

Serial 104
Building Legislation Amendment Bill 2023
Ms Lawler

A Bill for an Act to amend the *Building Act 1993* and the *Building Regulations 1993* and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

BUILDING LEGISLATION AMENDMENT ACT 2023

Act No. [] of 2023

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2023

An Act to amend the *Building Act 1993* and the *Building Regulations 1993* and for related purposes

[Assented to [] 2023]
[Introduced [] 2023]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Building Legislation Amendment Act 2023*.

2 Commencement

- (1) Subject to subsection (2), Parts 1 and 2 of this Act commence on the day fixed by the Administrator by *Gazette* notice.
- (2) If Parts 1 and 2 do not commence before 16 October 2025, they commence on that day.
- (3) The remaining provisions of this Act commence 12 months after the commencement of Parts 1 and 2.

Part 2 Stage 1 amendments

Division 1 Amendment of Building Act 1993

3 Act amended

This Division amends the *Building Act 1993*.

4 Section 24 amended (Registration of building practitioner other than building contractor)

- (1) Section 24(1)(c)
omit
regulation.
insert
regulation; and
- (2) After section 24(1)(c)
insert
(d) has paid any prescribed fee for registration.
- (3) Section 24(2)(b)
omit
he or she
insert
the individual
- (4) Section 24(2)(c)
omit
regulation.
insert
regulation; and

- (5) After section 24(2)(c)

insert

(d) the corporation has paid any prescribed fee for registration.

5 Section 24A amended (Application for registration as building contractor)

- (1) Section 24A(1)

omit

the category

insert

a category

- (2) Section 24A(2) and (3)

omit

registration.

insert

registration as a building contractor in one or more sub-categories of building contractor.

6 Section 24B amended (Registration of building practitioner as building contractor)

Section 24B(1) and (2)

omit, insert

- (1) After receiving an application made by an individual under section 24A(2), the Practitioners Board must register the individual as a building contractor in the sub-category or sub-categories specified in the application if satisfied the individual:

- (a) is a fit and proper person to be registered in each sub-category; and
- (b) has the relevant qualifications and experience determined under section 24G(a) for each sub-category; and
- (c) currently holds, and during the period of registration will continue to hold, the net financial assets prescribed by regulation for each sub-category; and

- (d) has complied with any conditions for registration prescribed by regulation; and
 - (e) has paid any prescribed fee for registration.
- (2) After receiving an application made by a corporation under section 24A(3), the Practitioners Board must register the corporation as a building contractor in the sub-category or sub-categories specified in the application if satisfied:
 - (a) at least one director, or a nominee, of the corporation:
 - (i) is registered in each sub-category; and
 - (ii) will provide adequate supervision of the building work carried out by the corporation; and
 - (b) each director of the corporation who is not registered in a sub-category specified in the application would be a fit and proper person to be so registered if the director had applied personally for the registration; and
 - (c) the corporation currently holds, and during the period of registration will continue to hold, the net financial assets prescribed by regulation for each sub-category; and
 - (d) the corporation has complied with any conditions for registration prescribed by regulation; and
 - (e) the corporation has paid any prescribed fee for registration.

7 Section 24D amended (Term of registration)

Section 24D

omit

for 2 years from the date it is granted or renewed.

insert

for:

- (a) 2 years from the date it is granted or renewed; or
- (b) a shorter period specified by the Practitioners Board at the time it is granted or renewed.

8 Section 24F replaced

Section 24F

repeal, insert

24EA Renewal of registration of building practitioner other than building contractor

- (1) After receiving an application under section 24E that relates to an individual and is for renewal of registration in a category of building practitioner other than building contractor, the Practitioners Board must renew the registration if satisfied the individual:
 - (a) is a fit and proper person to be registered in that category; and
 - (b) has the relevant qualifications and experience determined under section 24G(a) for that category; and
 - (c) has, during the current period of registration, complied with the continuing professional development requirements prescribed by regulation for that category; and
 - (d) has, during the current period of registration, performed competently in that category as shown by performance reporting; and
 - (e) has complied with any conditions for renewal prescribed by regulation; and
 - (f) has paid any prescribed fee for the renewal.
- (2) After receiving an application under section 24E that relates to a corporation and is for renewal of registration in a category other than building contractor, the Practitioners Board must renew the registration if satisfied:
 - (a) at least one individual concerned in the management or conduct of the corporation, or a nominee of the corporation:
 - (i) is registered as a building practitioner in that category; and
 - (ii) has, during the current period of registration, complied with the continuing professional development requirements prescribed by regulation for that category; and
 - (b) each individual concerned in the management or conduct of the corporation who is not registered as a building practitioner

in that category would be a fit and proper person to be so registered if the individual had applied personally for the registration; and

- (c) the corporation has, during the current period of registration, performed competently in that category as shown by performance reporting; and
 - (d) the corporation has complied with any conditions for renewal prescribed by regulation; and
 - (e) the corporation has paid any prescribed fee for renewal of registration.
- (3) Without limiting subsection (1)(e) or (2)(d), a regulation may prescribe a condition requiring an applicant for renewal of registration to hold an insurance policy of a type (which may include a professional indemnity policy) or for an amount, or both, determined under section 24G(c).

24F Renewal of registration of building contractor

- (1) After receiving an application under section 24E that relates to an individual and is for renewal of registration in the category of building contractor, the Practitioners Board must renew the registration of the individual in each sub-category of building contractor specified in the application if satisfied the individual:
- (a) is a fit and proper person to be registered in the sub-category or sub-categories; and
 - (b) has the relevant qualifications and experience determined under section 24G(a) for the sub-category or sub-categories; and
 - (c) has, during the current period of registration, complied with the continuing professional development requirements prescribed by regulation for the sub-category or sub-categories; and
 - (d) has, during the current period of registration, performed competently in the sub-category or sub-categories as shown by performance reporting; and
 - (e) currently holds, and during the period of registration will continue to hold, the net financial assets prescribed by regulation for the sub-category or sub-categories; and
 - (f) has complied with any conditions for renewal prescribed by regulation; and

- (g) has paid any prescribed fee for the renewal.
- (2) After receiving an application under section 24E that relates to a corporation and is for renewal of registration in the category of building contractor, the Practitioners Board must renew the registration of the corporation in each sub-category of building contractor specified in the application if satisfied:
- (a) at least one director or nominee of the corporation:
 - (i) is registered as a building practitioner in the sub-category or sub-categories; and
 - (ii) has, during the current period of registration, complied with the continuing professional development requirements prescribed by regulation for the sub-category or sub-categories; and
 - (iii) will provide adequate supervision of the building work carried out by the corporation; and
 - (b) each director of the corporation who is not registered in a sub-category specified in the application would be a fit and proper person to be so registered if the director had applied personally for the registration; and
 - (c) the corporation has, during the current period of registration, performed competently in that category as shown by performance reporting; and
 - (d) the corporation currently holds, and during the period of registration will continue to hold, the net financial assets prescribed by regulation for that category; and
 - (e) the corporation has complied with any conditions for renewal prescribed by regulation; and
 - (f) the corporation has paid any prescribed fee for renewal of registration.
- (3) Without limiting subsection (1)(f) or (2)(e), a regulation may prescribe a condition requiring an applicant for renewal of registration to hold an insurance policy of a type (which may include a professional indemnity policy) or for an amount, or both, determined under section 24G(c).

9 Section 24FB amended (Notice of decisions)

- (1) Section 24FB(1)(a) and (b)
- omit*
- refusing
- insert*
- refuse
- (2) Section 24FB(3)(b)
- omit, insert*
- (b) the fact that the person may apply to the Tribunal for a review of the decision under section 35.

10 Section 24G amended (Determinations by Minister)

- (1) Section 24G(b)
- omit*
- (2) Section 24G(c)
- omit*
- 24B(3) or 24F(5);
- insert*
- 24B(3), 24EA(3) or 24F(3);

11 Section 34P amended (Decision on inquiry)

- Section 34P(3)(b)
- omit, insert*
- (b) the fact that the building practitioner or the Director may apply to the Tribunal for a review of the decision under section 35.

12 Section 34VA amended (Suspension where building practitioner no longer meets registration requirements)

- (1) Section 34VA(3)
- omit*
- decision.

insert

decision to the building practitioner.

(2) Section 34VA(4)(b)

omit, insert

- (b) the fact that the building practitioner may apply to the Tribunal for a review of the decision under section 35.

13 Section 34Z amended (Notice of decision)

Section 34Z(2)(b)

omit, insert

- (b) the fact that the building practitioner or the Director may apply to the Tribunal for a review of the decision under section 35.

14 Part 3, Division 4 replaced

Part 3, Division 4

repeal, insert

Division 4 Review of decisions

35 Review by Tribunal

- (1) The Tribunal has jurisdiction to review a decision (a **reviewable decision**) specified in Schedule 5.
- (2) An **affected person**, for a reviewable decision, is a person specified in Schedule 5 for the decision.
- (3) An affected person for a reviewable decision may apply to the Tribunal for review of the decision.

Note for section 35

The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to the Tribunal for review of the decision and other relevant matters in relation to reviews.

15 Section 168 amended (Regulations)

(1) Section 168(3)

omit

may:

insert

may do any of the following:

- (2) Section 168(3)(a)(ii) and (b)

omit

and

- (3) After section 168(3)(b)

insert

(ba) provide for a matter to be determined by the Minister;

16 Part 22 inserted

After section 203

insert

Part 22 Transitional matters for Building Legislation Amendment Act 2023

Division 1 Transitional matters for stage 1 amendments

204 Definitions

In this Division:

amending Act means the *Building Legislation Amendment Act 2023*.

commencement means the day on which section 14 of the amending Act commences.

former Act means this Act as in force immediately before the commencement.

205 NTCAT review limited to decisions made after commencement

Section 35, as inserted by section 14 of the amending Act, applies only in relation to a reviewable decision that is made after the commencement.

206 Appeals not commenced before commencement

- (1) This section applies to a person if, immediately before the commencement, the person:
 - (a) was entitled to appeal to the Local Court against a decision of the Practitioners Board under section 36 of the former Act; and
 - (b) had not yet commenced an appeal against the decision.
- (2) The person may appeal to the Local Court against the decision in accordance with section 36 of the former Act, as if section 14 of the amending Act had not commenced.
- (3) The Local Court must hear and determine the person's appeal in accordance with section 36 of the former Act, as if section 14 of the amending Act had not commenced.

207 Appeals not determined before commencement

- (1) Subsection (2) applies in relation to an appeal to the Local Court that:
 - (a) was commenced by a person under section 36 of the former Act; and
 - (b) had not been finally determined by the Local Court before the commencement.
- (2) The Local Court must continue to hear and determine the person's appeal in accordance with Part 3, Division 4 of the former Act, as if section 14 of the amending Act had not commenced.

17 Schedule 1 amended (Regulations)

Schedule 1, after item 39

insert

- 39A. Continuing professional development requirements for building practitioners.

18 Schedule 5 inserted

After Schedule 4

insert

Schedule 5 Reviewable decisions

section 35

Item	Reviewable decision	Affected person
1	A decision of the Practitioners Board under section 24(1) or (2) to refuse to register an individual or a corporation in a category of building practitioner (other than building contractor)	The individual or the corporation
2	A decision of the Practitioners Board under section 24(1) or (2) to register an individual or a corporation in a category of building practitioner (other than building contractor) on conditions imposed by the Board under section 24FAB(1)	The individual or the corporation
3	A decision of the Practitioners Board under section 24B(1) or (2) to refuse to register an individual or a corporation in a category of building contractor	The individual or the corporation
4	A decision of the Practitioners Board under section 24B(1) or (2) to register an individual or a corporation in a category of building contractor on conditions imposed by the Board under section 24FAB(1)	The individual or the corporation
5	A decision of the Practitioners Board under section 24EA(1) or (2) to refuse to renew the registration of a building practitioner (other than a building contractor)	The building practitioner
6	A decision of the Practitioners Board under section 24EA(1) or (2) to renew the registration of a building practitioner (other than a building contractor) on conditions imposed by the Board under section 24FAB(1)	The building practitioner

7	A decision of the Practitioners Board under section 24F(1) or (2) to refuse to renew the registration of a building contractor	The building contractor
8	A decision of the Practitioners Board under section 24F(1) or (2) to renew the registration of a building contractor on conditions imposed by the Board under section 24FAB(1)	The building contractor
9	A decision of the Inquiry Board under section 34P(1)(a) that a building practitioner is guilty, or is not guilty, of professional misconduct	The building practitioner or the Director
10	A decision of the Inquiry Board under section 34P(1)(b) to take, or to not take, an action against a building practitioner under section 34T or 34U	The building practitioner or the Director
11	A decision of the Practitioners Board under section 34VA(1) to suspend the registration of a building practitioner	The building practitioner
12	A decision of the Practitioners Board under section 34Y(1) or (2) to take an action against a residential builder	The residential builder or the Director

19 Act further amended

Schedule 1 has effect.

Division 2 Amendment of Building Regulations 1993

20 Regulations amended

This Division amends the *Building Regulations 1993*.

21 Regulation 2 amended (Interpretation)

Regulation 2(1)

insert

building contractor commercial (restricted) means a building practitioner registered in the category of building contractor commercial (restricted).

building contractor commercial (unrestricted) means a building practitioner registered in the category of building contractor commercial (unrestricted).

22 Regulation 39A amended (Sub-categories of building practitioner)

Regulation 39A, table, item 4

omit, insert

4.	building contractor	building contractor residential (restricted) building contractor residential (unrestricted) building contractor commercial (restricted) building contractor commercial (unrestricted)
----	---------------------	--

23 Schedule 1 amended (Prescribed fees)

(1) Schedule 1, items 2 and 3

omit, insert

2	In relation to the registration of a building contractor:	
	(a) for an application under section 24A of the Act	230
	(b) for registration under section 24B of the Act:	
	(i) if the applicant is not already registered in a category of building contractor	690
	(ii) if the applicant is already registered in a category of building contractor	nil
3	In relation to the renewal of the registration of a building practitioner (other than a building contractor):	
	(a) for an application under section 24E of the Act	230
	(b) for renewal under section 24EA of the Act	690
3A	In relation to the renewal of the registration of a building contractor:	
	(a) for an application under section 24E of the Act	230

- (b) for renewal under section 24F of the Act 690

24 Regulations further amended

Schedule 2 has effect.

Division 3 Amendment of Stamp Duty Act 1978

25 Act amended

This Division amends the *Stamp Duty Act 1978*.

26 Section 90C amended (Interpretation)

Section 90C(1), definition ***building contractor***

omit, insert

building contractor means a building contractor residential (restricted) or building contractor residential (unrestricted) as defined in regulation 2(1) of the *Building Regulations 1993*.

Part 3 Stage 2 amendments

Division 1 Amendment of Building Act 1993

27 Act amended

This Division amends the *Building Act 1993*.

28 Section 48A amended (Building work by building contractors)

- (1) Section 48A(1)(a)

omit, insert

- (a) a building contractor registered to carry out the building work as specified in the Regulations; or

- (2) Section 48A(1)(b)

omit

prescribed building contractor

insert

building contractor mentioned in paragraph (a)

(3) Section 48A(2)

omit

Subsection (1) does not apply if:

insert

It is a defence to a prosecution for an offence against subsection (1) if:

(4) Section 48A(2)(a)

omit

amount;

insert

amount for the building work;

(5) Section 48A(2)(b)

omit

person

insert

defendant

(6) Section 48A(2)(b)

omit

he or she

insert

the defendant

(7) After section 48A(2)

insert

- (3) For subsection (2)(a), the Regulations may prescribe different amounts for different kinds of prescribed building work.

29 Section 48D amended (Owner-builders to hold certificate)

(1) Section 48D(1)

omit (all references)

he or she

insert

the person

(2) Section 48D(2)

omit

Subsection (1) does not apply if:

insert

It is a defence to a prosecution for an offence against subsection (1) if:

30 Part 22, Division 2 inserted

After section 207

insert

Division 2 Transitional matters for stage 2 amendments

208 Commercial building work commenced before commencement

(1) This section applies in relation to commercial building work for which a building permit was granted before the commencement if the building permit was in force immediately before the commencement.

(2) The commercial building work may be carried out in accordance with this Act as if Part 3 of the amending Act had not commenced.

(3) In this section:

amending Act means the *Building Legislation Amendment Act 2023*.

commencement means the day on which Part 3 of the amending Act commences.

commercial building work means work that is for or in connection with the construction of any of the following:

- (a) a building of Class 1b, 3, 4, 5, 6, 7, 8 or 9;
- (b) a Class 10 building attached to a building referred to in paragraph (a) if it is constructed at the same time as that building;
- (c) a retaining wall (whenever constructed) that is not attached to a building referred to in paragraph (a) but on which the integrity of such a building depends.

Division 2 Amendment of Building Regulations 1993

31 Regulations amended

This Division amends the *Building Regulations 1993*.

32 Regulation 41A amended (Building work)

- (1) Regulation 41A(1)(a) and (b)

omit, insert

- (a) a building of Class 1, 2, 3, 4, 5, 6, 7, 8 or 9;

- (2) Regulation 41A(1)(c)

omit

Class 1a or Class 2 building if it is constructed at the same time as the Class 1a or Class 2

insert

building referred to in paragraph (a) if it is constructed at the same time as that

- (3) Regulation 41A(1)(d)

omit

Class 1a or Class 2 building

insert

building referred to in paragraph (a)

(4) Regulation 41A(1)(c), examples 1 and 2

omit

Class 1a or 2 building.

insert

building of Class 1, 2, 3, 4, 5, 6, 7, 8 or 9.

(5) After regulation 41A(2)(a)

insert

(ab) renovations or alterations to an existing building of Class 1b, 3, 4, 5, 6, 7, 8 or 9 if:

- (i) there is no increase in the floor area of the building; and
- (ii) there is no increase in the height of the building; and
- (iii) there is no alteration to or removal of any structural support element of the building; and
- (iv) there is no change in the use or classification of the building;

(6) Regulation 41A(2)(b)

omit

Class 1a or Class 2 building if it is constructed at any time after the Class 1a or Class 2

insert

building of Class 1, 2, 3, 4, 5, 6, 7, 8 or 9 if it is constructed at any time after that

(7) Regulation 41A(2)(c)

omit

Class 1a or Class 2 building,

insert

building of Class 1, 2, 3, 4, 5, 6, 7, 8 or 9,

(8) Regulation 41A(2)(c), example 2

omit

Class 1a or Class 2 building and on which the integrity of a Class 1a or Class 2

insert

building of Class 1, 2, 3, 4, 5, 6, 7, 8 or 9 and on which the integrity of such a

33 Regulations 41B and 41C replaced

Regulations 41B and 41C

repeal, insert

41B Building contractor residential (restricted)

For section 48A(1)(a) of the Act, a building contractor residential (restricted) may, subject to any conditions imposed on the building contractor's registration, commence, carry out or supervise building work that is work for or in connection with the construction of any of the following:

- (a) a Class 1a detached house;
- (b) a Class 1a attached dwelling or Class 2 building of not more than 2 storeys;
- (c) a Class 10 building attached to a building referred to in paragraph (a) or (b) if it is constructed at the same time as that building;
- (d) a retaining wall (whenever constructed) that is not attached to a building referred to in paragraph (a) or (b) but on which the integrity of such a building depends.

41C Building contractor residential (unrestricted)

For section 48A(1)(a) of the Act, a building contractor residential (unrestricted) may, subject to any conditions imposed on the building contractor's registration, commence, carry out or supervise building work that is work for or in connection with the construction of any of the following:

- (a) a Class 1a or Class 2 building;
- (b) a Class 10 building attached to a building referred to in paragraph (a) if it is constructed at the same time as that building;

- (c) a retaining wall (whenever constructed) that is not attached to a building referred to in paragraph (a) but on which the integrity of such a building depends.

41CA Building contractor commercial (restricted)

For section 48A(1)(a) of the Act, a building contractor commercial (restricted) may, subject to any conditions imposed on the building contractor's registration, commence, carry out or supervise building work that is work for or in connection with the construction of any of the following:

- (a) a building of Class 1b, 3, 4, 5, 6, 7, 8 or 9 of not more than 3 storeys;
- (b) a Class 10 building attached to a building referred to in paragraph (a) if it is constructed at the same time as that building;
- (c) a retaining wall (whenever constructed) that is not attached to a building referred to in paragraph (a) but on which the integrity of such a building depends.

41CB Building contractor commercial (unrestricted)

For section 48A(1)(a) of the Act, a building contractor commercial (unrestricted) may, subject to any conditions imposed on the building contractor's registration, commence, carry out or supervise building work that is work for or in connection with the construction of any of the following:

- (a) a building of Class 1b, 3, 4, 5, 6, 7, 8 or 9;
- (b) a Class 10 building attached to a building referred to in paragraph (a) if it is constructed at the same time as that building;
- (c) a retaining wall (whenever constructed) that is not attached to a building referred to in paragraph (a) but on which the integrity of such a building depends.

34 Regulation 41E amended (Minimum value of building work)

Regulation 41E, after "amount"

insert

for building work that is for or in connection with the construction of a building of Class 1a, 2 or 10

Part 4 Repeal

35 Repeal of Act

This Act is repealed on the day after it commences.

Schedule 1 Act further amended

section 19

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 21B(b)	the category	a category
section 24FA(2)	24B or 24F.	24B, 24EA or 24F.
sections 25(2), definition registered individual , paragraph (b) and 25A(1)(c)	the category	a category
section 25A(1)(e)	24F(4)(a)(iii)	24F(2)(a)(iii)
section 25A(2)	24B(2) or 24F(3) or (4),	24(2), 24B(2), 24EA(2) or 24F(2),
section 25A(4), definition registered director	24F(4)(a)(i).	24F(2)(a)(i).
section 25A(4), definition registered manager	24F(3)(a)(i)	24EA(2)(a)(i)
section 25B(1)	24F(2) or (4)(d)	24F(1)(e) or (2)(d)
section 25C(2), definition prescribed insurance policy	24B(3) or 24F(5).	24B(3), 24EA(3) or 24F(3).

Schedule 2 Regulations further amended

section 24

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 39B(2)	the category	a category
regulation 39B(6), definition relevant provisions , paragraph (b)	whole paragraph	(b) section 24F(1)(e) and (2)(d).
regulation 40(3), definition relevant provisions , paragraph (b)	whole paragraph	(b) section 24EA(1)(e), (2)(d) and (3).
regulation 41D	prescribed	