



New South Wales

Building Professionals Amendment (Categories of Accreditation) Regulation 2011

under the

Building Professionals Act 2005

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

TONY KELLY, MLC
Minister for Planning

Explanatory note

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

- (a) to provide that new accredited certifiers holding category A3 and A4 accreditation under the *Building Professionals Act 2005* will no longer be able to certify or inspect class 2–9 buildings under the *Building Code of Australia* (being small scale medium density buildings and commercial or industrial buildings),
- (b) to provide that an accredited certifier holding category A3 or A4 accreditation at the commencement of this Regulation will continue to be able to certify or inspect such buildings for so long as the person continues to hold such accreditation,
- (c) to extend on a permanent basis a savings provision that permits accredited certifiers who had been certified before 1 March 2007 to carry out certain inspections required 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).

2011 No 68

Clause 1

Building Professionals Amendment (Categories of Accreditation) Regulation
2011

**Building Professionals Amendment (Categories of
Accreditation) Regulation 2011**

under the

Building Professionals Act 2005

1 Name of Regulation

This Regulation is the *Building Professionals Amendment (Categories of Accreditation) Regulation 2011*.

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 the matter in Columns 1 and 2 of Part 1 relating to Category A3 and Category A4.

Insert instead:

Category A3—Accredited
certifier—building surveying
grade 3

Issue the following certificates involving class 1 and class 10 buildings under the BCA, but only if the building achieves compliance with the performance requirements of the BCA by complying with the deemed-to-satisfy provisions of the BCA (and not by the formulation of any alternative solutions):

- (a) complying development certificates for building work or change of use,
- (b) construction certificates and compliance certificates for building work,
- (c) occupation certificates.

Carrying out of any inspections under section 109E (3) (d) of the *Environmental Planning and Assessment Act 1979* of the buildings referred to above. In addition, carrying out of any inspections required under section 109E (3) (d) of the *Environmental Planning and Assessment Act 1979* for work authorised by category of accreditation A2 with the consent of, and under the supervision of, an accredited certifier authorised to issue occupation certificates under category A2.

Carrying out of inspections under clauses 129B and 143B of the *Environmental Planning and Assessment Regulation 2000*.

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Building Professionals Amendment (Categories of Accreditation) Regulation 2011

Schedule 1 Amendment of Building Professionals Regulation 2007

Category A4—Building inspector

Carrying out of inspections required by the principal certifying authority under section 109E (3) (d) of the *Environmental Planning and Assessment Act 1979*, critical stage inspections prescribed by clause 162A of the *Environmental Planning and Assessment Regulation 2000* (except for the last critical stage inspection after the building work has been completed and prior to any occupation certificate being issued) and inspections required under clauses 129B and 143B of that Regulation in relation to class 1 and class 10 buildings under the BCA.

[2] Schedule 4 Savings and transitional provisions

Omit clause 5 (3).

[3] Schedule 4, Part 6

Insert after Part 5:

Part 6 Provisions consequent on enactment of Building Professionals Amendment (Categories of Accreditation) Regulation 2011

11 Existing A3 or A4 accredited certifiers

- (1) This clause applies to class 2–9 buildings with a maximum rise in storeys of 2 storeys and a maximum floor area of 500m².
- (2) A person who, immediately before the commencement of the amending regulation, held a category A3 certificate of accreditation is authorised (while that person continues to hold such a certificate) to do the following in relation to buildings to which this clause applies:
 - (a) to issue the following certificates, but only if the building to which the certificate relates achieves compliance with the performance requirements of the BCA by complying with the deemed-to-satisfy provisions of the BCA (and not by the formulation of any alternative solutions):
 - (i) complying development certificates for building work or change of use,
 - (ii) construction certificates and compliance certificates for building work,
 - (iii) occupation certificates,

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- (b) to carry out any inspections under section 109E (3) (d) of the *Environmental Planning and Assessment Act 1979*.
- (3) A person who, immediately before the commencement of the amending regulation, held a category A4 certificate of accreditation is authorised (while that person continues to hold such a certificate) to carry out the following inspections in relation to buildings to which this clause applies:
- (a) inspections required by the principal certifying authority under section 109E (3) (d) of the *Environmental Planning and Assessment Act 1979*,
 - (b) critical stage inspections prescribed by clause 162A of the *Environmental Planning and Assessment Regulation 2000* (except for the last critical stage inspection after the building work has been completed and prior to any occupation certificate being issued),
 - (c) inspections required under clauses 129B and 143B of that Regulation.
- (4) Nothing in this clause limits what the holder of a certificate of accreditation is otherwise authorised to do under the Act or this Regulation.
- (5) For the purpose of this clause, the maximum floor area and maximum rise in storeys restrictions relate to the whole building and not part of the building. Accordingly, in the case of alterations, additions and renovations to existing buildings, the maximum rise in storeys and maximum floor area restrictions relate to the whole building, which includes the existing building and proposed new building work.
- (6) In this clause, **amending regulation** means the *Building Professionals Amendment (Categories of Accreditation) Regulation 2011*.