

2006

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

BUILDING AMENDMENT REGULATION 2006 (No 1)

Subordinate Law No SL2006-15

EXPLANATORY STATEMENT

Circulated by authority of Simon Corbell MLA
Minister for Planning

BUILDING AMENDMENT REGULATION 2006 (No 1)

Background and Outline

The *Building Amendment Regulation 2006 (No 1)* creates transitional provisions relating to the introduction of energy efficiency requirements in the 2006 edition of the Building Code of Australia (BCA) for some classes of new buildings.

From 1 May 2006 the Building Code of Australia will require new mandatory minimum energy efficiency requirements. Due to the timing of the decision by the Australian Building Codes Board to adopt the new requirements, it is likely that the design process for some projects would have commenced with insufficient time to adopt necessary changes before the commencement of the new requirements. The regulation is intended to allow industry sufficient time to prepare for the introduction of the new requirements.

The new provisions will then only apply to projects for which development applications are lodged after 30 June 2006. The transitional arrangements will ensure previously approved dwellings and those lodged before 1 July 2006 can obtain building approval after 1 July 2006 for a given period depending on the class of building.

These transitional provisions have been made under section 136(4) of the Building Act. Section 136(4) of the Act provides that regulations may make provision in relation to the application of the building code.

The *Building Amendment Regulation 2006 (No 1)* also amends the heading of section 29A of the *Building Regulation 2004* to clarify that the section applies to bushfire-prone areas. The content of section 29A has not been altered.

Clause Notes

Clause 1 provides for the name of the regulation to be the *Building Amendment Regulation 2006 (No 1)*.

Clause 2 provides that the regulation commences on the day after the notification day.

Clause 3 provides that the regulation amends the *Building Regulation 2004*.

Clause 4 substitutes the existing heading of section 29A with a new heading containing a reference to bushfire-prone area to achieve greater clarity.

Clause 5 inserts a new clause 29B. Clause 29B provides that the energy efficiency requirements in the 2006 edition of the BCA do not apply to a development if:

- (a) an application for approval of the development is made under the *Land (Planning and Environment) Act 1991*, section 226 (Application to undertake development) before 1 July 2006; and
- (b) building approval for the development is issued before the applicable date.

A building approval refers to a building approval under Division 3.3 of the *Building Act 2004*.

The clause provides that in the case of class 1 and 10 buildings the applicable date is 1 January 2007 and that for class 2 – 9 structures the applicable date is 1 May 2007. The energy efficiency provisions in the 2005 Building Code of Australia apply in these cases. The BCA defines the meanings of building classes. Class 1 structures generally relate to houses, class 10 structures relate generally to uninhabitable structures. Classes 2 – 9 deal generally with medium density residential, commercial, industrial, community and other types of buildings that are not single dwellings.

The Regulation does not remove energy efficiency requirements in place in the Territory Plan. Therefore, the energy efficiency requirements in the Territory Plan are still applicable to developments which are exempt from energy efficiency requirements in the 2006 edition of the BCA. In some cases these provisions are more stringent than those in the 2005 BCA.