

NORTHERN TERRITORY OF AUSTRALIA

BUILDING LEGISLATION AMENDMENT REGULATIONS 2016

Subordinate Legislation No. 13 of 2016

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 13 of 2016*

Building Legislation Amendment Regulations 2016

I, John Laurence Hardy, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Building Act*.

Dated 28 April 2016

J. L. HARDY
Administrator

By His Honour's Command

P. D. STYLES
Minister for Business
acting for
Minister for Lands and Planning

* Notified in the *Northern Territory Government Gazette* on 29 April 2016.

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Building Legislation Amendment Regulations 2016*.

2 Commencement

These Regulations commence on the commencement of the *Building Amendment (Occupancy Certification) Act 2016*.

Part 2 Amendment of Building Regulations

3 Regulations amended

This Part amends the *Building Regulations*.

4 Part 3 heading replaced

Part 3, heading

omit, insert

Part 3 Inspections and occupancy certification

5 Part 3, Division 3, heading replaced

Part 3, Division 3, heading

omit, insert

Division 2 Occupancy certification

Subdivision 1 General

6 Regulation 18 repealed

Regulation 18

repeal

7 Regulations 18AB to 18AE and Part 3, Division 2, Subdivision 2 heading inserted

After regulation 18AA

insert

18AB Limitation of time for building certifier to determine application or make recommendation

- (1) For Schedule 3, clause 9(1) of the Act, the time within which a building certifier must determine an application for occupancy certification (other than a certificate of existence) is 20 days from the day on which the completed application is made to the certifier.
- (2) For Schedule 3, clause 9(3) of the Act, the time within which a building certifier must make a recommendation under section 72E of the Act in relation to a certificate of existence is 25 days from the day on which the completed application for the certificate of existence is made to the certifier.

18AC Limitation of time for Director to determine application for certificate of existence

For Schedule 3, clause 9(4) of the Act, the time within which the Director must determine whether to grant a certificate of existence is a reasonable period of time from the day on which the recommendation in relation to the certificate is lodged with the Director.

18AD Change of use

- (1) This regulation applies to any building, whether constructed before or after the commencement of these Regulations.
- (2) The use of a building must not be changed to another use unless the change has been approved by a building certifier.
- (3) The owner of a building or the owner's agent must apply in writing to a building certifier to change the use of the building to another proposed use specified in the application.
- (4) The building certifier must not approve the change of use of the building to the proposed use unless:
 - (a) the building conforms with the requirements of the Building Code applicable to the proposed use at the time the approval is given; and

- (b) all relevant planning or other consents, reports or approvals (if any) required under the Act and these Regulations have been obtained or supplied; and
 - (c) all planning or other conditions, if any, have been complied with; and
 - (d) an occupancy permit or certificate of substantial compliance can be issued in relation to the building following the change of use.
- (5) Upon approving the change of use, the building certifier must:
 - (a) revoke the existing occupancy certification granted in relation to the building; and
 - (b) prepare a new occupancy permit or certificate of substantial compliance in accordance with the Act and these Regulations in relation to the building; and
 - (c) grant the original of the occupancy permit or certificate of substantial compliance to the person who applied for the change of use; and
 - (d) forward a copy of the occupancy permit or certificate of substantial compliance to the Director.

18AE Consolidation of occupancy certification

- (1) This regulation applies if:
 - (a) more than one occupancy certification has been granted in relation to a building (the ***initial certifications***); and
 - (b) the initial certifications are all the same type of occupancy certification.
- (2) A building certifier:
 - (a) may grant a consolidated occupancy certification of the same type as the initial certifications for the whole building; and
 - (b) if the certifier does so – must revoke the initial certifications.

Subdivision 2 Occupancy permits

8 Regulations 18B to 20 replaced

Regulations 18B to 20

repeal, insert

18B Documents to accompany application for occupancy permit

- (1) For Schedule 3, clause 3 of the Act, the following documents are prescribed for an application for an occupancy permit in relation to building work:
- (a) the builder's declaration in relation to the building work;
 - (b) the certificates or other documents that relate to the manufacture and assembly off-site, or installation on-site, of any components of the building work by a person other than the person required to make the builder's declaration for the work that a building certifier would reasonably require in order to issue the occupancy permit;
 - (c) a copy of each certificate relied on by the building certifier in accordance with section 40;
 - (d) a copy of each inspection certificate issued following inspections of the building work conducted under section 63(1) of the Act;
 - (e) if work to which section 69 of the *Electricity Reform Act* applies was carried out in conjunction with the building work – a copy of the certificate of compliance required to be completed and signed under that Act;
 - (f) a copy of each relevant planning or other prescribed consent, report or approval, if any.

Examples of certificates for subregulation (1)(b)

- 1 A manufacturer's certificate for roof trusses.
- 2 A wet areas certificate.
- 3 A glazing certificate.

- (2) For subregulation (1)(b), components of building work include the following:
- (a) termite management systems;
 - (b) prefabricated roof trusses;
 - (c) wet area sealing products;

- (d) prefabricated window and door frames;
- (e) glazing;
- (f) fire safety products or installations, including fire doors, smoke alarms, sprinklers and sprinkler systems, fire hose reels and sealing of penetrations.

18C Information to be included in occupancy permit

For section 76B of the Act, an occupancy permit must specify the following:

- (a) the classification of the building or part of the building to which it applies;
- (b) if the building work to which the permit relates was building work to which Part 4A of the Act applied – that the building work was carried out by a building contractor and the name of the building contractor;
- (c) if the building work to which the permit relates was building work to which Part 4B of the Act applied – that the building work was carried out by an owner-builder and the name of the owner-builder.

Subdivision 3 Certificates of substantial compliance

19 Classification of buildings

For section 72B(1)(a) of the Act, all classes of buildings are prescribed.

19A Documents relating to certificates of substantial compliance to be provided to Director

- (1) For section 42(1)(c)(ii) of the Act, copies of the following documents must accompany the copy of the certificate of substantial compliance provided to the Director:
 - (a) the documents required to accompany the application for the certificate under the Act or regulation 19B; and
 - (b) the documents specified in regulation 18A(c) to (e).
- (2) For subregulation (1)(b), a reference in regulation 18A(c) to (e) to an occupancy permit is taken to include a reference to a certificate of substantial compliance.

19B Documents to accompany application

For Schedule 3, clause 3 of the Act, the following documents are prescribed for an application for a certificate of substantial compliance in relation to building work:

- (a) the documents specified in regulation 18B(1);
- (b) if a document mentioned in paragraph (a) does not exist or is unable to be obtained – other documentation that demonstrates the building work to which the application relates complies with the relevant technical standards;
- (c) if building work was constructed otherwise than in accordance with a building permit issued for the work – drawings that reflect the building work as constructed.

19C Information to be included in certificate of substantial compliance

For section 76B of the Act, a certificate of substantial compliance must specify the following:

- (a) the classification of the building or part of the building to which it applies;
- (b) if the building work to which the certificate relates was building work to which Part 4A of the Act applied – that the building work was carried out by a building contractor and the name of the building contractor;
- (c) if the building work to which the certificate relates was building work to which Part 4B of the Act applied – that the building work was carried out by an owner-builder and the name of the owner-builder;
- (d) if the building work to which the certificate relates does not comply with a requirement of the Act, the Regulations or the building permit for the work – details of each requirement and the non-compliance.

Subdivision 4 Certificates of existence**19D Classification of buildings**

For section 72D(2)(a) of the Act, all classes of buildings are prescribed, other than buildings identified in the Building Code as Importance Level 3 or 4 buildings.

19E Criteria to be complied with

For section 72E(4)(c)(ii) of the Act, the existing building work must meet a reasonable level of safety, health and amenity.

19F Documents to accompany application

- (1) For Schedule 3, clause 3 of the Act, the following documents are prescribed for an application for a certificate of existence in relation to building work:
 - (a) drawings of:
 - (i) the existing building work; and
 - (ii) if relevant, the site on which the existing building work is located;
 - (b) documents demonstrating that the work meets the criteria mentioned in regulation 19E;
 - (c) a copy of any relevant planning or other consent, report, approval or notification related to the existing building work;
 - (d) if the Appeals Board has made a disability access decision in relation to the building work – that decision, unless the decision was already provided under regulation 14(1)(j).

20 Information to be included in certificate of existence

For section 76B of the Act, a certificate of existence must specify the following:

- (a) the classification of the building or part of the building to which it applies;
- (b) the technical standards with which the building work carried out in or on the building complies.

9 Regulations 20B and 20C replaced

Regulations 20B and 20C

repeal, insert

20B Declaration for building work requiring occupancy certification

- (1) This regulation applies in relation to all completed building work that requires occupancy certification.

- (2) The individual who carried out the completed building work or was in charge of carrying out the work must make a builder's declaration in relation to the completed building work.
- (3) The individual must make the builder's declaration not later than 14 days after completing building work for a Class 1a, Class 2 or Class 10 building.

Maximum penalty: 80 penalty units.

- (4) An individual who makes a builder's declaration in relation to a Class of building mentioned in subregulation (3) must, not later than 14 days after completing the building work, give the declaration to the building certifier who granted the building permit for the work.

Maximum penalty: 8 penalty units.

Note for subregulations (2), (3) and (4)

In relation to Class 3 to Class 9 buildings, subregulation (2) applies but no time limit is imposed under subregulation (3) or (4).

- (5) If the individual who carried out the completed building work or was in charge of carrying out the work was acting for a corporation and ceased to act after completing the work, the individual is not excused from making a builder's declaration under this regulation in relation to the work.

20C Declaration for certain building work not requiring occupancy certification

- (1) This regulation applies in relation to completed building work if a declaration under section 65(1A)(b) of the Act provides for it to apply.
- (2) The individual who carried out the completed building work or was in charge of carrying out the work must make a declaration in accordance with regulation 20D(1) in relation to the work not later than 14 days after completing the work.

Maximum penalty: 80 penalty units.

- (3) The individual must, not later than 14 days after completing the building work, give the declaration to the building certifier who granted the building permit for the work.

Maximum penalty: 8 penalty units.

- (4) If the individual who carried out the completed building work or was in charge of carrying out the work was acting for a corporation and ceased to do so after completing the work, the individual is not

excused from making a declaration in accordance with this regulation in relation to the work.

- (5) A person must not occupy a building in or on which building work mentioned in subregulation (1) has been carried out unless a declaration mentioned in subregulation (2) has been made in relation to the completed building work.

Maximum penalty: 85 penalty units.

- (6) Subregulation (5) does not apply if one of the following has been granted for the completed building work:
- (a) a certificate of substantial compliance; or
 - (b) a certificate of existence.

10 Regulations further amended

The Schedule has effect.

Part 3 Amendment of Building (Resolution of Residential Building Work Disputes) Regulations

11 Regulations amended

This Part amends the *Building (Resolution of Residential Building Work Disputes) Regulations*.

12 Regulation 7 amended

- (1) Regulation 7(4)(a)(i), before "work"

insert

residential building

- (2) Regulation 7(4)(b)

omit, insert

- (b) that ends:

- (i) if occupancy certification is required for the work – on the day an occupancy permit or certificate of substantial compliance is granted for the work; or

- (ii) if occupancy certification is not required for the work –
on the day the builder has made all the declarations
required under the Act in relation to the work.

Part 4 Expiry of Regulations

13 Expiry of Regulations

These Regulations expire on the day after they commence.

Schedule Building Regulations further amended

regulation 10

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 4(2)	Building	Subject to the Act, building
regulation 14(1)	42(1)(c) provide	42(1)(c)(ii) give
regulation 15A(1), item 6	an occupancy permit	occupancy certification
regulation 17, heading	permit	certification
regulation 17	A	For Schedule 3, clause 7 of the Act, a
regulations 17 and 18AA(1)	an occupancy permit	occupancy certification
regulation 18AA(2)	permit decision	certification disability access decision
regulation 18AA(2), note	whole note	<i>Note for regulation 18AA(2)</i> <i>See also regulations 18A(e)</i> <i>and 19F(1)(d) in relation to</i> <i>disability access decisions.</i>
regulation 18A	all words from "42(1)(c)" to "Director"	42(1)(c)(ii) of the Act, a building certifier must give copies of the following documents to the Director on the grant of an occupancy permit
regulation 18A(a)	whole paragraph	
regulation 18A(b)	all	
	all words from "section" to "(e)"	the Act or regulation 18B

regulation 18A(c)	all words from "consents" to "Act"	or other consents and approvals mentioned in regulation 18B(1)(f)
regulation 18A(d), after "approvals"		, reports
regulation 18A(d)	issuing	granting
regulation 20A(1)	all words from "including" to "18,"	
regulation 20D(2) and (3)	whole subregulation	
regulation 20E(4)(a)	all words from "declaration" to "required by"	builder's declaration or a declaration in accordance with
regulation 21	40(a)	40(1)(a)
Schedule 1, item 7	permits	certification
