



# Building Professionals Amendment Regulation 2013

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*.

BRAD HAZZARD, MP  
Minister for Planning and Infrastructure

## Explanatory note

The objects of this Regulation are as follows:

- (a) to prescribe requirements relating to contracts for certification work,
- (b) to make further provision in relation to the fees payable to the Building Professionals Board for the issue or renewal of a certificate of individual accreditation to carry out certification work only on behalf of councils,
- (c) to make savings and transitional arrangements consequent on the amendment of the *Building Professionals Act 2005* by the *Environmental Planning and Assessment Amendment Act 2012*.

This Regulation is made under the *Building Professionals Act 2005*, including sections 73A, 94 (the general regulation-making power) and 95 and clause 1 of Schedule 2.

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Clause 1            Building Professionals Amendment Regulation 2013

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# **Building Professionals Amendment Regulation 2013**

under the

Building Professionals Act 2005

### **1 Name of Regulation**

This Regulation is the *Building Professionals Amendment Regulation 2013*.

### **2 Commencement**

This Regulation commences on 1 March 2013 and is required to be published on the NSW legislation website.

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## Schedule 1      Amendment of Building Professionals Regulation 2007

### [1]    Clause 19A

Insert after clause 19:

#### **19A    Requirements relating to contracts for certification work**

- (1) For the purposes of section 73A of the Act, the contract of an accredited certifier, or the employer of an accredited certifier, must comply with the requirements specified in this clause.
- (2) The contract must contain the following particulars:
  - (a) in the case of a contract of an accredited certifier:
    - (i) the accredited certifier's name, accreditation number and the address of the accredited certifier's place of business, and
    - (ii) a telephone number and an email address for contacting the accredited certifier,
  - (b) in the case of a contract of the employer of an accredited certifier:
    - (i) the name, accreditation number (if applicable) and address of the employer's place of business, and
    - (ii) the name and accreditation number (if applicable) of any employee who it is proposed, at the date of the contract, will carry out certification work under the contract, and
    - (iii) a telephone number and an email address for contacting the employer,
  - (c) the name, address and contact details of the person for whom the certification work is to be carried out,
  - (d) if any accredited certifier named in the contract is required to be covered by insurance for the purposes of Division 2 of Part 6 of the Act—the name of each insurer by whom that accredited certifier is currently covered, the identifying number of the insurance contract and the dates between which the indemnity provided by the insurance contract has effect,
  - (e) particulars of the certification work to be carried out under the contract,
  - (f) in a case where the certification work the subject of the contract involves the carrying out of functions under the

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*Environmental Planning and Assessment Act 1979* and relates to particular development:

- (i) a description of the development, and
  - (ii) the address, and formal particulars of title, of the site of the development, and
  - (iii) identifying particulars in respect of any related development consent granted under the *Environmental Planning and Assessment Act 1979* or of any related certificate issued under Part 4A of that Act (including the name of the applicable consent authority or certifying authority, the date on which the consent or certificate was granted or issued and any registered number of the consent or certificate), and
    - Note.** A complying development certificate is a form of development consent.
  - (iv) identifying particulars of any plans, specifications or other documents the subject of any related development consent or of any related certificate issued under Part 4A of the *Environmental Planning and Assessment Act 1979*, and
  - (v) identifying particulars of any individuals who it is proposed, at the date of the contract, will undertake any inspections required to be carried out under the *Environmental Planning and Assessment Act 1979* in connection with the certification work (including any applicable accreditation numbers of those individuals),
  - (g) the fees and charges to be paid for certification work under the contract and, in the case of fees and charges that may be payable for work arising as a result of unforeseen contingencies, the basis on which those fees and charges are to be calculated,
  - (h) the date on which the contract is made.
- (3) The contract must be signed, or otherwise appropriately executed, by the parties to the contract.
- (4) The contract must:
- (a) if the certification work involves the determination of an application for a development certificate—require the fees and charges payable for the determination (excluding any fees and charges for work arising as a result of unforeseen

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contingencies) to be paid on or before the lodgment of the application, and

- (b) if the certification work involves the carrying out of functions of a principal certifying authority—require the fees and charges payable for carrying out those functions in respect of particular development (excluding any fees and charges for work arising as a result of unforeseen contingencies) to be paid before they commence to be carried out in respect of that development, and
- (c) if the contract provides for payment of fees and charges for carrying out work arising as a result of unforeseen contingencies—provide for invoices to be issued within 21 days after the completion of that work.

- (5) The contract must be accompanied by any applicable document containing information about the statutory obligations of accredited certifiers that is published by the Board for the purposes of this clause and available on its website.

**[2] Schedule 2 Fees**

Omit the matter relating to item 1A. Insert instead:

1A	Application for certificate of individual accreditation to carry out certification work only on behalf of councils	Nil
1B	Application for renewal of certificate of individual accreditation to carry out certification work only on behalf of councils	\$250

**[3] Schedule 4 Savings and transitional provisions**

Insert at the end of Schedule 4 (with appropriate Part and clause numbering):

**Part Provisions consequent on enactment of Environmental Planning and Assessment Amendment Act 2012**

**Disciplinary proceedings**

Sections 31 (5A) and 34 (3A) of the Act, as inserted by the *Environmental Planning and Assessment Amendment Act 2012*, extend to the taking of action on or after 1 March 2013 in relation to any conduct of an accredited certifier, or any other matter, occurring (or alleged to have occurred) before 1 March 2013.

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### **Contracts for certification work**

Section 73A, as inserted by the *Environmental Planning and Assessment Amendment Act 2012*, does not apply in relation to the carrying out of certification work commenced, or under a contract entered into, before 1 March 2013.