



# Building Amendment Regulations 2014

**This bulletin is to advise that the Building Amendment Regulations 2014 (the Amendment Regulations) will be published in the Government Gazette on 24 April 2014 and come into operation on 25 April 2014.**

The Amendment Regulations are outlined below:

- Amendment Regulation 4 amends regulation 15A to remove the requirement for a permit authority to give the Fire and Emergency Services Commissioner a copy of occupancy permits for specified minor buildings.
- Amendment Regulation 5 amends regulation 31B to extend for a further year until 1 May 2015 the transitional provision allowing the 5 star energy efficiency building standards to apply to building work for alterations and additions. This extension is to enable the building industry to use and get familiar with the new protocol for developing appropriate 6 star energy efficiency alternative solutions for alterations and additions.
- Amendment Regulation 6(1) amends regulation 31D(1) to streamline the building approval process and save costs for relocated buildings which are exempt from the requirement for a building permit by giving them the same concessions on building standards as those which currently apply to relocated buildings for which a permit is required.
- Amendment Regulation 6(2) amends the table under regulation 31D by incorporating editorial corrections and adopting new BCA performance requirements.
- Amendment Regulation 7 amends regulation 31F to put beyond doubt the applicable building standards for a plan of re-subdivision.
- Amendment Regulation 8 amends regulation 31I to clarify the applicable building standards for demolition work. This was requested by the Joint Standing Committee on Delegated Legislation.
- Amendment Regulation 9 creates new regulation 44A to define terms used in Part 7 (*Work affecting other land*) of the Regulations. These terms are 'architectural feature', 'public place' (a reserve or mall reserve as defined in section 3(1) of the *Land Administration Act 1997* (the LAA) and 'road' as defined in section 3(1) of the LAA.
- Amendment Regulation 10 creates the following new regulations:
  - New regulation 45A defines minor encroachments for which the consent of the adjoining owner is not required under section 76(1)(c) of the *Building Act 2011* (the Act). These encroachments must be on Crown land i.e. a road or public place. This will cut red tape by effectively removing the requirement to obtain the consent of the Minister for Lands for a thing which is prescribed as a minor encroachment.
  - New regulation 45B prescribes circumstances under section 76(1)(e) of the Act in which the consent of the adjoining owner for an encroachment of a specified awning, verandah or thing attached to it is not required. This exemption is dependent on the local government having approved the awning, verandah or thing attached to it as part of a planning approval or a relevant local law.

- Amendment Regulation 11 amends regulation 47 to correct an unintended oversight by requiring owners to give notification to the permit authority prior to changing any building which is a Class 2 to Class 10 building into a Class 1 building.
- Amendment Regulation 12 inserts new Division 2A in Part 8 of the Regulations to replace the effect of the Maintenance provisions of the Building Code (section I), which are being deleted on 1 May 2014. This deletion reflects the fact that the other Australian jurisdictions impose statutory requirements for the maintenance of existing buildings to ensure that occupants are protected throughout the life the building from illness, injury or loss of amenity. These proposed maintenance requirements apply to commercial buildings only and simply replicate the performance requirements that will be deleted from the Building Code.
- Amendment Regulation 13 creates new regulation 54A to require a builder who removes a pool enclosure in the course of building work to erect a temporary enclosure until the permanent enclosure is replaced.
- Amendment Regulation 14 amends regulation 60 to exempt existing dwellings subject to sale, transfer of ownership, lease or hire from a new requirement in the Building Code to interconnect more than one smoke alarm. This transitional provision will mean that the interconnection requirement will not apply to existing buildings.
- Amendment Regulation 15 amends regulation 62 to replace a reference to 'owner' with a reference to 'lessor' under the *Residential Tenancies Act 1987*. This will ensure consistency with the changed terminology in the Residential Tenancies Act.
- Amendment Regulation 16 corrects a typographical error in Schedule 3 to the Regulations.
- Amendment Regulation 17 amends item 12, clause 2 of Schedule 4 to the Regulations to extend from 30 June 2014 until 30 June 2017 the exemption provided to the Crown from the requirement to obtain a building permit for building work of an estimated value of less than \$50,000. This is to allow Crown agencies, such as the Department of Finance's Building Management and Works, a further transitional period to adapt to the significant changes that it needs to put in place to implement the Building Act processes for minor works (for which the Crown was not previously required to obtain approval).
- Amendment Regulation 18 corrects a drafting error in Schedule 5 to the Regulations to provide that the areas of the state where Division 2 of Part 8 applies are the whole of the Greater Geraldton district except those areas in Mullewa Ward which are not townsites.
- Amendment Regulation 19 amends Schedule 6 to the Regulations to increase the modified penalties for failure by an owner to enclose a private swimming pool (now \$750) and to have smoke alarms in dwellings (now \$1,000).

**Disclaimer:** The information contained in this bulletin is provided as general information only and should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations you should obtain independent legal advice.

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