



Schedule 1:

Guidance for All DAU

Administered Legislation


# Home Building Act 1989 (NSW)

An Act to make provision concerning the residential building industry and certain specialist work, and for other purposes.

**s62** If, after compliance with this Division, the Secretary is satisfied that any ground on which disciplinary action may be taken against the holder of an authority has been established in relation to the holder, the Secretary may do any one or more of the following—

NSW legislation website: [Disciplinary proceedings](#) / [Disciplinary action](#)

This table last updated: June 2021

|  | No further action (NFA) | Caution or reprimand holder | Impose condition on authority (includes training course) | Issue financial penalty                                      | Suspend authority                                      | Cancel authority | Disqualify holder (temporarily or permanently) |
|---|-------------------------|-----------------------------|--|--|--|------------------|--|
|   | s62(a)                  | s62(b)                      | s62(d)   | s62(c)   | s62(e)   | s62(f)           | s62(g)(i)-(iii)                                |
| Minor Severity  | ✓                       | ✓                           | ✓  | Up to \$2,000 (individual)<br>-<br>Up to \$10,000 (company)  | ✗  | ✗                | ✗  |
| Moderate Severity   | ✓                       | ✓                           | ✓  | Up to \$5,000 (individual)<br>-<br>Up to \$25,000 (company)  | Up to 6 months (or the unexpired term of the licence)  | ✓                | Up to 2 years                                  |
| Major Severity  | ✓                       | ✓                           | ✓  | Up to \$8,000 (individual)<br>-<br>Up to \$35,000 (company)  | Up to 12 months (or the unexpired term of the licence) | ✓                | Up to 6 years                                  |
| Extreme Severity  | ✓                       | ✓                           | ✓  | Up to \$11,000 (individual)<br>-<br>Up to \$50,000 (company) | Up to 24 months (or the unexpired term of the licence) | ✓                | Up to 10 years or permanent disqualification   |

## Disciplinary actions that may be taken by the Secretary

- s62(a) determine to take no further action against the holder,
- s62(b) caution or reprimand the holder,
- s62(c) make a determination requiring the holder to pay to the Secretary, as a penalty, an amount not exceeding **\$11,000** (in the case of an individual) or **\$50,000** (in the case of a corporation) within a specified time,
- s62(d) vary the authority held by the holder, by imposing a condition on the authority, including a condition requiring the holder to undertake a course of training relating to a particular type of work or business practice within a specified time,
- s62(e) suspend the authority for a period not exceeding its unexpired term,
- s62(f) cancel the authority,
- s62(g) disqualify the holder, either temporarily or permanently, from being any one or more of the following—
  - (i) the holder of any authority, or any specified kind of authority,
  - (ii) a member of a partnership, or an officer of a corporation that is a member of a partnership, that is the holder of an authority,
  - (iii) an officer of a corporation that is the holder of an authority.

## Additional disciplinary provisions

- s63 The Secretary **must not** impose a monetary penalty on a person under s62(c) if—
- s63(a) the basis for the ground on which the person was required to show cause related to the commission of an offence, and
- s63(b) the person has been found guilty of the offence.

## Important notes for the Secretary's Delegate

Under s62(c), an **\$11,000** penalty is equivalent to **100 penalty units**.


# Tow Truck Industry Act 1998 (NSW)

An Act to provide for a licensing and certification scheme for tow truck operators and drivers, and to regulate other matters relating to the tow truck industry; to repeal the *Tow Truck Act 1989*; to amend certain other Acts; and for other purposes.

NSW legislation website: [Disciplinary proceedings](#) / [Disciplinary action](#)

This table last updated: June 2021

s41(2) In accordance with this Division, the Secretary may do any of the following—

|  | Caution or reprimand licensee/certified driver | Give direction to licensee/certified driver (under s84) | Impose fine on licensee/certified driver | Suspend licence/drivers certificate                     | Permanently revoke licence/drivers certificate | Disqualify licensee/certified driver temporarily* |
|---|--|---|--|---|--|---|
|   | s41(2)(f)                                      | s41(2)(e)   | s41(2)(d)                                | s41(2)(a), s41(2)(a1)                                   | s41(2)(b)                                      | s41(2)(c)   |
| Minor Severity  | ✓  | ✓   | Up to \$150 (individual)                 | ✗   | ✗  | ✗   |
| Moderate Severity   | ✓  | ✓   | Up to \$250 (individual)                 | Up to 6 months<br>Reduce period if granted for 3 years  | ✓  | Up to 2 years                                     |
| Major Severity  | ✓  | ✓   | Up to \$350 (individual)                 | Up to 12 months<br>Reduce period if granted for 3 years | ✓  | Up to 6 years                                     |
| Extreme Severity  | ✓  | ✓   | Up to \$500 (individual)                 | Up to 24 months<br>Reduce period if granted for 3 years | ✓  | Up to 10 years or for a specified period          |

## Disciplinary actions that may be taken by the Secretary

- s41(2)(a) in the case of a licence or drivers certificate granted for a term of 1 year or less—suspend the licence or drivers certificate for a specified period,
- s41(2)(a1) in the case of a licence or drivers certificate granted for a term of 3 years—suspend the licence or drivers certificate for a specified period and, when the suspension ends, reduce the period for which the licence or drivers certificate is in force so that it will cease to be in force on the next anniversary of its issue (and refund fees accordingly),
- s41(2)(b) permanently revoke a licence or drivers certificate,
- s41(2)(c) disqualify a licensee or certified driver from holding a licence or drivers certificate for a specified period,
- s41(2)(d) impose a fine not exceeding **\$500** on a licensee or certified driver,
- s41(2)(e) give a direction under section 84 to a licensee or certified driver,
- s41(2)(f) caution or reprimand a licensee or certified driver.

## Additional disciplinary provisions

- s41(2A) Despite subsection (2), the Secretary **must cancel** a licence or drivers certificate if disciplinary action is taken on the grounds referred to in [section 42\(2\)](#).
- s41(6) The Secretary is not prevented from taking disciplinary action under this Division merely because the licensee or certified driver concerned is subject to criminal or civil proceedings that relate to the same matters or incident to which the disciplinary action relates.
- s41(7) A reference in this Division to a licensee or certified driver includes a reference to a former licensee, or former certified driver, respectively.

## Conditions from table

\*Permanent disqualification is not an option under this Act. The DAU may only disqualify a licensee or certified driver for a “specified period” of time, according to s41(2)(c).

## Important notes for the Secretary's Delegate

The *Tow Truck Industry Act 1998* (NSW) is the only Act in these guidelines which does not explicitly refer to the option of taking “no further action”. However, it is implied that this is always an option for the Secretary to consider.

For matters of major severity, up to 10 years disqualification is deemed sufficient for most circumstances. However, the decision maker can impose a disqualification period for longer than 10 years if the circumstances of the matter are considered extreme enough. It is noted that s41(2)(b) sets out that a licence or drivers certificate can be permanently revoked.

# Motor Dealers and Repairers Act 2013 (NSW)

An Act with respect to the licensing and conduct of motor dealers, motor vehicle repairers, motor vehicle recyclers and motor vehicle repair tradespersons; to repeal the *Motor Dealers Act 1974* and the *Motor Vehicle Repairs Act 1980*; and for other purposes.

NSW legislation website: [Disciplinary proceedings](#) / [Disciplinary action](#)

This table last updated: June 2021

**s45(1)** The Secretary may take any of the following **disciplinary actions** against a person if the Secretary is satisfied that there are grounds for taking disciplinary action against the person—

|  | Reprimand person | Direct person to take specified action | Impose licence condition | Require licence holder to make contribution to Compensation Fund* | Suspend licence  | Cancel licence | Disqualify person (temporarily or permanently) |
|---|------------------|--|--------------------------|---|--|----------------|--|
|   | s45(1)(a)        | s45(1)(b)                              | s45(1)(d)                | s45(1)(e)   | s45(1)(c)  | s45(1)(g)      | s45(1)(f)                                      |
| Minor Severity  | ✓                | ✓                                      | ✓                        | ✓<br>Amount depends on the level of harm                          | ✗  | ✗              | ✗  |
| Moderate Severity   | ✓                | ✓                                      | ✓                        | ✓<br>Amount depends on the level of harm                          | Up to 6 months (or the unexpired term of the licence)  | ✓              | Up to 2 years                                  |
| Major Severity  | ✓                | ✓                                      | ✓                        | ✓<br>Amount depends on the level of harm                          | Up to 12 months (or the unexpired term of the licence) | ✓              | Up to 6 years                                  |
| Extreme Severity  | ✓                | ✓                                      | ✓                        | ✓<br>Amount depends on the level of harm                          | Up to 24 months (or the unexpired term of the licence) | ✓              | Up to 10 years or permanent disqualification   |

## Disciplinary actions that may be taken by the Secretary

- s45(1)(a) reprimand the person,
- s45(1)(b) direct the person to take specified action within a specified time in connection with the conduct of a business or the exercise of functions under a licence,
- s45(1)(c) suspend the person's licence for a period not exceeding the unexpired term of the licence,
- s45(1)(d) impose a condition on the person's licence,
- s45(1)(e) without limiting paragraph (b), require a licence holder to make a contribution to the Compensation Fund of a specified amount or indemnify the Fund to the extent specified by the Secretary in the event of a particular contingency arising from the licence holder's activities,
- s45(1)(f) disqualify the person, either permanently or for a specified period, from being a licence holder or involved in the direction, management or conduct of a business for which a licence is required,
- s45(1)(g) cancel a licence.

## Additional disciplinary provisions

- s44(1) The Secretary **may at any stage of a matter** that is the subject of consideration under this Part decide to take no further action whether or not the matter is the subject of a complaint or a show cause notice and whether or not the Secretary determines that there are grounds for taking disciplinary action in connection with the matter.
- s45(3) The Secretary **must cancel** a licence if the Secretary disqualifies the licence holder from being the holder of a licence.
- s46 The Secretary **must cancel** a licence if the Secretary is satisfied that there are any of the following grounds—
  - s46(a) the licence holder (other than the holder of a tradesperson's certificate) has (as an adult) been found guilty, within the preceding 10 years, of a motor vehicle stealing offence,
  - s46(b) the licence holder is not a fit and proper person to hold a licence.

## Conditions from table

\*If the Secretary requires a licence holder to make a contribution to the Compensation Fund, the amount is determined by calculating the level of financial detriment experienced by the customer (i.e. loss or damage). There are no practical guidelines for this figure, as it depends on the unique set of circumstances in each matter.

## Important notes for the Secretary's Delegate

Because s45 is technically a list of "disciplinary actions", the option to take no further action (NFA) is not included — and therefore hasn't been included in the table above. Taking no further action is instead described in s44 and may be taken at any stage of the matter, *whether or not* there are grounds for taking disciplinary action. Section 44 does not apply however to any circumstances in which Division 2 requires the licence of a person to be cancelled.

# Property and Stock Agents Act 2002 (NSW)

An Act to provide for the regulation of property and stock agents; to repeal the *Property, Stock and Business Agents Act 1941*; and for other purposes.

NSW legislation website: [Disciplinary proceedings](#) / [Disciplinary action](#)

This table last updated: 15 September 2022

**s192(1)** Each of the following actions is disciplinary action that the Secretary can take against a person under this Act—

|  | Caution or reprimand person | Direct person to give undertaking/take action | Impose condition on licence or certificate of registration | Impose monetary penalty (in penalty units)   | Suspend licence or certificate of registration                         | Cancel licence or certificate of registration | Disqualify person (temporarily or permanently) |
|---|-----------------------------|---|--|--|--|---|--|
|   | s192(1)(a)                  | s192(1)(b)-(c)                                | s192(1)(e)   | s192(1)(d)   | s192(1)(f)   | s192(1)(g)                                    | s192(1)(h)-(i)                                 |
| Minor Severity  | ✓                           | ✓   | ✓  | Up to 50 penalty units (individual)<br>-<br>Up to 100 penalty units (corporation)  | ✗  | ✗   | ✗  |
| Moderate Severity   | ✓                           | ✓   | ✓  | Up to 100 penalty units (individual)<br>-<br>Up to 200 penalty units (corporation) | Up to 6 months (or the unexpired term of the licence or registration)  | ✓   | Up to 2 years                                  |
| Major Severity  | ✓                           | ✓   | ✓  | Up to 100 penalty units (individual)<br>-<br>Up to 200 penalty units (corporation) | Up to 12 months (or the unexpired term of the licence or registration) | ✓   | Up to 6 years                                  |
| Extreme Severity  | ✓                           | ✓   | ✓  | Up to 100 penalty units (individual)<br>-<br>Up to 200 penalty units (corporation) | Up to 24 months (or the unexpired term of the licence or registration) | ✓   | Up to 10 years or permanent disqualification   |



## Disciplinary actions that may be taken by the Secretary

- s192(1)(a) caution or reprimand the person,
- s192(1)(b) give a direction to the person requiring the person to give a specified undertaking to the Secretary as to the manner in which the person will conduct business or exercise functions under a licence or certificate of registration held by the person,
- s192(1)(c) give a direction to the person requiring the person to take specified action within a specified time in connection with the conduct of business or the exercise of functions under a licence or certificate of registration,
- s192(1)(d) impose a monetary penalty on the person of an amount not exceeding **100 penalty units** in the case of an individual or **200 penalty units** in the case of a corporation,
- s192(1)(e) impose a condition on the person's licence or certificate of registration,
- s192(1)(f) suspend the person's licence or certificate of registration for a period that does not exceed the unexpired term of the licence or certificate of registration,
- s192(1)(g) cancel the person's licence or certificate of registration,
- s192(1)(h) declare the person to be a disqualified person for the purposes of this Act, either permanently or for a specified period,
- s192(1)(i) disqualify the person from being involved in the direction, management or conduct of the business of a licensee.

## Additional disciplinary provisions

s193 The Secretary **may at any stage of a matter** that is the subject of consideration by the Secretary under this Part determine to take no further action in respect of the matter, whether or not the matter is the subject of a complaint or a show cause notice and whether or not the Secretary determines that there are grounds for taking disciplinary action in connection with the matter.

## Important notes for the Secretary's Delegate

Because s192(1) is technically a list of "disciplinary actions", the option to take no further action (NFA) is not included — and therefore hasn't been included in the table above. Taking no further action is instead described in s193 and may be taken at any stage of the matter, *whether or not* there are grounds for taking disciplinary action.

In s192(1)(d), **100 penalty units** is equivalent to **\$11,000** and **200 penalty units** is equivalent to **\$22,000**.

# Pawnbrokers and Second-hand Dealers Act 1996 (NSW)


An Act to provide for the licensing and regulation of pawnbrokers and dealers in certain classes of second-hand goods; to repeal the *Pawnbrokers Act 1902*, the *Second-hand Dealers and Collectors Act 1906* and the *Hawkers Act 1974*; to amend certain Acts consequentially; and for other purposes.

NSW legislation website: [Disciplinary proceedings](#) / [Disciplinary action](#)

This table last updated: June 2021

## s36 Disciplinary action by Secretary

Note: This section is slightly different than other Acts because it outlines specific/additional actions which do not limit the generality of s36. All disciplinary actions are included in this table.

|  | Impose licence conditions | Order costs to be paid for disciplinary proceedings | Suspend licence                                    | Revoke licence | Impose condition about persons who must not be concerned in management of licensed business (for a specified period or permanently)* | Prevent licensee from being granted a further licence* |
|---|---------------------------|---|--|----------------|--|--|
|   | s36(1)(b), s36(1)(c)      | s36(5)  | s36(1)(a)  | s36(1)(a)      | s36(2)   | s36(3)   |
| Minor Severity  | ✓                         | ✓   | ✗  | ✗              | ✗  | ✗  |
| Moderate Severity   | ✓                         | ✓   | Up to 6 months (or the remainder of its duration)  | ✓              | Up to 2 years  | Up to 2 years  |
| Major Severity  | ✓                         | ✓   | Up to 12 months (or the remainder of its duration) | ✓              | Up to 6 years  | Up to 6 years  |
| Extreme Severity  | ✓                         | ✓   | Up to 24 months (or the remainder of its duration) | ✓              | Up to 10 years or permanently  | Up to 10 years or for a specified period               |

## Disciplinary actions that may be taken by the Secretary

- s36(1)(a) revoke the licence, or suspend it for such portion of the remainder of its duration as the Secretary thinks fit, or
- s36(1)(b) attach one or more conditions to it, or
- s36(1)(c) determine that the licence is not to be renewed, or that a licence is not to be granted to the same licensee in future, unless one or more conditions are attached to it on grant or renewal.

## Additional disciplinary provisions

- s36(1A) Despite subsection (1), the Secretary **must revoke the licence** if satisfied that the licensee has become a disqualified person because of section 8A(2A).
- s36(2) Without limiting the generality of subsection (1)(b), the Secretary may specify, as a condition to be imposed in accordance with that paragraph in respect of the licence of a corporate licensee, that a particular director or officer of the corporation must not (either for a specified period or permanently, as the Secretary may determine) be concerned in the management of the licensed business.
- s36(3) The Secretary, on revoking a licence, may specify a period during which the licensee cannot be granted a further licence, and such a specification precludes the grant of a licence during that period.
- s36(5) The Secretary may make orders requiring the licensee to pay such amounts as the Secretary determines by way of costs in relation to disciplinary proceedings under this section that resulted in action being taken in respect of the licensee's licence. Such an order is to be filed in the Tribunal and is enforceable in the same way as an order or other decision of the Tribunal.
- s36B The Secretary **may, at any stage of a matter** that is the subject of consideration by the Secretary under this Part, determine to take no further action in respect of the matter, whether or not the matter is the subject of a notice under section 34 (or that section as applied by section 36A) and whether or not the Secretary determines that the ground of any such notice has been substantiated.

## Conditions from table

\*It is noted that s36(2) and s36(3) appear to impliedly operate as a 'disqualification' subject to the particular requirements of those sections. Further, s36(3) relates to 'the Secretary, on revoking a licence, may specify a period', which therefore cannot be a permanent disqualification.

## Important notes for the Secretary's Delegate

Because s36(1) is technically a list of "disciplinary actions", the option to take no further action (NFA) is not included — and therefore hasn't been included in the table above. Taking no further action is instead described in s36B and may be taken at any stage of the matter, *whether or not* there are grounds for taking disciplinary action.

For matters of major severity, up to 10 years disqualification under s36(3) is deemed sufficient for most circumstances. However, the decision maker can impose a disqualification period for longer than 10 years if the circumstances of the matter are considered extreme enough.


# Building and Development Certifiers Act 2018 (NSW)

An Act to provide for the registration of persons carrying out certification work and the accreditation of persons carrying out other regulated work; to repeal the *Building Professionals Act 2005* and other legislation; to amend other Act and instruments consequentially; and for other purposes.

NSW legislation website: [Disciplinary proceedings](#) / [Disciplinary action](#)

This table last updated: June 2021

**s48(1)** The Secretary may, if satisfied that one or more of the grounds for taking disciplinary action against a registered certifier has been established, do any one or more of the following—

|  | No further action (NFA) | Caution or reprimand registered certifier | Impose registration condition (includes training course) | Impose monetary penalty  | Suspend registration | Cancel registration | Disqualify registered certifier (temporarily or permanently) |
|---|-------------------------|---|--|--|----------------------|---------------------|--|
|   | s48(1)(a)               | s48(1)(b)                                 | s48(1)(d)  | s48(1)(c)  | s48(1)(e)            | s48(1)(e)           | s48(1)(f)  |
| <b>Minor Severity</b>   | ✓                       | ✓   | ✓  | Up to \$20,000 (individual)<br>-<br>Up to \$40,000 (in the case of a body corporate)   | ✗                    | ✗                   | ✗  |
| <b>Moderate Severity</b>  | ✓                       | ✓   | ✓  | Up to \$50,000 (individual)<br>-<br>Up to \$100,000 (in the case of a body corporate)  | Up to 6 months       | ✓                   | Up to 2 years  |
| <b>Major Severity</b>   | ✓                       | ✓   | ✓  | Up to \$80,000 (individual)<br>-<br>Up to \$160,000 (in the case of a body corporate)  | Up to 12 months      | ✓                   | Up to 6 years  |
| <b>Extreme Severity</b>   | ✓                       | ✓   | ✓  | Up to \$110,000 (individual)<br>-<br>Up to \$220,000 (in the case of a body corporate) | Up to 24 months      | ✓                   | Up to 10 years or permanent disqualification                 |

## Disciplinary actions that may be taken by the Secretary

- s48(1)(a) determine to take no further action against the registered certifier,
- s48(1)(b) caution or reprimand the registered certifier,
- s48(1)(c) make a determination requiring the registered certifier to pay to the Secretary, as a penalty, an amount not exceeding **\$220,000** (in the case of a body corporate) or **\$110,000** (in the case of an individual) within a specified time,
- s48(1)(d) impose a condition on the registration of the registered certifier, including a condition requiring the registered certifier to undertake specified education or training relating to a particular type of work or business practice within a specified time,
- s48(1)(e) suspend or cancel the registration of the registered certifier in accordance with Part 2,
- s48(1)(f) disqualify the registered certifier, either temporarily or permanently, from being registered or being registered in a particular class.

## Additional disciplinary provisions

- s48(2) In determining the disciplinary action to take, the Secretary—
- s48(2)(a) **must take into account** any other disciplinary action taken against the person under this Part, and
- s48(2)(b) may take into account any written undertaking that the person proposes to give under Part 8.

## Potential conditions that can be imposed

Certifiers will be unable to work on new strata developments if they have breached the code of conduct in any way in the previous 12 months.

## Important notes for the Secretary's Delegate

In s48(1)(c), a **\$220,000** penalty is equivalent to **2,000 penalty units**, and an **\$110,000** penalty is equivalent to **1,000 penalty units**.

Under s48(2)(a), any another disciplinary action taken against the person **must** be considered. This provision should be considered in Step 3— Consider Mitigating & Aggravating Factors.

# Paintball Act 2018 (NSW)

An Act to remove the regulation of paintball markers from the *Firearms Act 1996* and to instead establish a separate system of permits for the regulation of paintball markers and of paintball venues; and for other purposes.

NSW legislation website: [Disciplinary proceedings](#) / [Disciplinary action](#)

This table last updated: June 2021

**s44(1)** The Secretary may, if satisfied that one or more of the grounds for taking disciplinary action against the holder of a permit has been established, do any one or more of the following—

|  | No further action (NFA) | Caution or reprimand holder | Impose permit condition (includes training course) | Suspend permit  | Cancel permit | Disqualify holder (temporarily or permanently) |
|---|-------------------------|-----------------------------|--|-----------------|---------------|--|
|   | s66(1)(a)               | s44(1)(b)                   | s44(1)(c)  | s44(1)(d)       | s44(1)(d)     | s44(1)(e)                                      |
| Minor Severity  | ✓                       | ✓                           | ✓  | ✗               | ✗             | ✗  |
| Moderate Severity   | ✓                       | ✓                           | ✓  | Up to 6 months  | ✓             | Up to 2 years                                  |
| Major Severity  | ✓                       | ✓                           | ✓  | Up to 12 months | ✓             | Up to 6 years                                  |
| Extreme Severity  | ✓                       | ✓                           | ✓  | Up to 24 months | ✓             | Up to 10 years or permanent disqualification   |

## Disciplinary actions that may be taken by the Secretary

- s44(1)(a) determine to take no further action against the holder
- s44(1)(b) caution or reprimand the holder
- s44(1)(c) impose a condition on the permit, including a condition requiring the holder to undertake specified education or training within a specified time,
- s44(1)(d) suspend or cancel the permit in accordance with Part 3,
- s44(1)(e) disqualify the holder, either temporarily or permanently, from holding a permit.

## Additional disciplinary provisions

- s44(2) In determining the disciplinary action to take, the Secretary **must take into account** any other disciplinary action taken against the person under this Part.
- s46(1) A decision to take disciplinary action against a person under this Part does not affect the liability of the person for any offence against a provision of this or any other Act or of a regulation made under this or any other Act.
- s46(2) The Secretary is not prevented from taking disciplinary action under this Part merely because the holder of a permit concerned is subject to criminal or civil proceedings that relate to the same matters or incident to which the disciplinary action relates.

## Important notes for the Secretary's Delegate

Under s44(2), any another disciplinary action taken against the person **must** be considered. This provision should be considered in Step 3— Consider Mitigating & Aggravating Factors.

# Conveyancers Licensing Act 2003 (NSW)

An Act to provide for the licensing and regulation of conveyancers, to repeal the *Conveyancers Licensing Act 1995*; and for other purposes.

NSW legislation website: [Disciplinary proceedings](#) / [Disciplinary action](#)

This table last updated: June 2021

**s133(1)** Each of the following actions is disciplinary action that the Secretary can take against a person under this Act—

|  | Cautions or reprimand person | Direct person to give undertaking/take action | Impose licence condition | Impose monetary penalty (in penalty units)   | Suspend licence | Cancel licence | Disqualify person (temporarily or permanently) |
|---|------------------------------|---|--------------------------|--|-----------------|----------------|--|
|   | s133(1)(a)                   | s133(1)(b), s133(1)(c)                        | s133(1)(e)               | s133(1)(d)   | s133(1)(f)      | s133(1)(g)     | s133(1)(h), s133(1)(i)                         |
| <b>Minor Severity</b>   | ✓                            | ✓   | ✓                        | Up to 25 penalty units (in any other case)<br>-<br>Up to 50 penalty units (in the case of a corporation)   | ✗               | ✗              | ✗  |
| <b>Moderate Severity</b>  | ✓                            | ✓   | ✓                        | Up to 50 penalty units (in any other case)<br>-<br>Up to 100 penalty units (in the case of a corporation)  | Up to 6 months  | ✓              | Up to 2 years                                  |
| <b>Major Severity</b>   | ✓                            | ✓   | ✓                        | Up to 75 penalty units (in any other case)<br>-<br>Up to 150 penalty units (in the case of a corporation)  | Up to 12 months | ✓              | Up to 6 years                                  |
| <b>Extreme Severity</b>   | ✓                            | ✓   | ✓                        | Up to 100 penalty units (in any other case)<br>-<br>Up to 200 penalty units (in the case of a corporation) | Up to 24 months | ✓              | Up to 10 years or permanent disqualification   |



## Disciplinary actions that may be taken by the Secretary

- s133(1)(a) caution or reprimand the person
- s133(1)(b) give a direction to the person requiring the person to give a specified undertaking to the Secretary as to the manner in which the person will conduct the conveyancing business or exercise functions under the person's licence,
- s133(1)(c) give a direction to the person requiring the person to take specified action within a specified time in connection with the conduct of the conveyancing business or the exercise of functions under a licence,
- s133(1)(d) impose a monetary penalty on the person of an amount not exceeding **200 penalty units** in the case of a corporation or **100 penalty units** in any other case,
- s133(1)(e) impose a condition on the person's licence,
- s133(1)(f) suspend the person's licence for a period that does not exceed the unexpired term of the licence,
- s133(1)(g) cancel the person's licence,
- s133(1)(h) declare the person to be a disqualified person for the purposes of this Act, either permanently or for a specified period,
- s133(1)(i) disqualify the person from being involved in the direction, management or conduct of the conveyancing business.

## Additional disciplinary provisions

- s134 The Secretary **may at any stage of a matter** that is the subject of consideration by the Secretary under this Part determine to take no further action in respect of the matter, whether or not the matter is the subject of a complaint or a show cause notice and whether or not the Secretary determines that there are grounds for taking disciplinary action in connection with the matter.

## Important notes for the Secretary's Delegate

Because s133(1) is technically a list of "disciplinary actions", the option to take no further action (NFA) is not included — and therefore hasn't been included in the table above. Taking no further action is instead described in s134 and may be taken at any stage of the matter, *whether or not* there are grounds for taking disciplinary action.

In s133(1)(d), a **\$22,000** penalty is equivalent to **200 penalty units**, and an **\$11,000** penalty is equivalent to **100 penalty units**.


# Design and Building Practitioners Act 2020 (NSW)

An Act with respect to the registration of design practitioners, principal design practitioners, professional engineers, specialist practitioners and other building practitioners, compliance declarations and a duty of care; and for other purposes.

NSW legislation website: [Disciplinary proceedings](#) / [Disciplinary action](#)

This table last updated: June 2021

**s66(1)** The Secretary may, if satisfied that one or more of the grounds for taking disciplinary action against a registered practitioner has been established, do one or more of the following—

|  | No further action (NFA) | Caution or reprimand registered practitioner | Impose registration condition (includes training course) | Impose monetary penalty  | Suspend registration | Cancel registration | Disqualify registered practitioner (temporarily or permanently) |
|---|-------------------------|--|--|--|----------------------|---------------------|---|
|   | s66(1)(a)               | s66(1)(b)                                    | s66(1)(d)  | s66(1)(c)  | s66(1)(e)            | s66(1)(e)           | s66(1)(f)   |
| Minor Severity  | ✓                       | ✓  | ✓  | Up to \$20,000 (individual)<br>-<br>Up to \$40,000 (in the case of a body corporate)   | ✗                    | ✗                   | ✗   |
| Moderate Severity   | ✓                       | ✓  | ✓  | Up to \$50,000 (individual)<br>-<br>Up to \$100,000 (in the case of a body corporate)  | Up to 6 months       | ✓                   | Up to 2 years   |
| Major Severity  | ✓                       | ✓  | ✓  | Up to \$80,000 (individual)<br>-<br>Up to \$160,000 (in the case of a body corporate)  | Up to 12 months      | ✓                   | Up to 6 years   |
| Extreme Severity  | ✓                       | ✓  | ✓  | Up to \$110,000 (individual)<br>-<br>Up to \$220,000 (in the case of a body corporate) | Up to 24 months      | ✓                   | Up to 10 years or permanent disqualification                    |

## Disciplinary actions that may be taken by the Secretary

- s66(1)(a) determine to take no further action against the practitioner,
- s66(1)(b) caution or reprimand the practitioner,
- s66(1)(c) make a determination requiring the practitioner to pay to the Secretary, as a penalty, an amount not exceeding **\$220,000** (in the case of a body corporate) or **\$110,000** (in the case of an individual) within a specified time,
- s66(1)(d) impose a condition on the registration of the practitioner, including a condition requiring the practitioner to undertake specified education or training relating to a particular type of work or business practice within a specified time,
- s66(1)(e) suspend or cancel the registration of the practitioner in accordance with Part 2,
- s66(1)(f) disqualify the practitioner, either temporarily or permanently, from being registered or being registered in a particular class.

## Additional disciplinary provisions

- S66(2) In determining the disciplinary action to take, the Secretary **must take into account** any other disciplinary action taken against the person under this Part.

## Important notes for the Secretary's Delegate

In s70(2), The Secretary is not prevented from taking disciplinary action under Part 6 merely because the registered practitioner is subject to criminal or civil proceedings that relate to the same matters or incident to which the disciplinary action relates.