



New South Wales

Building Legislation Amendment Regulation (No 2) 2024

Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the following Acts—

- (a) the *Design and Building Practitioners Act 2020*,
- (b) the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*.

ANOULACK CHANTHIVONG, MP
Minister for Better Regulation and Fair Trading

Explanatory note

The objects of this regulation are as follows—

- (a) to amend the *Design and Building Practitioners Regulation 2021* as follows—
 - (i) to clarify that under the *Design and Building Practitioners Act 2020*, the term **building elements** includes the aspects of a vertical transportation product required to achieve compliance with the *Building Code of Australia*,
 - (ii) for design compliance declarations—to clarify what is meant by building products used in a building,
 - (iii) to amend the experience, knowledge and skills required for certain classes of registration,
 - (iv) to update certain fees for professional engineers,
 - (v) to make other minor and consequential amendments,
- (b) to amend the *Residential Apartment Buildings (Compliance and Enforcement Powers) Regulation 2020* to prescribe the use of vertical transportation products in building work as a serious defect if the use poses a safety risk to persons.

Building Legislation Amendment Regulation (No 2) 2024

Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020

1 Name of regulation

This regulation is the *Building Legislation Amendment Regulation (No 2) 2024*.

2 Commencement

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

Schedule 1 Amendment of Design and Building Practitioners Regulation 2021

[1] **Clause 3B**

Insert after clause 3A—

3B Building element

For the Act, section 6(1)(f), the aspects of a vertical transportation product that are required to achieve compliance with the *Building Code of Australia* are prescribed.

[2] **Clause 9 Further matters to be included in design compliance declarations**

Insert in alphabetical order in clause 9(2)—

used in a building, for a building product, means the product is incorporated into, connected to, or otherwise installed in a building by means of, building work.

[3] **Clause 79 Matters occurring after expiry date of policy**

Omit “clauses 65 and 67” from clause 79(1). Insert instead “clauses 75 and 77”.

[4] **Clause 79(3), definition of “expiry date”**

Omit “as to”. Insert instead “as”.

[5] **Schedule 2 Qualifications, experience, knowledge and skills**

Insert before Schedule 2, clause 3AA(1)(a)—

(a1) knowledge of the Act and this regulation,

[6] **Schedule 2, clause 4(2)**

Omit the subclause. Insert instead—

(2) For a design practitioner in the following classes, the experience referred to in subclause (1) may include the practical experience required by the NSW Architects Registration Board under the *Architects Act 2003*, section 17(1)(c)—

- (a) design practitioner—architectural,
- (b) design practitioner—architectural (low rise),
- (c) design practitioner—architectural (medium rise).

[7] **Schedule 7 Fees**

Omit Schedule 7, Part 1, matter relating to **Professional engineer—if applicant is recognised or registered by a professional engineering body**.

Insert instead—

Professional engineer—if applicant is recognised or registered by a professional engineering body

(a)	Application for the following—	—	1.42	1.42
	(i)	a new registration		
	(ii)	renewal of registration		
	(iii)	restoration of registration		
(b)	Application to vary registration to add class—for additional class within professional engineer—other classes	—	1.0	1.0

[8] Schedule 7, Part 1

Insert at the end of the matter relating to **Professional engineer—if applicant is not recognised or registered by a professional engineering body—**

(d)	Application to vary registration to add class—for additional class within professional engineer—other classes	—	1.75	1.75
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[9] Dictionary

Omit “means” from the definition of *vertical transportation product*.

Insert instead “includes”.

Schedule 2 **Amendment of Residential Apartment Buildings (Compliance and Enforcement Powers) Regulation 2020**

Clause 17

Insert after clause 16—

17 Serious defects—safety risks

- (1) For the Act, section 3(1), definition of *serious defect*, paragraph (c), the use of a vertical transportation product in a building is a serious defect if the use of the product in the building poses a risk that persons are or will likely be at risk of death or serious injury.
- (2) A risk may be considered to arise from the use of a product in a building even if the risk will only arise in certain circumstances or if some other event occurs.

Example of another event— fire

- (3) In this clause—
vertical transportation product means machinery installed in a building and designed to move persons, vehicles or goods and includes a lift, escalator, moving walkway and parking systems and equipment.