



New South Wales

Building and Development Certifiers Amendment (Miscellaneous) Regulation 2022

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*.

VICTOR DOMINELLO, MP
Minister for Fair Trading

Explanatory note

The objects of this Regulation are as follows—

- (a) to require registered certifiers, as a condition of registration under the *Building and Development Certifiers Act 2018*, to carry out certification work in accordance with certain standards,
- (b) to provide that a registered certifier's registration may be suspended if the Commissioner for Fair Trading—
 - (i) has commenced, but not finally determined, disciplinary action against the certifier, and
 - (ii) is satisfied the suspension is necessary to protect property or the safety of a person,
- (c) to make minor amendments to the qualification and experience requirements for certain registered certifiers,
- (d) to make minor amendments as a consequence of the repeal of the *Environmental Planning and Assessment Regulation 2000* and the commencement of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* and the *Environmental Planning and Assessment Regulation 2021*.

This Regulation is made under the *Building and Development Certifiers Act 2018*, including sections 13(1)(a), 16(g) and 120, the general regulation-making power.

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1 Name of Regulation

This Regulation is the *Building and Development Certifiers Amendment (Miscellaneous) Regulation 2022*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Building and Development Certifiers Regulation 2020

[1] Clause 3 Definitions

Omit clause 3(1), definition of *Planning Regulation*.

[2] Clause 9 Prescribed conditions of registration

Omit clause 9(3B). Insert instead—

- (3B) For the Act, section 13(1)(a), it is a condition of registration that a registered body corporate carry out certification work authorised by the registration in accordance with—
- (a) Volume 1, and
 - (b) from the beginning of 1 March 2023—Volume 2.
- (3C) For the Act, section 13(1)(a), it is a condition of registration that a registered individual carry out certification work authorised by the registration in accordance with—
- (a) for a building surveyor—unrestricted or building surveyor—restricted (all classes of building) class of registration—
 - (i) Volume 1, and
 - (ii) from the beginning of 1 March 2023—Volume 2, or
 - (b) for a building inspector or building surveyor—restricted (class 1 and 10 buildings) class of registration—
 - (i) Chapters 1 and 2 of Volume 1, and
 - (ii) from the beginning of 1 March 2023—Volume 2, or
 - (c) for a class of registration not specified in paragraph (a) or (b)—
 - (i) Chapters 1 and 2 of Volume 1, and
 - (ii) from the beginning of 1 March 2023—Chapters 1 and 2 of Volume 2.

[3] Clause 9(5)

Insert after clause 9(4)—

- (5) In this clause—

Volume 1 means the *Practice Standard for Registered Certifiers - Volume One - new residential apartment buildings*, published by the Department and in force from time to time.

Volume 2 means the *Practice Standard for Registered Certifiers - Volume Two - Class 1a Buildings*, published by the Department and in force from time to time.

[4] Clause 9A Prescribed grounds for suspension of registration

Omit clause 9A(a) and (b). Insert instead—

- (a) the Secretary—
 - (i) has commenced, but not finally determined, disciplinary action under the Act, Part 4 against the registered certifier, and
 - (ii) is satisfied the suspension is necessary to protect property or the safety of a person,

[5] Clause 50 Planning Act records

Omit clause 50(g). Insert instead—

- (g) a record, of a site inspection, required under—
 - (i) the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 17(1), 63(1) or 66(5), or
 - (ii) the *Environmental Planning and Assessment Regulation 2021*, section 140(1),

[6] Clause 50(h)

Omit “clause 162B(2) of the Planning Regulation”.

Insert instead “the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 63(2)”.

[7] Clause 50(i)

Omit “under clause 130(2A) or 144A(1) of the Planning Regulation.”. Insert instead—
under—

- (i) the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 18(1), or
- (ii) the *Environmental Planning and Assessment Regulation 2021*, section 137(3).

[8] Clause 57 Planning Act records

Omit clause 57(g). Insert instead—

- (g) a record, of a site inspection, required under—
 - (i) the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 17(1), 63(1) or 66(5), or
 - (ii) the *Environmental Planning and Assessment Regulation 2021*, section 140(1),

[9] Clause 57(h)

Omit “clause 162B(2) of the Planning Regulation”.

Insert instead “the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 63(2)”.

[10] Clause 57(i)

Omit “under clause 130(2A) or 144A(1) of the Planning Regulation.”. Insert instead—
under—

- (i) the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 18(1), or
- (ii) the *Environmental Planning and Assessment Regulation 2021*, section 137(3).

[11] Clause 64 Certain registered certifiers may carry out certain regulated work

Omit “under clause 130 or 144A of the *Environmental Planning and Assessment Regulation 2000*.” from clause 64(1)(d).

Insert instead—

under—

- (i) the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 18(1), or
- (ii) the *Environmental Planning and Assessment Regulation 2021*, section 137(3).

[12] Clause 64(2), definition of “relevant fire safety system”

Omit “clause 136AA of the Planning Regulation”.

Insert instead “the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*”.

[13] Clause 65 Regulated work may be carried out if no accredited person is available

Omit “clause 130, 136AA, 144A, 146B or 164B of the Planning Regulation,” from clause 65(1)(a).

Insert instead “the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 18, 22 or 74 or the *Environmental Planning and Assessment Regulation 2021*, section 137 or 147—”.

[14] Clause 65(1)(b)

Omit “Divisions 4 and 5 of Part 9 of the Planning Regulation,”.

Insert instead “the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, Part 12—”.

[15] Schedule 1 Classes of registration

Omit “prescribed by clause 162A of the Planning Regulation” from clause 5(b).

Insert instead “required under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 61”.

[16] Schedule 1, clause 5(b)(i)

Omit “last”. Insert instead “final”.

[17] Schedule 1, clause 6(2)(a)(i)

Omit “clause 162AB of the Planning Regulation”.

Insert instead “the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 62”.

[18] Schedule 1, clause 6(2)(a)(ii)

Omit “*State Environmental Planning Policy (Three Ports) 2013*”.

Insert instead “*State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 5”.

[19] Schedule 1, clause 19(a)(ii)

Omit “clause 130 of *State Environmental Planning Policy (Infrastructure) 2007*”.

Insert instead “*State Environmental Planning Policy (Transport and Infrastructure) 2021*, section 2.168”.

[20] Schedule 1, clause 19(c)

Omit “clause 129B of the Planning Regulation”.

Insert instead “the *Environmental Planning and Assessment Regulation 2021*, section 139”.

[21] Schedule 2 Qualifications and experience

Omit “(CPC60121), including successful completion of the CPPACC6002A (Apply performance-based codes and risk management to assessing buildings for access) competency from the Local Government Training Institute” from clause 3(1)(a)(vii).

[22] Schedule 2, clause 5(1)(e)

Omit “(CPC60121), including successful completion of the CPPACC6002A (Apply performance-based codes and risk management to assessing buildings for access) competency from the Local Government Training Institute”.

[23] Schedule 8 Provision of information by registered certifiers and local councils

Omit “clause 162A of the *Environmental Planning and Assessment Regulation 2000*” from clause 7.

Insert instead “the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 61”.