



Australian Capital Territory

Construction Occupations (Licensing) Amendment Regulation 2019 (No 1)

Subordinate Law SL2019-4

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

Dated 14 February 2019.

GORDON RAMSAY
Minister

ANDREW BARR
Minister



Australian Capital Territory

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made under the

[Construction Occupations \(Licensing\) Act 2004](#)

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1 Name of regulation

This regulation is the *Construction Occupations (Licensing) Amendment Regulation 2019 (No 1)*.

2 Commencement

This regulation 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)).

3 Legislation amended

This regulation amends the *Construction Occupations (Licensing) Regulation 2004*.

4 Section 13 heading

substitute

13 Eligibility for licence—suitability and financial requirements—Act, s 18 and s 24A

5 Section 13 (1), new examples

insert

Examples—qualifications

- 1 a formal academic qualification
- 2 a stated period or type of experience
- 3 that the applicant has not been refused a licence under the Act within a stated period

6 Section 13 (2)

substitute

- (1A) An entity is eligible to be licensed in a construction occupation or occupation class if—
- (a) the entity has a qualification declared by the Minister under subsection (1); and
 - (b) the entity has the skills and knowledge reasonably necessary to satisfactorily exercise the functions of the construction occupation or occupation class; and
 - (c) the entity satisfies the financial requirements declared by the Minister under subsection (1).
- (2) Also, an entity is eligible to be licensed in a construction occupation or occupation class if—
- (a) the entity does not have a qualification declared by the Minister under subsection (1); but
 - (b) the entity has the skills and knowledge reasonably necessary to satisfactorily exercise the functions of the construction occupation or occupation class; and
 - (c) the entity satisfies the financial requirements declared by the Minister under subsection (1).

7 Section 14 (1) (b) (iii)

omit

8 New section 14 (1) (c)

insert

- (c) the registrar requires an applicant to undertake an assessment under section 18B.

9 Section 14 (2)

omit

a skill

substitute

the skills and knowledge

10 New section 14A

insert

14A Notice of skill assessment

- (1) This section applies if the registrar requires an applicant for a licence or renewal of a licence to undertake an assessment under section 14.
- (2) The registrar must give a notice (an *assessment notice*) to the applicant about the assessment.
- (3) An assessment notice must be given to the applicant—
 - (a) in the case of a licence renewal—within a reasonable time, but not less than 28 days, before the licence term ends; or
 - (b) in any other case—within a reasonable time before the assessment is required to be completed.
- (4) An assessment notice must include—
 - (a) the reason the assessment is required; and
 - (b) a statement that the assessment will be used by the registrar to determine whether the applicant has the skills and knowledge reasonably necessary to satisfactorily exercise the functions of a construction occupation or occupation class under the licence applied for; and
 - (c) information about the assessment, including how and where the assessment will be conducted; and

- (d) the latest date by which the applicant must complete the assessment; and
 - (e) if the applicant is to be given the written results of the assessment by the person conducting the assessment (if the person is not the registrar)—the latest date by which the applicant must give the results to the registrar; and
 - (f) a statement that the applicant may make written representations to the registrar about 1 or more of the following not later than 5 business days after the day the notice is given to the applicant:
 - (i) the latest date by which the applicant must complete the assessment stated in the notice;
 - (ii) the latest date by which the applicant must give the results to the registrar if the applicant is to be given the written results of the assessment by the person conducting the assessment (if the person is not the registrar).
- (5) In this section:

applicant, in relation to a licence renewal, means the licensee even if the licensee has not yet applied for renewal of the licence under the [Act](#), section 25.

11 New division 4.1A

insert

Division 4.1A Licence renewal

18B Requirement to undertake assessment

- (1) The registrar may require a licensee to undertake an assessment to determine the licensee's eligibility for renewal of the licence if any of the following apply:
 - (a) during the term of the licensee's current licence, the registrar has made, or given notice of intention to make, a rectification order in relation to—
 - (i) the licensee; or
 - (ii) if the licensee is or was the nominee of a licensed corporation or partnership—the corporation or partnership;
 - (b) in the 12 months prior to the expiry of the licence, the registrar formed a belief on reasonable grounds that a ground for occupational discipline exists in relation to—
 - (i) the licensee; or
 - (ii) if the licensee is or was the nominee of a licensed corporation or partnership—the corporation or partnership;
 - (c) in the 12 months prior to the expiry of the licence, the registrar formed a belief on reasonable grounds that the licensee may not have the skills or knowledge reasonably necessary to satisfactorily exercise the functions of the construction occupation or occupation class under the licence;

- (d) in the period starting 3 years before the expiry of the licence and ending 3 months before the expiry of the licence—
 - (i) if the licensee is licensed—
 - (A) in a builder occupation class—the licensee has not been issued a commencement notice for building work in a builder occupation class; or
 - (B) in any other occupation class—the licensee has not provided any construction service under the licence; or
 - (ii) if the licensee is a nominee for a licensed corporation or partnership—the licensee has not undertaken work as the nominee for the corporation or partnership;
 - (e) the registrar otherwise requires the licensee to undertake the assessment to determine the licensee’s eligibility to hold the licence.
- (2) However, a licensee is not required to undertake an assessment under this section if, in the 2 years prior to the expiry of the licence—
- (a) the licensee has undertaken—
 - (i) an assessment as required by the registrar under the [Act](#), section 55A; or
 - (ii) a course of training under the Act that includes an assessment; and
 - (b) the assessment under the [Act](#), section 55A is the same or substantially the same as the assessment of eligibility under subsection (1).
- (3) Also, the registrar must not require a licensee to undertake an assessment under subsection (1) (e) if—
- (a) subsection (1) (a) to (d) do not apply; and

- (b) the licensee was required by the registrar to undertake an assessment under section 14 (Skill assessment of individuals) or this section before the registrar issued the current licence to the licensee; and
 - (c) it is not a condition of the licensee's current licence that the licensee undertake an assessment before applying for renewal of the licence.
- (4) In this section:

commencement notice means a building commencement notice issued under the *Building Act 2004*, section 37.

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 21 February 2019.

2 Republications of amended laws

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

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