



Australian Capital Territory

Building Legislation Amendment Regulation 2010 (No 1)

Subordinate Law SL2010-15

The Australian Capital Territory Executive makes the following regulation under the *Building Act 2004* and the *Water and Sewerage Act 2000*.

Dated 3 May 2010.

ANDREW BARR
Minister

KATY GALLAGHER
Minister



Australian Capital Territory

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Building Legislation Amendment Regulation 2010 (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)).

Part 2 Building (General) Regulation 2008

3 Legislation amended—pt 2

This part amends the *Building (General) Regulation 2008*.

4 New section 6 (3A)

insert

- (3A) Also, a building or building work mentioned in schedule 1, part 1.3 is not exempt if—
- (a) the building is being substantially altered; and
 - (b) the building work is required to ensure the building alteration complies with the Act and the building code as required by the Act, section 29 (1) (a).

5 Section 6 (5), new definition of *substantial alteration*

insert

substantial alteration—see section 23.

6 Division 3.3 heading

omit

7 Section 24 (1) (e) (ii)

omit

balustrade construction requirements

substitute

balustrade compliance requirements

8 New section 24 (1) (fa)

insert

- (fa) for sealing of roof lights—the building code, volume 2, part 3.12.3.2;

9 New section 24 (1) (j)

insert

- (j) all requirements under the building code, volume 2, part 3.12.5.

10 Section 24 (2) (a) (ii)

substitute

- (ii) if that part cannot be complied with using the most common materials and techniques without damaging part of the building—the alternative energy efficiency requirement mentioned in section 28 (1) (a);

11 Section 24 (2) (b) (ii)

substitute

- (ii) if that part cannot be complied with using the most common materials and techniques without damaging part of the building—the alternative energy efficiency requirement mentioned in section 28 (1) (b);

12 Section 24 (2) (c) (ii)

substitute

- (ii) if that part cannot be complied with using the most common materials and techniques without damaging part of the building—the alternative energy efficiency requirement mentioned in section 28 (1) (c) and (d);

13 Section 24 (3) (c)

omit

for a suspended floor

substitute

for thermal insulation of a suspended floor

14 New section 24 (3) (d) to (f)

insert

- (d) for barriers to prevent convection between wall cavities and areas enclosed underneath a suspended floor (excluding an intermediate floor in a part with more than 1 storey) in the unaltered part if—
 - (i) complying would require the removal of more than 1m² of wall or flooring in the part to gain access to the sub-floor area; or
 - (ii) there is insufficient work space for a person to install the barrier;
- (e) for insulation of any heating water piping service or heating or cooling ductwork service in the unaltered part that is inaccessible if—
 - (i) complying would require the removal of more than 1m² of roofing, ceiling, wall or flooring in the part to gain access to all the inaccessible services; or
 - (ii) there is insufficient work space for a person to install the insulation;
- (f) for electric resistance space heating elements cast into concrete or set under tiles—complying would involve physical changes to the elements.

15 New section 24 (4)

insert

- (4) In this section:

insufficient work space—there is ***insufficient work space*** for a person to install a barrier or insulation unless—

- (a) there is space for the person to at least crawl along (on temporary support planks if necessary) and work in (lying flat if necessary) to safely install the barrier or insulation; and
- (b) the space is at least 600mm wide and 600mm high, apart from any obstacles intruding into the space; and

Examples—obstacles

access hatch, truss member, beam, pier

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (c) any obstacles intruding into the space do not reduce the dimensions of the space to less than 450mm wide and 450mm high and are reasonably negotiable by a person used to working in confined spaces; and
- (d) the space connects to inside or outside the building directly or with the removal of not more than 1m² of roofing, ceiling, wall or flooring.

16 Section 28 (1)

substitute

- (1) For section 24 (2), the alternative energy efficiency requirements for the unaltered part of a substantially altered building are as follows:
- (a) for the walls—the external walls in the unaltered part have a total R-value that complies with the applicable value stated in the building code, volume 2, part 3.12.1.4 (External walls);

- (b) for the roof—the roof in the unaltered part has a total R-value that complies with the applicable value stated in the building code, volume 2, part 3.12.1.2 (Roofs), adjusted as required under that part to compensate for insulation loss associated with any exhaust fans, flues or recessed down lights;
- (c) for a suspended floor—any suspended floor (excluding an intermediate floor in a building with more than 1 storey) in the unaltered part has a total R-value that complies with the applicable value stated in the building code, volume 2, part 3.12.1.5 (Floors);
- (d) any interface between a wall cavity and a suspended floor (excluding an intermediate floor in a building with more than 1 storey)—
 - (i) is continuously bridged with bulk thermal insulation of loose mineral, glass or plastic fibres preventing convection air movement from the sub-floor area through the wall cavity to the roof space; or
 - (ii) otherwise has a convection barrier that complies with the building code, volume 2, part 3.12.1.5 (Floors).

17 Section 29 (1) and (2)

substitute

- (1) External glazing in the unaltered part of a class 1 or class 10 building need not comply with the building code, volume 2, part 3.12.2 (External Glazing) if the transparent or translucent part of the glazing is coated, and permanently bonded, on at least 1 side with a continuous polymeric coating, sheet or film that achieves—
 - (a) a total U value of 5.0 or less; and
 - (b) a solar heat gain coefficient of 0.25 or less.

- (2) Isolated glazing in the unaltered part of a class 1 or class 10 building need not comply with the building code, volume 2, part 3.12.2 (External glazing).

Example

A house is to have a family room added, opening onto the existing kitchen, to form an integral kitchen-family room. External windows in the new family room must comply with the building code. There is to be no barrier between the kitchen and the new family room so the existing kitchen window is not an isolated window. Its impact on the new family room must be considered when considering how the new family room complies with the building code, volume 2, part 3.12.2. All other windows in the unaltered part of the house are in fully enclosed rooms, with close-fitting doors so they are isolated windows. In applying the building code to the new family room's windows, the isolated windows do not need to be considered.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

18 Section 29 (3), definitions of *incidental glazing*, *glazing* and *relevant external glazing*

substitute

glazing includes frame assemblies and transparent and translucent roof lights.

isolated glazing means glazing in the unaltered part of a building that is thermally isolated from glazing in the altered part of the building by a barrier of—

- (a) unperforated floors, ceilings or walls; and
- (b) doors that are close-fitting (but not necessarily sealed).

Example—par (b)

internal French doors installed in ordinary door frames and to ordinary construction tolerances, without additional door seals or draft excluders

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

19 Divisions 3.4 and 3.5

renumber as divisions 3.3 and 3.4

20 New division 3.5 heading

after section 35, insert

Division 3.5 Fundamentally noncompliant building work

21 New part 21

insert

Part 21 Transitional—Building Legislation Amendment Regulation 2010 (No 1)

110 Building code 2010 edition—delayed application of energy efficiency provisions—Act, s 136 (4)

- (1) Provisions of the 2010 edition of the building code that relate to energy efficiency do not apply to building work in relation to an exempt building if the work is completed before 1 January 2011.
- (2) Provisions of the 2010 edition of the building code that relate to energy efficiency do not apply to building work if—
 - (a) for building work that requires development approval under the *Planning and Development Act 2007*—application for the approval is made before 1 July 2010; and
 - (b) building approval for the work is issued before the applicable date.

- (3) Provisions of the 2009 edition of the building code that relate to energy efficiency apply to building work mentioned in subsection (1) or (2).
- (4) In this section:
- applicable date*** for building work, means—
- (a) 1 January 2011 if the work is for—
- (i) a class 1 or class 10 building; or
 - (ii) a class 2 building (other than a class 2 building mentioned in paragraph (b) (i)); and
- (b) 1 May 2011 if the work is for—
- (i) a class 2 building and a change is required to the development approval, or the application for development approval, to comply with the 2010 edition of the building code; or
 - (ii) a class 3, class 4, class 5, class 6, class 7, class 8 or class 9 building.

111 Expiry—pt 21

This part expires on 1 May 2011.

22 Schedule 1, part 1.3, item 14, column 4

insert

internal alteration must not cause aspect of building that complies with building code to not comply

23 Schedule 1, part 1.3, item 15, column 4

omit

external alteration must comply with exempt building code

substitute

- (a) external alteration must comply with exempt building code
- (b) external alteration must not cause aspect of building that complies with building code to not comply

24 **Schedule 1, part 1.3, item 17, column 1**

omit

or a heating appliance

Part 3 Water and Sewerage Regulation 2001

25 Legislation amended—pt 3

This part amends the *Water and Sewerage Regulation 2001*.

26 Schedule 2, section 2.2

omit

27 Schedule 2, section 2.3 heading

substitute

2.3 Water heater—installation

28 Schedule 2, section 2.3 (1) and (2)

substitute

- (1) A person who installs a water heater in a hot-water system in a new class 1 building must ensure that the water heater is 1 of the following:
 - (a) a gas water heater that—
 - (i) complies with AS 4552; and
 - (ii) achieves a minimum energy efficiency rating of 5 stars in accordance with AS 4552;
 - (b) a heat pump water heater that—
 - (i) complies with AS/NZS 2712; and
 - (ii) has been rated in accordance with AS/NZS 4234; and

- (iii) if the hot-water system is to be installed in a class 1 building with 1 or 2 bedrooms—
 - (A) has at least 14 renewable energy certificates for climate zone 4; and
 - (B) achieves a minimum energy saving of 40% in accordance with the requirements under AS/NZ 4234 for a small system; and
- (iv) if the hot-water system is to be installed in a class 1 building with 3 or 4 bedrooms—
 - (A) has at least 22 renewable energy certificates for climate zone 4; and
 - (B) achieves a minimum energy saving of 60% in accordance with the requirements under AS/NZ 4234 for a medium system; and
- (v) if the hot-water system is to be installed in a class 1 building with 5 or more bedrooms—
 - (A) has at least 28 renewable energy certificates for climate zone 4; and
 - (B) achieves a minimum energy saving of 60% in accordance with the requirements under AS/NZ 4234 for a large system;
- (c) a solar water heater that—
 - (i) complies with AS/NZS 2712; and
 - (ii) has been rated in accordance with AS/NZS 4234; and
 - (iii) if the hot-water system is to be installed in a class 1 building with 1 or 2 bedrooms—
 - (A) has at least 14 renewable energy certificates for climate zone 3; and

- (B) achieves a minimum energy saving of 40% in accordance with the requirements under AS/NZ 4234 for a small system; and
 - (iv) if the hot-water system is to be installed in a class 1 building with 3 or 4 bedrooms—
 - (A) has at least 22 renewable energy certificates for climate zone 3; and
 - (B) achieves a minimum energy saving of 60% in accordance with the requirements under AS/NZ 4234 for a medium system; and
 - (v) if the hot-water system is to be installed in a class 1 building with 5 or more bedrooms—
 - (A) has at least 28 renewable energy certificates for climate zone 3; and
 - (B) achieves a minimum energy saving of 60% in accordance with the requirements under AS/NZ 4234 for a large system;
- (d) a water heater determined by the Minister under section 2.4.

Example—par (d)

a low energy electric water heater

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) However, this section does not apply if—
- (a) the water heater—
 - (i) consists of solid fuel-burning equipment; and
 - (ii) is installed in a hot-water system in a class 1 building located in an area of non-urban land; or

- (b) the water heater—
 - (i) is an electric water heater; and
 - (ii) is replacing, under warranty, a water heater in a new class 1 building; or
- (c) the water heater is installed for use during construction of the building and is removed when the work is completed.

29 Schedule 2, section 2.3 (3), definition of AS 4013

substitute

AS 4013 means Australian Standard 4013 (*Domestic solid fuel burning appliances—method for determination of flue gas emission*), as in force from time to time.

AS 4552 means Australian Standard AS 4552 (*Gas fired water heaters for hot water supply and/or central heating*), as in force from time to time.

AS/NZS 2712 means Australian and New Zealand Standard AS/NZS 2712 (*Solar and heat pump water heaters—design and construction*), as in force from time to time.

AS/NZS 4234 means Australian and New Zealand Standard AS/NZS 4234 (*Heated water systems—calculation of energy consumption*), as in force from time to time.

climate zone 3 means climate zone 3 as set out in the register of solar water heaters kept under the *Renewable Energy (Electricity) Regulations 2001* (Cwlth).

climate zone 4 means climate zone 4 as set out in the register of solar water heaters kept under the *Renewable Energy (Electricity) Regulations 2001* (Cwlth).

30 Schedule 2, section 2.3 (3), definition of *new class 1 building*

substitute

new class 1 building means a class 1 building for which a certificate of occupancy for the whole building has not been issued under the *Building Act 2004*, and includes a building built to replace demolished premises.

31 Schedule 2, section 2.3 (3), new definition of *renewable energy certificate*

insert

renewable energy certificate—see the *Renewable Energy (Electricity) Act 2000* (Cwlth), section 5 (1).

32 Schedule 2, sections 2.4 and 2.5

substitute

2.4 Water heater—determination of other water heaters

- (1) The Minister may determine a water heater for section 2.3 (1) (d) if satisfied that—
 - (a) the greenhouse gas emissions associated with the water heater are not more than the greenhouse gas emissions associated with the operation of any of the water heaters mentioned in section 2.3 (1) (a) to (c); or
 - (b) the water heater is required to enable the hot-water system in which it is to be installed to operate effectively and it is not reasonable to require the hot-water system to be altered in another way.
- (2) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

2.5 Water heater—frost protection standard

A person who installs a heat pump water heater or solar water heater in a hot-water system must ensure that the hot-water system is frost protected to enable it to function at temperatures that can reasonably be expected in the ACT.

33 Schedule 2, section 2.6 (1)

substitute

- (1) A person who installs a water heater in a hot-water system in a class 1 building, or replaces a water heater in a hot-water system in a completed existing class 1 building, must ensure that each shower fixture outlet connected to the hot-water system has a flow capacity not greater than the capacity mentioned in section 16E (1) (a).

34 Schedule 2, section 2.6 (2)

omit

shower outlet

substitute

shower fixture outlet

35 Schedule 2, section 2.6 (3)

substitute

- (3) This section does not apply to a hot-water system servicing a class 1 building that is not connected to a water service.

36 Dictionary, definitions of *compliant gas hot-water system, compliant heat pump hot-water system and compliant solar hot-water system*

omit

Endnotes

1 Notification

Notified under the Legislation Act on 3 May 2010.

2 Republications of amended laws

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

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