



planning, monitoring
& evaluation

Department:
Planning, Monitoring and Evaluation
REPUBLIC OF SOUTH AFRICA



human settlements

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Human Settlements
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SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)
FINAL IMPACT ASSESSMENT: The Housing Consumer Protection Bill
February 2017

Final Impact Assessment of the Housing Consumer Protection Bill

1. The Problem Statement / Theory of Change

1.1

- a) The National Home Builders Registration Council (“the NHBRC”) was established in terms of section 2 of the Housing Consumers Protection Measures Act, No. 95 of 1998, (“the HCPMA/Act”) with the mandate to protect housing consumers by providing warranty cover against defects in homes (reference to house or houses hereinafter shall have a corresponding meaning) and to regulate the home building industry.
- b) Since the promulgation of the Act on 4 June 1999, the National Home Builders Registration Council (“the Council”) has identified a number of challenges with certain key provisions of the Act, which impacted negatively on the efficient execution of the Council’s mandate. The said challenges, inter alia, relate to inadequate protection of housing consumers, non-compliance with technical standards, the transformation of the industry, the high risk of litigation, inadequate enforcement powers, ineffective enforcement tools, inadequate penalties to deter non-compliance by home builders.
- c) Further, the Act is not aligned to other key pieces of legislation which were subsequently promulgated such as the Public Finance Management Act, 1999, and the Promotion of Administrative Justice Act, 2000.
- d) In addition, the home building industry continues to encounter challenges of poor workmanship and non-compliance with the technical standards.
- e) In particular, there has been a rising challenge of poor workmanship in the subsidy sector, and an increased rate of rectification projects by Government. On the same vein, the NHBRC continues to pay costs of remedial work from the warranty fund in respect of enrolled homes in the non-subsidy sector.
- f) **Specific problems include the following:**

Inappropriate registration of home builders who may not have the technical ability to build/construct homes.

- a) The current requirements for registration of a homebuilder are vague and do not comply with constitutional standard of objectivity. The HCPMA currently determines that the builder must have the business management, financial and technical capacity to be registered, but there are no detailed criteria in the regulations in order to facilitate the assessment of these requirements. The inclusion thereof in regulations will provide the required level of objectivity in the sense that the law is

known to applicants, and the requirements cannot be changed to suit an individual applicant.

- b) Delivery of substandard or poor quality homes mainly due to the following:

Awarding housing contracts to non-registered contractors and/or incompetent contractors

- a) The Act does not place sufficient emphasis on the subsidy sector, and as a result it is ineffective in addressing the National Department of Human Settlements (“the Department”) and government’s current focus to deliver quality and sustainable human settlements.
- b) Appointment of unregistered home builders to construct subsidy homes often lead to sub-standard workmanship.

Non-enrolments of homes forming part of a subsidy financed project

- a) There are still instances in which subsidy projects and homes are not enrolled as prescribed by the Act. The result is that the NHBRC is unable to assure quality of these homes during construction. In this regard, the housing consumers have no recourse against the warranty fund in the event of major structural defects manifesting in the home. This result in costly rectification programmes funded from the national revenue with the potential that the initial expenditure will be treated as fruitless and wasteful. This also undermines government goal to deliver quality and sustainable human settlements.
- b) Further, in both the subsidy and non-subsidy sectors, the housing consumers have challenges selling their homes as the Financial Institutions and Conveyancers require confirmation that the home builder is registered and the home is enrolled with the NHBRC, before approving a home loan, registration of the mortgage bond and transfer of the property to the buyer.

Poor or insufficient contract conditions

- a) Home building in South Africa is characterized by a lack of written contracts detailing bills of quantity, and one-sided contracts leaving the weaker party unprotected. Often, housing consumers find themselves signing unfavourable terms and conditions which limits their protection in the event of the home builder defaulting. The deemed contractual provisions in home building contracts will protect housing consumers and ensure justice between the parties.
- b) Home builders (primary contractors and subcontractors alike) are, in addition, seriously prejudiced by late payment, and the “pay when paid” principle. In this

regard, emerging home builders who are subcontracted construction work by the established home builders, are not paid for work done until the main contractor has been paid by the employer. This obviously presents the emerging contractors with serious cash flow and labour relations challenges and ultimately has adverse effect on housing consumer rights.

Inadequate enforcement framework against defaulting home builders thereby leading to ineffective enforcement mechanisms

One of the most crucial shortcoming currently, is the inadequate enforcement framework, which is not as effective as has been hoped.

- a) The NHBRC has historically in terms of the Act provided for the enforcement of the provisions of the Act through Rules, Regulations and the Code of Conduct. These provisions include conciliation, mediation, arbitration, interdicting, disciplinary prosecution and the institution of criminal proceedings. At the moment, the disciplinary provisions of the Act only apply to registered home builders.
- b) There are no provisions for holding the defaulting provincial departments of human settlements accountable. Further, disputes regarding compliance with the HCPMA by provincial departments are handled in the spirit of Intergovernmental Relations Framework Act 13 of 2005 (“the IRFA”), which systematically diminishes the NHBRC’s mandate to regulate the home building industry and to protect housing consumers.
- c) The HCPMA was promulgated before the commencement of the Promotion of Administrative Justice Act 3 of 2000 (“PAJA”), and the birth of so-called Alternative Dispute Resolution (“ADR”) as promulgated / published in the National Credit Act 34 of 2005, the Companies Act 71 of 2008, King III and the Consumer Protection Act 68 of 2008.
- d) The Act or any of the enforcement provisions introduced by NHBRC has never been updated with the provisions of PAJA or the ADR landscape, nor has the practical implementation of those dispute resolution proceedings ever been aligned with administrative justice principles or ADR best practices.
- e) It is also trite that in the non-subsidy sector the conciliation and mediation of complaints against home builders has not been as successful as envisaged – due to extensive time delays, slow turnaround times, and the low rate of effective resolution.
- f) The enforcement of compliance with the HCPMA through interdicts, suspension and disciplinary prosecution of home builders has been fairly effective, although there are home builders who still do not honour the outcome of these processes. This has

led to a perception that the NHRBC does not assist the housing consumers in enforcing their rights under the HCPMA.

- g) The penalties for contravention of the HCPMA are inadequate and have to a great extent not served as a deterrent against defaulting home builders.
- h) The directors, members or partners are not held personally liable for the transgressions by the home builder and this undermines the effectiveness of enforcement mechanism as, often these directors simply register another company with a clean record.

Poor quality control by developers and/or ineffective risk management inspections by the NHBRC, as well as lack of proper municipal inspections

- a) There has been ambiguity as to whether the inspector should be NHBRC appointed or not (with reference to the Building Control Officer's ("BCO") on behalf of local government). This created serious problems with regard to structural acceptability, as BCO's inspect something different to NHBRC Inspectors.
- b) In addition, there is lack of clarity on the qualifications and role of the inspectors to ensure effective mitigation of risk of structural defects.
- c) The responsibility of various inspectors and other built environment professionals and their accountability for various aspects of the construction works is not clear and need to be streamlined to ensure that liability is apportioned to various role players in the quality assurance value chain.

1.2 Intended outcomes of the proposal

The proposed amended registration model for homebuilders intends to –

- a) Implement the already published grading system for homebuilders;
- b) Provide an integrated and a more comprehensive register of homebuilders (available on the internet);
- c) Expand the application of the HCPMA to owner-builders;
- d) Expanding the application of the HCPMA to home builders carrying out renovations, alterations and additions;
- e) Expand the application of the HCPMA to developers, including developers of subsidy- and social housing; and
- f) Provide for a shorter and more effective dispute resolution process in the case where an application for registration fails.
- g) The above will be done through the widening of the definition of homebuilder, and the enabling of regulations in the Bill that will incorporate the grading system that has been published by Government Notice 192 of 2008.

The proposed amended enrolment model for homebuilders intends to –

- a) Provide for a register of enrolments that is updated continuously, indicating the status of a project in relation to inspection, completion, claims and disciplinary action and which provides valuable information for government, the industry and the public at large;
- b) Clearly distinguish between the enrolment process of homes built by the private sector and homes built in terms of a subsidy housing project;
- c) Ensuring the enrolment of homes built in terms of a subsidy housing project; and
- d) Providing for the continuation of enrolment where the homebuilder is deregistered, unable to complete the construction or relinquishes the project so as not to punish the housing consumer for the non-compliance by the home builder.

The intended outcome of the proposed amendments to claims against the warranty fund (and the implied amendments to the commencement date of warranty)

AMENDED ASPECT	OBJECTIVE
Commencement of warranty from the date of commencement of construction	Widen the protection to housing consumers
Increase of Roof Leak warranty period to 2 years	Widen the protection to housing consumers
Enable the increase of maximum ceiling amount for claims against warranty through regulations	Remain in line with building costs and inflation
	Increase protection to housing consumers

The intended outcome of the addition of contractual clauses is-

- a) To establish equitable and reasonable contractual norms and standards between developers, home builders and housing consumers to ensure a stable and sustainable home building industry and specifically support the growth of emerging contractors.

The intended outcome of the new administrative offence adjudication (enforcement) system is to-

- a) Cover all possible disputes that may occur between the Council and aggrieved parties;

- b) Align these disputes with best practices and other relevant regulatory measures recently implemented government-wide (e.g. SARS and the Companies Act, 2008);
- c) Enable the NHBRC to enforce compliance against all participants in the supply chain of delivery of housing (public and private sector); and
- d) Create a dispute resolution framework that would be quick, fair, compliant, cost-effective and efficient.

The intended outcome of quality control and risk management provisions is to-

- a) With regard to inspectors, the Bill's objective is to create a new legal dispensation, where required, for inspectors that will address non-compliance with technical standards, poor quality control inspections and clear lines of accountability for various inspectors and other built environment professionals.
- b) The inclusion of the reporting duty (and criminalising non-compliance) for an Inspector to report a corrupt offer of gratification, addresses the risk of the warranty being activated where no assurance or false assurance is provided by the Inspector regarding the structural integrity of the home inspected.
- c) Provision has been made to safeguard the credibility of quality assurance assessment process by Inspectors to protect the interests of the housing consumers and the NHBRC.

1.3 Groups that will benefit from the Proposal and the Groups that will face the Cost

GROUPS THAT WILL BENEFIT	HOW WILL THEY BENEFIT?
Low Income housing consumers who are dependent on subsidy housing	The registration of developers, who can be held responsible for structural defects
	Easier access to the enforcement process
	Contractual protection even though there is no written contract, including adjudication of contractual disputes
Middle and High Income housing consumers <i>not</i> dependent on subsidy and social housing	The registration of developers, who can be held responsible for structural defects
	Easier access to the enforcement process
	Contractual protection even though there is no written contract, including adjudication
NHBRC	Quicker enforcement process- not dependent on Courts
	Registration of developers – easier to hold the developer responsible

	<p>The empowerment to issue rules in relation to the implementation of a system of (accredited) competent persons and certifying bodies to assist the NHBRC in the certification of certain performance based systems, lightening the load of the NHBRC Inspectors, and requiring the competent persons or certifying bodies to have professional indemnity (in the cases where they do not already have such), ensuring that they can be successfully held responsible in the case of negligence.</p>
	<p>The information system prescribed by the Bill that will link the register of homebuilders and developers with the register of enrolments as well as the disciplinary records of builders and developers.</p>
	<p>Warranty claims that can be submitted during the construction process, ensuring that the NHBRC is not seen as not willing to assist housing consumers. The claim period is still limited to five years, thus not impacting severely on the funds of the NHBRC.</p>
<p>Small / emerging enterprises</p>	<p>Will benefit through the prohibition of “pay when paid” clause, leading to a sustainable cash-flow which will in turn provide the opportunity for growth. Small/ emerging contractors will also benefit from the contract adjudication clauses. This will ultimately protect housing consumers as disputes between developers or the employer and the home builder often have a ripple effect on housing consumers.</p>
<p>Established contractors</p>	<p>Will benefit from the clauses forcing Clients to pay in time and the possibility to stop the works without being penalised, as well as adjudication, in the case of late payment. The penalty interest that automatically accrues to the Client will also assist the established contractors, as well as subcontractors in the case where the main contractor does not pay in time. This will in turn address the challenge of home builders ‘cutting corners’ by utilising substandard material during construction which compromise the structural quality of homes to the detriment of housing consumers.</p>

GROUPS THAT WILL BEAR THE COST OR LOSE	HOW WILL THEY INCUR THE COSTS OR LOSE?
NHBRC	Must carry the cost of the adaptation of the Information Communication Technology (“the ICT”) system.
	May pay for representation in the adjudication process for low income housing consumers.
	Must bear the cost and undertake the effort to train all officials about the new legislative framework, including the new enforcement procedures (the administrative offence system).
Government Clients	Will pay penalty interest on late payments.
High Income housing consumers	Pay the same percentage in enrolment fees, which for a high-end house will thus be far more than the payment for a smaller house, but is limited to the same ceiling of claim value as the smaller house – thus cross-subsidising the middle and lower income housing consumers.

1.4 Behaviour that must be changed and main mechanisms to achieve the necessary changes

GROUPS INSIDE GOVERNMENT	BEHAVIOUR THAT MUST BE CHANGED (CURRENT BEHAVIOUR)	MAIN MECHANISM TO ACHIEVE THE NECESSARY CHANGES
Government spheres involved in providing housing	Provincial departments and municipalities do not in all cases appoint a home builder registered in terms of the HCPMA, to construct subsidy homes.	Voluntary compliance by provincial government and municipalities and consistent enforcement by NHBRC.
	Late Payment by Clients of main contractor or developer, which leads to late payment of subcontractors and which impedes the development of emerging contractors and adversely affect the rights of housing consumers.	Implement the delayed payment provisions of the proposed Bill, which prescribes penalty interest on Clients not paying in time.
NHBRC	It is difficult to hold subsidy contractors accountable for non-compliance in relation to subsidy projects since the homes are enrolled in the name of the developer/provincial department.	Implement the changes proposed by the new Bill, requiring the developer/provincial department to enrol the project and the contractor to

		be registered, as well as the system being enabled to link the enrolment register and the homebuilders register.
SAPS and NPA	The South African Police Service (“the SAPS”) and the National Prosecuting Authority (“the NPA”) seldom investigates and prosecutes home builders for failure to register and/or enroll homes.	Implement the changes proposed by the Bill, which prescribes an administrative adjudication process for non-compliance and in terms of which fines can be imposed that will make an impact on the builder instead of outright criminalisation of the non-compliance.
NHBRC	<p>The mandate of the NHBRC to enforce compliance (regulate) is linked to the power of inspectors / investigators.</p> <p>Enforcement has been ineffective due to the insufficient enabling framework. Some builders ignore sanctions imposed by the disciplinary committee of the NHBRC.</p>	<p>In addition to the administrative offence system, the Bill provides for the appointment of inspectors and for the expansion of the powers of inspectors.</p> <p>The Bill also provides through a system for satisfying performance requirements by means of performance based methods i.e. though certification by a certification body, a listed competent person or Agrément South Africa, which may reduce the number of non-compliances. This system is already incorporated in the Home Building Manual, but its legal status needs to be elevated and it is therefore included in the Bill.</p>

GROUPS OUTSIDE GOVERNMENT	BEHAVIOUR THAT MUST BE CHANGED (CURRENT BEHAVIOUR)	MAIN MECHANISM TO ACHIEVE THE NECESSARY CHANGES
Builders and developers	A home builder is appointed, for instance, by a main contractor or the developer (the “employer”) and the employer forces a contract that allows the employer to pay the home builder only when the employer has been paid.	Implement the proposed provisions in the Bill that prohibit “pay when paid” clauses.

	The lack of financial capability caused by delay in payment impacts on payments for material and labour which causes project timeframes to be extended without compensation for time lost. It also impacts negatively on the development of emerging and smaller contractors, who do not have the capital to sustain a project.	
	Non-compliance with technical requirements of the Homebuilding manual	Implement the proposed administrative offence system prescribed by the Bill

1.5 Consultations on the proposal

The following consultations have been conducted with industry stakeholders -

- a) Interaction with the Council Advisory Committee (which has various members – included in the list below);
- b) Stakeholder workshops in Gauteng (21 & 22 November 2011), and Cape Town (28 November 2011); and
- c) Written Comments provided after making the Bill available to industry stakeholders.

The stakeholders liaised with, some through their membership of the Industry Advisory Committee (a committee of the NHBRC herein after referred to “the IAC”), and their inputs are shown below, and in the Annexure:

Acronyms

BASA	Banking Association of South Africa
CBE	Council for Built Environment
CCI	Cement & Concrete Institute
CIDB	Construction Industry Development Board
CMA / WC	Concrete Manufacturers Association Western Cape
CSIR	Council for Scientific and Industrial Research
DEEDS	Chief Registrar of Deeds
ECSA	Engineering Council of South Africa
HOA	Housing Development Agency

IAC	Industry Advisory Committee to the NHBRC
IoT	Institute of Timber
KHUTHAZA	Khuthaza
LSSA	Law Society of South Africa
MBA	Masters Builders Association - Various Provinces
NBCAT	National Black Contractors and Allied Trade
NCF	National Consumer Forum
NRCS	National Regulator for Compulsory Specifications
RABIE	Rabie Property Group
SABS	SA Bureau of Standards
SACQS	SA Council for Quantity Surveyors
SAIA	South African Institute for Architects
SAICE	South African Institute for Consulting Engineers
SAPOA	South African Property Owners Association
SAWPA	South African Wood Preservers Association
SHRA	Social Housing Regulatory Authority

Consultations

AFFECTED STAKEHOLDERS	WHAT DO THEY SEE AS MAIN <u>BENEFITS,</u>	DO THEY <u>SUPPORT OR</u> <u>OPPOSE THE</u> <u>PROPOSAL?</u>	WHAT <u>AMENDMENTS</u> DO THEY PROPOSE?	HAVE THESE AMENDMENTS BEEN <u>INCORPORATED</u>
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	<u>COSTS AND RISKS?</u>			IN YOUR PROPOSAL?
Government Departments and Agencies (Name them) MINTOP; Technical MINMEC; National Department of Human Settlements; the National Department of Human Settlements' Extended Management Team (EMT); National Department of Human Settlement's Policy Forum; Office of the Chief State Law Advisor; National Economic and Development and Labour Council ("NEDLAC"); the Office of the Chief State Law Advisor.	Risk: to prohibit the "pay when paid" clauses in contracts as primary contractors, especially with regards to government contracts do not get paid in time. Enquired regarding the elements of the SEIA and other government policies.	Support, except regulation of procurement of contractors for subsidy housing projects	<ul style="list-style-type: none"> • Some comments on drafting and style • Proposed the deletion of the procurement clauses, as it is already regulated sufficiently by the Treasury regulations • Various consultations were held and correspondence exchanged with the State Law Advisors (through the Department of Human Settlements) and the Bill has been discussed in detail, section by section, and the content agreed on. 	Yes, except where the State Law advisors agreed with the explanations provided for not including their comments.
Business (Name them)	Please refer to Annexure	Support	Please refer to Annexure	Yes, except where the NHBRC has provided reasons for not incorporating the comments.
Organised Labour	Please refer to Annexure -	Support	Please refer to Annexure	Yes, except where the NHBRC has provided reasons for not incorporating the comments.
Civil Society	Please refer to Annexure	Support	Please refer to Annexure	Yes, except where the NHBRC has provided reasons for not incorporating the comments.

The Public	Please refer to Annexure	Support	Please refer to Annexure	Yes, except where the NHBRC has provided reasons for not incorporating the comments.
Other groupings (Name them)	Please refer to Annexure	Support	Please refer to Annexure	Yes, except where the NHBRC has provided reasons for not incorporating the comments.

The interaction with the Council Advisory Committee members mainly related to the role of the NHBRC as an insurer. The main thrust of the comments was that provision of home warranty cover should be opened up to other insurers.

1.5 Describe possible disputes arising out of the implementation of the proposal, and system for settling and appealing them.

Possible disputes arising from the implementation of the Bill include:

- a) Possible resistance by developers who are organs of state, or who operate in the private sector with regards to being registered
- b) Facing out of owner builder exemption;
- c) With regards to further resistance to any of the Bill's content, the Bill is to be published for Public Comment and there will be an opportunity to give further inputs
- d) The NHBRC has a dedicated Stakeholders Relations and Communications Unit that will, in conjunction with the Department, communicate the impact of the Bill on certain milestone dates during the legislative process, through inter alia -
 - i. Face to face communication;
 - ii. Print media;
 - iii. Workshops;
 - iv. The web and social media; and
 - v. Leveraging from existing communication protocols with stakeholders such as HoD's, the 6 metro's, the IAC etc.
- e) Should the dispute arise after the implementation of the Bill, the Bill provides for extensive dispute settlement procedures.

2. Impact Assessment

As the new Bill does not deviate entirely from the existing policy, the cost impact of the Bill is contained.

GROUP	IMPLEMENTATION COSTS	COSTS OF CHANGING BEHAVIOUR	COSTS/BENEFITS FROM ACHIEVING DESIRED OUTCOME	COMMENTS
Government (all spheres) involved in providing housing	Low- marginal increase in administrative cost (registration, ensuring that registered builders are appointed, that they are in good standing and the homes are enrolled prior to construction)	Low-compliance with registration and enrolment requirements	Control over the quality of subsidy housing	Government is affected only in the sense that there may be penalties or reporting in the case of non-compliance.
NHBRC Interlinked ICT system	High	None	Service to housing consumers and other government agencies in that the system will identify a developer (if any), a builder and the builder's record, in relation to a specific home.	The NHBRC must make provision for resources to adapt the current system. the cost will not be as high as developing an entirely new system, but ICT costs are usually relatively high.
New administrative enforcement system	Relatively high during the initial phases	Low	Saving time and costs in relation to the settling of disputes. Administrative fines will be paid to the NHBRC, which will cover some costs.	The initial phases will entail retraining of personnel and the appointment of the Compliance and Enforcement committee.
Warranty cover to start at the commencement of construction	Low impact on the warranty fund is foreseen	Low	Protection of housing consumers	

Public and other groupings	Low cost impact: increased administration regarding compliance with the Bill	Low	Increased control over quality of houses by the NHBRC and increased delivery of quality of houses to the housing consumers.	
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2.1 Describe the changes required in budgets and staffing in government to implement the proposal

General

- a) The NHBRC budget for the implementation year will have to provide for training, the adaption of the ICT system, as well as for the development of new documentation in relation to the enforcement system and the adaptation of current forms.

ICT System

- a) The adaptation of the ICT system will add cost to the NHBRC as it must allocate appropriate resources. No changes in staffing at the NHBRC is foreseen, only retraining.

The costs of compliance in relation to registration

- a) To prospective homebuilders and developers, the cost will amount to the registration cost as well as an annual fee that is authorised in terms of the financial provisions to be implemented and which fee may be applied towards programmes aimed at supporting homebuilders in relation to the acquisition of information and skills/capacity development;
- b) The costs that will be incurred by owner builders due to the requirement for owner-builders to also enrol their homes.
- c) No changes in staffing is foreseen.

Cost of compliance in relation to enrolment

- a) Subsidy homes, strictly speaking, already must be enrolled and projects registered and therefore there will be no additional costs involved.
- b) However, the new system will result in increased compliance, and therefore provinces and municipalities may incur costs that prior to the Bill they have avoided paying, but were liable for anyway.
- c) In both the subsidy and non-subsidy sector, the new dispensation will result in improved compliance by the developers and the home builders. In turn, the improved number of enrolments may require the NHBRC to budget and allocate more resources to ensure quality assurance.

Increased protection to housing consumers (earlier commencement of warranty cover)

- a) The earlier commencement date of the warranty and extended protection will result in more claims in terms of the warranty although the maximum amount payable will remain capped. The rectification of defects during construction stages will minimize chances of major structural defects occurring at a later stage. In addition, the NHBRC will have better access to require the home builder to rectify the defects during construction than is the case after completion of construction.
- b) This cost impact will be addressed through increased enrolment fees. The NHBRC's authority to increase enrolment fees is limited to the most recent annual inflation rate as per the Consumer Price Index (CPI) published by Statistics South Africa. Any increase above the CPI has to be approved by the Minister.
- c) To accommodate organs of state who are developers in the subsidy housing sector with regard to (possible reduced) enrolment fees, the Bill enables the NHBRC to differentiate between categories of enrolment fees, with regard to different categories of homes and home builders.

No changes in staffing or budget is foreseen.

Cost of compliance with the new provisions relating to contracts

- a) There are no significant cost implications for the implementation of this dispensation, except where the housing consumer is a beneficiary of a subsidy house or a non-subsidy housing consumer who falls within a prescribed threshold and is entitled to be represented by the NHBRC or its agent in respect of a matter going through the adjudication process.
- b) Except as stated above, the cost of the adjudicator will accrue to the parties to the contract, depending on the cost determination made by the adjudicator. This entails cost to the housing consumer and the builder/developer.
- c) The NHBRC must compile a standard contract and may want to prescribe the qualifications of the adjudicator, which may have a cost implication.

Adjustment to the budget need to be made to provide for the assistance to poor housing consumers and the training of current officials to be able to represent those consumers, or for the appointment of professionals for the same purpose.

Cost of compliance with the new administrative enforcement system

- a) The enforcement module will be implemented in a phased approach.
- b) There will be training costs involved in the implementation phase, to train NHBRC staff members on the enforcement model.

- c) Administrative fines will be paid to the NHBRC, who will re-allocate the fines for compliance and enforcement cost budgets to alleviate the operational cost burden of the compliance enforcement.

Current staff need to be trained and the budget will have to provide for same.

2.2. Describe how the proposal minimises implementation and compliance costs.

The purpose of this Bill is to use the base policy and structures that have already been in place. The changes that have to be implemented are therefore limited. The greatest cost that will have to be incurred relate to the two entirely new concepts, namely the linked ICT system and the administrative enforcement processes.

3. Managing Risk

3.1 Main risks

IDENTIFIED RISK	MITIGATION MEASURES
Liquidity of the warranty fund	Possibility of raising enrolment fees
Human and financial resources capacity	Plan and budget well in advance of the implementation of the Bill.
Non- compliance with the provisions of the Bill such as Provincial and local government or private sector developers not registering as developers or appointing non-registered builders.	<ul style="list-style-type: none"> • A comprehensive information campaign; • Implementing the administrative enforcement system

3.2 Risk mitigation mechanisms included in Bill

Non-compliance generally:

The Bill provide for an administrative enforcement system of which the final decisions are subject to review under PAJA. This will improve the cost of settling disputes.

Non-compliance by government institutions involved in the provision of housing:

Reporting to the Minister is provided for and the institutions are also subject to dispute resolution processes.

Liquidity of warranty fund

The provisions that protect the liquidity of the warranty fund were not changed, except for earlier commencement of the warranty, which is counter-acted by the power to increase the enrolment fees.

4. Summary

4.1 Summary the impact of the proposal on the main national priorities

NATIONAL PRIORITY	IMPACT
1. Social Cohesion	Increased quality of subsidy housing will provide social inclusion in terms of the indigent being protected in their need for housing as housing projects also provide access to water and electricity, it will provide social mobility.
2. Security (Safety, Financial, Food, Energy etc.)	Financial security is provided to the housing consumer in terms of being confident in the quality of the home owned.
3. Economic Growth	Economic growth is provided through the provisions that, inter alia, aim to promote the transformation of the industry. This includes the broader training of emerging contractors; prohibition on the pay when paid clauses to ensure sustainability of their businesses.
4. Economic Inclusion (Job Creation and Equality)	The Bill is not foreseen to create additional jobs.
5. Environmental Sustainability	The Bill does not contain environmental provisions in addition to those already implemented through the Homebuilding Manual and other standards enforced through the National Homebuilding Regulation and Standards act, 2007, as well as the NEMA suite of legislation.

4.2 Social and economic groups that would benefit most and that would bear the most cost.

MAIN BENEFICIARIES	MAIN COST BEARERS
Low and middle income housing consumers	Government and high-end housing consumers

5. Conclusion

5.1 Summary of actions to reduce costs, maximise benefits and mitigate risks associated with Bill

- a) Plan and budget well in advance of the Bill being implemented
- b) Develop and Implement a communication plan, using all available media, in order to make housing consumers, developers and organs of state aware of the impending changes and how they could comply, as well as the repercussions of non-compliance. The communication plan must be pitched at different levels (or different communication plans must be compiled for different audiences) to reach all housing consumers, from low income to high income, organs of state, developers and homebuilders as well as professionals in the homebuilding industry.

5.2 Areas where additional research would improve understanding of the costs, benefits and/ or risks of the Bill

- a) It is necessary to investigate the possibility of increasing the level of the warranty cover as high-end housing consumers are not sufficiently covered.
- b) An actuarial and economic study of the position of the NHBRC in relation to additional warranty cover or insurance should also be commissioned, to be undertaken by professionals. This will inform future policy development and decisions.

For the purpose of building SEIAS body of knowledge please complete the following:

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