



Australian Capital Territory

Building (General) Legislation Amendment Regulation 2015 (No 1)

Subordinate Law SL2015-14

The Australian Capital Territory Executive makes the following regulation under the *Building Act 2004* and the *Construction Occupations (Licensing) Act 2004*.

Dated 16 April 2015.

MICK GENTLEMAN
Minister

SHANE RATTENBURY
Minister



Australian Capital Territory

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Building (General) Legislation Amendment Regulation 2015 (No 1)*.

2 Commencement

- (1) This regulation (other than sections 9 and 10) commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Sections 9 and 10 commence on the later of—
- (a) the day after this regulation's notification day; and
 - (b) the commencement of the *Dangerous Substances (Loose-fill Asbestos Eradication) Legislation Amendment Act 2015*, section 3.

3 Legislation amended

This regulation amends the *Building (General) Regulation 2008* and the *Construction Occupations (Licensing) Regulation 2004*.

4 Legislation repealed

The *Building (General) (Asbestos Handling Occupation and Qualification) Declaration 2009 (No 1)* (NI2009-317) is repealed.

Part 2 Building (General) Regulation 2008

5 Section 3, note 1

substitute

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition ‘AS 1742, for schedule 1 (Exempt buildings and building works)—see schedule 1, section 1.1.’ means that the term ‘AS 1742’ is defined in that section for schedule 1.

6 New section 6 (3A)

insert

- (3A) Subsection (3) does not apply to building work mentioned in schedule 1, part 1.3, item 25A, if—
- (a) the building work complies with the minimum requirements of the building code; and
 - (b) the building work does not reduce the thickness of the material from which the sample material is removed by more than 1mm; and
 - (c) no dimension of the sample material is more than 10mm.

7 Section 6 (5)

omit

(other than item 25)

substitute

(other than items 25 and 25A)

8 New section 18A*insert***18A Building approval applications—asbestos warning notices—Act, s 152 (3) (b)**

- (1) This section applies to an application—
 - (a) for building approval under the [Act](#), section 26 (Building approval applications); and
 - (b) for approval of amended plans under the [Act](#), section 31 (Application for approval of amended plans).
- (2) Before issuing an approval under the [Act](#), section 28 (Issue of building approvals) or section 32 (Amendment of approved plans), the certifier must decide whether loose-fill asbestos insulation was installed in—
 - (a) a building—
 - (i) on which the building work the subject of the application for building approval is to be done; or
 - (ii) to which the plans the subject of the application for approval of amended plans relates; or
 - (b) a connected building.
- (3) For subsection (2), the certifier must decide that loose-fill asbestos insulation—
 - (a) was installed in the building or connected building if—
 - (i) the building or connected building is in a prescribed area; and

- (ii) either—
 - (A) the construction occupations registrar has issued a statement that the registrar holds records indicating that loose-fill asbestos insulation was installed in the building or connected building; or
 - (B) the certifier has information indicating that loose-fill asbestos insulation was installed in the building or connected building; or
- (b) was not installed in the building or connected building if—
 - (i) either—
 - (A) the building and connected building are not in a prescribed area; or
 - (B) the building or connected building is in a prescribed area, but the registrar has issued a statement that the registrar does not hold any records indicating that loose-fill asbestos insulation was installed in the building or connected building; and
 - (ii) the certifier does not have any information indicating that loose-fill asbestos insulation was installed in the building or connected building.
- (4) If the certifier decides that loose-fill asbestos insulation was installed in the building or connected building, the certifier must before issuing an approval mark each page of the approved plans with an asbestos warning notice.

Note If a form is approved under the [Act](#), s 151 for this provision, the form must be used.
- (5) If the certifier decides that loose-fill asbestos insulation was not installed in the building or connected building, the certifier must not mark the approved plans with an asbestos warning notice.

(6) The constructions occupations registrar may, in writing, declare an area to be a prescribed area if satisfied that loose-fill asbestos insulation was installed in a building in the area.

(7) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

(8) In this section:

connected building means a building attached to a building mentioned in subsection (2) (a), in a way that loose-fill asbestos fibres could transfer between the buildings.

9 New section 18A (3A)

insert

(3A) The certifier is taken to have information indicating that loose-fill asbestos insulation was installed in a building or connected building if—

(a) the building or connected building is included on the affected residential premises register; and

(b) the affected residential premises register is publicly available.

10 Section 18A (8), new definition of *affected residential premises register*

insert

affected residential premises register—see the [Dangerous Substances Act 2004](#), section 47N.

11 Section 48

omit

12 New part 22

insert

**Part 22 Transitional—Building (General)
Legislation Amendment
Regulation 2015 (No 1)**

112 Meaning of *commencement day*—pt 22

In this part:

commencement day means the day the *Building (General) Legislation Amendment Regulation 2015 (No 1)*, section 3 commences.

**113 Building approval applications made before
commencement day—asbestos warning notices**

Section 18A (Building approval applications—asbestos warning notices—Act, s 152 (3) (b)) does not apply to an application for building approval or for approval of amended plans made before the commencement day.

114 Expiry—pt 22

This part expires 1 year after the commencement day.

Note Transitional provisions are kept in the regulation for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

13 Schedule 1, part 1.3, item 25*substitute*

25	handling not more than 10m ² of bonded asbestos	(a) pt 3 (Building work); and (b) pt 5 (Building occupancy); and (c) pt 6 (Residential buildings—statutory warranties, insurance and fidelity certificates)	handling must be in accordance with the Work Health and Safety Act 2011
25A	handling or removing material to sample for asbestos	(a) pt 3 (Building work); and (b) pt 5 (Building occupancy); and (c) pt 6 (Residential buildings—statutory warranties, insurance and fidelity certificates)	(a) no dimension of the material is more than 100mm; and (b) handling, removing or sampling material must be in accordance with any code approved under the Work Health and Safety Act 2011 relating to asbestos

14 Schedule 2, part 2.1, definition of ActewAGL Distribution

omit

15 Schedule 2, part 2.2, items 1 to 5

substitute

- | | | |
|---|---|--|
| 1 | demolition of building to which water or sewerage services supplied or water meter connected | the utility that provides the water or sewerage service under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i> |
| 2 | erection of building, or new part of building, if building or new part encroaches on easement, proposed easement or utility infrastructure access or protection space | a utility that provides a utility service under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i> , if the utility has a right under the easement, proposed easement or access or protection space |
| 3 | building work in relation to disposal of non-domestic waste into sewerage system | the utility that provides the sewerage service under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i> |
| 4 | demolition of building to which electricity services supplied or electricity meter connected | the utility that provides the electricity service under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i> |
| 5 | demolition of building to which gas services supplied or gas meter connected | the utility that provides the gas service under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i> |

16 Dictionary, definition of ActewAGL Distribution

omit

Part 3 Construction Occupations (Licensing) Regulation 2004

17 New part 1A

insert

Part 1A Work in construction occupation

4A Construction occupation of builder—excluded work—Act, s 6 (3) (b)

- (1) A building exempted by the Minister under the *Building (General) Regulation 2008*, section 7 is excluded work from the construction occupation of a builder for the stated period mentioned in the exemption, subject to any condition mentioned in the exemption.
- (2) A building or building work mentioned in the *Building (General) Regulation 2008*, schedule 1, part 1.2 is excluded work from the construction occupation of a builder, subject to any condition mentioned in that part, column 3.
- (3) A building or building work mentioned in the *Building (General) Regulation 2008*, schedule 1, part 1.3 is excluded work from the construction occupation of a builder, subject to any condition mentioned in that part, column 4.

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 4 May 2015.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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