

HW301*

Local Government (Miscellaneous Provisions) Act 1960

Building Amendment Regulations (No. 3) 2008

Made by the Governor in Executive Council under section 433A of the Act and the *Local Government Act 1995* section 9.60.

1. Citation

These regulations are the *Building Amendment Regulations (No. 3) 2008*.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government (Miscellaneous Provisions) Amendment Act 2007* section 5 comes into operation.

3. The regulations amended

The amendments in these regulations are to the *Building Regulations 1989*.

4. Part 4 heading amended

The heading to Part 4 is amended by inserting after “Building applications” —

“

and applications for building approval certificates

”.

5. Regulation 11 amended

Regulation 11(6) is amended by inserting after “other manner as the” —

“ building surveyor of the ”.

6. Regulation 11A inserted

After regulation 11 the following regulation is inserted —

“

11A. Application for building approval certificate

- (1) An application to a local government for a building approval certificate in relation to unauthorised building work shall be made in the form of Form 8.
- (2) An application for a building approval certificate in relation to unauthorised building work shall be accompanied by —
 - (a) 2 complete sets of drawings (to scale not less than 1:100) showing the following —
 - (i) a plan of every storey;
 - (ii) at least 2 elevations of external fronts;
 - (iii) one or more sections, transverse or longitudinal;
 - (iv) the heights of each storey;
 - (v) depth of foundations;
 - (vi) underpinnings;

- (vii) levels of ground;
 - (viii) construction of the walls, floors and roofs;
 - (ix) any other information that the local government may require, all clearly figured and dimensioned;
- and
- (b) a block and drainage plan (to a scale not less than 1:500) showing the following —
 - (i) street names, lot number and title reference to the site with the north point clearly marked;
 - (ii) the size and shape of the site;
 - (iii) the dimensioned position of the unauthorised building work and of any other buildings on the site;
 - (iv) the relative levels of the site with respect to the street or way adjoining;
 - (v) the position and size of any existing sewers and existing stormwater drains;
 - (vi) the position of street trees, if any, between the site and the roadway;
- and
- (c) a description of the unauthorised building work including the materials used in the work and such information as is necessary to show that the unauthorised building work substantially conforms with the requirements of the Act; and
 - (d) any further details required by the local government to show that the unauthorised building work substantially conforms with the requirements of the Act; and
 - (e) the value or the estimated current value (calculated in the manner set out in regulation 24A(2)) of the unauthorised building work.
- (3) An owner of a building making an application for a building approval certificate shall deposit with the Fire and Emergency Services Authority of Western Australia a description of the unauthorised building work, including the materials used in the work, of sufficient detail to enable the Authority to assess compliance of the work with the Fire Requirements of the Building Code of Australia.
- (4) Subregulation (3) does not apply in respect of a building of class 1 or 10 according to the Building Code.

- (5) The unauthorised building work shall be clearly delineated on the drawings by colouring or other suitable means.
- (6) The drawings referred to in subregulation (2) shall be legible and durable and shall be not less in size than sheet A4.
- (7) Without limiting subregulation (2)(a)(vii), if any alteration has been carried out to the conformation of the ground on the site, the local government may require the drawings referred to in that paragraph to show all levels, both new and old, clearly marked or indicated by contour lines or in such other manner as the local government may direct.
- (8) If a local government refuses to issue a building approval certificate, the local government shall give the applicant for the certificate notice in writing of —
 - (a) the refusal; and
 - (b) the reasons for the refusal; and
 - (c) the applicant's rights under section 374AAD(1) of the Act to apply to the State Administrative Tribunal for a review of the refusal.
- (9) A building approval certificate issued under section 374AA(4) of the Act shall be in the form of Form 9.
- (10) If a local government issues a certificate subject to conditions specified in it, the local government shall give the applicant for the certificate notice in writing of —
 - (a) the reasons for issuing the certificate subject to conditions; and
 - (b) the applicant's rights under section 374AAD(1) of the Act to apply to the State Administrative Tribunal for a review of those conditions.

”.

7. **Regulation 14 amended**

Regulation 14(2)(b) is deleted and the following paragraph is inserted instead —

“

- (b) a person acting pursuant to a delegation under section 374AAB(1) of the Act,

”.

8. Regulation 15 amended

Regulation 15(1) is amended as follows:

- (a) by deleting “or the building surveyor, as the case may be,”;
- (b) by deleting “or building surveyor may at its or his or her” and inserting instead —
“ may at its ”.

9. Regulation 16 amended

Regulation 16(1) is amended by inserting after “as approved by” —

“ the building surveyor of the ”.

10. Regulation 20 amended

After regulation 20(1) the following subregulation is inserted —

“

- (1a) Where approval has not been given for the erection of a building and a building approval certificate is issued in relation to the unauthorised building work, subregulation (1) applies as if the local government had approved the erection of the building.

”.

11. Regulation 21 amended

- (1) Regulation 21 is amended by inserting before “Where” the subregulation designation “(1)”.
- (2) At the end of regulation 21 the following subregulation is inserted —

“

- (2) Where —
 - (a) a certificate of classification has been issued for a portion of an uncompleted building; and
 - (b) a building approval certificate is issued in relation to unauthorised building work on the building; and
 - (c) the local government approves the occupation of a further portion of the building,

it shall —

- (d) revoke that certificate; and
- (e) issue a further certificate of classification in accordance with regulation 20 covering all portions of the building for which approval to occupy has been given by the local government.

”.

12. Regulation 24 amended

- (1) After regulation 24(2) and before the Table to the regulation the following subregulations are inserted —

“

- (3) For the purposes of subregulation (2)(a), if the contract price includes the value of plant or equipment to be housed in, on or around the proposed building and that plant or equipment is not for the purpose of providing services to or maintaining the building, the estimated value of the construction work does not include the value of the plant or equipment.
- (4) For the purposes of subregulation (2)(b), the estimated value of the construction work does not include the value of plant or equipment to be housed in, on or around the proposed building if the plant or equipment is not for the purpose of providing services to or maintaining the building.

”.

- (2) The Table to regulation 24 is amended by deleting “\$40.” in both places where it occurs and inserting instead —

“ \$85. ”.

13. Regulation 24A inserted

After regulation 24 the following regulation is inserted in Part 6 —

“

24A. Scale of fees: application for building approval certificate for unauthorised building work

- (1) The scale of fees set out in the Table to this regulation shall be chargeable by and received by a local government in relation to an application for a building approval certificate.
- (2) For the purposes of the Table to this regulation the estimated current value of the unauthorised building work shall be the sum of the current value of all goods (including manufactured goods) forming part of the construction work, labour, services necessary, fees payable, overheads to be met and profit margin.
- (3) In subregulation (2) the estimated current value of the unauthorised building work does not include the value of plant or equipment housed in, on or around the building if the plant or equipment is not for the purpose of providing services to or maintaining the building.

Scale of fees

Description	Fee
For the issue of a building approval certificate in relation to a building of Class 1 or 10.	0.7% of 10/11 of the estimated current value of the unauthorised building work as determined by the local government, but not less than \$170.
For the issue of a building approval certificate in relation to a building other than a building of Class 1 or 10.	0.4% of 10/11 of the estimated current value of the unauthorised building work as determined by the local government, but not less than \$170.

”.

14. Various references to building surveyor amended

- (1) Each provision listed in the Table to this subregulation is amended by inserting after “building surveyor” —

“ of the local government ”.

Table

r. 10(2)	r. 26(1)
r. 11(1)	r. 27(2)
r. 12(1)	r. 28
r. 13(1)(b)	r. 29(1)
r. 14(1)	r. 31(1)(c), (d) and (l)
r. 18(1) and (3)	

- (2) Each provision listed in the Table to this subregulation is amended by deleting “building surveyor” and inserting instead —

“ local government ”.

Table

r. 8(2) and (3)	r. 17 (twice)
r. 11(1)(e)	

15. Schedule 1 amended

- (1) Schedule 1 Form 4 is amended as follows:

(a) after “Building surveyor” by inserting —

“ of the local government ”;

(b) in the note by inserting after “building surveyor” —

“ of the local government ”;

(c) by deleting “section 374” and inserting instead —

“ section 374AAD ”.

- (2) Schedule 1 Form 5 is amended as follows:
- (a) after “Building surveyor” by inserting —
“ of the local government ”;
- (b) in the note by inserting after “building surveyor” —
“ of the local government ”.
- (3) Schedule 1 Form 6 is amended as follows:
- (a) after “Building surveyor” by inserting —
“ of the local government ”;
- (b) in the conditions by inserting after “building surveyor”
in each place where it occurs —
“ of the local government ”.
- (4) Schedule 1 Form 7 is amended after “Building surveyor” by
inserting —
“ of the local government ”.
- (5) After Schedule 1 Form 7 the following forms are inserted —

“

Form 8. Application for building approval certificate

Local Government (Miscellaneous Provisions) Act 1960, s. 374AA
Building Regulations 1989, r. 11A

BUILDING APPROVAL CERTIFICATE APPLICATION

Property where building is built	Street	No.:	Street name:	
	Address	Suburb:	Postcode:	
	Lot/Location No.:			
Applicant (must be owner of building)	Name:			
	Address:			
	Postal address:			
	Phone (H):	(W):	(Mob):	
	Fax:	Email:		
	Signature:			Date:

Details of building (tick box or boxes)	Type of building constructed:
	<input type="checkbox"/> Single dwelling <input type="checkbox"/> Patio <input type="checkbox"/> Swimming pool <input type="checkbox"/> Warehouse <input type="checkbox"/> Grouped dwelling <input type="checkbox"/> Outbuilding <input type="checkbox"/> Retaining wall <input type="checkbox"/> Office <input type="checkbox"/> Pergola <input type="checkbox"/> Factory <input type="checkbox"/> Shop <input type="checkbox"/> Other (specify):
	Floor area of the building in m ² (including the width of all walls):
	Estimated current value of unauthorised building work (including GST): \$

Form 9. Building approval certificate

Local Government (Miscellaneous Provisions) Act 1960,
s. 374AA(4)(a)
Building Regulations 1989, r. 11A(9)

Certificate no.:

BUILDING APPROVAL CERTIFICATE**Local Government:** _____

Owner	Name:
	Address:

Property where building is built	Address	No.:	Street name:
		Suburb:	Postcode:
	Lot/Location No.:		
	Certificate of Title	Volume:	Folio:

Description of building covered by this certificate	
--	--

The documentation provided by other building professionals, supporting substantial conformity of the building with the requirements of the Act, is listed at the back of this certificate.

The building has been assessed as being of Class(es) _____

Building surveyor of the local government	Name:
	Signature:

Back of Form 9**DOCUMENTATION**

List documentation provided by other building professionals, supporting substantial conformity of the building with the requirements of the Act.

--

CONDITIONS

This certificate is subject to the following conditions.

If you are dissatisfied with these conditions you may apply to the State Administrative Tribunal for a review under section 374AAD(1)(d) of *Local Government (Miscellaneous Provisions) Act 1960*.

”

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
