



New South Wales

Design and Building Practitioners Amendment (Miscellaneous) Regulation 2022

under the

Design and Building Practitioners Act 2020

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Design and Building Practitioners Act 2020*.

ELENI PETINOS, MP
Minister for Fair Trading

Explanatory note

This Regulation has the following objects—

- (a) to require a building practitioner who intends to install ground anchors on neighbouring land to provide evidence of the legal authority to install the anchors to the Secretary before the work commences,
- (b) to require evidence in certain circumstances of the following—
 - (i) destressing of temporary ground anchors,
 - (ii) removal of reinforcement tendons from removable ground anchors,
- (c) to prescribe professional bodies of engineers and recognised engineering bodies as relevant agencies for the purpose of exchanging certain information with the Secretary,
- (d) matters relating to the recognition scheme for professional bodies of engineers including the following—
 - (i) applications for recognition,
 - (ii) applicable fees,
 - (iii) conditions on recognition, including the variation of conditions,
 - (iv) renewal of recognition,
 - (v) suspension or cancellation of recognition,
- (e) to exempt building practitioners from certain insurance requirements until 30 June 2023,
- (f) to set out the relevant practical experience required for registration in the design practitioner—architectural class,
- (g) to set out the qualifications, experience, knowledge and skills required for registration in the design practitioner—architectural with a condition for medium rise work class and the type of work authorised to be carried out by a person registered in that class,
- (h) to set out the qualifications, experience, knowledge and skills required for the following building practitioners with conditions on registration and the type of work authorised to be carried out—
 - (i) building practitioner—body corporate nominee with a condition for low rise work,

- (ii) building practitioner—body corporate nominee with a condition for medium rise work,
- (iii) building practitioner—general with a condition for low rise work,
- (iv) building practitioner—general with a condition for medium rise work,
- (i) to prescribe certain offences as penalty notice offences,
- (j) to make minor amendments to update terminology and cross-references.

Design and Building Practitioners Amendment (Miscellaneous) Regulation 2022

under the

Design and Building Practitioners Act 2020

1 Name of Regulation

This Regulation is the *Design and Building Practitioners Amendment (Miscellaneous) Regulation 2022*.

2 Commencement

- (1) Subject to subsection (2), this Regulation commences on 2 March 2022 and is required to be published on the NSW legislation website.
- (2) Schedule 1[24] commences on 1 July 2022.

Schedule 1 Amendment of Design and Building Practitioners Regulation 2021

[1] **Clause 21 Circumstances in which principal compliance declaration must be provided**

Omit “clause 24” from clause 21(a). Insert instead “clause 23”.

[2] **Clause 21(b)**

Omit “clause 25”. Insert instead “clause 24”.

[3] **Part 3, Division 3A**

Insert after clause 28—

Division 3A Requirements for building work with ground anchors

28A Definitions

In this Division—

destressing means the process of removing tension from a ground anchor after the related permanent structure has taken on the load carrying capacity of the anchor.

encroaching ground anchor means a ground anchor installed for the purposes of building work on a lot if the anchor or part of the anchor will be installed on a different lot.

ground anchor has the meaning given by AS 4678–2002 *Earth-retaining structures*.

Editorial note— ***ground anchor*** is defined as “A tensile reinforcement, wire or bar, and its associated components that transmit force into soil or rock through bond over part of its length”.

ground anchor installation right document means—

- (a) for neighbouring land that is a public road—a consent under the *Roads Act 1993*, section 139 from the appropriate roads authority that permits the installation of a ground anchor on neighbouring land, or
- (b) otherwise—a document that permits the installation of a ground anchor on neighbouring land and shows the proposed location of the anchor, including—
 - (i) a registered easement, or
 - (ii) a licence agreement, or
 - (iii) a deed.

removable encroaching ground anchor means an encroaching ground anchor that includes—

- (a) a permanent anchorage in the ground, and
- (b) a removable reinforcement tendon which may be removed after the anchor is no longer required.

temporary encroaching ground anchor means an encroaching ground anchor required to ensure the stability and satisfactory performance of the structure being supported until a permanent structure replaces the load carrying capacity of the anchor.

28B Circumstances in which authority to install ground anchor must be provided

- (1) For the purposes of the Act, section 107(2)(d), a building practitioner must give the Secretary a ground anchor installation right document if the practitioner proposes to carry out building work involving an encroaching ground anchor.
- (2) If the ground anchor is a temporary encroaching ground anchor the building practitioner must also give the Secretary a document detailing—
 - (a) the process for destressing the temporary encroaching ground anchor, and
 - (b) the time the destressing will occur.
- (3) If the ground anchor is a removable encroaching ground anchor the building practitioner must also give the Secretary a document detailing—
 - (a) the process for the removal of the removable reinforcement tendon, and
 - (b) the time the removal will occur.
- (4) The documents must be given—
 - (a) before the building work commences, and
 - (b) in the approved way.Maximum penalty for subclauses (1)–(3)—
 - (a) for a body corporate—200 penalty units, or
 - (b) otherwise—100 penalty units.

28C Provision of evidence about temporary ground anchor destressing

For the purposes of the Act, section 107(2)(d), a building practitioner for building work involving a temporary encroaching ground anchor must provide evidence to the Secretary that the ground anchor has been destressed—

- (a) for development that does not require an occupation certificate—before the development is completed, or
- (b) otherwise—before applying for the final occupation certificate for the development.

Maximum penalty—

- (a) for a body corporate—200 penalty units, or
- (b) otherwise—100 penalty units.

28D Provision of evidence about removal of reinforcement tendons

For the purposes of the Act, section 107(2)(d), a building practitioner for building work involving a removable encroaching ground anchor must provide evidence to the Secretary that the removable reinforcement tendon has been removed—

- (a) for development that does not require an occupation certificate—before the development is completed, or
- (b) otherwise—before applying for the final occupation certificate for the development.

Maximum penalty—

- (a) for a body corporate—200 penalty units, or
- (b) otherwise—100 penalty units.

[4] Clause 50A

Insert before clause 50—

50A Definitions

In this Division—

equivalent authorisation means an authorisation, however described, under the law of another Australian jurisdiction that is equivalent to—

- (a) registration as a registered practitioner, or
- (b) a relevant authorisation.

officer—

- (a) for a body corporate that is a corporation within the meaning of the *Corporations Act 2001* of the Commonwealth—has the same meaning as in that Act, and
- (b) for a body corporate that is not a corporation within the meaning of the *Corporations Act 2001* of the Commonwealth—means a person, called by whatever name, who is concerned in or takes part in the management of the body corporate.

relevant offence means the following offences whether committed in this or another Australian jurisdiction—

- (a) an offence in relation to a failure to comply with—
 - (i) a condition of registration as a registered practitioner, or
 - (ii) a relevant authorisation, or
 - (iii) an equivalent authorisation under the law of another Australian jurisdiction,
- (b) an offence involving fraud or dishonesty.

[5] Clause 51 Determination of applications

Omit clause 51(2). Insert instead—

- (2) The Secretary must give the applicant written notice within 28 business days of making a decision to grant or refuse recognition.

[6] Clause 51(3)

Omit “60 days”. Insert instead “60 business days”.

[7] Clause 52 Duration of recognition

Omit “revoked”. Insert instead “cancelled”.

[8] Clauses 52A–52J

Insert after clause 52—

52A Applications for renewal of recognition

- (1) For the purposes of the Act, section 55(3)(a), a recognised engineering body may apply to the Secretary for the renewal of recognition within 3 months before the expiry of the recognition.
- (2) The Secretary may accept an application for the renewal of recognition after the expiry of the recognition if, in the Secretary’s opinion, there are reasonable grounds to accept the application.
- (3) An application for renewal must—

- (a) be in the form approved by the Secretary, and
- (b) be accompanied by the fee set out in Schedule 7, Part 1, Column 2.
- (4) The Secretary must give the applicant written notice within 28 business days of making a decision to renew recognition.
- (5) The Secretary may refuse to renew recognition—
 - (a) if the recognition was suspended, or
 - (b) on a ground specified in clause 52B.
- (6) If an application for renewal of recognition is made under this clause, the recognition of the body does not expire until the Secretary provides the body written notice of the decision to grant or refuse the renewal of recognition.

52B Refusal of recognition on public interest grounds

For the purposes of the Act, section 55(3)(b), the Secretary may refuse an application for recognition as a recognised engineering body or an application for the renewal of recognition if—

- (a) in the Secretary’s opinion, it is not in the public interest to approve the application, or
- (b) in the Secretary’s opinion, the applicant does not exercise the functions of a professional body of engineers, or
- (c) in the Secretary’s opinion, the applicant is not suitable to be recognised as a recognised engineering body, or
- (d) the Secretary requested the applicant provide additional information necessary for the Secretary to decide the application, and the applicant failed to provide the information within the time specified by the Secretary, or
- (e) the applicant, including a director or officer of the applicant, has been convicted of a relevant offence within the previous 10 years, or
- (f) the Independent Commission Against Corruption, or an equivalent body in another jurisdiction, has within the previous 10 years made a finding or reasonably believes that the applicant, including, a director or officer of the applicant, has engaged in corrupt conduct, or
- (g) the applicant, including a director of the applicant or officer of the applicant, is an undischarged bankrupt, or
- (h) the applicant is the subject of a winding up order or has had a controller or administrator appointed, or
- (i) the applicant is disqualified from holding an equivalent authorisation under the law of another State, Territory or the Commonwealth, other than on the following grounds—
 - (i) the applicant does not reside in the other jurisdiction,
 - (ii) the applicant is a body corporate, or
- (j) a close associate of the applicant, who the Secretary considers is not a fit and proper person, exercises a significant influence over the applicant or the operation and management of the applicant’s business.

52C Refusal of recognition on other grounds

For the purposes of the Act, section 55(3)(b), the Secretary may refuse an application for recognition as a recognised engineering body or an application for the renewal of recognition if the body refuses to enter into an information sharing agreement with the Secretary under clause 92(3).

52D Conditions on recognition—general

- (1) For the purposes of the Act, section 55(3)(c), recognition by the Secretary as a recognised engineering body is subject to the conditions in this clause.
 - (2) The functions of the recognised engineering body must be exercised in accordance with the body's recognition or registration scheme.
 - (3) The recognised engineering body and the body's directors and officers must act in the public interest in the exercise of their functions.
 - (4) The recognised engineering body must, at the written request of the Secretary, provide the Secretary with the information relating to the exercise of the body's functions as a professional body of engineers that the Secretary requires within the time specified by the Secretary.
 - (5) The recognised engineering body must, at the written request of the Secretary—
 - (a) engage an auditor, approved by the Secretary, to conduct an audit of—
 - (i) the recognised engineering body's exercise of the body's functions, or
 - (ii) the exercise of the body's functions specified by the Secretary, and
 - (b) ensure the audit is completed within the time specified by the Secretary, and
 - (c) provide a copy of the report of the audit to the Secretary.
 - (6) The recognised engineering body must provide reasonable assistance to the Secretary in the conduct of an investigation or audit of the body.
 - (7) The recognised engineering body must, at the written request of the Secretary or the auditor engaged under subclause (5)—
 - (a) make the information specified by the Secretary or auditor relating to the exercise of the body's functions as a recognised engineering body available to the public, and
 - (b) provide the information in the way specified by the Secretary or auditor.
- Maximum penalty—
- (a) for a body corporate—100 penalty units, or
 - (b) otherwise—25 penalty units.

52E Conditions on recognition—obligations on bodies, directors and officers

For the purposes of the Act, section 55(3)(c), recognition by the Secretary as a recognised engineering body is subject to the condition that the body, a director of the body or an officer of the body must give the Secretary written notice of the following events within 7 days after becoming aware of the event—

- (a) proceedings being instituted against the following—
 - (i) the recognised engineering body,
 - (ii) a director of the recognised engineering body,
 - (iii) an officer of the recognised engineering body,
- (b) any of the following being found guilty of a relevant offence—
 - (i) the recognised engineering body,
 - (ii) a director of the recognised engineering body,

- (iii) an officer of the recognised engineering body,
- (c) the recognised engineering body becoming bankrupt or making a composition, arrangement or assignment for the benefit of creditors,
- (d) the recognised engineering body becoming the subject of a winding up order or having a controller or administrator appointed,
- (e) the appointment of a person as a director or an officer of the recognised engineering body,
- (f) a person ceasing to be a director or an officer of the recognised engineering body,
- (g) the recognised engineering body no longer holding an insurance policy under clause 57,
- (h) a change in the individuals nominated by the recognised engineering body in the body's application for recognition.

Maximum penalty—

- (a) for a body corporate—200 penalty units, or
- (b) otherwise—100 penalty units.

52F Conditions on recognition—compliance requirements

- (1) For the purposes of the Act, section 55(3)(c), recognition by the Secretary as a recognised engineering body is subject to the conditions in this clause.
- (2) The recognised engineering body must be—
 - (a) a company within the meaning of the *Corporations Act 2001* of the Commonwealth, or
 - (b) an association registered under the *Associations Incorporation Act 2009*.

Maximum penalty—

- (a) for a body corporate—100 penalty units, or
- (b) otherwise—50 penalty units.

- (3) The recognised engineering body must comply with clause 57.

Maximum penalty—

- (a) for a body corporate—200 penalty units, or
- (b) otherwise—100 penalty units.

- (4) The recognised engineering body must have financial capacity and facilities to operate the body's recognition or registration scheme.
- (5) A recognised engineering body must make the application and renewal process for recognition under the body's recognition or registration scheme publicly available.

Maximum penalty—

- (a) for a body corporate—100 penalty units, or
- (b) otherwise—50 penalty units.

- (6) The recognised engineering body must comply with a law of this or another State, a Territory or the Commonwealth relevant to the body performing the functions of a recognised engineering body.
- (7) The recognised engineering body must provide an annual scheme declaration by 30 September each year that includes the information and evidence

requested by the Secretary relating to the exercise of the body's functions as a recognised engineering body.

Maximum penalty—

- (a) for a body corporate—200 penalty units, or
- (b) otherwise—100 penalty units.

52G Conditions on recognition—independence and fairness

- (1) For the purposes of the Act, section 55(3)(c), recognition by the Secretary as a recognised engineering body is subject to the conditions in this clause.
- (2) A condition in this clause applies to a director or officer of a body in the same way that it applies to the body.
- (3) A recognised engineering body must do the following—
 - (a) exercise the body's recognition function independently, fairly and with honesty and integrity,
 - (b) if the recognised engineering body operates a membership system for professional engineers in another capacity—ensure that a person who is not a member of the body is able to apply for recognition of registration as a professional engineer under the body's recognition or registration scheme in the same way as a member.

Maximum penalty—

- (a) for a body corporate—200 penalty units, or
- (b) otherwise—100 penalty units.
- (4) A recognised engineering body must do the following—
 - (a) have in place, and the body must comply with, a conflict of interest policy that—
 - (i) identifies and manages conflicts of interest, and
 - (ii) includes details of how actual and perceived conflicts of interest between the commercial interest of a body and the management of the recognition or registration scheme will be managed,
 - (b) ensure that the body's recognition or registration scheme is updated as soon as practicable in accordance with changes to industry practice and legal requirements,
 - (c) ensure that persons who assess applications under the body's recognition or registration scheme—
 - (i) are trained to perform assessments of professional engineers, and
 - (ii) act in accordance with the requirements of the scheme.

Maximum penalty—

- (a) for a body corporate—100 penalty units, or
- (b) otherwise—50 penalty units.

52H Secretary's conditions on recognition

For the purposes of the Act, section 55(3)(c) and (d), the Secretary may give written notice to a recognised engineering body of the following—

- (a) imposing a condition on the body's recognition,
- (b) varying or revoking a condition on the recognition imposed by the Secretary.

52I Applications for variation of conditions on recognition

- (1) For the purposes of the Act, section 55(3)(d), a recognised engineering body may, by written application to the Secretary, request the variation of a condition on the body's recognition.
- (2) The application must—
 - (a) be in a form approved by the Secretary, and
 - (b) be accompanied by the fee set out in Schedule 7, Part 1, Column 2.
- (3) The Secretary may require the applicant to provide additional documents or information within the time specified by the Secretary.

52J Determination of applications for variation of conditions on recognition

- (1) The Secretary must give an applicant for variation of a condition on recognition written notice of a decision to grant or refuse an application for variation within 28 business days of making the decision.
- (2) If the Secretary fails to give the applicant notice of a decision to grant or refuse the variation within 60 business days after the application is made, the Secretary is taken to have refused to grant the variation.
- (3) In calculating the period under subclause (2), a period beginning on the day on which the Secretary makes a written request for further information from the applicant and ending on the day on which the information is provided, or the applicant refuses to provide the information, must not be included.
- (4) Subclause (2) does not prevent the Secretary from continuing to deal with an application after the expiry of the period.
- (5) A variation of a condition on recognition takes effect—
 - (a) at the time specified in the written notice, or
 - (b) when the notice is served on the recognised engineering body if—
 - (i) no time is specified in the notice, or
 - (ii) the notice is served on the recognised engineering body after the time specified in the notice.

[9] Clause 53, heading

Omit “**Revocation**”. Insert instead “**Suspension or cancellation**”.

[10] Clause 53(1)–(4)

Omit “revoke recognition” wherever occurring.

Insert instead “suspend or cancel recognition”.

[11] Clause 53(1)(a1)–(a4)

Insert after clause 53(1)(a)—

- (a1) in the Secretary's opinion the recognised engineering body or a director or officer of the body has contravened a requirement imposed under the Act,
- (a2) in the Secretary's opinion, if the recognised engineering body were applying for recognition under clause 52B, the application would be refused under that clause,
- (a3) in the Secretary's opinion the recognised engineering body should not have been granted recognition because the Secretary—

- (i) has received information about the body or a director or officer of the body, and
 - (ii) reasonably believes the Secretary would have refused the application if the Secretary had received the information at the time the application for recognition or renewal of recognition was made,
- (a4) in the Secretary’s opinion the recognised engineering body is no longer exercising the functions of a recognised engineering body,

[12] Clause 53(1)(b)

Omit “revoked”. Insert instead “cancelled”.

[13] Clause 53(1A)

Insert after clause 53(1)—

- (1A) The Secretary may suspend recognition as a recognised engineering body unconditionally or subject to conditions determined by the Secretary.

[14] Clause 53(2A) and (2B)

Insert after clause 53(2)—

- (2A) For the purposes of subclause (1)(b), the recognised engineering body must, after the recognised engineering body applies for the recognition to be cancelled—
- (a) continue to operate and meet the requirements of the body under the Act for at least 180 days before the recognition is cancelled, and
 - (b) before the end of the 180 day period—implement the transition strategy under clause 61.
- (2B) The Secretary may cancel recognition as a recognised engineering body if the Secretary and the recognised engineering body jointly agree to cancel the recognition earlier than the period referred to in subclause (2A).

[15] Clause 53(4)

Omit “the revocation” wherever occurring. Insert instead “the suspension or cancellation”.

[16] Clause 53(5)

Insert after clause 53(4)—

- (5) If the Secretary decides to suspend recognition, the Secretary must give the recognised engineering body written notice of the decision, including—
- (a) the period of the suspension, and
 - (b) conditions on the suspension.

[17] Clause 54 Processes under recognition or registration scheme

Omit clause 54(1)(a)(ii). Insert instead—

- (ii) a process for managing actual or perceived conflicts of interest within the recognised engineering body’s conflict of interest policy in carrying out an assessment of an application, and

[18] Clause 58 Duties of recognised engineering body under recognition or registration scheme

Omit the clause.

[19] Clause 60, heading

Omit “**revoked**”. Insert instead “**cancelled**”.

[20] Clause 61 Transition strategy must address certain matters

Insert after clause 61(b)—

- (b1) how professional engineers will be able to transition to be recognised or registered—
 - (i) under another recognised engineering body’s recognition or registration scheme, or
 - (ii) under Pathway 1 set out in Schedule 2, clause 27,
- (b2) the date the recognised engineering body’s recognition will be cancelled,

[21] Clause 61A

Insert after clause 61—

61A Public notice of suspension or cancellation of recognition of recognised engineering body

- (1) For the purposes of the Act, section 55(3)(g), the Secretary must publish a notice in the Gazette if a professional body of engineers is no longer able to exercise the functions of a recognised engineering body because the body’s recognition is suspended or cancelled.
- (2) The notice must be published as soon as practicable after the suspension or cancellation.

[22] Clause 92 Exchange of information

Insert at the end of the clause—

- (3) For the purposes of the Act, section 104(7), definition of *relevant agency*, paragraph (c), the following bodies are prescribed for the purposes of an information sharing arrangement between the body and the Secretary—
 - (a) professional bodies of engineers,
 - (b) recognised engineering bodies.

[23] Clause 93A Secretary’s power to waive, reduce, postpone or refund fees

Insert at the end of clause 93A—

- (2) A professional body of engineers may, by written application to the Secretary, request a refund of the whole of application fees for the following if an application for recognition or renewal is withdrawn—
 - (a) recognition as a recognised engineering body,
 - (b) renewal of recognition as a recognised engineering body.

[24] Clause 106

Omit clause 106. Insert instead—

106 Registered building practitioners exempt from insurance requirements

For the purposes of the Act, section 107(5A), registered building practitioners are exempt from the insurance requirements under the Act, including insurance requirements in regulations made under section 24, from 1 July 2022 to 30 June 2023.

[25] Schedule 1 Classes of registration

Insert after Schedule 1, clause 6—

6A Design practitioner—architectural with a condition for medium rise work

- (1) A registered design practitioner who holds a design practitioner—architectural class of registration with a condition for medium rise work is authorised to do the following—
 - (a) prepare or vary a regulated design of a type that would constitute the provision of an architectural service within the meaning of the *Architects Act 2003*,
 - (b) make a design compliance declaration for a regulated design referred to in paragraph (a).
- (2) The authorisation only applies to the design of a medium rise building.

[26] Schedule 1, clause 26(1)

Insert “and only if the making of the declaration is otherwise consistent with conditions or restrictions on the individual’s registration” after “nominated individual”.

[27] Schedule 1, clauses 28A–28D

Insert after clause 28—

28A Building practitioner—body corporate nominee with condition for low rise work

- (1) A registered building practitioner who holds a building practitioner—body corporate nominee class of registration with a condition for low rise work is authorised to do the things specified in subclause (2), but only on behalf of a registered body corporate that—
 - (a) holds a building practitioner—body corporate class of registration, and
 - (b) has nominated the registered building practitioner.
- (2) The registered building practitioner is authorised to—
 - (a) make a building compliance declaration for building work, and
 - (b) prepare and provide documents that are required to be prepared and provided by a building practitioner under the Act and this Regulation.
- (3) The authorisation only applies to work related to low rise buildings.

28B Building practitioner—body corporate nominee with condition for medium rise work

- (1) A registered building practitioner who holds a building practitioner—body corporate nominee class of registration with a condition for medium rise work is authorised to do the things specified in subclause (2), but only on behalf of a registered body corporate that—
 - (a) holds a building practitioner—body corporate class of registration, and
 - (b) has nominated the registered building practitioner.
- (2) The registered building practitioner is authorised to—
 - (a) make a building compliance declaration for building work, and
 - (b) prepare and provide documents that are required to be prepared and provided by a building practitioner under the Act and this Regulation.
- (3) The authorisation only applies to work related to medium rise buildings.

28C Building practitioner—general with condition for low rise work

- (1) A registered building practitioner who holds a building practitioner—general class of registration with a condition for low rise work is authorised to do the following—
 - (a) make a building compliance declaration for building work,
 - (b) prepare and provide documents that are required to be prepared and provided by a building practitioner under the Act and this Regulation.
- (2) The authorisation only applies to work related to low rise buildings.

28D Building practitioner—general with condition for medium rise work

- (1) A registered building practitioner who holds a building practitioner—general class of registration with a condition for medium rise work is authorised to do the following—
 - (a) make a building compliance declaration for building work,
 - (b) prepare and provide documents that are required to be prepared and provided by a building practitioner under the Act and this Regulation.
- (2) The authorisation only applies to work related to medium rise buildings.

[28] Schedule 2 Qualifications, experience, knowledge and skills

Insert after clause 1(1), definition of *relevant*, paragraph (a)—

- (a1) for a design practitioner in the class of design practitioner—architectural with a condition for medium rise work—
 - (i) experience relevant to the preparation of a regulated design involving a class 2, 3, 5, 6, 8, 9a, 9b or 9c building, or
 - (ii) experience relevant to the provision of a compliance declaration involving a class 2, 3, 5, 6, 8, 9a, 9b or 9c building,

[29] Schedule 2, clause 2(2)

Insert “experience,” after “qualifications,” wherever occurring.

[30] Schedule 2, clause 3A

Insert before clause 4—

3A Experience—design practitioner—architectural

(1) Pathway 1

Must have at least 10 years, or equivalent part-time, practical experience within the last 15 years, which—

- (a) is relevant to the preparation of regulated designs or the provision of compliance declarations for a class 2, 3, 5, 6, 8 or 9 building, and
- (b) includes at least 3 years practical experience specifically relevant to the preparation of regulated designs or the provision of compliance declarations for a class 2, 3, 9a or 9c building.

(2) Pathway 2

Must have the experience referred to in clause 4.

[31] Schedule 2, clause 4, heading

Insert “other” after “all”.

[32] Schedule 2, clause 5A

Insert after clause 5—

5A Design practitioner—architectural with a condition for medium rise work

(1) **Qualifications**

Note— A practitioner granted registration through this pathway is subject to the condition under Schedule 1, clause 6A.

Must—

- (a) hold full registration as an architect within the meaning of the *Architects Act 2003*, and
- (b) be recorded as a practising architect in the register maintained by the Registrar of the NSW Architects Registration Board constituted under that Act.

(2) **Knowledge**

Must know and understand the following—

- (a) the Act and this Regulation,
- (b) the *Environmental Planning and Assessment Act 1979*, including regulations made under that Act, to the extent that the legislation is relevant to this class of registration,
- (c) the *Building Code of Australia*, Volumes 1 and 2, including documents adopted by reference in the *Building Code of Australia*, to the extent that the documents are relevant to this class of registration,
- (d) building design, including methods, materials and planning, to the extent that this knowledge is relevant to this class of registration.

(3) **Skills**

Must be able to do the following—

- (a) interpret, apply and assess compliance with the relevant requirements of the *Building Code of Australia*,
- (b) apply and assess compliance with relevant standards relating to the design of a building, including materials, finishes, fittings, components and systems of a building, to the extent that the standards are relevant to this class of registration.

[33] Schedule 2, clauses 25A–25D

Insert after clause 25—

25A Building practitioner—body corporate nominee with condition for low rise work

Note— A practitioner granted registration through this pathway is subject to the condition under Schedule 1, clause 28A.

(1) **Qualifications**

Must be a holder of a supervisor certificate authorising the holder to do general building work under the *Home Building Act 1989*.

(2) **Experience**

Must have at least 3 years, or equivalent part-time, practical experience within the last 7 years, which—

- (a) includes at least 2 years practical experience relating to work carried out in Australia by the person, and

- (b) includes 1 year of experience coordinating or supervising building work involving a class 1, 2, 3, 9a or 9c building, and
- (c) relates to the carrying out of building work involving a class 1, 2, 3, 9a or 9c building.

(3) **Knowledge**

Must know and understand the following—

- (a) the Act and this Regulation,
- (b) the *Environmental Planning and Assessment Act 1979*, including regulations made under that Act, to the extent that the legislation is relevant to this class of registration,
- (c) the *Building Code of Australia*, Volumes 1 and 2, including documents adopted by reference in the *Building Code of Australia*,
- (d) building design and construction, including methods, materials and planning.

(4) **Skills**

Must be able to interpret, apply and assess compliance with the relevant requirements of the *Building Code of Australia*.

25B Building practitioner—body corporate nominee with condition for medium rise work

Note— A practitioner granted registration through this pathway is subject to the condition under Schedule 1, clause 28B.

(1) **Qualifications**

Must be a holder of a supervisor certificate authorising the holder to do general building work under the *Home Building Act 1989*.

(2) **Experience**

Must have at least 3 years, or equivalent part-time, practical experience within the last 7 years, which—

- (a) includes at least 2 years practical experience relating to work carried out in Australia by the person, and
- (b) includes 2 years experience coordinating or supervising building work involving a class 1, 2, 3, 9a or 9c building, and
- (c) relates to the carrying out of building work involving a class 1, 2, 3, 9a or 9c building.

(3) **Knowledge**

Must know and understand the following—

- (a) the Act and this Regulation,
- (b) the *Environmental Planning and Assessment Act 1979*, including regulations made under that Act, to the extent that the legislation is relevant to this class of registration,
- (c) the *Building Code of Australia*, Volumes 1 and 2, including documents adopted by reference in the *Building Code of Australia*,
- (d) building design and construction, including methods, materials and planning.

(4) **Skills**

Must be able to interpret, apply and assess compliance with the relevant requirements of the *Building Code of Australia*.

25C Building practitioner—general with condition for low rise work

Note— A practitioner granted registration through this pathway is subject to the condition under Schedule 1, clause 28C.

(1) **Qualifications**

Must be a holder of an endorsed contractor licence authorising the holder to do general building work under the *Home Building Act 1989*.

(2) **Experience**

Must have at least 3 years, or equivalent part-time, practical experience within the last 7 years, which—

- (a) includes at least 2 years practical experience relating to work carried out in Australia by the person, and
- (b) includes 1 year of experience coordinating or supervising building work involving a class 1, 2, 3, 9a or 9c building, and
- (c) relates to the carrying out of building work involving a class 1, 2, 3, 9a or 9c building.

(3) **Knowledge**

Must know and understand the following—

- (a) the Act and this Regulation,
- (b) the *Environmental Planning and Assessment Act 1979*, including regulations made under that Act, to the extent that the legislation is relevant to this class of registration,
- (c) the *Building Code of Australia*, Volumes 1 and 2, including documents adopted by reference in the *Building Code of Australia*,
- (d) building design and construction, including methods, materials and planning.

(4) **Skills**

Must be able to interpret, apply and assess compliance with the relevant requirements of the *Building Code of Australia*.

25D Building practitioner—general with condition for medium rise work

Note— A practitioner granted registration through this pathway is subject to the condition under Schedule 1, clause 28D.

(1) **Qualifications**

Must be a holder of an endorsed contractor licence authorising the holder to do general building work under the *Home Building Act 1989*.

(2) **Experience**

Must have at least 3 years, or equivalent part-time, practical experience within the last 7 years, which—

- (a) includes at least 2 years practical experience relating to work carried out in Australia by the person, and
- (b) includes 2 years experience coordinating or supervising building work involving a class 1, 2, 3, 9a or 9c building, and

- (c) relates to the carrying out of building work involving a class 1, 2, 3, 9a or 9c building.

(3) **Knowledge**

Must know and understand the following—

- (a) the Act and this Regulation,
 (b) the *Environmental Planning and Assessment Act 1979*, including regulations made under that Act, to the extent that the legislation is relevant to this class of registration,
 (c) the *Building Code of Australia*, Volumes 1 and 2, including documents adopted by reference in the *Building Code of Australia*,
 (d) building design and construction, including methods, materials and planning.

(4) **Skills**

Must be able to interpret, apply and assess compliance with the relevant requirements of the *Building Code of Australia*.

[34] Schedule 5 Penalty notice offences

Insert in appropriate order in the table under the heading **Offences under this Regulation**—

| | | |
|--|---------|---------|
| Clause 28B(1), (2) or (3) | \$1,650 | \$3,300 |
| Clause 28C | \$1,650 | \$3,300 |
| Clause 28D | \$1,650 | \$3,300 |
| Clause 52D(7) | \$1,100 | \$2,200 |
| Clause 52E(a), (b), (c), (d), (e) or (g) | \$1,650 | \$3,300 |
| Clause 52F(2) | \$1,650 | \$3,300 |
| Clause 52F(5) | \$1,100 | \$2,200 |
| Clause 52F(7) | \$1,650 | \$3,300 |
| Clause 52G(3)(b) | \$1,650 | \$3,300 |

[35] Schedule 7 Fees

Omit the matter relating to **Recognised professional engineering body** from the table to Part 1.

Insert instead—

Recognised professional engineering body

| | | |
|--|-------|---|
| (a) Application for recognition as a professional body of engineers—clause 50(2)(b1) | 68.39 | — |
| (b) Application for renewal of recognition as a professional body of engineers—clause 52A(3)(b) | 68.39 | — |
| (c) Application for variation of a condition on recognition as a professional body of engineers—clause 52I(2)(b) | 15.2 | — |

[36] Dictionary

Insert in alphabetical order—

business day means a day that is not a Saturday, a Sunday or a public holiday throughout the State.