



Australian Capital Territory

Building (General) Amendment Regulation 2024 (No 1)

Subordinate Law SL2024-6

The Australian Capital Territory Executive makes the following regulation under the *Building Act 2004*.

Dated 30 April 2024.

ANDREW BARR
Chief Minister

REBECCA VASSAROTTI
Minister



Australian Capital Territory

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made under the

[Building Act 2004](#)

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1 Name of regulation

This regulation is the *Building (General) Amendment Regulation 2024 (No 1)*.

2 Commencement

This regulation commences on the commencement of the [Building \(Swimming Pool Safety\) Legislation Amendment Act 2023](#), section 3.

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 [Building \(General\) Regulation 2008](#).

4 Table 36F, item 2, column 3

omit

Tree Protection Act 2005

substitute

[Urban Forest Act 2023](#)

5 Section 36F (2), definition of *protected tree*

omit

Tree Protection Act 2005, section 8

substitute

[Urban Forest Act 2023](#), section 9

6 New sections 36G to 36J

in part 3A, insert

36G Prescribed requirements for safety barrier—Act, s 83N (2) (c)

- (1) This section applies to a regulated swimming pool that is not subject to—
 - (a) a standing exemption; or
 - (b) a Ministerial exemption.
- (2) A safety barrier for the regulated swimming pool is an effective and safe child-resistant barrier if the barrier complies with the requirements for the barrier as in force immediately before the commencement of this section.
- (3) This section expires on 30 April 2028.

36H Competency matters for person to exercise functions of authorised person—Act, s 83P (3)

- (1) The matters the director-general must consider in relation to a person's competency in exercising the functions of an authorised person are—
 - (a) whether the person has demonstrated adequate knowledge and experience in relation to the functions of an authorised person; and
 - (b) whether the person is—
 - (i) an Australian citizen; or
 - (ii) a permanent resident; or
 - (iii) a temporary resident who holds a visa that allows the person to work carrying out the functions of an authorised person; and

- (c) whether the person has been convicted or found guilty of an offence—
 - (i) that is an indictable offence under a law of the ACT or the Commonwealth; or
 - (ii) for an offence committed outside the ACT—that would be an indictable offence against a law of the ACT if committed in the ACT; and

Note A conviction does not include a spent conviction or an extinguished conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i) and s 19H (1) (c) (i)).

- (d) whether the person has been the subject of any disciplinary action, however expressed, relating to a construction occupation that involved a finding of guilt; and
- (e) whether the person has previously exercised the functions of an authorised person under the Act or a relevant law and did not exercise the functions in accordance with—
 - (i) the terms of their appointment as an authorised person; or
 - (ii) the directions given to the person in relation to the exercise of their functions.

- (2) In this section:

construction occupation—

- (a) see the [Construction Occupations \(Licensing\) Act 2004](#), section 7; and
- (b) includes a construction occupation (however described) under a law of the Commonwealth or a State.

Note **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1)

permanent resident means—

- (a) a person who holds a permanent visa for the [Migration Act 1958](#) (Cwlth), section 30; or

- (b) a New Zealand citizen who holds a special category visa under the *Migration Act 1958* (Cwlth), section 32.

relevant law means a law of the Commonwealth or a State relating to swimming pool safety (however described).

Note *State* includes the Northern Territory (see *Legislation Act*, dict, pt 1)

36I Building surveyor taken to be appointed as authorised person—Act, s 83P (4)

An individual is taken to be appointed as an authorised person if the individual holds a licence in the construction occupation of building surveyor issued under the *Construction Occupations (Licensing) Act 2004*, part 3 (Construction practitioners licences).

36J Director-general may end building surveyor’s appointment as authorised person

- (1) This section applies in relation to an individual taken to be appointed as an authorised person under section 36I.
- (2) If the director-general is satisfied the individual is not capable of competently exercising the functions of an authorised person, the director-general may, by written notice, decide that the individual cease exercising the functions of an authorised person.
- (3) The notice must—
 - (a) state the date the decision takes effect; and
 - (b) be given to the individual as soon as practicable.
- (4) An individual subject to a decision made under subsection (2) must cease exercising the functions of an authorised person—
 - (a) by the stated date; or
 - (b) if the notice is given to the individual after the stated date—on the day the notice is given to the individual.

7 Schedule 1, part 1.3, item 3, column 1*after*

1.8m

insert

, other than a fence forming integral part of required enclosure for regulated swimming pool

8 Schedule 1, part 1.3, item 10, column 1*omit*

artificial

9 Schedule 3, section 3.1 (1), definition of *tolerances guide**omit*

2007

substitute

2017

10 Schedule 3, section 3.1 (1), notes 2 and 3*substitute*

Note 2 The tolerances guide does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 45). The tolerances guide is accessible at www.fairtrading.nsw.gov.au.

11 Schedule 3, part 3.2, item 12*substitute*

12	regulated swimming pool	pool does not have the fencing or barrier required under the Act to restrict access of young children to pool and immediate pool surrounds
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Endnotes

1 Notification

Notified under the [Legislation Act](#) on 30 April 2024.

2 Republications of amended laws

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

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