



Australian Capital Territory

Building Regulations¹ (Amendment)

Subordinate Law No. 40 of 1998²

The Australian Capital Territory Executive makes the following Regulations under the *Building Act 1972*.

Dated 22 December 1998.

BRENDAN SMYTH
Minister

GARY HUMPHRIES
Minister

1. Commencement

These Regulations commence on the day on which section 4 of the *Building (Amendment) Act (No. 2) 1998* commences.

2. Principal Regulations

In these Regulations, “Principal Regulations” means the *Building Regulations*.

3. Substitution

Regulation 2 of the Principal Regulations is repealed and the following regulation substituted:

“2. Interpretation

In these Regulations, unless the contrary intention appears—

‘Act’ means the *Building Act 1972*;

‘alternative solution’ has the same meaning as in the Building Code;

‘Class 2’, ‘Class 3’, ‘Class 4’, ‘Class 5’, ‘Class 6’, ‘Class 7’, ‘Class 8’ and ‘Class 9’, in relation to a building, have the same respective meanings as they have in the Building Code;

‘dwelling’ means a residence;

‘existing plans’, in relation to plans for the alteration or demolition of a building to accompany an application for building approval, means approved plans in relation to the existing building on the parcel of land;

‘parcel of land’ means the parcel of land in relation to which an application for building approval is made;

‘registered construction practitioner’ has the same meaning as in the *Construction Practitioners Registration Act 1998*;

‘residential building’ has the same meaning as in Part VA of the Act;

‘site plan’ has the same meaning as in Australian Standard HB 50 as in effect on the day on which this regulation commences.”.

4. Insertion

After regulation 3 of the Principal Regulations the following regulations are inserted:

“3A. Applications for owner-builder licences

For the purposes of paragraph 23A (2) (d) of the Act, the following information is prescribed:

- (a) the full name of the applicant;
- (b) an address to which correspondence to the applicant may be sent;

- (c) a telephone number at which the applicant may be contacted;
- (d) if the applicant has either—
 - (i) been granted an endorsement in a building permit under subsection 39 (1) of the Act as in effect immediately before the commencement of this subparagraph; or
 - (ii) held an owner-builder licence;
during the 5 years immediately preceding the application—the details of that permit or licence, including the location and nature of the work permitted under the permit or licence.

“3B. Qualifications for certifiers

“(1) For the purposes of subsection 30 (1) of the Act, a registered construction practitioner who is registered in the category of a Principal Building Surveyor in accordance with the *Construction Practitioners Registration Regulations* is qualified to be appointed as a certifier in relation to any building work.

“(2) For the purposes of subsection 30 (1) of the Act, a registered construction practitioner who is registered in the category of a Building Surveyor in accordance with the *Construction Practitioners Registration Regulations* is qualified to be appointed as a certifier in relation to a building—

- (a) consisting of not more than 3 storeys; and
- (b) with a floor area not exceeding 2,000 square metres.

“3C. Applications—copies of plans

For the purposes of paragraph 33A (3) (c) of the Act, the prescribed number of copies of the plans is 3.

“3D. Applications—general requirements

For the purposes of paragraph 33A (3) (d) of the Act, the following are prescribed requirements in relation to all applications:

- (a) an application shall contain an estimate of the cost of the building work calculated in accordance with a method determined by the Building Controller;
- (b) where building work is proposed to be carried out at or near a street or place that is open to or used by the public, an application shall contain particulars of the precautions proposed to be taken to

protect the safety of persons using that street or place during the period in which the building work is to be carried out;

- (c) an application shall contain a waste management plan unless the application is in relation to building work that solely involves—
 - (i) the erection of a building; or
 - (ii) the alteration of a Class 1, Class 2 or Class 10a building;
- (d) an application shall specify the area of the parcel of land.

“3E. Applications—erection or alteration of buildings

“(1) For the purposes of paragraph 33A (3) (d) of the Act, the following are prescribed requirements in relation to an application in relation to building work that involves the erection or alteration of a building:

- (a) the application shall specify the class of the building, as provided by the Building Code, according to the intended use of the building as proposed to be erected or altered, as the case requires;
- (b) the application shall specify, in accordance with the classification provided by the Building Code, the type of construction of the building as proposed to be erected or altered, as the case requires;
- (c) where an application relates to the erection or alteration of a Class 1 or Class 10a building, the application shall set out, in accordance with the classification provided by the Building Code, the site classification of the parcel of land;
- (d) where an application relates to the alteration of a building, the application shall specify—
 - (i) the class and type of construction of the existing building classified as provided by the Building Code according to occupancy; and
 - (ii) the materials used in the existing building;
- (e) the application shall specify the number of storeys of the building as proposed to be erected or altered;
- (f) the application shall specify the number of new dwellings, if any, created by the building work;
- (g) the application shall specify the floor area of the proposed building or proposed new part of the building, as the case requires;

- (h) the application shall specify the materials to be used in the frame, floor, walls and roof of the proposed building or proposed new part of the building, as the case requires;
- (j) where it is proposed that an alternative solution be used to comply with a performance requirement of the Building Code, the application shall specify—
 - (i) the performance requirement;
 - (ii) the alternative solution; and
 - (iii) each assessment method used to show that the alternative solution complies with the performance requirement;
- (k) where the Building Code does not specify a standard of work in relation to any part of the proposed building work and it is intended to carry out that part of the proposed building work in accordance with a standard of work specified in another document, the application shall specify—
 - (i) the nature of the proposed building work;
 - (ii) the title of the document; and
 - (iii) each assessment method used to show that the proposed building work complies with the standard of work specified in the document.

“(2) In this regulation—

‘assessment method’ has the same meaning as in the Building Code;

‘performance requirement’ has the same meaning as in the Building Code.

“3F. **Applications—removal or demolition of buildings**

For the purposes of paragraph 33A (3) (d) of the Act, the following are prescribed requirements in relation to an application in relation to building work that involves the removal or demolition of a building:

- (a) the application shall contain details of the methods to be employed in the execution of the building work including a work plan specified or set out in Australian Standard 2601 as in effect on the day on which this paragraph commences;
- (b) the application shall specify the number of dwellings demolished, if any.

“3G. Applications—asbestos removal requirements

“(1) For the purposes of paragraph 33A (3) (d) of the Act, where an application in relation to building work involves the removal of stable asbestos cement sheeting from a residential building, the application shall contain a statement describing the method proposed to be used to remove the sheeting from the building.

“(2) For the purposes of paragraph 33A (3) (d) of the Act, the following are prescribed requirements in relation to an application in relation to building work that involves the removal of asbestos, other than stable asbestos cement sheeting, from a residential building:

- (a) the application shall contain a statement describing—
 - (i) the method proposed to be used to remove the asbestos;
 - (ii) the approximate quantity and type of asbestos to be removed; and
 - (iii) the equipment to be used to remove the asbestos, including any personal protective equipment;
- (b) the application shall include a program for monitoring airborne asbestos, prepared in accordance with the Building Code.

“3H. Plans—general requirements

“(1) For the purposes of paragraph 34 (1) (c) of the Act, the following are prescribed requirements in relation to plans to accompany all applications:

- (a) the plans, other than existing plans, shall be drawn in accordance with Australian Standard 1100 as in effect on the day on which this paragraph commences;
- (b) the plans shall show any area marked on a certificate of title or deposited plan as an easement;
- (c) the plans shall show any point of connection of a pipe on the parcel of land to—
 - (i) the sewerage system;
 - (ii) the water main; and
 - (iii) the stormwater system;

and, if a point of connection is proposed to be altered during the building work, the plans shall show the proposed alteration;

- (d) the plans shall show the proposed surface stormwater drainage on the parcel of land as at the completion of the proposed building work;
- (e) the plans shall include a site plan on a scale of not less than 1:200 showing the block, section, boundaries and dimensions of the parcel of land.

“(2) In this regulation—

‘easement’ has the same meaning as in section 42S of the Act;

‘stormwater system’ has the same meaning as in the *Environment Protection Act 1997*;

‘the sewerage system’ has the same meaning as in the *Canberra Sewerage and Water Supply Regulations*;

‘water main’ has the same meaning as in the *Canberra Sewerage and Water Supply Regulations*.

“3I. **Plans—erection or alteration of buildings**

“(1) For the purposes of paragraph 34 (1) (c) of the Act, the following are prescribed requirements in relation to plans to accompany an application in relation to building work that involves the erection or alteration of a building:

- (a) any section shown on the plans shall be on a scale of not less than 1:100;
- (b) any detail shown on the plans shall be on a scale of not less than 1:50;
- (c) the plans shall specify the dimensions of all parts, including the footings, of the proposed building or proposed new part of the building, as the case requires;
- (d) unless the application relates solely to the erection of a new building, the plans shall—
 - (i) include the most recent existing plans, including any amendments made to the plans during the building work to which the plans relate; and
 - (ii) show the existing building and the proposed alterations on the same plan in such a way that the existing building and the proposed new part of the building are clearly distinguishable;

- (e) the plans shall show floor plans, sections and elevations (including existing and finished ground levels) to scale and structural details of the proposed building or proposed new part of the building, as the case requires;
- (f) where any part of the building that is proposed to be erected or altered is designed to be used as a Class 5, Class 6, Class 7, Class 8 or Class 9 building, the plans shall specify the maximum live load for that part;
- (g) the plans shall specify the construction and materials to be used in the proposed building or in the proposed new part of the building, as the case requires;
- (h) the plans shall show the location of any stormwater downpipe on the proposed building or on the proposed new part of the building, as the case requires.

“(2) In this regulation—

‘detail’ has the same meaning as in Australian Standard HB 50 as in effect on the day on which this regulation commences;

‘section’ has the same meaning as in Australian Standard HB 50 as in effect on the day on which this regulation commences.

“3J. Plans—asbestos removal requirements

“(1) Where an application is for the approval of building work that involves the removal of stable asbestos cement sheeting, it is a requirement for the purposes of paragraph 34 (1) (c) of the Act that the accompanying plans show the location of that sheeting.

“(2) For the purposes of paragraph 34 (1) (c) of the Act, the following are prescribed requirements in relation to the plans to accompany an application in relation to building work that involves the removal of asbestos, other than stable asbestos cement sheeting, from a residential building:

- (a) the plans shall show the location of any asbestos that is to be removed during the building work;
- (b) the plans shall show the boundary of the area in which the persons removing the asbestos will be working;
- (c) the plans shall show any place on the parcel of land where asbestos that has been removed from the building is to be stored;

- (d) the plans shall show the location of any decontamination facility, air filter and air supply equipment proposed to be used during the building work on the parcel of land.

“(3) In this regulation—

‘air filter’ has the same meaning as in the Building Code;

‘air supply equipment’ has the same meaning as in the Building Code;

‘decontamination facility’ has the same meaning as in the Building Code.

“3K. Consultation and consent

“(1) The requirements for the purposes of paragraph 34 (1) (d) of the Act, are that the following consultations take place or consents or approvals be obtained:

- (a) any consent or approval required under a law of the Territory in relation to the proposed building work;
- (b) where the building work is, or forms part of, a development requiring approval under Division 2 of Part VI of the Land Act—approval of the development;
- (c) where the approval referred to in paragraph (b) contains conditions precedent to the commencement of building work—compliance with those conditions;
- (d) where the parcel of land is in a Designated Area—approval under section 12 of the *Australian Capital Territory (Planning and Land Management) Act 1988* of the Commonwealth;
- (e) where the building work involves the erection or alteration of a lift—a permit under regulation 17 of the Regulations under the *Scaffolding and Lifts Act 1912* of the State of New South Wales in their application in the Territory;
- (f) consultation with ACTEW Corporation Limited in relation to—
 - (i) the demolition of any building to which electricity, water or sewerage services are supplied or to which an electricity or water meter is connected;
 - (ii) any encroachment of the proposed building or proposed new part of the building, as the case requires, onto an easement; and

- (iii) the disposal of any non-domestic waste into the sewerage system;
 - (g) consultation with the Fire Commissioner and the Chief Fire Control Officer in relation to—
 - (i) any use of an alternative solution in relation to a provision of the Building Code which deals with fire protection; and
 - (ii) any proposed building or proposed new part of a building, as the case requires, with a floor area exceeding 500 square metres that is not a Class 1 or Class 10 building;
 - (h) consultation with the Chief Executive in relation to—
 - (i) where the building work may involve the removal of asbestos—the relevant procedures;
 - (ii) procedures to be used in the demolition of any building of Class 2, Class 3, Class 4, Class 5, Class 6, Class 7, Class 8 or Class 9; and
 - (iii) any waste management plan provided in the application;
 - (i) where it is proposed that the new building or new part of the building is to be used for the sale or supply of liquor—consultation with the Registrar of Liquor Licences in relation to occupancy loading and kitchen, bar and toilet facilities;
 - (j) consultation with the Chief Health Officer in relation to the application of any health law to the proposed new building or new part of the building, as the case requires;
 - (k) consultation with the Environment Management Authority—
 - (i) where it is proposed that the new building or new part of the building, as the case requires, is to be used to conduct a Class A or Class B activity; or
 - (ii) where an accredited code of practice is applicable to an activity intended to be carried out in the new building or new part of the building, as the case requires.
- “(2) It is sufficient compliance with the obligation to consult under paragraph (1) (f), (g), (h), (i), (j) or (k) if—
- (a) notification of the details of an application for a building approval is given to the person with whom consultation is to take place; and
 - (b) 10 working days have elapsed since it has been given.

“(3) In this regulation—

‘accredited code of practice’ means a code accredited under subsection 31 (1) of the *Environment Protection Act 1997*;

‘Chief Fire Control Officer’ means the Chief Fire Control Officer under the *Bushfire Act 1936*;

‘Chief Health Officer’ means the Chief Health Officer under the *Public Health Act 1997*;

‘Chief Inspector’ has the same meaning as in the Regulations under the *Scaffolding and Lifts Act 1912* of the State of New South Wales in their application in the Territory;

‘Class A activity’ means an activity listed in clause 2 of Schedule 1 of the *Environment Protection Act 1997*;

‘Class B activity’ means an activity listed in clause 3 of Schedule 1 of the *Environment Protection Act 1997*;

‘Designated Area’ has the same meaning as in the *Australian Capital Territory (Planning and Land Management) Act 1988* of the Commonwealth;

‘Environment Management Authority’ means the Environment Management Authority under the *Environment Protection Act 1997*;

‘Fire Commissioner’ means the Fire Commissioner under the *Fire Brigade (Administration) Act 1974*;

‘health law’ means a law of the Territory that has as 1 of its objects or purposes the protection of public health;

‘Registrar of Liquor Licences’ means the Registrar of Liquor Licences under the *Liquor Act 1975*;

‘working days’ means a day other than a Saturday or Sunday or another day that is a public holiday in the Territory.

“3L. Stages of building work

“(1) For the purposes of subsection 38A (1) of the Act, the prescribed stages of building work are—

(a) completion of—

(i) excavation;

(ii) placement of formwork; and

- (iii) placement of steel reinforcing;
for the footings but before any concrete for the footings is poured;
- (b) completion of the structural framework, and in the case of a Class 1 or Class 10 building, before the placement of any internal lining;
- (c) completion of placement of formwork, and placement of steel reinforcing, for—
 - (i) in the case of a Class 1 or Class 10 building—any reinforced concrete member; and
 - (ii) in any other case—any reinforced concrete member specified by the certifier in the relevant building approval;
but before any concrete for the member is poured; and
- (d) completion of the building work approved in the relevant building approval.

“(2) In this regulation—

‘Class 10’, in relation to a building, has the same meaning as in the Building Code.

“3M. Consent or approval on completion of building work

For the purposes of paragraph 40 (1) (f) of the Act, the following consents or approvals are prescribed:

- (a) where an approval for building work given under the Land Act is subject to a condition, the approval of the person who gave that condition to the manner in which the condition has been satisfied;
- (b) approval of the installation of any fire appliance in the new building or new part of the building, as the case requires, under subregulation 3 (4) of the *Fire Brigade Regulations*;
- (c) approval under regulation 21 of the Regulations under the *Scaffolding and Lifts Act 1912* of the State of New South Wales in their application in the Territory.”.

5. Repeal

Regulation 14 of the Principal Regulations is repealed.

6. Specialist building work

(1) Regulation 15 of the Principal Regulations is amended by omitting from subregulation (2) all the words after “include” and substituting “the

handling of stable asbestos cement sheeting that forms part of a residential building.”.

(2) Regulation 15 of the Principal Regulations is relocated after regulation 2.

7. Furnishing copies of plans

Regulation 18 of the Principal Regulations is amended by omitting “(5)”.

8. Renumbering

(1) The amended Regulations are amended as provided by this regulation.

(2) The regulations of the amended Regulations are renumbered in a single series so that they bear consecutive Arabic numerals.

(3) A reference in a provision of another law of the Territory made before the commencement of this regulation (whether or not that provision has commenced), or in any instrument or document, to a regulation of the amended Regulations that has been renumbered by subregulation (2) shall (except as regards the operation of the regulation before it was so renumbered) be construed as a reference to that regulation as so renumbered.

(4) In this section—

“amended Regulations” means the Principal Regulations as amended by regulations 3 to 7 (inclusive) of these Regulations.

NOTES

Principal Regulations

1. Reprinted as at 31 March 1996. See also Subordinate Law No. 29, 1997.

Notification

2. Notified in the ACT Gazette on 4 January 1999.