



New South Wales

Environmental Planning and Assessment (Development Certification and Fire Safety) Amendment Regulation 2025

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Environmental Planning and Assessment Act 1979*.

PAUL SCULLY, MP
Minister for Planning and Public Spaces

Explanatory note

The objects of this regulation are to—

- (a) ensure that a fire safety schedule issued under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (**the regulation**) includes work resulting from compliance action under the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* and the *Design and Building Practitioners Act 2020*, and
- (b) defer, for 24 months until 13 February 2027, the requirement that a fire safety certificate must not be issued unless the required assessments have been completed by an accredited practitioner (fire safety), and
- (c) defer the application of section 81A, which concerns the application of *Australian Standard AS 1851-2012* and will require more frequent servicing and maintenance of fire systems, for 12 months until 13 February 2026, and
- (d) make a number of minor amendments to clarify the operation of existing provisions in the regulation.

This regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 6.33 and 10.13, the general regulation making power.

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Environmental Planning and Assessment Act 1979

1 Name of regulation

This regulation is the *Environmental Planning and Assessment (Development Certification and Fire Safety) Amendment Regulation 2025*.

2 Commencement

This regulation commences on 13 February 2025.

Schedule 1 Amendment of Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

[1] Section 23 Information to be included in construction certificate—the Act, s 6.33(1)

Omit section 23(3), not including the penalty. Insert instead—

- (3) A certifier must not issue a construction certificate for a building for which a fire safety schedule is required under Part 10 unless the certificate is accompanied by the schedule.

[2] Section 50 Reports of Fire Commissioner

Omit section 50(1). Insert instead—

- (1) This section applies to an application for an occupation certificate for development that is subject to a construction certificate and involves a performance solution for a fire safety requirement in a building other than—
- (a) a class 1a, 1b or 10 building, or
 - (b) a temporary structure.

[3] Section 51 Reports of Fire Commissioner for class 2 or 3 buildings

Insert “system” after “fire safety” in section 51(5).

[4] Section 51(7)

Omit “*fire system safety report*”. Insert instead “*fire safety system report*”.

[5] Section 54 Application for subdivision certificate—the Act, s 6.33(1)

Insert “written” before “consent” in section 54(3)(b).

[6] Section 54(4)

Omit the subsection.

[7] Section 74 Exemption from BCA standards for fire safety building work

Omit section 74(5)(d). Insert instead—

- (d) a current fire safety certificate or a current fire safety statement that relates to or includes the fire safety system being modified or extended has been issued for the building.

[8] Section 76A

Insert before section 77—

76A Definitions

In this part—

relevant order means the following—

- (a) a fire safety order,
- (b) a building work rectification order, including a modified order, that includes a matter relating to a fire safety measure.

undertaking means the following—

- (a) an undertaking given under the *Design and Building Practitioners Act 2020*, section 88,

(b) an undertaking given under the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*, section 28.

- [9] **Section 78 Fire safety schedules**
Omit “fire safety order” from section 78(1)(d).
Insert instead “relevant order or accepts an undertaking”.
- [10] **Section 78(3)**
Omit “fire safety order”. Insert instead “relevant order”.
- [11] **Section 78(5) and (6)**
Omit “or fire safety order” wherever occurring.
Insert instead “, relevant order or undertaking”.
- [12] **Section 79 Content of fire safety schedules**
Omit “other fire measures” from section 79(1). Insert instead “other fire safety measures”.
- [13] **Section 79(3A)**
Insert after section 79(3)—
(3A) A fire safety schedule must, if it relates to building work that is exempt under section 74(4) from compliance with the *Building Code of Australia*, include details of the exemption.
- [14] **Section 80 Providing fire safety schedules and fire safety certificates after fire safety order is given**
Omit “giving a fire safety order” from section 80(1).
Insert instead “a relevant order is given or an undertaking is accepted”.
- [15] **Section 80(1)**
Insert “or accepts the undertaking” after “the order”.
- [16] **Section 80(2)**
Omit “fire safety order is given”.
Insert instead “relevant order is given or from whom an undertaking is accepted”.
- [17] **Section 80(2)**
Insert “or undertaking” after “the order”.
- [18] **Section 80(2)(a) and (b)**
omit “fire safety order”. Insert instead “order or accepted the undertaking”.
- [19] **Section 80(3)**
Omit “fire safety order”. Insert instead “relevant order or the undertaking”.
- [20] **Section 80A Reissue of fire safety schedule**
Insert “for the whole of the building” after “certificate” in section 80A(2)(b)(i).

[21] Section 80A(3)(a)

Insert “not authorised by the applicable construction certificate or complying development certificate” after “work”.

[22] Section 81A Essential fire safety measures to be inspected, tested and serviced

Insert before section 81A(1)—

(1A) This section applies on and from 13 February 2026.

[23] Section 83 Final fire safety certificates and interim fire safety certificates

Omit “a properly qualified person” wherever occurring in section 83(1)(b) and (2)(b).

Insert instead “an accredited practitioner (fire safety)”.

[24] Section 84 Issue of fire safety certificates

Omit section 84(4)(b). Insert instead—

(b) the measure is addressed in another current final fire safety certificate or current fire safety statement.

[25] Section 86 Information to be included in fire safety certificates

Omit “or part of the building” from section 86(3).

[26] Schedule 1A, Savings, transitional and other provisions

Omit section 2. Insert instead—

2 Issue of fire safety certificates

(1) The following do not apply to a fire safety certificate issued before 13 February 2027—

(a) sections 84(2)(a) and (b) and 86(1)(b)(viii), as inserted by the 2022 Regulation,

(b) the amendments made to section 83 by the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2025*.

(2) Section 84(2), as in force immediately before 16 December 2022, continues to apply to a fire safety certificate issued before 13 February 2027.

[27] Schedule 2 Dictionary

Insert in alphabetical order—

building work rectification order has the same meaning as in the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*.

relevant order, for Part 10—see section 76A.

undertaking, for Part 10—see section 76A.

[28] Schedule 2, definition of “fire safety measure”

Omit the definition. Insert instead—

fire safety measure, in relation to a building, means a measure, including an item of equipment, form of construction or fire safety strategy, that is, or is proposed to be, implemented for that building to ensure the safety of persons using the building if there is a fire.

Schedule 2 Amendment of Environmental Planning and Assessment Regulation 2021

[1] Section 136 Form of complying development certificate

Insert “or a change of building use” after “erection of a building” in section 136(4).

[2] Section 137 Compliance with Building Code of Australia

Insert “for a fire safety requirement” after “performance solution” in section 137(3A).