

WESTERN AUSTRALIA

LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS)
ACT 1960

BUILDING REGULATIONS 1989

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BUILDING REGULATIONS 1989

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WESTERN AUSTRALIA

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960

BUILDING REGULATIONS 1989

PART 1 — PRELIMINARY

Citation

1. These regulations may be cited as the *Building Regulations 1989*¹.

Commencement

2. These regulations shall come into operation on the day that they are published in the *Government Gazette*.

Interpretation

3. (1) In these regulations unless the contrary intention appears —

“**Act**” means the *Local Government (Miscellaneous Provisions) Act 1960*;

“**approved**” means approved by the local government except where used in relation to plans, drawings and specifications submitted for approval under section 374 of the Act, in which case “**approved**” has a meaning consistent with the provisions of that section;

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“**builder**” means a person employed to construct any building or to demolish, alter or execute any work on a building already constructed, and includes the owner or occupier of the land upon which any such building is intended to be constructed, or other person for whom, or by whose order or under whose direction and control such alteration or work was done or is intended to be done, as the case may be;

“**Building Code**” means the latest edition of the Building Code of Australia published from time to time by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with that Code;

“**district**” means the local government district in which a building is constructed or proposed to be constructed;

“**Fire Brigades Board**” means the Western Australian Fire Brigades Board as constituted under the *Fire Brigades Act 1942*;

“**footing**” means the construction by which the weight of the building is transferred to the foundations;

“**Form**” means a form in Schedule 1;

“**local government**” means the local government of the district in which a building is, or is proposed to be, constructed;

“**owner**” includes any person in possession or receipt of the whole or any part of the rents or profits of any land or tenement or in occupation of any land or tenement otherwise than as a tenant from year to year, or for any less term, or as a tenant at will;

“**performance requirements**” means the provisions of the Building Code which set out the technical requirements in accordance with which buildings must be built;

“**repair**” means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance but does not include alteration.

[(2) *repealed*]

(3) A reference in these regulations or in the Building Code to a code or standard shall, unless the contrary intention appears in these regulations or in the Building Code, include a reference to that code or standard as amended from time to time.

(4) Without derogating from section 32 (1) of the *Interpretation Act 1984*, the headings of Parts, divisions and subdivisions of these regulations form part of these regulations.

(5) Notwithstanding section 32 (2) of the *Interpretation Act 1984*, the heading to a regulation in these regulations or to a portion of a regulation in these regulations forms part of these regulations.

[Regulation 3 amended in Gazette 26 June 1992 p.2758; 23 June 1995 p.2442; 20 June 1997 pp.2821-2 and p.2826.]

Exemptions

4. (1) These regulations do not apply to the following buildings and work —

- (a) any building that is exempted by Statute;
- (b) temporary offices and sheds used by builders, on or about the site of any building being constructed, repaired, altered or reinstated, or used by contractors in carrying out works for any public body or corporation on or about the site of the work and used exclusively for the purpose of that building or work; but that exemption shall, however, continue only during the time occupied in completing the building or work, and in any case shall not exceed the duration of building operations, except by special permission of the local government; and

[(c) *deleted*]

- (d) any building the plans, drawings and specifications of which —
 - (i) were approved before these regulations came into operation in the district or in that part of the district in which the building is situated; or

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- (ii) are approved pursuant to regulation 6 if that building is completed in accordance with and subject to the provisions of the by-laws as in force before those regulations came into operation in relation to which that approval was given.

(2) For the purposes of these regulations the re-erection of a building that has been removed and transported from another site or from another location on the same site shall be regarded as being the erection of a new building.

[Regulation 4 amended in Gazette 11 January 1991 p.58; 20 June 1997 pp.2826 and 2837.]

Building Code adopted

5. (1) Subject to these regulations, the Building Code applies to and in relation to any building that can be classified according to use under Part A3 of Volume One of the Building Code and to any work referred to in Part XV of the Act and in the Building Code.

(2) Any alteration, addition, restoration or repair to a building shall conform with these regulations but where the local government is of the opinion that any such work consists only of minor work and does not adversely affect the safety of persons accommodated in or resorting to a building or property in or in the vicinity of a building the local government may determine that the Building Code does not apply in relation to such work and that the work shall conform to only such of the provisions of the Building Code as are specified by the local government.

[Regulation 5 amended in Gazette 11 January 1991 p.58; 20 June 1997 pp.2822 and 2826.]

Savings and Transitional Provisions

Savings

6. (1) Where plans, drawings and specifications relating to the construction or alteration of a building on a site have been submitted to

the local government for its approval and, before the local government has finally disposed of the matter —

- (a) these regulations come into operation in the district or in that part of the district in which the site is located; or
- (b) an amendment to these regulations or the Building Code comes into operation in the district or in that part of the district in which the site is located,

the local government shall deal with the matter in accordance with the local laws, regulations and the Building Code as in operation in the district or that part of the district at the time when the plans, drawings and specifications were submitted.

Transitional Period to Follow Coming into Operation of these Regulations or Amendments Thereto

(2) Where plans, drawings and specifications relating to the construction or alteration of a building on a site are submitted to the local government for its approval then, notwithstanding that those plans, drawings and specifications do not comply with these regulations or the Building Code as in operation, at the time of their submission, in the district or in that part of the district in which the site is located, the local government may approve of those plans, drawings and specifications if the local government is satisfied that —

- (a) if those same plans, drawings and specifications had been submitted to the local government at some time during the period of 6 months prior to the date of their actual submission they would have complied with the local laws, regulations and the Building Code as in operation in the district or that part of the district; and
- (b) no undue delay has been occasioned in the submission of those plans, drawings and specifications to the local government.

[Regulation 6 amended in Gazette 20 June 1997 pp.2822 and 2826.]

PART 2 — LEGAL PROCEEDINGS AND NOTICES

Service of Notices etc.

[7. *Repealed in Gazette 20 June 1997 p.2822.*]

Notices to Other Authorities

Builder to Give Notice

8. (1) Every builder who intends to construct, alter, add to, underpin, demolish or remove any building shall, prior to the commencement of any work, give notice of that intention to any body, authority or instrumentality which is authorized under a law of the State to direct, regulate or approve the carrying out of any part of that building work.

Powers of Building Surveyor

(2) The building surveyor may refuse to issue a building licence under the provisions of Part 4 unless or until satisfied that the provisions of subregulation (1) have been complied with, and that the approval of such of the authorities therein mentioned as may apply to the particular case has been obtained, or may issue a building licence or demolition licence subject to compliance with the requirements of those authorities.

(3) Notwithstanding the provisions of subregulation (2) the building surveyor shall before issuing a building licence liaise with the Fire Brigades Board for the purposes of the fire prevention and public safety requirements of the Building Code.

(4) Subregulation (3) does not apply to Class 1 and Class 10 Buildings of the Building Code.

[**PART 3.** (*Regulation 9*) *Repealed in Gazette 20 June 1997 p.2822.*]

PART 4 — BUILDING APPLICATIONS

Application for Licence

10. (1) Every builder intending to construct a building or alter, add to, repair or underpin, demolish or remove an existing building shall before commencing —

- (a) that construction, alteration, addition, repair or underpinning, demolition or removal; or
- (b) any earthworks necessary for, or incidental to, that construction, alteration, addition, repair or underpinning, demolition or removal,

make written application to the local government for a licence to commence that work.

Form and Lodging of Application

(2) Applications made under subregulation (1) shall be in the form of Form 2 or 3, whichever is appropriate, and shall be lodged at the office of the building surveyor.

[*Regulation 10 amended in Gazette 20 June 1997 p.2826.*]

Particulars to Accompany Application

Builder to Submit Drawings etc.

11. (1) Every builder making application for a building licence shall deposit with the building surveyor —

Building Details

- (a) 2 complete sets of drawings (to scale not less than 1:100) showing —
 - (i) a plan of every storey;
 - (ii) at least 2 elevations of external fronts;

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- (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; and
- (ix) any other information that the building surveyor may require, all clearly figured and dimensioned;

Block Details

- (b) a block and drainage plan (to a scale not less than 1:500) showing —
 - (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 proposed new building and of any existing 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;

Specifications

- (c) 2 copies of specifications describing materials to be used in the construction and, where not indicated on the drawings, the sizes thereof together with all other information not shown on the drawings, which is necessary to show that the building will, if constructed in accordance with the

specifications, comply with the provisions of the Building Code;

Performance levels and requirements

- (d) when required by the building surveyor —
 - (i) a list of the performance requirements applicable to that building which will be satisfied by a method other than that set out in the Deemed-to-Satisfy Provisions of the Building Code;
 - (ii) details of assessment methods to be used to establish compliance with those listed requirements;
 - (iii) details of any expert certificates relied on to establish compliance with those listed requirements, including the extent of the reliance and the qualifications of the expert;
 - (iv) details of any tests or calculations used to establish compliance with those listed requirements; and
 - (v) details of any standards or other documents relied on to establish compliance with those listed requirements;
- (da) any other details required by the building surveyor to establish compliance with the Building Code; and

Cost Estimate

- (e) the estimated value (calculated in the manner set out in regulation 24 (2)) of the proposed construction and, when so required by the building surveyor, the name and address of any registered architect, practising structural engineer or other person under whose supervision the construction is to be carried out.

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Compliance with Fire Requirements

(2) Notwithstanding the provision of subregulation (1) every builder making application for a building licence, excluding Classes 1 and 10 of the Building Code, shall deposit with the Fire Brigades Board plans and specifications of sufficient detail to enable the Fire Brigades Board to assess their compliance with the Fire Requirements of the Building Code of Australia.

Requirements as to Drawings

(3) The drawings referred to in subregulation (1) shall be legible and durable and shall be not less in size than sheet A4.

New and Existing Work

(4) All new work shall be clearly delineated on the drawings as distinct from existing work by colouring or other suitable means.

Particulars to Accompany Application for Demolition Licence

(5) An application for a licence to demolish or remove a building shall be accompanied by particulars of the location of the building, and such other particulars as the local government may require.

Particulars of Levels to be Supplied where Earthworks Involved

(6) Without limiting the generality of subregulation (1) (a) (vii) where any alteration is proposed to the existing conformation of the ground on the site involving earthworks of any description 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.

*[Regulation 11 amended in Gazette 23 June 1995 pp.2442-3;
20 June 1997 pp.2823 and 2826.]*

Copies for records

Copies to be retained

12. (1) One copy of every drawing, plan, specification or calculation shall remain in the office of the building surveyor as a permanent record.

Plans etc. May be Inspected By or With Consent of Owner

(2) The owner or mortgagee of any building or any person authorized in writing by the owner or mortgagee may, during the normal office hours of the local government, inspect any plan or other document relating to that building retained pursuant to subregulation (1).

Inspection by police officer

(3) This regulation does not prevent a police officer from being permitted to inspect a plan or other document in the course of duty in connection with a situation in which the safety of a person is at risk.

*[Regulation 12 amended in Gazette 26 June 1992 p.2758;
20 June 1997 p.2826.]*

Commencement of work

Buildings or Alterations

13. (1) A builder shall not commence to construct, alter, add to or underpin any building and shall not commence any earthworks, necessary for, or incidental to, that construction, alteration, addition or underpinning until —

- (a) the plans, drawings and specifications have been approved;
- (b) the building surveyor has stamped the plans, drawings and specifications with the official stamp showing the number of the approval and the date of approval;
- (c) the builder has paid the appropriate fee prescribed in the Table to regulation 24; and

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- (d) a licence has been issued in the form of Form 4 or 5.

Demolition

(2) A builder shall not commence to demolish or remove any building until —

- (a) he has paid the appropriate fee prescribed in the Table to regulation 24; and
- (b) a licence has been issued in the form of Form 7.

Examination of Drawings etc.

Building Surveyor to Examine

14. (1) The building surveyor shall examine all plans, drawings, and specifications deposited with him or her, but if any such plans, drawings or specifications are, in the building surveyor's opinion not in conformity with the requirements of this Part or not clear or not easily legible, or do not contain sufficient information, he or she may, within 15 days of their deposit with him or her, return them to the builder for amendment, and in that case the plans, drawings and specifications shall be considered as not having been deposited with the building surveyor until re-submitted by the builder.

Disapproval of Drawings etc.

- (2) If —
- (a) the local government; or
- (b) the building surveyor, acting pursuant to a delegation under subsection (1b) of section 374 of the Act,

refuses to approve any plan, drawing or specification, notice of the refusal to approve shall be given in writing to the builder and the reasons for the refusal to approve shall be stated in the notice, together with details of the builder's rights under Part XV of the Act to appeal against the refusal.

[Regulation 14 amended in Gazette 20 June 1997 pp.2823 and 2826.]

Duration of Licence

Building Licence

15. (1) A building licence in the form of Form 4 is void if the work covered by the licence (the building) is not substantially commenced within 12 months of the date of the issue of the licence; but at any time after the expiry of 12 months the approval of the local government or the building surveyor, as the case may be, to the plans, drawings and specifications previously approved may, if those plans, drawings and specifications are still in conformity with these regulations, be again obtained subject to the payment of any further fees and the lodging of such further plans, drawings and specifications as the local government or building surveyor may at its or his or her discretion require.

Demolition Licence

(2) A demolition licence in the form of Form 7 is void if the work covered by the licence is not commenced within 12 months of the date of the issue of the licence.

[*Regulation 15 amended in Gazette 20 June 1997 p.2826.*]

Building Left Incomplete

Time for Completion

16. (1) Where a licence is issued under these regulations for the construction of a building that building shall be completed within 24 months of the date of the issue of the licence, or such other time as approved by local government.

Consequences of Failure to Complete

(2) Where work on the construction of a building is commenced but is not completed within the time prescribed by subregulation (1) the provisions of section 409A of the Act apply.

[*Regulation 16 amended in Gazette 20 June 1997 p.2826.*]

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Departure from Approved Plans

17. No variation from or alteration of approved plans, drawings and specifications shall be made by any builder without the consent of the building surveyor in writing having been first obtained, and any alteration or departure from the approved plans, drawings and specifications shall, on the consent of the building surveyor therefor being notified, be drawn, described, and endorsed on and in the plans, drawings and specifications.

Preliminary Plans and Provisional Approvals

Plans May be lodged with Owner's Consent

18. (1) Notwithstanding anything contained in this Part any person having paid the fees prescribed in item 2 of the Table to regulation 24 may submit to the building surveyor preliminary plans, drawings and specifications of any building proposed to be constructed, accompanied by the written consent of the owner of the site of the proposed building to the lodging of those plans, drawings and specifications for examination and report as to whether such proposal is capable of being executed in conformity with these regulations.

Application for Provisional Approval

(2) Without limiting the operation of subregulation (1) a person may apply to the local government for its provisional approval of a proposed building, by lodging with the application —

- (a) the fee prescribed in item 2 of the Table to regulation 24;
- (b) preliminary plans, elevations and sections of the proposed buildings; and
- (c) such concise specifications or descriptions as the local government may require to satisfy itself as to the nature of the building and its intended use.

Consideration by local government

(3) The local government may after considering the report of the building surveyor on an application made pursuant to subregulation (2) give its provisional approval for the construction of the proposed

building, if, when constructed, it would conform to these regulations as in force, at the time of the making of the application, in the district or in that part of the district in which the building is proposed to be constructed.

Duration of Provisional Approval

(4) A provisional approval given pursuant to subregulation (3) shall remain in force for a period of 12 months from the date on which it is given.

Effect of Provisional Approval

(5) A provisional approval given pursuant to subregulation (3) has the effect, notwithstanding any provision of these regulations to the contrary, of enabling the person to whom it is given, during the period that it is in force, to procure the issue of a licence for the commencement of work on the proposed building, if the final plans, drawings and specifications are in conformity with the provisional approval and the fees prescribed in the Table to regulation 24 are paid.

*[Regulation 18 amended in Gazette 12 July 1991 p.3458;
20 June 1997 pp.2823 and 2826.]*

PART 5 — CERTIFICATE OF CLASSIFICATION

Classification of Buildings

19. Every building shall be classified by the local government in accordance with Part A3 of Volume One of the Building Code.

[Regulation 19 inserted in Gazette 20 June 1997 p.2823.]

Certificate of Classification

Preparation

20. (1) Where approval is given for the erection of a building the local government shall —

- (a) on completion of the building; or
- (b) where it consents in writing to the occupation of portion of the building concerned before the completion of the entire building concerned,

prepare a certificate of classification, in duplicate, in the form, or to the effect, of Form 1.

Issue

(2) The original of the certificate shall be issued to the person on whose behalf the building was erected.

Inspection of Certificates

(3) The duplicate shall be retained in the local government's office and shall be open to inspection free of charge by any person during the normal office hours of the local government.

No Occupation Until Certificate is Issued

(4) A person shall not occupy any portion of a building until a certificate of classification has been issued in accordance with these regulations.

Non-application to Class 1 or Class 10 Building

(5) This regulation does not apply to a Class 1 or 10 building of the Building Code.

[Regulation 20 amended in Gazette 20 June 1997 pp.2824 and 2826.]

Certificate for a Building Occupied in Stages

21. Where a certificate of classification has been issued for portion of an uncompleted building and the local government approves the occupation of a further portion of the building, it shall —

- (a) revoke that certificate; and
- (b) 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.

[Regulation 21 amended in Gazette 20 June 1997 p.2826.]

Change of Use

Application of Regulation

22. (1) This regulation applies to any building, whether erected before or after the commencement of these regulations.

(2) The use of a building shall not be changed from that of one Class to that of another Class unless —

- (a) the building complies with the requirements of the Building Code applicable to the new Class; and
- (b) the change of use has been approved by the local government.

Change of Use to be Notified

(3) Before making any change in the use of a building which would result in a change of classification under these regulations, the person proposing to make that change shall notify the local government in writing, setting out the nature of the proposed change of use.

New Certificate

- (4) Upon approving a change of use the local government shall —
- (a) revoke any certificate of classification already in existence for the building; and
 - (b) prepare a certificate of classification in accordance with regulation 20 in respect of the new use; and
 - (c) issue the original of that certificate to the person proposing the change of use.

[Regulation 22 amended in Gazette 20 June 1997 p.2826.]

Offences

23. A person who uses or occupies or permits the use or occupation of a building in contravention of regulation 20 (4) or 22 is guilty of an offence.

Penalty: \$5 000 and in addition a daily penalty of \$100 for each day during which the offence continues.

[Regulation 23 amended in Gazette 20 June 1997 p.2824.]

PART 6 — FEES

Scale of Fees

24. (1) The scale of fees set out in the Table to this regulation shall be chargeable by and received by a local government on an application for any licence, or for services to be rendered or provided under these regulations.

(2) For the purposes of item 1 of the Table to this regulation —

- (a) where the construction work is to be carried out under a contract, the estimated value of the construction work shall be the contract price, where that price includes value for at least each of the components referred to in paragraph (b); and
- (b) where the construction work is carried out other than under a contract or under a contract the contract price for which does not include value for each of the following components, the estimated value of the construction work shall be the sum of the 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.

Table

SCALE OF FEES

Item	Description	Fee
1.	Building licence —	
(a)	For the issue of a building licence for a new building of Class 1 or 10 or for alterations or additions to an existing building of Class 1 or 10.	0.35% of the estimated value of the proposed construction as determined by the local government, but not less than \$40.

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Item	Description	Fee
(b)	For the issue of a building licence for a new building of a Class other than Class 1 or 10 or for alterations or additions to an existing building of a Class other than Class 1 or 10.	0.2% of the estimated value of the proposed construction as determined by the local government, but not less than \$40.
2.	Preliminary plans For the examination of, and a report on, preliminary plans.	25% of the fee for the issue of a building licence to carry out the proposed construction described in the plans.
3.	Materials on, or excavation of, a street For the issue of a licence for the deposit of materials on, or the excavation of, a street.	\$1 per month or part of a month for each m ² of the area of the street enclosed by any hoarding or fence.
4.	Demolition For the issue of a licence to demolish a building.	\$50 for each storey.

[Regulation 24 amended in Gazette 12 July 1991 pp.3457-8; erratum in Gazette 19 July 1991 p.3625; amended in Gazette 23 June 1995 p.2443; 20 June 1997 pp.2824 and 2826.]

PART 7 — PRECAUTIONS DURING CONSTRUCTION

Licences under section 377 of the Act

25. A licence issued under section 377 of the Act shall be in the form of Form 6.

Hoardings

General

26. (1) The erection, maintenance, lighting and removal of hoardings and fences shall be carried out in accordance with the provisions of Part XV of the Act and with such other requirements as the building surveyor may specify in order to ensure the safety and convenience of the public.

Limit of Encroachment

(2) A hoarding or fence erected pursuant to Part XV of the Act, or under a licence issued under section 377 of the Act shall not encroach at pavement level past half the width of the public footway or such other width as determined by the local government.

[*Regulation 26 amended in Gazette 20 June 1997 p.2826.*]

Protection of Adjacent Property

Shoring and Underpinning

27. (1) Where an excavation or demolition is to be made in proximity to an existing building that building shall be protected to ensure stability.

Additional Precautions

(2) Where the foundation of an existing building is of material likely to become unstable as a result of the excavation of adjoining ground, additional precautions, to the satisfaction of the building surveyor shall be taken to ensure its stability.

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Building Work Affecting Building of Adjoining Owner

(3) The provisions of section 391 of the Act apply in relation to building work described in subsection (1) of that section.

Damage by Vibration

(4) Where any building operations or earthworks involve the use of equipment that may, in the opinion of the local government, cause damage by vibration to the property of an owner of land in the vicinity of the land on which such operations or earthworks are carried out, the local government may impose requirements as to the manner of carrying out such operations or earthworks for the purpose of minimising such damage, and effect shall be given thereto.

[Regulation 27 amended in Gazette 20 June 1997 p.2826.]

Protection of Excavation

28. Every excavation for a building shall be properly guarded and protected and shall, where necessary, be sheet piled so as to prevent caving in of the adjoining earth or pavement, and in any case required by the building surveyor, sheet piling of an approved type shall be utilized to protect the subsoil from damage by scour of subsoil or surface waters.

Storage of Material on Streets etc.

Permissible in Certain Circumstances Only

29. (1) A builder shall not deposit or store any material on a street, way, or other public place except for the purpose of immediate transportation of that material onto the building site or ground being used for the purposes of building operations, and the deposit and transportation shall be carried out as expeditiously as possible, and at such times, as in special circumstances the building surveyor may direct, so as to cause the least possible obstruction to traffic on the street or way, and with due precautions for the public safety and convenience.

No Restriction where Licence has been Obtained

(2) Any part of the street or way for which the builder has procured a licence for use and enclosure by a hoarding, shall be deemed part of the building site for the purposes of this Part for the period covered by that licence.

PART 8 — PRECAUTIONS DURING DEMOLITION

Licence to Take Down Buildings

30. A licence issued under section 374A of the Act shall be in the form of Form 7.

Demolition of Buildings

31. Any person demolishing or removing any building or part of a building shall ensure that —

(a) before any demolition work commences —

(i) notification shall be given to —

(A) Telecom (as defined in the *Telecommunications Act 1991* of the Commonwealth) and arrangements made for disconnection of its services; and

(B) the Electricity Corporation, Gas Corporation or other supply authority and arrangements shall be made for the disconnection of energy services to the building, or the part of the building to be demolished;

and

(ii) a certificate shall be obtained from the Health Surveyor of the local government certifying that the building to be demolished has been treated so as to ensure that it is not infested by rodents;

(b) where the building to be demolished comprises more than 1 storey, the demolition shall be effected by the complete removal of 1 storey after another, commencing with the uppermost storey and proceeding with the successive removal of the storeys in descending order, or other method approved by the local government;

- (c) no part of an external wall abutting on a street or road shall be demolished, except during such hours as are permitted by the building surveyor;
- (d) unless otherwise authorized by the building surveyor, any material removed or displaced from the building shall not be placed upon a floor of the building but shall be immediately lowered to the ground and thereafter removed from the site, but in no case shall loading be such as to cause a floor to collapse;
- (e) materials removed or displaced from the building shall not be placed in any street, road or right of way and, before commencing work, as the case may require, shall be kept sprayed with water so as to prevent any nuisance from dust;
- (f) materials removed or displaced from the building being demolished or materials left standing shall not be burned on the demolition site;
- (g) the local government shall be notified of the existence of any septic tank(s) on the demolition site 7 days prior to the emptying and filling of such tank(s);
- (h) any septic tank(s) on the demolition site shall be emptied and filled with clean sand or removed entirely and any soakwells, leach drains or similar apparatus shall be removed or filled with clean sand;
- (i) where the building being demolished is more than 1 storey in height, a hoarding and an overhead gantry shall be provided to protect pedestrians;
- (j) where required by the local government, a footpath deposit shall be lodged with the local government to cover the cost of any damage caused to footpaths during the demolition operation, against which the actual cost of repairing any damage will be charged and any unexpended balance refunded to the person taking out the licence. In the event of the cost of repairs being in excess of the deposit lodged, the person holding the licence shall, on demand, pay the amount of the excess to the local government;

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- (k) where necessary, the holder of a licence shall construct a temporary crossing place over the footpath as specified by the local government;
- (l) the demolition site shall be cleared, and left clean and tidy to the satisfaction of the building surveyor within 90 days of the date of commencement of the demolition or such other time as agreed by the local government;
- (m) the fee for this licence has been paid being the fee set out in item 4 of the Table to regulation 24; and
- (n) the provisions of the *Occupational Safety and Health Regulations 1996* are complied with in relation to the demolition work.

[*Regulation 31 amended in Gazette 11 January 1991 p.58; 12 July 1991 p.3458; 20 June 1997 pp.2824-5 and 2826.*]

PART 9 — PROJECTION BEYOND STREET ALIGNMENTS

Construction of Projections

Footings

32. A footing shall not project beyond the street alignment except that where the top of the footing —

- (a) is more than 750 mm and less than 3 m below the pavement level, the footing may extend 300 mm beyond the street alignment; and
- (b) is 3 m or more below the pavement level, the footing may extend 750 mm beyond the street alignment.

Minimum Height Above Pavement

33. A projection shall not extend beyond the street alignment at any height less than 2 750 mm from the level of the public footway but the provisions of this regulation do not apply to —

- (a) footings constructed in accordance with the provisions of regulation 32; or
- (b) mouldings which do not project more than 12 mm beyond the street alignment in any portion of a shop front.

[Regulation 33 amended in Gazette 20 June 1997 p.2825.]

[34. Repealed in Gazette 12 November 1993 p.6151.]

Windows, Balconies etc.

35. A balcony shall not encroach over a street, way or public place to a greater distance than that provided by section 400 (2) of the Act, and a balcony or window shall not project more than 900 mm beyond the

street alignment in a street over 12 m in width, or more than 600 mm in a street from 10 m to 12 m in width, and —

- (a) any part of a projection where it overhangs a street shall be not less than 2 750 mm above the level of the street and be not nearer than 1 200 mm to the centre of the nearest party wall or to any adjoining building or allotment not in the same occupation;
- (b) the aggregate length of any projections shall not exceed one-half of the length of the wall of the building on the level of the floor on which the projections are made;
- (c) a projecting window shall not exceed a total overall width of 3 600 mm and the distance between any 2 projecting windows shall not be less than one-half of the aggregate width of those windows;
- (d) projecting windows shall not be connected by a balcony having any portion projecting beyond the street alignment.

[Regulation 35 amended in Gazette 20 June 1997 p.2825.]

Gates, Doors etc., Abutting on Street

36. A person shall not construct or hang any gate, door, window, or shutter in such a manner that any part of the gate, window or shutter when being opened projects over any street or way at a height less than 2 750 mm above the level of the pavement.

[Regulation 36 amended in Gazette 20 June 1997 p.2825.]

Window Shutters

37. Notwithstanding the provisions of this Part, window shutters are permitted if they project not more than 50 mm beyond the street alignment when in the fully open position.

PART 10 — PRIVATE SWIMMING POOLS

[Heading inserted in Gazette 26 June 1992 p.2758.]

Certain provisions of the Building Code not to apply

38. The following provisions of the Building Code do not apply —

- (a) in Volume One —
 - (i) Objective G01 (c);
 - (ii) Functional Statement GF1.2; and
 - (iii) Performance Requirement GP1.2;

and

- (b) in Volume Two —
 - (i) Objective O2.5 (b);
 - (ii) Functional Statement F2.5.2; and
 - (iii) Performance Requirement P2.5.3.

[Regulation 38 inserted in Gazette 20 June 1997 p.2825.]

Definitions

38A. In this Part —

“pre-July 1992 pool” means a swimming pool that —

- (a) was installed before 1 July 1992; or
- (b) was installed on or after 1 July 1992 in accordance with plans, drawings and specifications that were submitted to the local government for approval before that day;

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“swimming pool” means a swimming pool, within the meaning of section 245A (1) of the Act, in which there is water that is more than 300 mm deep;

“young child” means a child under the age of 5 years.

[Regulation 38A inserted in Gazette 26 June 1992 p.2758; amended in Gazette 12 November 1993 p.6151; 20 June 1997 p.2826.]

Enclosure of pool

38B. (1) The owner or occupier of premises on which there is a swimming pool shall install or provide around the pool an enclosure suitable to restrict access by young children to the pool.

Penalty: \$5 000 and a daily penalty of \$250.

(2) A person does not fail to comply with subregulation (1) only because the area enclosed includes, as well as the swimming pool, any other part of the premises.

(3) Except as otherwise provided by this Part, the enclosure is not suitable for the purposes of subregulation (1) unless —

- (a) it consists of a fence, wall, gate, window, door or other barrier, or a combination of them, which is in accordance with the requirements of Australian Standard AS 1926.1; or
- (b) where it consists of a barrier which does not comply with paragraph (a), it is approved by the local government.

(3a) The local government shall not approve a barrier under subregulation (3) (b) unless it is satisfied that the proposed barrier will restrict access by young children to the swimming pool as effectively as a barrier described in subregulation (3) (a).

(4) If a boundary fence of the premises is a part of the enclosure of a pool, the boundary fence satisfies the requirements of clauses 2.3, 2.6 and 2.7 of Australian Standard AS 1926.1 if all those requirements are satisfied in relation to either side of the fence.

- (5) A gate in the enclosure of a pool may —
- (a) if the pool was installed before 28 July 1989, open in any direction;
 - (b) if the pool was not installed before 28 July 1989, open in any direction other than towards the pool.

[Regulation 38B inserted in Gazette 26 June 1992 pp.2758-9; amended in Gazette 12 November 1993 p.6152; 20 June 1997 p.2826.]

Access to pool from building

38C. (1) If a swimming pool is a pre-July 1992 pool, its enclosure may include a wall that contains a door or window permitting access between the enclosed area and a part of a building to which there is direct or indirect access from outside the enclosure, but where the building is a Class 10a building under the Building Code, only if that door or window satisfies the requirements of Australian Standard AS 1926.1.

- (2) If a swimming pool is not a pre-July 1992 pool —
- (a) its enclosure may include a wall that contains a door or window permitting access as described in subregulation (1) if that door or window satisfies the requirements of Australian Standard AS 1926.1; or
 - (b) the area enclosed may include a building, but where the building is not a Class 10a building under the Building Code, only if all external doors and windows in that building satisfy the requirements of Australian Standard AS 1926.1.

[Regulation 38C inserted in Gazette 26 June 1992 p.2759; amended in Gazette 12 November 1993 pp.6152-3.]

[38D, 38E. *Repealed in Gazette 12 November 1993 p.6153.]*

r. 38F

Maximum inspection charge

38F. For the purposes of section 245A (8) (b) of the Act, the maximum charge is \$50.

[Regulation 38F inserted in Gazette 26 June 1992 p.2760.]

Transitional

38G. Regulation 6 (2) does not apply in relation to the requirements of this Part.

[Regulation 38G inserted in Gazette 26 June 1992 p.2760.]

Infringement notices

38H. (1) The offence of failing to enclose a swimming pool as required by regulation 38B (1) is prescribed for the purposes of section 9.16 (1) of the Act.

(2) The modified penalty that is to be specified in an infringement notice given for that offence is —

- (a) if a notice under section 245A (5) (b) of the Act has been served, \$100;
- (b) if a notice under section 245A (5) (b) of the Act has not been served, \$75.

[Regulation 38H inserted in Gazette 24 June 1996 p.2863; amended in Gazette 20 June 1997 p.2825.]

PART 11 — MISCELLANEOUS

Loading Notice Plates To be Posted on Completion of Certain Buildings

39. (1) On completion of any Class 5, 6, 7 or 8 building and before occupation of any such building, any floor or part of a floor which has been designed to sustain a uniformly distributed live load exceeding 5kPa shall have a notice conspicuously and permanently posted adjacent thereto in the form hereunder indicating the actual loadings for which the floor or part of the floor has been structurally designed.

Designed Floor Loading	
Distributed	kg/m ²
Concentrated	kg

Design and Position of Notice Plates

(2) The lettering of a notice posted pursuant to subregulation (1) shall be embossed or cast into a metal tablet not less than 230 mm square and located not less than 1 m above floor level.

[40. Repealed in Gazette 11 November 1994 p.5707.]

[41. Repealed in Gazette 20 June 1997 p.2825.]

Offences and Penalties

Offences

42. (1) Where, by these regulations anything is directed, or forbidden, to be done, or authority is given to any person to direct, or forbid, anything to be done and that authority is exercised, any person failing or neglecting to do anything so directed, or doing anything so forbidden, commits an offence.

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Penalties

(2) A person who commits an offence against these regulations is liable to the penalty expressly mentioned in relation to the offence, or, if no penalty is expressly mentioned, to a penalty not exceeding \$5 000.

[Regulation 42 amended in Gazette 20 June 1997 p.2825.]

Repeals

43. The following subsidiary legislation is repealed —

- (a) the *Uniform Building By-laws 1974*;
- (b) the *Uniform Private Swimming Pool By-laws*; and
- (c) the *Local Government Uniform General By-laws Relating to Television Masts and Antennae*.

SCHEDULE 1 — FORMS

Form 1. Certificate of classification

*Local Government (Miscellaneous Provisions) Act 1960, s. 374C
Building Regulations 1989, reg 20 (1)*

**CERTIFICATE OF BUILDING
CLASSIFICATION**

Local Government:

Building	Address	No.:	Street name:
		Suburb:	Postcode:
	Lot/location No.:		

Classification	Storey or portion of building	Classification(s)

Chief Executive Officer	Name:	
	Signature:	Date:

Building Regulations 1989

Sch. 1

Form 2. Application for building licence

<p><i>Local Government (Miscellaneous Provisions) Act 1960, s. 374</i> <i>Building Regulations 1989, reg. 10 (2)</i></p> <p align="center">APPLICATION FOR BUILDING LICENCE</p>

(Office use)
 Application no.:

Local Government:

Property where building to be built	Address	No.:	Street name:
		Suburb:	Postcode:
	Lot/location No.:		
	Certificate of Title	Volume:	Folio:

Owner	Name:
	Address:

Occupier	Name:
	Address:

Details of work	<input type="checkbox"/> New building Give details of type of building (e.g.: residence, shop, factory, warehouse):
	<input type="checkbox"/> Alteration or addition to existing building Give details of type of alteration or addition (e.g.: carport, bedroom, second storey, store room, office, toilet, games room):
	Estimated value of building work: \$

Applicant	Name:	
	Address:	
	Phone numbers (H):	(W):
	Fax number:	Email:
	Signature:	Date:

Form 3. Application for demolition licence

*Local Government (Miscellaneous Provisions) Act 1960, s. 374A
Building Regulations 1989, reg. 10 (2)*

APPLICATION FOR DEMOLITION LICENCE

(Office use)
Application no.:

Local Government:

Building to be demolished	Address	No.:	Street name:		
		Suburb:		Postcode:	
	Lot/location No.:				
	Certificate of Title		Volume:	Folio:	
	To be demolished:				
	<input type="checkbox"/> Whole of building <input type="checkbox"/> Part only of building. Give details:				
	Type of construction (e.g. brick & tile):				
Number of storeys:					
Previous use or classification:					

Owner	Name:
	Address:

Demolition contractor	Name:
	Address:
	Phone number:

Applicant	Name:	
	Address:	
	Phone numbers (H):	(W):
	Fax number:	Email:
	Signature:	Date:

Building Regulations 1989

Sch. 1

Form 4. Building licence

<i>Local Government (Miscellaneous Provisions) Act 1960, s. 374 Building Regulations 1989, reg. 13 (1) (d)</i>		Licence no.: _____
BUILDING LICENCE		
Local Government:		
Licensee	Name: _____ Address: _____	
Property where building to be built	Address	No.: _____ Street name: _____ Suburb: _____ Postcode: _____
	Lot/location No.: _____	
	Certificate of Title	Volume: _____ Folio: _____
Details of work	<input type="checkbox"/> New building Type of building (e.g.: residential, shop, factory, warehouse): _____	
	<input type="checkbox"/> Alteration or addition to existing building Type of alteration or addition (e.g.: carport, bedroom, second storey, store room, office, toilet, games room): _____	
The building work permitted by this licence —		
<ul style="list-style-type: none"> • must be carried out in accordance with the plans, drawings and specifications submitted with Application for Building Licence no. _____; and • must be carried out in accordance with the conditions set out on the back of this licence 		
If the building work permitted by this licence is not substantially commenced within 12 months of the date of this licence, the licence will become void.		
The building has been assessed as being of Class(es) _____		
Building surveyor	Name: _____ Signature: _____ Date: _____	

Note: The licensee must produce this licence and the approved plans, drawings and specifications whenever requested by the building surveyor.

Back of Form 4.

CONDITIONS

This licence is subject to the following conditions.

If you are dissatisfied with these conditions you may appeal to the Minister under section 374 of *Local Government (Miscellaneous Provisions) Act 1960*.

Building Regulations 1989

Sch. 1

Form 5. Special building licence

<i>Local Government (Miscellaneous Provisions) Act 1960, s. 399 (4)</i> <i>Building Regulations 1989, reg. 13 (1) (d)</i>		Licence no.: _____
SPECIAL BUILDING LICENCE		
Local Government:		
Licensee	Name: _____ Address: _____	
Property where building to be built	Address	No.: _____ Street name: _____ Suburb: _____ Postcode: _____
	Lot/location No.: _____	
	Certificate of Title	Volume: _____ Folio: _____

Details of work	<input type="checkbox"/> New building Type of building (e.g.: residence, shop, factory, warehouse): _____	
	<input type="checkbox"/> Alteration or addition to existing building Type of alteration or addition (e.g.: carport, bedroom, second storey, store room, office, toilet, games room): _____	
	<input type="checkbox"/> Temporary building Type of building (e.g.: marquee, grandstand, stage): _____	
The building work permitted by this licence must be carried out in accordance with —		
<ul style="list-style-type: none"> • the plans, drawings and specifications submitted with Application for Building Licence no _____; and • the conditions set out on the back of this licence. 		
The building has been assessed as being of Class(es) _____		
Building surveyor	Name: _____ Signature: _____ Date: _____	

Note: The licensee must produce this licence and the approved plans, drawings and specifications whenever requested by the building surveyor.

Back of Form 5.

CONDITIONS

This licence is subject to the following conditions.

If you are dissatisfied with these conditions you may appeal to the Minister under section 399 of *Local Government (Miscellaneous Provisions) Act 1960*.

Building Regulations 1989

Sch. 1

Form 6. Licence to deposit building material on, or excavate near, a street

<i>Local Government (Miscellaneous Provisions) Act 1960, s. 377 Building Regulations 1989, reg. 25</i>		Licence no.: _____
LICENCE TO DEPOSIT BUILDING MATERIAL ON, OR EXCAVATE NEAR, A STREET		
Local Government:		
Licensee	Name: _____ Address: _____	
Property where building to be built or excavation to be carried out	Address No.: _____ Street name: _____	Suburb: _____ Postcode: _____
	Lot/location No.: _____	
	Certificate of Title _____	Volume: _____ Folio: _____

Details of deposit or excavation	<input type="checkbox"/> Deposit of building material on a street Type of material: _____ Name of street: _____ Part of street (e.g.: outside No. 10): _____	
	<input type="checkbox"/> Excavation near a street Reason for excavation: _____ Name of street: _____ Part of street likely to be affected (e.g.: outside No. 10): _____	
	Period during which part of street may be enclosed: _____ to _____	
	Maximum area of the street which may be enclosed: Frontage: _____ m Width: _____ m Height: _____ m.	

The deposit of building material or excavation permitted by this licence must be carried out in accordance with the conditions set out on the back of this licence.		
Deposit	The local government acknowledges receipt of a deposit of \$ _____ paid by the licensee under section 377 (4) of the Act.	
Building surveyor	Name: _____	
	Signature: _____	Date: _____

Back of Form 6.

CONDITIONS

This licence is subject to the following conditions.

1. Every excavation must be securely fenced off from the street to the satisfaction of the building surveyor.
2. When building materials are deposited on a street the licensee must install and maintain —
 - (a) hoardings around the deposited material;
 - (b) gangways to allow vehicular and pedestrian access along the street; and
 - (c) water channels to allow water to drain from the area,which are constructed from materials, and to a design, approved by the building surveyor.
3. The licensee must ensure that the area around any excavation or deposited material is sufficiently lit during darkness to ensure the safety of persons using the street.
4. On or before the last day on which this licence permits the licensee to enclose part of the street, the licensee must —
 - remove all hoardings, gangways, channelling, building material and debris from the street; and
 - repair, to the satisfaction of the building surveyor, any damage caused to the street (including the road surface, kerbing and footpaths).

If you are dissatisfied with these conditions you may, within 14 days of the granting of this licence, appeal under section 377 of the *Local Government (Miscellaneous Provisions) Act 1960*.

Building Regulations 1989

Sch. 1

Form 7. Demolition licence

<p><i>Local Government (Miscellaneous Provisions) Act 1960, s. 374A Building Regulations 1989, regs. 13 (2) and 30</i></p> <p align="center">DEMOLITION LICENCE</p>	<p>Licence no.:</p> <p>_____</p>
--	----------------------------------

Local Government:

Licensee	Name:
	Address:

Demolition contractor:

Building to be demolished	Address	No.:	Street name:		
		Suburb:	Postcode:		
	Lot/location No.:				
	Certificate of Title		Volume:	Folio:	
	To be demolished:				
	<input type="checkbox"/> Whole of building <input type="checkbox"/> Part only of building. Details:				
	Type of construction (e.g. brick & tile):				
	Number of storeys:				
Previous use or classification:					

<p>The demolition work permitted by this licence must be —</p> <ul style="list-style-type: none"> • carried out in accordance with the details set out in Application for Demolition Licence no. _____; • carried out in accordance with the conditions set out on the back of this licence and • commenced within 12 months of the date of this licence.
--

Building surveyor	Name:
	Signature: _____ Date: _____

Back of Form 7.

CONDITIONS

This licence is subject to the following conditions.

If you are dissatisfied with these conditions you may be able to appeal to the Minister under section 374A of *Local Government (Miscellaneous Provisions) Act 1960*.

[Schedule 1 inserted in Gazette 20 June 1997 pp.2826-36.]

[Schedule 2. Repealed in Gazette 11 November 1994 p.5707.]

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NOTES

¹ This reprint is a compilation as at 18 July 1997 of the *Building Regulations 1989* and includes the amendments in the reprint published in the *Gazette* on 22 November 1995 and the amendments effected by the regulations referred to in the following Table.

Table of Regulations

Regulation	Gazettal	Commencement	Miscellaneous
<i>Building Regulations 1989</i>	28 July 1989 pp.2261-93	28 July 1989	
<i>Building Amendment Regulations 1991</i>	11 January 1991 pp.58-9	11 January 1991	
<i>Building Amendment Regulations (No. 2) 1991</i>	12 April 1991 p.1638	12 April 1991	
<i>Building Amendment Regulations (No. 3) 1991</i>	31 May 1991 pp.2682-3	31 May 1991	
<i>Building Amendment Regulations (No. 4) 1991</i> Erratum	12 July 1991 pp.3457-8 19 July 1991 p.3625	1 August 1991 (see regulation 2)	
<i>Building Amendment Regulations 1992</i>	26 June 1992 p.2757-60	1 July 1992 (see regulation 2)	
<i>Building Amendment Regulations 1993</i>	12 November 1993 pp.6151-3	12 November 1993	
<i>Building Amendment Regulations 1994</i>	11 November 1994 pp.5706-7	11 November 1994	
<i>Building Amendment Regulations 1995</i>	23 June 1995 pp.2442-3	23 June 1995	
<i>Building Amendment Regulations 1996</i>	24 June 1996 p.2863	1 July 1996 (see regulation 2)	

Building Regulations 1989

Regulation	Gazettal	Commencement	Miscellaneous
<i>Building Amendment Regulations 1997</i>	20 June 1997 pp.2821-36	1 July 1997 (see regulation 2)	
<i>Building Amendment Regulations (No. 2) 1997</i>	20 June 1997 p.2837	1 July 1997 (see regulation 2)	
