



New South Wales

Building Professionals Amendment (Authorisations) Regulation 2009

under the

Building Professionals Act 2005

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Building Professionals Act 2005*.

KRISTINA KENEALLY MP
Minister for Planning

Explanatory note

The object of this Regulation is to amend the *Building Professionals Regulation 2007*:

- (a) to make adjustments to the matters for which compliance certificates may not be issued by Category A2 and Category A3 accredited certifiers, and
- (b) to remove the time limitation on the authorisation of Category A2 and Category A3 accredited certifiers to undertake certain inspections, and
- (c) to extend the time for the assessment, in accordance with the *Building Professionals Act 2005*, of certifiers who were accredited before the commencement of that Act (*existing accredited certifiers*), and
- (d) to provide that an existing accredited certifier who nominates during the specified transitional period to renew his or her accreditation on the conditions imposed on it when it was issued under the *Building Professionals Act 2005* will only require assessment against the core performance criteria of the accreditation scheme, and
- (e) to extend the time limitation on the authorisation of existing accredited certifiers to carry out critical stage inspections under the *Environmental Planning and Assessment Act 1979*.

This Regulation is made under the *Building Professionals Act 2005*, including sections 5A and 94 (the general regulation-making power) and clause 1 of Schedule 2.

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Clause 1 Building Professionals Amendment (Authorisations) Regulation 2009

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1 Name of Regulation

This Regulation is the *Building Professionals Amendment (Authorisations) Regulation 2009*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Building Professionals Regulation 2007

[1] Schedule 1 Categories of certificates of accreditation

Omit “, but only until 1 March 2009” wherever occurring in Column 2 of Part 1.

[2] Schedule 1, Part 1

Insert “energy management (except for class 1 buildings), geotechnical engineering (except for class 1 buildings), civil engineering,” after “mechanical services,” in Column 2 of the matter relating to Category A2.

[3] Schedule 1, Part 1

Insert “geotechnical engineering (except for class 1 buildings),” after “(except for class 1 buildings),” in Column 2 of the matter relating to Category A3.

[4] Schedule 4 Savings and transitional provisions

Omit “first or second” wherever occurring in clause 3 (2).

Insert instead “first, second or third”.

[5] Schedule 4, clause 3 (3)

Omit “third”. Insert instead “fourth”.

[6] Schedule 4, clause 3 (3A) and (3B)

Insert after clause 3 (3):

- (3A) On and from the commencement of this subclause, the Board may apply only the core performance criteria specified in the accreditation scheme in assessing an existing accredited certifier for the purposes of section 7 (1) (b) of the Act if:
 - (a) the assessment is undertaken on the election of the certifier under subclause (2) when applying for renewal of a certificate of accreditation or on the certifier’s application for the fourth renewal of a certificate of accreditation as referred to in subclause (3), and
 - (b) the certifier has notified the Board in writing that the application for renewal is to be taken to be an application for renewal of a certificate of accreditation of the same category that was issued to the certifier under clause 2 (1) and on the same conditions (if any) imposed by the Board on that certificate of accreditation under clause 2 (2).

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Schedule 1 Amendment of Building Professionals Regulation 2007

(3B) Nothing in subclause (3A) prevents the imposition of any other conditions on that certificate of accreditation in accordance with the Act.

[7] Schedule 4, clause 3 (4) (a) (ii)

Omit “third”. Insert instead “fourth”.

[8] Schedule 4, clause 5 Critical stage inspections and other inspections

Omit “1 March 2009” from clause 5 (3). Insert instead “1 March 2010”.

[9] Schedule 4, Part 4

Insert at the end of Schedule 4:

**Part 4 Provisions consequent on enactment of
Building Professionals Amendment
(Authorisations) Regulation 2009**

9 Pending applications for compliance certificates

An amendment made to Schedule 1 by the *Building Professionals Amendment (Authorisations) Regulation 2009* does not affect the issue of a compliance certificate if the application for the compliance certificate was made before the commencement of the amendment.