



New South Wales

Home Building Amendment (Insurance Cover) Regulation 2023

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*.

VICTOR DOMINELLO, MP
Minister for Customer Service and Digital Government

Explanatory note

The objects of this Regulation are to amend the *Home Building Regulation 2014* to—

- (a) provide exemptions from home building insurance for building work undertaken—
 - (i) on behalf of a registered community housing provider, or
 - (ii) on behalf of a Local Aboriginal Land Council, providing rental accommodation under a community benefits scheme, or
 - (iii) under a build to rent scheme, or
 - (iv) on behalf of a developer that is a council under the *Local Government Act 1993*, and
- (b) require the establishment of a public register of the persons and projects exempted from insurance requirements under the *Home Building Act 1989*.

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1 Name of Regulation

This Regulation is the *Home Building Amendment (Insurance Cover) Regulation 2023*.

2 Commencement

This Regulation commences as follows—

- (a) for Schedule 1[1]—on 1 June 2023,
- (b) otherwise—on the day the Regulation is published on the NSW legislation website.

Schedule 1 Amendment of Home Building Regulation 2014

[1] Clause 55A

Insert after clause 55—

55A Register of exemptions—the Act s 140(2)(l)

- (1) The Authority must keep a register of exemptions granted under the Act, section 97.
- (2) The register of exemptions may include the following information—
 - (a) the name of the exempted person, including the person's ACN if the exempted person is a corporation,
 - (b) the exempted person's contractor licence number, if applicable,
 - (c) a description of the exempt work,
 - (d) the address, lot and deposited plan number of the land on which the exempt work is to be done,
 - (e) the date on which the exemption was granted.
- (3) The register must be made available, free of charge, on a NSW Government website.
- (4) In this clause—

ACN, short for Australian Company Number, has the same meaning as it has in the *Corporations Act 2001* of the Commonwealth, section 9.

[2] Clauses 59A–59C

Insert after clause 59—

59A Exemption from insurance for certain registered charities

- (1) The holder of a contractor licence who does residential building work is exempt from the requirements of the Act, Part 6 if—
 - (a) the work is being done—
 - (i) on behalf of a developer who is a recognised housing provider, or
 - (ii) in accordance with development consent granted under *State Environmental Planning Policy (Housing) 2021* to a recognised housing provider, and
 - (b) the contract for the work states that the holder is relying on the exemption under this clause, and
 - (c) for a contract entered into with a Local Aboriginal Land Council that is approved under the *Aboriginal Land Rights Act 1983*, section 52A to provide rental accommodation under a community benefits scheme—the contract includes a copy of the approval.
- (2) Subclause (1)(c) does not apply to a contract entered into with a Local Aboriginal Land Council that is—
 - (a) a registered community housing provider under the *Community Housing Providers (Adoption of National Law) Act 2012*, Appendix, or
 - (b) a registered provider of specialist disability accommodation under the *National Disability Insurance Scheme Act 2013* of the Commonwealth.
- (3) In this clause—

Local Aboriginal Land Council has the same meaning as in the *Aboriginal Land Rights Act 1983*.

recognised housing provider means a registered charity under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth that is—

- (a) a Local Aboriginal Land Council approved under the *Aboriginal Land Rights Act 1983*, section 52A to provide rental accommodation under a community benefits scheme, or
- (b) a registered community housing provider under the *Community Housing Providers (Adoption of National Law) Act 2012*, Appendix, or
- (c) a registered provider of specialist disability accommodation under the *National Disability Insurance Scheme Act 2013* of the Commonwealth.

59B Exemption from insurance—build to rent schemes

- (1) The holder of a contractor licence who does residential building work is exempt from the requirements of the Act, Part 6 if—
 - (a) the work is being done—
 - (i) in accordance with development consent granted under *State Environmental Planning Policy (Housing) 2021*, Chapter 3, Part 4, or
 - (ii) to an existing dwelling built in accordance with development consent granted under *State Environmental Planning Policy (Housing) 2021*, Chapter 3, Part 4 and the contract is entered into within 8 years of the issue of the occupation certificate for the dwelling, or
 - (iii) to a building that is being used as a build to rent property and the contract is entered into within 8 years of the making of an application for reduction in the assessable value of the land for the purpose of the *Land Tax Management Act 1956*, section 9E, and
 - (b) the contract for the work states that the holder is relying on the exemption under this clause.
- (2) In this clause—

occupation certificate has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

59C Exemption from insurance for local government

The holder of a contractor licence who does residential building work is exempt from the requirements of the Act, Part 6 if—

- (a) the work is being done on behalf of a developer who is a council under the *Local Government Act 1993*, and
- (b) the contract for the work states that the holder is relying on the exemption under this clause.