



Building (Accreditation of Building Consent Authorities) Amendment Regulations 2013

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 18th day of November 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 402(1)(k) and (t)(i) of the Building Act 2004, His Excellency the Governor-General makes the following regulations, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Building and Construction.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 Regulation 3 amended (Interpretation)	2
5 Regulation 4 amended (Criteria and standards for accreditation as building consent authority)	2

6	Regulation 10 amended (Establishing and assessing competence of employees)	3
7	Regulation 14 amended (Ensuring necessary resources)	3
8	Regulation 17 amended (Assuring quality)	3
9	Regulation 18 amended (Requiring technical qualifications)	4
10	Schedule amended	5

Regulations

1 Title

These regulations are the Building (Accreditation of Building Consent Authorities) Amendment Regulations 2013.

2 Commencement

- (1) These regulations (except regulation 8(2)) come into force on 30 November 2013.
- (2) Regulation 8(2) (Assuring quality—complaints system) comes into force on 1 March 2014.

3 Principal regulations

These regulations amend the Building (Accreditation of Building Consent Authorities) Regulations 2006 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

- (1) In regulation 3, definition of **building control function**, after paragraph (d), insert:
“(da) section 45A(3):”.
- (2) In regulation 3, definition of **building control function**, paragraph (q), replace “95” with “95A”.

5 Regulation 4 amended (Criteria and standards for accreditation as building consent authority)

- (1) In regulation 4(2)(c), (3)(c), and (4)(b), replace “before 1 December 2013” with “in the phased way required by subclause (4A) of this regulation (which requires full compliance before 1 December 2015)”.

- (2) In regulation 4(4), replace “30 November 2013” with “30 November 2015”.
- (3) After regulation 4(4), insert:
- “(4A) An applicant specified in subclause (2), (3), or (4) meets the criteria and standards in regulation 18 in the phased way required by this subclause if, before each date stated in each of the following paragraphs, the applicant has a system for ensuring that not less than the proportion stated in that paragraph of the applicant’s employees and contractors to whom regulation 18 applies complies with regulation 18(2)(a), (b), or (c):
- “(a) 1 December 2013—one-third of them:
- “(b) 1 December 2014—two-thirds of them:
- “(c) 1 December 2015—all of them.”
- (4) In regulation 4(5), replace “1 December 2013” with “1 December 2015”.

6 Regulation 10 amended (Establishing and assessing competence of employees)

In regulation 10(2), replace “regularly assessing” with “assessing annually (or more regularly)”.

7 Regulation 14 amended (Ensuring necessary resources)

- (1) In the heading to regulation 14, after “**necessary**”, insert “**technical**”.
- (2) In regulation 14,—
- (a) after “for providing”, insert “, and for ensuring the continuing availability of and continuing appropriateness of (including, without limitation, the continuing fitness for purpose of),”; and
- (b) delete “and administrative”.

8 Regulation 17 amended (Assuring quality)

- (1) Revoke regulation 17(2)(f), (g), and (k) to (m).
- (2) After regulation 17(3), insert:
- “(3A) The quality assurance system must also include a system that ensures that the building consent authority considers whether to make, and makes whenever they appear to it necessary or

desirable, complaints to relevant occupational or professional authorities about practitioners—

- “(a) who are practitioners of or within an occupation or profession; and
- “(b) who are not its employees or contractors; and
- “(c) whose work it scrutinises, or otherwise becomes aware of, in performing its building control functions.”

9 Regulation 18 amended (Requiring technical qualifications)

(1) Replace regulation 18(1) with:

“(1) Subclause (2) applies to a building consent authority’s employees and contractors who perform the authority’s building control functions by doing a technical job, unless—

- “(a) they are the building consent authority’s contractors, are specialist contractors, and their competence is established and their qualifications are recorded by the building consent authority’s (contractor choice and use) system required by regulation 12; or
- “(b) they are employees or contractors who have been identified and recorded by the building consent authority’s (particular circumstances) system required by subclause (3).”

(2) In regulation 18(2), replace “every employee and contractor” with “each employee or contractor to whom this subclause applies”.

(3) After regulation 18(2), insert:

“(3) The building consent authority must have a system for—

- “(a) establishing particular circumstances that would make it both unreasonable and impractical for the building consent authority to be required to have a system for ensuring that employees or contractors with those circumstances comply with subclause (2)(a), (b), or (c); and
- “(b) identifying and recording which employees and contractors have those circumstances.”

10 Schedule amended

- (1) In the Schedule, replace “before 1 December 2013” with “in the phased way required by regulation 4(4A) (which requires full compliance before 1 December 2015)” in each place.
- (2) In the Schedule, replace “30 November 2013” with “30 November 2015”.
- (3) In the Schedule, replace “after 1 December 2013” with “after 1 December 2015”.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, most of which come into force on 30 November 2013, are made under the Building Act 2004. They amend the Building (Accreditation of Building Consent Authorities) Regulations 2006. The amendments—

- update the definition in regulation 3 of the building control functions of a building consent authority (**BCA**):
- insert, on 1 March 2014, a *new regulation 17(3A)* requiring a BCA to have a system that ensures that the BCA considers whether to make, and makes whenever they appear to it necessary or desirable, complaints to relevant occupational or professional authorities about practitioners—
 - who are practitioners of or within an occupation or profession; and
 - who are not its employees or contractors; and
 - whose work it scrutinises, or otherwise becomes aware of, in performing its building control functions:
- ensure that specified applicants before 1 December 2013 for accreditation as a BCA must meet the regulation 18 criteria and standards (requiring that employees and contractors have appropriate technical qualifications) not before 1 Decem-

ber 2013, but before 1 December 2015 and in the phased way required by *new regulation 4(4A)*:

- ensure that applicants on or after 1 December 2013 and before 1 December 2015 for accreditation as a BCA must meet those regulation 18 criteria and standards before 1 December 2015:
- ensure that applicants on or after 1 December 2015 for accreditation as a BCA must meet (fully, on making the application) those regulation 18 criteria and standards:
- make it clear that employee competence assessments under regulation 10(2) must be carried out at least annually:
- ensure that regulation 14 requires a BCA to have a system for providing only the technical (not also the administrative) information, facilities, and equipment its employees and contractors need to perform building control functions effectively:
- ensure that regulation 14 also requires a BCA to have a system for ensuring the continuing availability of, and continuing appropriateness of, the technical information, facilities, and equipment required by regulation 14:
- remove unnecessary duplication in the contents of the quality assurance system required by regulation 17:
- exempt 2 groups of people from the regulation 18 criteria and standards as to technical qualifications that currently apply to people who perform a BCA's building control functions by doing a technical job. The first group is specialist contractors, if the contractors' competence is established, and their qualifications are recorded, by the BCA's (contractor choice and use) system required by regulation 12. The second group of people are employees and contractors with particular circumstances that make it both unreasonable and impractical for the BCA to be required to have a system for ensuring that they comply with the criteria and standards as to technical qualifications. BCAs are also required to have a system for identifying the particular circumstances and people in the second group:
- align the accreditation application form (in the Schedule) with the new arrangements (under regulation 4 as amended) for meeting the regulation 18 criteria and standards.

2013/456 **Building (Accreditation of Building Consent
Authorities) Amendment Regulations 2013**

Issued under the authority of the Legislation Act 2012.

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These regulations are administered by the Ministry of Business, Innovation, and
Employment.
