



Building Amendment Regulations (No 2) 2012

The anticipated changes to the building regulations following earlier amendments to the **Building Act 2011** (the Act) are intended to create a smoother pathway for building permits to be granted in a timely manner. The changes followed broad consultation with industry members, permit authorities and stakeholders.

What were the earlier changes?

The most significant changes to the Act came into effect on 6 November 2012 and were detailed in Industry Bulletin 10. The changes were based around:

- Permit authority timeframes for permit applications when missing information from an applicant was sought.
- Rights and responsibilities of builders who needed to access to vacant or unoccupied land and for the removal of adjoining fences during construction.
- Providing for 'heads of power' to enable future regulation changes.

What are the most recent changes?

The most recent changes to the Act came into effect on 19 December 2012 and more clearly prescribe applicable building standards. One of the changes most likely to affect the building industry is the fine tuning of permit authority requests for missing information from a building permit applicant. The change distinguishes between requests that pause the clock or informal queries that can easily be resolved without doing so.

Summary of the key amendments to the Building Regulations of 19 December 2012

The most significant changes to the Building Regulations made by the amendment regulations that came into effect on 19 December 2012 are detailed below:

Requests for missing information

The regulations clarify how permit authorities request further information from an applicant for a building or occupancy permit. The two choices are:

1. *Formal requests* – The permit authority contacts the applicant in writing (via letter or email) making it clear that missing information is being requested. The correspondence should:
 - advise that it is a formal request under section 18 of the Act;
 - state how long the applicant has to supply the requested information;
 - outline the consequences of not complying with the request in the specified period; and
 - indicate that the clock will restart (pick up from where it left off) once the missing information is supplied.

2. *Informal requests* – Should be used when pausing the clock is not necessary. Should a permit authority request information informally and not receive it promptly, the permit authority should consider the formal request process to ensure it can make a determination within the prescribed timeframe.

How many times a permit authority can make a formal request for further information?

A permit authority is only permitted to make one formal request for missing or further information. However, the clock would not restart unless all of the requested or missing information had been supplied. Supplying some or part of the information is not sufficient to restart the clock.

New powers of delegation

- provide for councils to delegate to the Chief Executive Officer, and for the CEO to sub-delegate (to a local government employee only);
- bring delegation powers in line with Local Government Act 1995;
- allow local governments to continue to authorise a person with appropriate experience or qualifications to inspect swimming pools; and
- allow organisations such as the Royal Life Saving Society to enter into new inspection contracts with local governments.

Department of Fire and Emergency Services (DFES)

- require the permit authority to give to the Department of Fire and Emergency Services (DFES) Commissioner a copy of any occupancy permit and any building permit document granted;
- limit the requirement to refer plans to the DFES Commissioner 15 business days prior to signing the certificate of design compliance to major commercial buildings; and require the building surveyor to do this before signing a certificate of design compliance.

Ministerial order

On 20 December 2012 a Ministerial Order, the Building (s. 67) Exemption) Order (No. 2) 2012, came into effect. The Ministerial Order applies to any building permit application in respect of a Class 1 or Class 10 building or incidental structure made between 19 December 2012 and 30 June 2013. Under this Ministerial Order, the owner is not required to sign the building permit application form (the owner must however still be named on the application). This is an interim emergency measure and may be reviewed at a later date.

Applicable building standards

The regulations provide for more clearly prescribed, applicable building standards and specify the building standards that apply to the various sections of the Act.

For detailed information

Full details of the regulation changes are available from the BC website.

20 December 2012