



New South Wales

Home Building Amendment (Miscellaneous) Regulation 2020

under the

Home Building Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Home Building Act 1989*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to amend clause 69A of the *Home Building Regulation 2014* to provide that the failure of external cladding of a building to comply with the performance requirements of the National Construction Code for fire resistance and fire safety for that building is regarded as a major defect in residential building work and the extended warranty period under the *Home Building Act 1989* (the *Act*).

This Regulation also—

- (a) declares the types of work that are refrigeration work or air-conditioning work for—
 - (i) the offence of doing refrigeration work or air-conditioning work without the appropriate qualifications or supervision under section 15 of the Act, and
 - (ii) the purposes of the definition of *specialist work* under the Act, and
- (b) omits certain categories of specialist work that were prescribed by the *Fair Trading Legislation Amendment (Reform) Act 2018*.

This Regulation is made under the *Home Building Act 1989*, including sections 15, 18E, 21(1)(b), 27(1)(b) and (2), 140 (the general regulation-making power) and clause 1(1) of Schedule 1 (definition of *specialist work*).

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1 Name of Regulation

This Regulation is the *Home Building Amendment (Miscellaneous) Regulation 2020*.

2 Commencement

- (1) This Regulation commences on the day on which it is published on the NSW legislation website, except as provided by subclause (2).
- (2) Schedule 1[1] commences on 1 July 2020.

Schedule 1 Amendment of Home Building Regulation 2014

[1] Clause 14 Categories of specialist work (as amended by Schedule 4.2[1] of the Fair Trading Legislation Amendment (Reform) Act 2018)

Omit clause 14(n) and (o).

[2] Clauses 69A and 69B

Omit clause 69A. Insert instead—

69A Major defect in building—external cladding

- (1) This clause applies to a building with a rise in storeys of more than 2 in respect of which a breach of statutory warranty occurred in either of the following circumstances—
 - (a) the warranty period for the breach started on or after 20 April 2018,
 - (b) the warranty period for the breach started before 20 April 2018 and the period in which proceedings could be commenced for the breach of statutory warranty had not already expired before 20 April 2018.
- (2) The failure of external cladding of a building to comply with the performance requirements of the National Construction Code for fire resistance and fire safety for that building is prescribed as a major defect for the purposes of paragraph (b) of the definition of *major defect* in section 18E(4) of the Act.
- (3) In this clause—
rise in storeys and *storeys* have the same meanings as they have in the National Construction Code.

69B Refrigeration work and air-conditioning work

For the purposes of the Act—

- (a) the work that is specified in Column 2 of the Table in Schedule 4 for the work category of refrigeration work in Column 1 of that Table is declared to be refrigeration work, and
- (b) the work that is specified in Column 2 of the Table in Schedule 4 for the work category of air-conditioning work in Column 1 of that Table is declared to be air-conditioning work.