

NORTHERN TERRITORY OF AUSTRALIA
BUILDING AMENDMENT REGULATIONS (NO. 2) 2005

Regulations No. 50 of 2005

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NORTHERN TERRITORY OF AUSTRALIA

Regulations No. 50 of 2005*

Building Amendment Regulations (No. 2) 2005

I, EDWARD JOSEPH EGAN, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Building Act*.

Dated 6 December 2005.

E. J. EGAN
Administrator

By His Honour's Command

K. VATSKALIS
Minister for Primary Industry and Fisheries
acting for the
Minister for Planning and Lands

* Notified in the *Northern Territory Government Gazette* on 14 December 2005.

1. Citation

These Regulations may be cited as the *Building Amendment Regulations (No. 2) 2005*.

2. Commencement

These Regulations come into operation on the commencement of section 3 of the *Building Amendment Act 2004*.

3. Principal Regulations amended

These Regulations amend the *Building Regulations*.

4. Amendment of regulation 2 (Interpretation)

Regulation 2(1) –

insert (in alphabetical order)

"building contractor residential (restricted)" means a building practitioner registered in the category of building contractor residential (restricted);

"building contractor residential (unrestricted)" means a building practitioner registered in the category of building contractor residential (unrestricted);

"Class 2 building", for regulation 15A and Part 11A, includes –

- (a) a building consisting only of one or more storeys that may be classified under the Building Code as a Class 2 building because of Part A3.3(a)(i) of the Code; and
- (b) a building consisting only of –
 - (i) one or more storeys that are Class 2 buildings; and
 - (ii) one or more storeys that are Class 7a buildings for the sole use of the residents of, and visitors to, the Class 2 buildings;

"drawings", of a building, include a site plan and floor plan of, and elevations for, the building;

5. Repeal and substitution of Part 3 heading

Part 3 heading –

repeal, substitute

PART 3 – INSPECTIONS, BUILDING PERMITS AND OCCUPANCY PERMITS

Division 1 – Inspections

15A. Inspection stages

(1) For section 62(2) of the Act, the inspection stages for residential building work are those stages named and described in the table below that are relevant to the work.

	Inspection Stage	Description
1.	pre-pour	before pouring the footings, ground floor slab or other in situ concrete building element
2.	frame	before covering the framework for floors, walls, roof or other building element
3.	block wall	before pouring any reinforced masonry or block walls
4.	fire separation	before covering walls, floors or ceilings, for the purpose of checking that fire resistance levels comply with the Building Code (<i>see note</i>)
5.	wet area	before covering waterproofing in wet areas
6.	final	after completing the building work but before issuing an occupancy permit in relation to the work

Note for table –

A fire separation inspection may form part of an inspection of the building work carried out at one or more of the other inspection stages.

(2) For subregulation (1), residential building work is work for or in connection with the construction of any of the following:

- (a) a Class 1a building;
- (b) a Class 2 building;
- (c) a Class 10 building.

6. New Part 3, Division 2

After regulation 16 –

insert

Division 2 – Building permits

16A. Documents relating to building permits to be provided to Director

For section 42(1)(c) of the Act, copies of the following documents must accompany the copy of the building permit:

- (a) any drawings of the building work to be carried out that form part of the permit;
- (b) a schedule of the inspections the building certifier proposes to carry out under section 63 of the Act, including at the inspection stages prescribed by regulation 15A at which the work must be inspected under section 62 of the Act;
- (c) any certificates issued by building practitioners in relation to the work on which the building certifier has relied under section 40 of the Act;
- (d) evidence of any contract required under section 48B of the Act;
- (e) any owner-builder certificate required under section 48D of the Act;
- (f) the evidence provided to the building certifier under section 59(1B) of the Act of any policy of insurance required under Part 4C;
- (g) any relevant planning consents and approvals referred to in section 59(1)(b) of the Act;
- (h) any other approvals, certificates or other documents relied on by the building certifier in issuing the permit.

7. New Part 3, Division 3 heading

Before regulation 17 –

insert

Division 3 – Occupancy permits

8. Repeal and substitution of regulation 18

Regulation 18 –

repeal, substitute

18. Permits not required for buildings in certain areas

(1) For section 65(1) of the Act, an occupancy permit is not required for a building the subject of a declaration in force under subregulation (2).

(2) The Minister may, by notice in the *Gazette*, declare that an occupancy permit is not required for a specified building in a specified part of the Territory.

18A. Documents relating to occupancy permits to be provided to Director

For section 42(1)(c) of the Act, copies of the following documents must accompany the copy of the occupancy permit in respect of building work:

- (a) the declaration required to accompany the application for the permit under section 69 of the Act;
- (b) all the documents required to accompany the application for the permit under section 69A(1)(a) to (c) and (e);
- (c) evidence of compliance with any relevant planning consents and approvals referred to in section 69A(1)(d) of the Act;
- (d) any other approvals or other documents relied on by the building certifier in issuing the permit that the certifier has not already provided under regulation 16A(h).

18B. Consolidation of occupancy permits

(1) Subregulation (2) applies if 2 or more occupancy permits have been granted in relation to a building.

(2) A building certifier –

- (a) may issue, in place of the occupancy permits, a consolidated occupancy permit for the whole building; and
- (b) if the building certifier does so – must revoke the permits being replaced.

18C. Documents to accompany application for occupancy permit

(1) For section 69A(1)(e) of the Act, the prescribed documents are the certificates or other documents relied on by the building certifier in issuing the

occupancy permit 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 declaration referred to in regulation 18A(a).

(2) For subregulation (1), 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.

Examples of certificates for regulation 18C –

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

9. Repeal and substitution of regulations 39A and 39B

Regulations 39A and 39B –

repeal, substitute

39A. Sub-categories of building practitioner

For section 4A(2)(b) of the Act, the sub-categories specified in the table below are prescribed for the category of building practitioner specified opposite.

	Category	Sub-categories
1.	building certifier	building certifier (residential) building certifier (unrestricted)

2.	certifying plumber	certifying plumber and drainer certifying plumber and drainer (design)
3.	certifying engineer	certifying engineer (structural) certifying engineer (hydraulic) certifying engineer (mechanical)
4.	building contractor	building contractor residential (restricted) building contractor residential (unrestricted)

10. Repeal and substitution of regulation 40

Regulation 40 –

repeal, substitute

40. Condition for registration: professional indemnity insurance

(1) For sections 24(1)(c), (2)(c) and (3)(c) and 24F(1)(e), (2)(d) and (3)(d), it is a condition for registration or renewal of registration in a category of building practitioner specified in subregulation (2) that the applicant hold a policy of professional indemnity insurance for the amount determined by the Minister.

(2) Subregulation (1) applies in relation to all categories of building practitioner other than the following:

- (a) certifying plumber and drainer;
- (b) building contractor.

40A. Condition of registration: HBCF plumber policy

(1) For sections 24(1)(c), (2)(c) and (3)(c) and 24F(1)(e), (2)(d) and (3)(d), it is a condition for registration or renewal of registration in the category of certifying plumber and drainer that the applicant hold an HBCF plumber policy.

(2) This regulation expires on the day on which section 61 of the Act is repealed.

Note for subregulation (2) –

Section 61 of the Act will be repealed by section 21 of the Building Amendment Act 2004.

(3) In subregulation (1) –

"HBCF plumber policy" means a policy of insurance that –

- (a) relates to building work carried out by a certifying plumber and drainer; and
- (b) is approved for section 61 of the Act.

40B. Last day for application for renewal of registration

For section 24E(2) of the Act, the prescribed date is the date 2 months before the applicant's registration expires.

Example for regulation 40B –

If a building practitioner's registration expires on 31 December 2007, the Practitioners Board may refuse to accept the practitioner's application for renewal if it is made after 31 October 2007. If that happens, the practitioner may apply for registration under section 23 or 24A of the Act.

11. New Part 11A

After regulation 41 –

insert (in numerical order)

PART 11A – BUILDING CONTRACTORS

Division 1 – Prescribed matters for section 48A of the Act

41A. Building work

(1) For section 48A(1) of the Act, prescribed building work is work for or in connection with the construction of any of the following:

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

Examples of Class 10 buildings for subregulation (1)(c) –

1. *A garage attached to a Class 1a or Class 2 building.*
2. *A retaining wall attached to a Class 1a or Class 2 building.*

(2) However, the prescribed building work does not include work for or in connection with the construction of any of the following:

- (a) renovations or alterations to an existing Class 1a or Class 2 building if there is no increase in the floor area of the building;
- (b) a Class 10 building or verandah attached to a Class 1a or Class 2 building if it is constructed at any time after the Class 1a or Class 2 building was constructed;
- (c) a Class 10 building (whenever constructed) that is not attached to a Class 1a or Class 2 building, other than a retaining wall referred to in subregulation (1)(d).

Examples of renovations and alterations for subregulation (2)(a) –

- 1. *The re-cladding of the roof or walls of a Class 1a or Class 2 building.*
- 2. *The replacement of windows in a Class 1a or Class 2 building.*
- 3. *The construction of new external openings in a Class 1a or Class 2 building.*
- 4. *The enlargement or filling in of existing external openings in a Class 1a or Class 2 building.*

Examples of Class 10 buildings for subregulation (2)(c) –

- 1. *A freestanding garage or shed.*
- 2. *A retaining wall that is not attached to a Class 1a or Class 2 building and on which the integrity of a Class 1a or Class 2 building does not depend.*

41B. Building contractors for detached houses and attached dwellings and Class 2 buildings of not more than 2 storeys

(1) For section 48A(1)(a) and (b) of the Act, the following building contractors are prescribed for building work referred to in subregulation (2):

- (a) a building contractor residential (restricted);
- (b) a building contractor residential (unrestricted).

(2) Subregulation (1) applies in relation to 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 one or 2 storeys;
- (c) a Class 10 building attached to a Class 1a or Class 2 building referred to in paragraph (a) or (b) if it is constructed at the same time as the Class 1a or Class 2 building;

- (d) a retaining wall (whenever constructed) that is not attached to a Class 1a or Class 2 building referred to in paragraph (a) or (b) but on which the integrity of such a building depends.

Examples of Class 10 buildings for subregulation (2)(c) –

1. *A garage attached to a Class 1a or Class 2 building.*
2. *A retaining wall attached to a Class 1a or Class 2 building.*

(3) However, subregulation (1) does not apply in relation to work for or in connection with the construction of any of the following:

- (a) a Class 10 building or verandah attached to a Class 1a or Class 2 building if it is constructed at any time after the Class 1a or Class 2 building was constructed;
- (b) a Class 10 building (whenever constructed) that is not attached to a Class 1a or Class 2 building, other than a retaining wall referred to in subregulation (2)(d).

Examples of Class 10 buildings for subregulation (3)(b) –

1. *A freestanding garage or shed.*
2. *A retaining wall that is not attached to a Class 1a or Class 2 building and on which the integrity of a Class 1a or Class 2 building does not depend.*

41C. Building contractors for attached dwellings and Class 2 buildings of more than 2 storeys

(1) For section 48A(1)(a) and (b) of the Act, a prescribed building contractor for building work referred to in subregulation (2) is a building contractor residential (unrestricted).

(2) Subregulation (1) applies in relation to building work that is work for or in connection with the construction of a Class 1a attached dwelling or Class 2 building of more than 2 storeys.

41D. Supervision by building contractor

For section 48A(1)(b) of the Act, the prescribed building contractor must supervise the person by the level of personal oversight the contractor considers appropriate, having regard to the person's skills and experience.

41E. Minimum value of building work

For section 48A(2)(a) of the Act, the prescribed amount is \$12 000.

Division 2 – Prescribed matters for section 48B of the Act

41F. Building contractors

For section 48B(1) of the Act, the following building contractors are prescribed:

- (a) a building contractor residential (restricted);
- (b) a building contractor residential (unrestricted).

41G. Building work

(1) For section 48B(1) of the Act, prescribed building work is work for or in connection with the construction of any of the following:

- (a) a Class 1a detached house;
- (b) a Class 10 building attached to a Class 1a detached house if it is constructed at the same time as the house is constructed;
- (c) a retaining wall (whenever constructed) that is not attached to a Class 1a detached house but on which the integrity of such a house depends.

Examples of Class 10 buildings for subregulation (1)(b) –

1. *A garage attached to a detached house.*
2. *A retaining wall attached to a detached house.*

(2) However, the prescribed building work does not include work for or in connection with the construction of any of the following:

- (a) a Class 10 building or verandah attached to a Class 1a detached house if it is constructed at any time after the house was constructed;
- (b) a Class 10 building (whenever constructed) that is not attached to a Class 1a detached house, other than a retaining wall referred to in subregulation (1)(c).

Examples of Class 10 buildings for subregulation (2)(b) –

1. *A freestanding garage or shed.*
2. *A retaining wall that is not attached to a detached house and on which the integrity of a detached house does not depend.*

41H. Contents of building contracts

For section 48B(2) of the Act, the contract must –

- (a) be for building work to be carried out on a single project; and
- (b) identify the building contractor; and
- (c) specify the building contractor's registration number; and
- (d) specify the extent and value of the work; and
- (e) if the contract provides for the payment of a deposit – specify the amount of the deposit, which must not be more than 5% of the value of the work; and
- (f) the stages of the work to which progress payments are linked; and
- (g) the amount of each progress payment; and
- (h) set out a process for resolving disputes between the building contractor and the owner of the land.

41J. Minimum value of building work

For section 48B(3)(a) of the Act, the prescribed amount is \$12 000.

Division 3 – Prescribed matters for section 48C of the Act

41K. Building contractors

For section 48C(1) of the Act, the following building contractors are prescribed:

- (a) a building contractor residential (unrestricted);
- (b) a building contractor residential (unrestricted).

41L. Building work

(1) For section 48C(1) of the Act, prescribed building work is work for or in connection with the construction of any of the following:

- (a) a Class 1a detached house;
- (b) a Class 10 building attached to a Class 1a detached house if it is constructed at the same time as the house is constructed;

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- (c) a retaining wall (whenever constructed) that is not attached to a Class 1a detached house but on which the integrity of such a house depends.

Examples of Class 10 buildings for subregulation (1)(b) –

1. *A garage attached to a detached house.*
2. *A retaining wall attached to a detached house.*

(2) However, the prescribed building work does not include work for or in connection with the construction of any of the following:

- (a) renovations or alterations to an existing Class 1a detached house if there is no increase in the floor area of the house;
- (b) a Class 10 building or verandah attached to a Class 1a detached house if it is constructed at any time after the house was constructed;
- (c) a Class 10 building (whenever constructed) that is not attached to a Class 1a detached house, other than a retaining wall referred to in subregulation (1)(c).

Examples of renovations and alterations for subregulation (2)(a) –

1. *The re-cladding of the roof or walls of a detached house.*
2. *The replacement of windows in a detached house.*
3. *The construction of new external openings in a detached house.*
4. *The enlargement or filling in of existing external openings in a detached house.*

Examples of Class 10 buildings for subregulation (2)(c) –

1. *A freestanding garage or shed.*
2. *A retaining wall that is not attached to a detached house and on which the integrity of a detached house does not depend.*

41M. Minimum value of building work

For section 48C(2) of the Act, the prescribed amount is \$12 000.

12. New Part 11B

After regulation 41 –

insert (in numerical order)

PART 11B – OWNER-BUILDERS

Division 1 – Prescribed matters for section 48D of the Act

41N. Building work

(1) For section 48D(1) of the Act, prescribed building work is work for or in connection with the construction of any of the following:

- (a) a Class 1a detached house;
- (b) a Class 10 building attached to a Class 1a detached house if it is constructed at the same time as the house is constructed;
- (c) a retaining wall (whenever constructed) that is not attached to a Class 1a detached house but on which the integrity of such a house depends.

Examples of Class 10 buildings for subregulation (1)(b) –

- 1. *A garage attached to a detached house.*
- 2. *A retaining wall attached to a detached house.*

(2) However, the prescribed building work does not include work for or in connection with the construction of any of the following:

- (a) renovations or alterations to an existing Class 1a detached house if there is no increase in the floor area of the house;
- (b) a Class 10 building or verandah attached to a Class 1a detached house if it is constructed at any time after the house was constructed;
- (c) a Class 10 building (whenever constructed) that is not attached to a Class 1a detached house, other than a retaining wall referred to in subregulation (1)(c).

Examples of renovations and alterations for subregulation (2)(a) –

- 1. *The re-cladding of the roof or walls of a detached house.*
- 2. *The replacement of windows in a detached house.*
- 3. *The construction of new external openings in a detached house.*
- 4. *The enlargement or filling in of existing external openings in a detached house.*

Examples of Class 10 buildings for subregulation (2)(c) –

- 1. *A freestanding garage or shed.*
- 2. *A retaining wall that is not attached to a detached house and on which the integrity of a detached house does not depend.*

41P. Minimum value of building work

For section 48D(2)(a) of the Act, the prescribed amount is \$12 000.

41Q. Exemption for certain building contractors

For section 48D(2)(b) of the Act, the following building contractors are prescribed:

- (a) a building contractor residential (restricted);
- (b) a building contractor residential (unrestricted).

Division 2 – Prescribed matters for section 48F of the Act

41R. Period required to elapse

For section 48F(4), the prescribed period is 6 years.

13. Amendment of Schedule 1

- (1) Schedule 1, heading –
omit, substitute

SCHEDULE 1

Regulation 41

PRESCRIBED FEES

- (2) Schedule 1, item 1 –
omit, substitute
 - 1. In relation to the registration of a building practitioner (other than a building contractor) –
 - (a) for an application under section 23 of the Act 200.00
 - (b) for registration under section 24 of the Act 600.00
 - 1A. In relation to the registration of a building contractor –
 - (a) for an application under section 24A or 24C of the Act 200.00
 - (b) for registration under section 24B or 24C of the Act 600.00

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1B.	In relation to the renewal of the registration of a building practitioner –	
	(a) for an application under section 24E of the Act	200.00
	(b) for renewal under section 24F of the Act	600.00
1C.	For an application for the grant or renewal of an owner-builder certificate under section 48E of the Act	200.00
(3)	Schedule 1, after item 5 –	
	<i>insert</i>	
5A.	For a certified copy of a document under section 166A of the Act	50.00 plus the fee for the copy of the document payable under item 6
