

2002

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY

BUILDING ACT 1972
BUILDING AMENDMENT REGULATIONS 2002

EXPLANATORY STATEMENT

Circulated by authority of

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Minister for Planning

AUSTRALIAN CAPITAL TERRITORY

BUILDING AMENDMENT REGULATIONS 2002

SUBORDINATE LAW No. SL 2002-9

EXPLANATORY STATEMENT

Overview

These are amending Regulations. They amend the Building Regulations 1972 (the "Principal Regulations").

Part 5a of the *Building Act 1972* ("the Act") contains a requirement for builders to obtain residential building work insurance that protects the owners of the buildings concerned. The insurance applies during and after construction but does not cover the builder if he is also the owner. Section 34 of the Act requires this insurance to be in force before work begins.

The purpose of the amending regulations is to deal with the effect of these requirements in the aftermath of the withdrawal of one of the two residential building work insurance providers in the ACT. On 10 April 2002 Dexta announced that it was withdrawing immediately from providing residential building work insurance. Since the collapse of HIH Insurance insurers have imposed stricter conditions on the provision of this insurance. Builders had already been experiencing delays in obtaining insurance by the time they wish to start work and greater delays are anticipated as builders formerly serviced by Dexta apply to the remaining insurance provider.

The amending regulations modify the requirements for insurance by allowing a builder who is also the owner of the land when work begins to provide proof of insurance not before work begins but instead before the building certifier issues a certificate of completion for the building work.

Details

Name of Regulations

Regulation 1 is a formal regulation that gives the name of the amending regulations.

Commencement

Regulation 2 is a formal regulation that specifies the manner of commencement of the amending Regulations.

Regulations amended

Regulation 3 provides that the regulations amend the *Building Regulations 1972*.

New regulations 23 to 25

Regulation 4 adds new Regulations 23 to 25 to the Principal Regulations.

Exemption for certain building work

New regulation 23 exempts work carried out by the builder on land owned by the builder from the requirements of section 34 of the Act to demonstrate during building approval that residential building work insurance has been obtained.

New regulation 24 requires the certifier of work exempted by new regulation 23 to demonstrate that residential building work insurance has been obtained before the certifier issues a certificate under the Act for the completion of the work.

This regulation adopts the definitions of “builder” and “residential building work” used by Part 5a of the Act in relation to residential building work insurance.

New Regulation 25 sets the term of these new regulations at six months. For regulation 23 it also validates approvals of plans following the expiry of earlier regulations (No 40 of 2001) with the same purpose that came into effect on 2 October 2001. They applied for four months unless the Minister extended them before their expiry. A direction (2002 NI 33) for their extension was signed on 30 January but not notified in time before the expiry of the regulations. It seems likely that certifiers may have continued approving plans as permitted under the October amendments, in ignorance of the fact that the effectiveness of those amendments was not in fact extended. This retrospective application is considered justifiable as a non-prejudicial provision within the meaning of section 76 of the Legislation Act 2001.

Financial Implications

Nil.