a report by a reporting authority, except as provided under cl 7(2)	BS	

**Cladding Safety Victoria Act 2020**

<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 27(1)	Power to notify Cladding Safety Victoria of a building considered to require cladding rectification work	BS	
s 27(2)	Duty to include in a notification any further information	BS	



<b>Cladding Safety Victoria Act 2020</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
s 27(3)	Duty to provide further information that is reasonably necessary	BS	
s 31	Function of receiving notification regarding the completion of cladding rectification work	BS	
s 37	Power to enter into an information sharing agreement with Cladding Safety Victoria	BS	



<b>Building Regulations 2018</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 13(1)	Duty to determine the classification of a building when performing a function under the Act or the Regulations	BS	Where the municipal building surveyor is the relevant building surveyor
r 13(2)	Duty to classify the building as belonging to the class it most closely resembles	BS	Where the municipal building surveyor is the relevant building surveyor
r 25(3)	Power to reasonably require additional copies of documents set out in r 25(1)	BS	Where the municipal building surveyor is the relevant building surveyor
r 26(2)	Power to reasonably require additional copies of documents set out in r 26(1)	BS	Where the municipal building surveyor is the relevant building surveyor
r 27	Power to exempt an application for a building permit in respect of building work from any requirement under rr 25 or 26	BS	Where the municipal building surveyor is the relevant building surveyor
r 29	Power to request additional information to accompany application for permit	BS	Where the municipal building surveyor is the relevant building surveyor
r 36A	Power to examine an extract of the major domestic building contract and a copy of the certificate of insurance	BS	Where the municipal building surveyor is the relevant building surveyor
r 37(3)	Duty to include the things specified in rr 37(3)(a) and 37(3)(b) on the building permit	BS	Where the municipal building surveyor is the relevant building surveyor
r 38	Duty to document determination of performance solution	BS	Where the municipal building surveyor is the relevant building surveyor
r 39	Duty to provide copy of building permit	BS	Where the municipal building surveyor is the relevant building surveyor
r 42	Function of being notified of changes by the owner of a building or land to which a building permit relates	BS	Where the municipal building surveyor is the relevant building surveyor
r 43	Function of being notified of any change in the name or address of the building practitioner specified in the permit	BS	Where the municipal building surveyor is the relevant building surveyor





<b>Building Regulations 2018</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 47	Duty to provide information to the VBA in the approved form within 7 days after the end of each month	BS	Where the municipal building surveyor is the relevant building surveyor
r 56	Duty to give notice of an imminent lapse of building permit – commencement of work	BS	Where the municipal building surveyor is the relevant building surveyor
r 57	Duty to give notice of an imminent lapse of building permit – completion of work	BS	Where the municipal building surveyor is the relevant building surveyor
r 58	Duty to cause a copy of the notice of imminent lapse of building permit to be provided	BS	Where the municipal building surveyor is the relevant building surveyor
r 59(1)	Function of receiving an application for an extension of the commencement date or the completion date of building work	BS	Where the municipal building surveyor is the relevant building surveyor
r 59(3)	Power to extend the commencement date or completion date of the building work	BS	Where the municipal building surveyor is the relevant building surveyor
r 59(4)	Duty to notify the applicant if an extension is granted under r.59(3) without delay	BS	Where the municipal building surveyor is the relevant building surveyor
r 60(1)	Function of receiving an application	BS	Where the municipal building surveyor is appointed by the relevant Council
r 62	Power to request more information	BS	
r 63(1)	Power to refuse an application if information not provided	BS	
r 63(2)	Duty, before refusing an application under r.63(1) to give the applicant 30 days notice in writing of the municipal building surveyor's intention to refuse the application	BS	
r 64(1)	Power to determine or refuse to determine that a combined allotment can be treated as one allotment for the purposes of the Building Act 1993 and the Regulations	BS	On receiving an application under r 60(1)



<b>Building Regulations 2018</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 64(4)	Duty to give a copy of the determination to the applicant	BS	
r 64(5)	Duty to notify the applicant of refusal to make a determination	BS	
r 66(1)	Power to revoke a determination	BS	
r 66(2)	Duty to give each owner of land in the combined allotment written notice of the revocation	BS	
r 111(1)	Power to determine if protection work is required	BS	Where the municipal building surveyor is the relevant building surveyor
r 111(2)	Duty to determine whether protection work is required when deciding an application for a building permit in relation to proposed building work	BS	Where the municipal building surveyor is the relevant building surveyor
r 111(3)	Power to, at any time, determine that protection work is required	BS	Where the municipal building surveyor is the relevant building surveyor
r 111(5)	Duty to provide a copy of the determination within 7 days after making a determination under r 111	BS	Where the municipal building surveyor is the relevant building surveyor
r 112	Duty to have regard to the items in rr 112(a) – 112(i) when determining if protection work is required	BS	Where the municipal building surveyor is the relevant building surveyor
r 116(1)	Power to require precautions to be taken before and during building work to protect the safety of the public	BS	Where the municipal building surveyor is the relevant building surveyor
r 116(2)	Duty to approve the precautions made under r 116(1)	BS	Where the municipal building surveyor is the relevant building surveyor
r 117(1)(a)	Power to inspect and approve precautionary measures	BS	Where the municipal building surveyor is the relevant building surveyor
r 117(1)(b)	Power to direct the hours during which any external wall on or within 3 m of a street alignment may be pulled down	BS	Where the municipal building surveyor is the relevant building surveyor



<b>Building Regulations 2018</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 117(1)(c)	Power to require protective outriggers to be installed	BS	Where the municipal building surveyor is the relevant building surveyor
r 117(2)	Power to exempt minor demolition work from the requirements of r 117(1)	BS	Where the municipal building surveyor is the relevant building surveyor
r 118(2)	Power to exempt requirement that all water be removed or diverted from excavations before the laying of footings	BS	Where the municipal building surveyor is the relevant building surveyor
r 119(1)	Power to require the owner of an allotment to provide retaining walls or other means of maintaining the stability of the soil	BS	
r 120(1)	Power to require that the owner or builder carrying out building work, for which a building permit has been issued, arrange for the testing of any material used in the building work	BS	Where the municipal building surveyor is the relevant building surveyor
r 120(2)	Power to, as a result of the tests, prohibit the use of any material which meets the criteria in rr 120(2)(a) and 120(2)(b)	BS	Where the municipal building surveyor is the relevant building surveyor
r 121	Duty not to determine that a performance solution complies with a fire performance requirement of the BCA unless the municipal building surveyor meets the criteria in rr 121(a) – 121(h)	BS	Where the municipal building surveyor is the relevant building surveyor
r 124(2)	Function of receiving a copy of the record prepared under r 124(1) from a registered building practitioner	BS	Where the municipal building surveyor is the relevant building surveyor
r 127(b)	Function of inspecting the records of all pile-driving operations	BS	Where the municipal building surveyor is the relevant building surveyor
r 127(c)	Function of receiving the complete records of the pile-driving operations	BS	Where the municipal building surveyor is the relevant building surveyor
r 128(2)(d)	Power to determine if used timber is suitable to be used for structural purposes	BS	Where the municipal building surveyor is the relevant building surveyor



<b>Building Regulations 2018</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 129(3)	Duty to forward details of the installation of fire sprinklers to the chief officer when a building permit is issued which involves the installation of fire sprinklers and the installation does not meet the deemed-to-satisfy provisions of the BCA	BS	Where the municipal building surveyor is the relevant building surveyor
r 131	Power to require a report from the relevant electricity supply authority as to whether an electricity sub-station is necessary on the allotment and, if so, the size and location of the sub-station	BS	Where the municipal building surveyor is the relevant building surveyor  If an application is made for a building permit for the construction of a building
r 133	Power to approve the design of every stormwater drainage system to the point of discharge from an allotment	BS	Where the municipal building surveyor is the relevant building surveyor
r 147Y(1)	Duty to issue a certificate of pool and spa barrier compliance and give the certificate to the owner of the land in which the swimming pool or spa is located if satisfied that the barrier complies with the applicable barrier standard	BS	Where the municipal building surveyor is the relevant building surveyor
r 147Y(3)	Power to issue a certificate of pool and spa barrier compliance under r 147Y at any time	BS	Where the municipal building surveyor is carrying out functions under Part 8 or acting as an authorised person under s 228 of the Building Act 1993
r 147ZB(1)	Duty, on the completion of the building work, to inspect the barrier and determine if the barrier complies with the applicable barrier standard	BS	Where the municipal building surveyor is the relevant building surveyor
r 147ZB(2)	Duty to issue a certificate of pool and spa barrier compliance in the form of Form 23 and give the certificate to the owner of the land on which the swimming pool or spa is located	BS	Where the municipal building surveyor is the relevant building surveyor
r 147ZK(1)	Power to serve a barrier improvement notice in accordance with r 147ZK(2) on the owner of the land on which the swimming pool or spa is located	BS	
r 156	Duty to accept the bushfire attack level in the planning scheme or site assessment for planning permit	BS	Where the municipal building surveyor is the relevant building surveyor



<b>Building Regulations 2018</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 157	Duty to accept bushfire attack level of 12.5	BS	Where the municipal building surveyor is the relevant building surveyor
r 166E	Power to inspect an emergency accommodation building	BS	
r 166G(2)(a)	Power to notify the owner of the building that building does not comply with a requirement under r 166F(1)(a)	BS	
r 166G(3)	Duty to give written notice to the owner of the building containing the matters set out in r 166G(3)(a) – (c)	BS	
r 166G(4)	Function of receiving request to extend period of time	BS	
r 166G(5)	Duty to notify owner of building of extended period of time	BS	
r 165	Duty not to determine that a performance solution complies with performance requirement P2.7.6 of the BCA Volume Two unless the relevant building surveyor relies on one of the items set out in rr 165(a) – 165(d)	BS	Where the municipal building surveyor is the relevant building surveyor
r 170	Power to omit a mandatory notification stage set out in r 167 for building work if that stage is not relevant to the building work	BS	Where the municipal building surveyor is the relevant building surveyor
r 171	Duty to specify the mandatory notification stages for building work determined under rr 167, 168, 169 and 170 in the building permit issued for that building work	BS	Where the municipal building surveyor is the relevant building surveyor
r 172(1)	duty to cause to be inspected the building work in each storey of a Class 2, 3 or 4 building	BS	where the municipal building surveyor is the relevant building surveyor
r 172(2)	Duty to cause to be inspected at least one of each type of fire protection method for each type of service penetration to any building element that is required to resist the spread of fire or smoke on each storey of a Class 2, 3, 4, 9a or 9c building	BS	Where the municipal building surveyor is the relevant building surveyor
r 175	Duty to keep and make available directions to fix building work	BS	Where the municipal building surveyor is the relevant building surveyor



<b>Building Regulations 2018</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 191	Duty to decide an application to amend an occupancy permit within the time periods set out in rr 191(a) and 191(b)	BS	
r 193	Duty to provide copy of an occupancy permit to the applicant within 7 days after issuing the permit	BS	Where the municipal building surveyor is the relevant building surveyor
r 194(1)	Duty to ensure that an occupancy permit issued in relation to a building or place of public entertainment specifies the items set out in rr 194(1)(a) – 194(1)(c)	BS	Where the municipal building surveyor is the relevant building surveyor
r 194(1)(b)	Power to determine the level of performance that each essential safety measure must achieve to fulfil its purpose	BS	Where the municipal building surveyor is the relevant building surveyor
r 194(2)	Duty to specify the provision of the Regulations with which the installation and operation of the essential safety measure must comply, which sets out the frequency and type of inspection, testing and maintenance required for the essential safety measure	BS	Where the municipal building surveyor is the relevant building surveyor
r 198(1)	duty to ensure that a location approved within a building for the purposes of r 197 is in a prominent position and is accessible to the occupants of the building	BS	Where the municipal building surveyor is the relevant building surveyor  Subject to r 198(3)
r 198(2)	Duty to ensure that a location approved within a place of public entertainment for the purposes of r 197 is in a prominent position and is accessible to the public	BS	Where the municipal building surveyor is the relevant building surveyor
r 199(2)	Power to request a copy of any current occupancy permit	BS	
r 201(1)	Duty to notify the chief officer within 10 days after issuing the certificate of the items set out in rr 201(1)(a) and 201(1)(b)	BS	Where the municipal building surveyor is the relevant building surveyor
r 201(2)	Duty to notify the chief officer of the issue of the certificate within 10 days after issuing the certificate	BS	Where the municipal building surveyor is the relevant building surveyor
r 205	Duty to supply information to Council	BS	Where the municipal building surveyor is the relevant building surveyor



<b>Building Regulations 2018</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 211(2)	Duty to have regard to the qualifications published under r 211(1)	BS	Where the municipal building surveyor is the relevant building surveyor
r 214(b)	Power to designate an item as an essential safety measure	BS	Where the municipal building surveyor is the relevant building surveyor
r 215(2)	Duty to determine and specify in the determination the items set out in rr 215(2)(a) – 215(2)(c)	BS	Where the municipal building surveyor is the relevant building surveyor
r 218(2)	Duty to prepare or update a maintenance schedule so that it complies with r 222	BS	Where the municipal building surveyor is the relevant building surveyor
r 218(3)	Power to request documents, from the owner of a building or place of public entertainment, when preparing or updating a maintenance schedule under r 218(2)	BS	Where the municipal building surveyor is the relevant building surveyor
r 219(1)	Function of receiving an application for the preparation of a maintenance schedule that complies with r 222	BS	
r 219(2)	Function of receiving all documents referred to in r 225 relating to essential safety measures for the building or place	BS	
r 220	Power to prepare a maintenance schedule in relation to a building or place of public entertainment that complies with r 222	BS	If the owner of the building or place has applied in accordance with r 219 for such a maintenance schedule to be prepared
r 221	Duty to provide a copy of the maintenance schedule to the owner of the building or place without delay	BS	
r 225	Power to request documents relating to essential safety measures	BS	
r 229(2)	Power to exempt a building or place of public entertainment from compliance with any of these Regulations applicable to the new use	BS	
r 229(3)	Duty, when deciding whether to grant an exemption under r 229(2), to take into account the criteria set out in rr 229(3)(a) and 229(3)(b)	BS	



<b>Building Regulations 2018</b>			
<b>Provision</b>	<b>Powers and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r 231(2)	Power to exempt a building from all or any of the requirements of r 231(2)	BS	
r 231(3)	Duty, when deciding whether to grant an exemption under r 231(2), to take into account the criteria set out in rr 231(3)(a) and 231(3)(b)	BS	
r 233(3)	Power to consent to partial compliance of building work or an existing building with rr 233(1) or 233(2)	BS	Where the municipal building surveyor is the relevant building surveyor  Subject to r 233(6)
r 233(6)	Power to only consent to partial compliance in respect of the extension if the floor area of the extension is not greater than the lesser of those in rr 233(6)(a) and 233(6)(b)	BS	Where the municipal building surveyor is the relevant building surveyor
r 234(2)	Power to consent to partial compliance of a building with r 234(1)	BS	Where the municipal building surveyor is the relevant building surveyor
r 268	Power, when issuing a permit for building work referred to in s 24B(3) of the Building Act 1993, not to be required to be satisfied that the building work is to be carried out by a builder who is a registered building practitioner	BS	Where the municipal building surveyor is the relevant building surveyor  If the building work is to be carried out by a builder who is solely engaged in the business of constructing Class 10 buildings other than a Class 10b structure constructed for the purpose of displaying a sign