



New South Wales

Building and Development Certifiers Amendment (Provision of Information) Regulation 2020

under the

Building and Development Certifiers Act 2018

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Building and Development Certifiers Act 2018*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to make provision for the following—

- (a) the registration for certain building inspectors to be subject to a supervision condition,
- (b) an exemption for persons holding existing certificates of accreditation from a requirement to have certain knowledge and skills,
- (c) the provision of information to the Secretary by registered certifiers and local councils with respect to certification work and building work.

This Regulation is made under the *Building and Development Certifiers Act 2018*, including sections 13(1)(a) and 120 (the general regulation-making power) and clause 1 of Schedule 1.

Building and Development Certifiers Amendment (Provision of Information) Regulation 2020

under the

Building and Development Certifiers Act 2018

1 Name of Regulation

This Regulation is the *Building and Development Certifiers Amendment (Provision of Information) Regulation 2020*.

2 Commencement

This Regulation commences on 1 July 2020 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Building and Development Certifiers Regulation 2020

[1] Clause 9 Prescribed conditions of registration

Insert after clause 9(3)—

- (3A) For the purposes of section 13(1)(a) of the Act, it is a condition of registration of a person who is registered as a building inspector on the grounds that the person has the qualifications specified in clause 3(2)(a) of Schedule 2, that the person may only carry out certification work under the supervision of a registered certifier who holds any of the following classes of registration—
- (a) building surveyor—unrestricted,
 - (b) building surveyor—restricted (all classes of building),
 - (c) building surveyor—restricted (class 1 and 10 buildings).

[2] Schedule 2 Qualifications and experience

Omit clause 9(2)(a). Insert instead—

- (a) **Qualifications**
Degree (other than an associate degree) in fire safety engineering from an Australian university.

[3] Schedule 2, clause 22(3)(a)

Omit the paragraph. Insert instead—

- (a) **Qualifications**
Satisfactory completion of training approved by the Secretary within 12 months before the application for registration is made.

[4] Schedule 3 Knowledge and skills

Omit clause 3(2)(d) and (e).

[5] Schedule 3, clauses 4(2) and 5(2)

Omit the subclauses. Insert instead—

- (2) **Skills**
Same as that for building inspector and must also be able to do the following—
- (a) assess the fire protection and structural capacity of an existing building,
 - (b) prepare a fire safety schedule under the Planning legislation.

[6] Schedule 3, clause 6(2)

Omit the subclause. Insert instead—

- (2) **Skills**
Same as that for building inspector and must also be able to do the following—
- (a) assess the fire protection and structural capacity of an existing building,
 - (b) prepare a fire safety schedule under the Planning legislation for a class 1b building.

[7] Schedule 3, clause 10(1)(b)

Omit “(volumes 1 and 2)”.

[8] Schedule 3, clause 11(1)(b)

Omit the paragraph. Insert instead—

- (b) the *Building Code of Australia*, including documents adopted by reference in the *Building Code of Australia*, to the extent they are relevant to this class of registration.

[9] Schedule 3, clause 12(1)(c)

Insert after clause 12(1)(b)—

- (c) the *Building Code of Australia*, including documents adopted by reference in the *Building Code of Australia*, to the extent they are relevant to this class of registration.

[10] Schedule 4 Continuing professional development (CPD)

Omit clause 4(2). Insert instead—

- (2) Despite subclause (1), a council certifier who is taken to be registered because of clause 3 of Schedule 1 to the Act must complete—
 - (a) at least 15 points of relevant education and training in the first year after the certifier first renews that registration, and
 - (b) at least 20 points of relevant education and training in the second year after the renewal, and
 - (c) at least 25 points of relevant education and training in any subsequent year.
- (3) Despite subclause (1), a person who is registered for the first time and is a council certifier is required to complete—
 - (a) if the person first becomes registered on or after 1 July 2020 and before 1 July 2021—
 - (i) at least 15 points of relevant education and training in the first year after the certifier is first registered, and
 - (ii) at least 20 points of relevant education and training in the second year after the certifier is first registered, and
 - (b) if the person first becomes registered on or after 1 July 2021 and before 1 July 2022, at least 20 points of relevant education and training in the first year after the certifier is first registered, and
 - (c) at least 25 points of relevant education and training in any subsequent year.
- (4) Despite subclause (1), a certifier who is taken to be registered because of clause 3 of Schedule 1 to the Act continues to be subject to any continuing professional development requirements that the certifier was subject to under the *Building Professionals Act 2005* immediately before the repeal of that Act as if that Act and any instrument under that Act had not been repealed.
- (5) Subclause (4) ceases to apply to a registered certifier when the registered certifier first renews the certifier's registration.

[11] Schedule 8

Insert after Schedule 7—

Schedule 8 Provision of information by registered certifiers and local councils

1 Definitions

In this Schedule—

ABN means Australian Business Number.

ACN has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

construction certificate as referred to in section 6.4 of the *Environmental Planning and Assessment Act 1979*.

occupation certificate as referred to in section 6.4 of the *Environmental Planning and Assessment Act 1979*.

owner-builder has the same meaning as in the *Home Building Act 1989*.

principal certifier has the same meaning as in Part 6 of the *Environmental Planning and Assessment Act 1979*.

principal contractor has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

2 Information to be provided in the prescribed manner

- (1) A principal certifier for building work must provide the information specified in this Schedule as follows—
 - (a) within the time specified,
 - (b) in a manner approved by the Secretary.
- (2) Information is not required to be provided if the building work relates only to a *spa pool* or *swimming pool* within the meaning of the *Swimming Pools Act 1992*.

3 Before commencing building work

- (1) The following information must be provided no later than 2 business days before the commencement date of the building work—
 - (a) the principal certifier's name, registration number, class of registration held and email address,
 - (b) the date the principal certifier was appointed as the principal certifier,
 - (c) if the principal certifier is employed by a body corporate, the name of the body corporate, ABN or ACN and principal place of business,
 - (d) if the principal certifier is employed by a council, the name and address of the council,
 - (e) details of the building work,
 - (f) the address of the land on which the building work is to occur,
 - (g) the lot, deposited plan and section number of the land,
 - (h) the local government area in which the land is located,
 - (i) the total area of the land,
 - (j) the name of the owner of the land,
 - (k) the commencement date of the building work,
 - (l) the total estimated cost of the building work,
 - (m) the total floor area of buildings on the land before and after the building work will be completed,

- (n) if the building work involves the erection of 1 or more new buildings on the land, for each new building—
 - (i) the total floor area of the building, and
 - (ii) the total number of storeys of the building, and
 - (iii) the total number of storeys below ground level, and
 - (iv) the classification of the building under the *Building Code of Australia*, and
 - (v) whether the building will be used for residential purposes, non-residential purposes or a mixture of residential and non-residential purposes,
- (o) if any building on the land are, or will be, used for residential purposes—
 - (i) the number of dwellings on the land before and after the building work will be completed, and
 - (ii) the number of dwellings to be demolished as part of the building work, and
 - (iii) the number of dwellings to be erected as part of the building work, and
 - (iv) whether the buildings are dwelling houses or dual occupancies,
- (p) if the building work includes a performance solution, any relevant section of the *Building Code of Australia* to which the performance solution relates,
- (q) if the building work is carried out under a development consent—
 - (i) the development application number and the date on which development consent was granted, and
 - (ii) the details of the consent authority that granted consent including the name of the local government area, as applicable,
- (r) if the building work is carried out under a complying development certificate—
 - (i) the number of the certificate and the date on which it was issued, and
 - (ii) the name and any ABN or ACN of the applicant for the certificate, and
 - (iii) if a council issued the certificate, the local government area of the council, and
 - (iv) if a registered certifier issued the certificate—
 - (A) the name and registration number of the certifier, and
 - (B) if applicable, the name, ABN or ACN and principal place of business of the certifier's employer,
- (s) if the building work is subject to a construction certificate—
 - (i) the construction certificate number and the date on which the certificate was issued, and
 - (ii) the name and any ABN or ACN of the applicant for the certificate, and
 - (iii) if a council issued the certificate, the local government area of the council, and
 - (iv) if a registered certifier issued the certificate—
 - (A) the name and registration number of the certifier, and

(B) if applicable, the name, ABN or ACN and principal place of business of the certifier's employer.

(2) In this clause—

dwelling, dwelling houses or *dual occupancies* have the same meaning as in the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

4 Person carrying out building work

(1) The information specified in subclause (2) must be provided within 2 business days after the principal certifier has been notified under section 6.6(2)(c) or (d) of the *Environmental Planning and Assessment Act 1979* by the person having the benefit of the development consent that the person—

- (a) will carry out the building work as an owner-builder, or
- (b) has appointed a principal contractor to carry out the building work.

(2) The following information about the person carrying out the building work is specified—

- (a) the name of the person,
- (b) if the person holds an applicable licence, certificate or permit—
 - (i) the number of the applicable licence, certificate or permit, and
 - (ii) the name and the ABN or ACN of the body corporate in which the person is employed or associated, if applicable,
- (c) if the person does not hold an applicable licence, certificate or permit—
 - (i) the name, email address and phone number of the person, and
 - (ii) the suburb and postcode of the person's principal place of business, if applicable.

(3) In this clause—

applicable licence, certificate or permit means a contractor licence, endorsed contractor licence, supervisor certificate or owner-builder permit under the *Home Building Act 1989*.

5 Modified development consents and complying development certificates

The following information must be provided within 2 business days after the principal certifier becomes aware that an application for the modification of a development consent or complying development certificate relating to the building work has been granted—

- (a) the number of the modified development consent or complying development certificate and the date the application was granted,
- (b) the name of the applicant and, if applicable, the applicant's ABN or ACN,
- (c) if a council granted the application, the local government area of the council,
- (d) if a registered certifier granted the application—
 - (i) the name and registration number of the certifier, and
 - (ii) if applicable, the name, ABN or ACN and principal place of business of the certifier's employer.

6 Directions given by principal certifier

The following information must be provided within 2 business days after the principal certifier gives a direction under section 6.31 of the *Environmental Planning and Assessment Act 1979*—

- (a) the date the direction was issued,
- (b) the person to whom the direction was given, including whether the person is an owner of the land concerned, an owner-builder or a principal contractor.

7 Critical stage inspections

The following information relating to a critical stage inspection required to be carried out under clause 162A of the *Environmental Planning and Assessment Regulation 2000* must be provided within 2 business days after the principal certifier becomes aware that the inspection was carried out or missed—

- (a) the date and critical stage at which the inspection was due to be carried out,
- (b) whether the inspection was carried out or missed, and if the inspection was carried out—
 - (i) the result of the inspection, and
 - (ii) the name and registration number of the registered certifier who carried out the inspection, and
 - (iii) if applicable, the name, ABN or ACN and principal place of business of the certifier's employer.

8 Occupation certificates

The following information must be provided within 2 business days after the principal certifier issues an occupation certificate in relation to the building work—

- (a) the number of the certificate and the date on which it was issued,
- (b) the name of the applicant for the certificate, and if applicable, the applicant's ABN or ACN,
- (c) if a council issued the certificate, the local government area of the council,
- (d) if a registered certifier issued the certificate—
 - (i) the name and registration number of the certifier, and
 - (ii) if applicable, the name, ABN or ACN and principal place of business of the certifier's employer.