

HE301*

Health Act 1911

Health (Public Buildings) Amendment Regulations 2002

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Health (Public Buildings) Amendment Regulations 2002*.

2. The regulations amended

The amendments in these regulations are to the *Health (Public Buildings) Regulations 1992**.

[* *Published in Gazette 1 April 1992, p. 1427-58.*
For amendments to 23 April 2002 see 2000 Index to
Legislation of Western Australia, Table 4, p. 161 and Gazette
1 August 2001.]

3. Regulation 3 amended

Regulation 3(1) is amended as follows:

- (a) by deleting the definition of “nightclub” and inserting the following definition instead —

“

“**licensed premises**” means —

- (a) premises in respect of which a cabaret licence as defined by the *Liquor Licensing Act 1988* has been granted under that Act;
- (b) premises in respect of which a tavern licence, a hotel restricted licence or any other kind of hotel licence as defined by the *Liquor Licensing Act 1988* has been granted under that Act; or

- (c) a cabaret, hotel or tavern —
- (i) in respect of which a special facility licence as defined by the *Liquor Licensing Act 1988* has been granted under that Act; and
 - (ii) in respect of which paragraph (a) or (b) does not apply;

- (b) by deleting the definition of “supply authority” and inserting the following definition instead —

“**supply authority**” means a supply authority as defined in the *Electricity Act 1945* and includes the Western Power Corporation established under the *Electricity Corporation Act 1994*;

- (c) in the definition of “the Building Regulations” by deleting “*Local Government Act 1960*” and inserting instead —

Local Government (Miscellaneous Provisions) Act 1960

- (d) by inserting in the appropriate alphabetical positions the following definitions —

“**AS/NZS 2293**” means Australian/New Zealand Standard AS/NZ 2293 — Emergency Evacuation Lighting in Buildings;

“**AS/NZS 4360**” means Australian/New Zealand Standard AS/NZS 4360:1999 – Risk Management;

“**large licensed premises**” means licensed premises having a floor area of more than 850m²;

4. Regulation 4 amended

- (1) Regulation 4 is amended by inserting before “An” the subregulation designation “(1)”.
- (2) At the end of regulation 4 the following subregulation is inserted —

- (2) An application for the purposes of section 176 of the Act that is in respect of a building or place or part of a building or place where 5000 or more persons may assemble for religious, entertainment, recreational or sporting purposes shall also be accompanied by a risk management plan that has been developed in accordance with AS/NZS 4360.

5. Regulation 6 amended

- (1) Regulation 6 is amended by inserting before “A” the subregulation designation “(1)”.
- (2) At the end of regulation 6 the following subregulation is inserted —

“

- (2) Notwithstanding anything in regulation 7 or 7A(1), a certificate of approval shall not be issued for the accommodation of any number of persons that exceeds the number permitted under the Building Regulations with respect to sanitary facilities, exits and ventilation.

”.

6. Regulation 7 amended

- (1) Regulation 7(1) is amended as follows:
 - (a) by deleting “subregulation” and inserting instead —
“ regulation and regulation 9A, ”;
 - (b) by inserting after “building” —
“ other than large licensed premises ”.
- (2) The Table to regulation 7(1) is amended as follows:
 - (a) by deleting “Bar, cafe,” and inserting instead —
“ Cafe, ”;
 - (b) by inserting after the item commencing “Library” the following item —
“

Licensed premises having a floor area of 850m ² or less	0.85
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 ”;
 - (c) by deleting the item commencing “Night Club”;
 - (d) in the item commencing “Spectator stand”, by deleting “0.3” and inserting instead —
“ 0.5 ”.
- (3) Regulation 7(3) is amended by inserting after “of public building” —
“ other than large licensed premises ”.
- (4) Regulation 7(4) and (5) are repealed and the following subregulations are inserted instead —

“

- (4) If, immediately before the coming into operation of the *Health (Public Buildings) Amendment Regulations 2002* —
 - (a) a certificate of approval was in effect in relation to licensed premises having a floor area of 850m² or less; and

- (b) the maximum number of persons that the licensed premises could be used to accommodate was more than the new maximum number,

the maximum number of persons that may be accommodated in those licensed premises is the number set out in that certificate of approval.

- (5) In subregulation (4) —

“**new maximum number**” means the maximum number of persons that may be accommodated in the licensed premises as ascertained in accordance with the Table to subregulation (1) immediately after the coming into operation of the *Health (Public Buildings) Amendment Regulations 2002*.

”.

7. **Regulations 7A and 7B inserted**

After regulation 7 the following regulations are inserted —

“

7A. Maximum number of persons: large licensed premises

- (1) Subject to subregulation (2) and regulation 9A, the maximum number of persons that may be accommodated in large licensed premises is 1 000 persons.
- (2) If, immediately before the coming into operation of the *Health (Public Buildings) Amendment Regulations 2002* —
 - (a) a certificate of approval was in effect in relation to large licensed premises; and
 - (b) the maximum number of persons that the licensed premises could be used to accommodate was more than 1 000 persons,

the maximum number of persons that may be accommodated in those licensed premises is the number set out in that certificate of approval.

7B. Assessment of floor area

To calculate the floor area of a public building for the purposes of regulation 7 and the definition of “large licensed premises” —

- (a) measurements shall be taken within the finished surfaces of the internal walls of the public building;
- (b) measurements of any external areas of the public building shall only be taken of the parts of the external areas where people would normally be expected to assemble;

- (c) areas occupied by lifts, lift-wells, stairways, ramps, escalators, passages, hallways, corridors, lobbies, fixtures and similar areas shall not be included; and
- (d) kitchens, stages, sanitary areas, and staff areas, including staff areas behind counters, shall not be included.

”.

8. Regulation 8 amended

- (1) Regulation 8 is amended by inserting before “A” the subregulation designation “(1)”.
- (2) At the end of regulation 8 the following subregulation is inserted —

“

- (2) If a certificate of approval is varied under regulation 9A, the reference in subregulation (1) to a certificate of approval is a reference to the certificate incorporating the variation that is current at the time of the display.

”.

9. Regulation 9 replaced and regulations 9A and 9B inserted

Regulation 9 is repealed and the following regulations are inserted instead —

“

9. Application to vary certificate of approval

- (1) Where a certificate of approval has been issued in relation to —
 - (a) a public building, a person may apply to the local government that issued the certificate to vary the purposes for which the public building may be used;
 - (b) a public building other than licensed premises, a person may apply to the local government that issued the certificate to vary the maximum number of persons that the public building may be used to accommodate.
- (2) An application under subregulation (1) —
 - (a) shall be made in the form of Form 3 in Schedule 2;
 - (b) shall be accompanied by the fee calculated in accordance with Schedule 1.
- (3) Where a certificate of approval has been issued in relation to large licensed premises (including premises referred to in regulation 7A(2)), a person may apply to

the local government that issued the certificate to use a measurement unit of 0.85m² per person to increase the maximum number of persons that the licensed premises, or a specified part of the licensed premises, may be used to accommodate.

- (4) An application under subregulation (3) shall be made in the form of Form 3 in Schedule 2 and be accompanied by —
- (a) a risk management plan that has been developed in accordance with AS/NZS 4360;
 - (b) details of the type of number counting system —
 - (i) that is or is intended to be installed to monitor the number of persons entering and leaving the licensed premises or the specified part of the licensed premises; and
 - (ii) that has been approved by the Executive Director, Public Health;
 - (c) such other information as is required by the local government for the purposes of the application; and
 - (d) the fee calculated in accordance with Schedule 1.

9A. Variation of certificate of approval

- (1) On an application under regulation 9 a local government may vary the certificate of approval issued in relation to the public building that is the subject of the application in accordance with the application.
- (2) Notwithstanding anything in subregulation (1), a certificate of approval shall not be varied —
- (a) if a structural alteration or extension of the public building that is the subject of the application is proposed; or
 - (b) for the accommodation of any number of persons that exceeds the number permitted under the Building Regulations with respect to sanitary facilities, exits and ventilation.
- (3) A local government may —
- (a) impose such conditions as it thinks proper in relation to a variation of a certificate of approval; and
 - (b) vary or revoke a condition imposed under paragraph (a) by written notice served on the occupier of the public building.

9B. Requirements for large licensed premises using an approved measurement unit

- (1) This regulation applies to large licensed premises or a specified part of large licensed premises the certificate of approval in relation to which has been varied under regulation 9A so that a measurement unit of 0.85m^2 per person is used to calculate the maximum number of persons that the licensed premises, or a specified part of the licensed premises, may be used to accommodate.
- (2) The occupier of the licensed premises shall ensure that any number counting system that is approved on the application referred to in regulation 9(3) is properly installed and properly operating at the licensed premises or in the specified part of the licensed premises at all times when the premises are open to the public.
- (3) The occupier of the licensed premises shall ensure that each movable item, other than chairs, in the licensed premises or the specified part of the licensed premises —
 - (a) is assigned a Person Equivalent Number (“PEN”) where each PEN equates to 0.7m^2 of floor area; and
 - (b) has its PEN clearly visible, legible and permanently marked on it so that it can be readily identified for the purposes of calculating the number of persons being accommodated in the licensed premises or the specified part of the licensed premises.
- (4) If subregulation (3) has not been complied with, an authorised person may assign a PEN under subregulation (3)(a) for the purposes of any inspection by the authorised officer under section 179 of the Act.
- (5) The maximum number of persons that the licensed premises or the specified part of the licensed premises may be used to accommodate on each occasion that the premises or part of the premises is open for business shall be shown on the certificate of approval in relation to the licensed premises or the specified part of the licensed premises in accordance with the following:

the number of persons allowed under the 0.85m^2 measurement unit minus the number of PENs for each occasion on which the licensed premises or the specified part of the licensed premises is open for business, rounded up or down to the nearest whole number.

10. Regulation 10 amended

Regulation 10 is amended by deleting “*Electricity Act 1947*” and inserting instead —

“ *Electricity Act 1945* ”.

11. Regulation 11 amended

- (1) Regulation 11(1) is amended by deleting “lengths of not less than 2 700 mm.” and inserting instead —

“ groups of not less than 4 seats. ”.

- (2) Regulation 11(2) is repealed and the following subregulation is inserted instead —

“

- (2) Where seats are arranged in regular rows of 10 to 42 seats aisles shall be provided on both sides of each row.

”.

12. Regulation 14 amended

- (1) Regulation 14(3)(a) is amended by deleting “, nightclub”.

- (2) After regulation 14(4) the following subregulation is inserted —

“

- (5) The occupier of a public building that has an occupancy exceeding 50 persons shall ensure that the building has more than one exit unless the local government otherwise approves.

”.

13. Regulation 15 amended

Regulation 15(1)(b) is amended by deleting “door,” and inserting instead —

“ door or gate in an exit path, ”.

14. Regulation 16 amended

Regulation 16(1) is repealed and the following subregulation is inserted instead —

“

- (1) Subject to this regulation, where under the Building Regulations a public building is required to have an exit sign, the occupier of the building shall ensure that the sign conforms with AS/NZS 2293.

”.

15. Regulation 20 amended

After regulation 20(4) the following subregulations are inserted —

“

- (5) Permanent sanitary conveniences provided for a public building are to be illuminated with a minimum illuminance of 80 lux.

- (6) Temporary sanitary conveniences provided for a public building are to be illuminated with a minimum illuminance of 40 lux.

”.

16. Regulation 22 amended

Regulation 22(1) is repealed and the following subregulation is inserted instead —

“

- (1) A person shall not light, operate or maintain a fire or an open heating apparatus of any kind in a public building without the written approval of the local government.

”.

17. Regulation 23 amended

Regulation 23(2) is amended by deleting “*Building Regulations 1989* shall be made of non-toxic” and inserting instead —

“

Building Regulations shall be made of non-toxic fire retardant

”.

18. Regulation 25 amended

- (1) Regulation 25(1) is amended by deleting the subregulation designation “(1)”.
- (2) Regulation 25(2) is repealed.

19. Regulation 26 amended

- (1) Regulation 26(1) is amended by deleting “nightclub” and inserting instead —

“ licensed premises ”.

- (2) After regulation 26(1) the following subregulation is inserted —

“

(1a) An emergency plan shall —

- (a) satisfy the relevant requirements of Australian Standard AS 3745:1995 — Emergency Control Organization and Procedures for Buildings; and
- (b) incorporate a risk management plan that has been developed in accordance with AS/NZS 4360.

”.

20. Regulation 26A inserted

After regulation 26 the following regulation is inserted in Part 3 —

“

26A. Risk management plans

The occupier of a public building that is the subject of an application referred to in regulation 4(2) or 9(3) shall ensure that there is compliance with the risk management plan approved on the application.

”.

21. Regulation 32 amended

- (1) Regulation 32(1) is amended by deleting “Australian Standard 2293 — “Emergency Evacuation Lighting in Buildings” Parts 1 and 2.” and inserting instead —

“ AS/NZS 2293. ”.

- (2) Regulation 32(2) is amended by deleting “Australian Standard 2293. - Emergency Evacuation Parts 1 and 2.” and inserting instead —

“ AS/NZS 2293. ”.

- (3) Regulation 32(4) is repealed.

22. Regulation 37 amended

Regulation 37 is amended by deleting “nightclubs.”.

23. Regulation 62 amended

Regulation 62 is amended by deleting “Australian Standard 2293 — Emergency Evacuation Lighting in Buildings Part 2 — Maintenance Procedures.” and inserting instead —

“ AS/NZS 2293. ”.

24. Regulation 63 amended

- (1) Regulation 63(1) is amended as follows:

- (a) by inserting after “under these regulations” —

“

or a condition imposed in relation to a variation of a certificate of approval

”;

- (b) by inserting after “in these regulations” —

“ or such a condition ”;

- (c) by deleting “against the regulation in question”.

- (2) Regulation 63(2) is amended as follows:
- (a) by deleting “those regulations and is omitted to be done or is done in contravention of these regulations” and inserting instead —
- “
- these regulations or a condition imposed in relation to a variation of a certificate of approval and is omitted to be done or is done in contravention of these regulations or such a condition
- ”;
- (b) by deleting “against the regulation in question”.

25. Schedule 1 amended

Schedule 1 is amended as follows:

- (a) by deleting “Reg. 4” and inserting the following shoulder clause instead —
- “ (r. 4 and 9) ”;
- (b) by inserting after “Act” —
- “ or regulation 9 ”.

26. Various references to “local authority” to be replaced by “local government”

The regulations set out in the Table to this regulation are amended by deleting “authority” and inserting instead —

“ government ”.

Table

r. 4	r. 23(2)
r. 7(2)	r. 26(1) (in both places)
r. 7(3)	r. 26(2)
r. 11(1)	r. 26(3)
r. 13(2)	r. 26(4)
r. 14(1)	r. 30(1)
r. 14(2)	Sch. 1
r. 14 (3)(b)(iv)	Form 5
r. 20(1) (in both places)	

By Command of the Governor,

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