

## **Revised Building Regulations are now effective for Aged Care and Accommodation Related Properties**

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From July 2023, the Building Legislation Amendment (Building Classes) Regulation 2023 (Regulation) commenced in response to the NSW Government addressing safety in construction.

The Regulation has amended:

- the Design and Building Practitioners Act 2020 (DBP)
- the Residential Apartment Building (Compliance and Enforcement Powers) Act 2020 (RAB)

The Regulation also extends the classes prescribed under the definition of building work to building work involved with; or involved in, co-ordinating or supervising work in the construction of a class 3 or 9c building.

Class 3 buildings include:

- boarding and guest houses
- hotels, hostels, or backpacker dormitory style accommodation and 'care-type' facilities such as accommodation buildings for children, the elderly or people with disability

Class 9c buildings include:

- residential care buildings that contain residents who have various care level needs
- a place of residence where 10% or more of persons who reside there need physical assistance in conducting their daily activities
- buildings where residents are provided with personal care services

Under these reforms come additional responsibilities that need to be met by those operating across the construction sector in NSW and industry participants operating in the accommodation and aged care sectors.

Some of the key requirements:

- a builder or designer including an engineer working on a class 3 or 9c building in NSW must be registered
- certain designs must be declared for compliance with the Building Code of Australia and lodged on the NSW Planning Portal before building work commences
- builders are to construct the building works in accordance with the declared designs
- developers are to provide a notice on the NSW Planning Portal before the completion of a Class 3 and 9c building works, including the payment of a levy
- design practitioners must be insured

The Regulation also:

- allows practitioners already registered to work on Class 2 buildings which are apartment complexes to be eligible to work on a class 3 or 9c building
- enables some existing designs for a class 3 or 9c building to be reviewed by a registered design practitioner and a design certificate to be provided before the building works commence
- provides alternative pathways until 31 December 2023 for registration under the DBP Act as a professional engineer or design practitioner
- allows a grace period in which the DBP Act will not apply to alterations, additions, repairs, renovations of existing class 3 & 9c buildings until 1 July 2024 unless those buildings are class 2
- provides additional grounds for disciplinary action against a registered practitioner
- extends the period for a building practitioner to obtain insurance to 30 June 2024

#### Summary

- Industry participants in the NSW construction sector that are involved in aged care and accommodation projects must do what is necessary to comply with the new building laws
- Ensuring compliance with the new building laws may include updating procurement processes and updating procurement contracts
- The Building Legislation Amendment (Building Classes) Regulation 2023 is now in force

#### How we can help?

Our Building and Construction team at Russell Kennedy Lawyers can assist you by providing tailored advice specific to your business needs and to ensure you are complying with all relevant regulations.

For more information, please contact Goran Gelic or Joe Denina from our Dispute Resolution and Infrastructure, Building and Construction teams.

If you would like to stay up to date with Alerts, news and upcoming events from our Dispute Resolution and Construction and Infrastructure teams, you can subscribe to our mailing list [here](#).

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