

Australian Capital Territory

Construction Occupations (Licensing) (Qualifications—Builder and Building Surveyor Licences) Declaration 2019 (No 2)

Disallowable instrument DI2019-181

made under the

**Construction Occupations (Licensing) Regulation 2004, s 13 (Eligibility for licence—
suitability and financial requirements—Act, s 18 and s 24A)**

EXPLANATORY STATEMENT

Section 13 of the *Construction Occupations (Licensing) Regulation 2004* (the **Regulation**) permits the Minister to declare the qualifications and financial requirements necessary for an entity to be eligible to be licensed in a construction occupation or occupation class.

The purpose of this instrument is to declare the qualifications necessary for an individual to be eligible to be licensed in the construction occupations and associated occupation classes of builder and building surveyor. It prescribes qualifications for particular applicants for new licences. It does not prescribe general requirements for renewing licensees or financial requirements.

Pre-licence assessment examination – building surveyor licences

In June 2016, the ACT Government announced the *Improving the ACT Building Regulatory System* reforms. <https://www.planning.act.gov.au/build-buy-reno/renovate/reviews-and-reforms/building-reforms>

Reform 15 includes to develop and implement a pre-application assessment for building surveyors licence applicants. This complements reform 9, which is a written assessment for builder class A, B and C licence applicants and enacted by the *Construction Occupations (Licensing) (Qualifications—Builder and Building Surveyor Licences) Declaration 2019* (DI2019-14).

Reform 16 is to develop and make available an online course for building surveyors operating or intending to operate under the ACT's building regulatory system. Further, reform 33 is to expand the mandatory qualifications for new building surveyor licence applicants to include completion of the online training course.

This instrument requires that in addition to existing qualification requirements

- for applications made on or after 1 September 2019, the applicant has successfully completed the online course *Introduction to the ACT Building Regulatory System* developed by the ACT Government and delivered by a course provider authorised by the ACT Government to provide the course; and
- for applications made on or after 1 November 2019, the applicant also undertakes and passes an assessment set by the Construction Occupations Registrar.

The methods in the instrument provide that to be eligible for a licence under the available methods, an applicant who has previously been refused a licence because they have not passed an assessment required for eligibility, must not make a new application within a prescribed period after the licence is refused. The prescribed period is six months after the first licence refusal, one year after the second refusal and two years after a third or subsequent refusal.

Similar periods are included for previous licensees who have not had their licenses renewed because they have not passed a required assessment.

These periods are included because results from the builder licence examinations demonstrated that applicants who made multiple attempts in a short period of time were not necessarily more likely to pass the exam. In most cases, the applicants were more likely to fail multiple attempts in a short period of time.

If an applicant cannot pass the examination on the second attempt when they are aware of the type of questions that will be asked and have experience taking the examination, they are likely to need further study and practice before they attempt the examination again. The ineligibility periods increase, as applicants that repeatedly fail the examination may need more extensive training than can be undertaken in a short period of time.

Builder licences

The instrument makes no changes to qualifications for builder licence classes.

Revocation and commencement

The instrument revokes the *Construction Occupations (Licensing) (Qualifications—Builder and Building Surveyor Licences) Declaration 2019* (DI2019-14).

The instrument commences on the day after its notification date.

The declaration under section 13 of the Regulation is a disallowable instrument and must be presented to the Legislative Assembly within 6 sitting days after its notification pursuant to section 64 of the *Legislation Act 2001*.

Regulatory Impact Statement (RIS)

Section 34 of the *Legislation Act 2001* provides that if a proposed subordinate law or disallowable instrument (the proposed law) is likely to impose appreciable costs on the community, or a part of the community, then, before the proposed law is made, the

Minister administering the authorising law (the administering Minister) must arrange for a regulatory impact statement to be prepared for the proposed law.

A RIS is not required for this instrument as it is not expected to impose appreciable costs on the community or part of the community. It introduces a requirement for applicants for building surveyor licences to complete an online course on the ACT building regulatory system and undertake and pass an assessment set by the Construction Occupations Registrar.

The cost of the online course is less than \$100. The assessment is consistent with the policy objectives of construction licensing laws, which exist to protect the public by allowing only those who are appropriately qualified to undertake licensable work. It achieves the policy objectives by assessing whether licensees understand their obligations and can competently carry out activities they will be responsible for as a licensee. As building surveyors carry out a statutory role and undertake regulatory functions, it is particularly important they understand the regulatory system in which they will be operating.

Applicants for building surveyor licences must hold appropriate academic qualifications, which generally include assessment of their skills and knowledge. Further, a licensee must be able to read legislation and technical standards and communicate with other practitioners and their clients.

Assessments may also be applied to determine whether a licensee remains eligible for a licence, either at renewal or if a grounds for occupational discipline exists (see Act, s 55A *Skills assessment of licensees* and s 14 and s 18B of the Regulation). The instrument provides for pathways for applicants who have previously held licences but been determined as ineligible.

Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference require consideration of human rights impacts, among other matters. There are no human rights impacts related to this instrument.

The instrument prescribes eligibility pathways for applicants that are appropriate for the public safety risks associated with the responsibilities of a building surveyor licensee under the Act and the *Building Act 2004*. An applicant refused a licence for failing to pass the examination may seek a review of the decision at the ACT Civil and Administrative Tribunal, and is not excluded from participation in the building industry.