

**2020**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**Building Regulatory Reforms – six monthly update**

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The ACT Government committed to a comprehensive series of 43 reforms covering the building regulatory system and broader practices in the building and construction industry. We are delivering on those reforms through improved building practice and compliance with building standards.

29 of the reforms are complete. These include reforms such as a new code of practice for building surveyors and new minimum documentation guidelines for building approval applications for apartment and commercial buildings. The code and guidelines have been operating since September 2019.

It also includes major legislative amendments to give greater protections for building owners and a broader range of powers to the Construction Occupations Registrar.

The builders licensing exams have been operating now since April 2019. The exams apply to all new applicants seeking an A, B or C Class builder licence. They are also applied to some existing licence holders when they apply to renew their licence. The exam is designed to assess whether applicants have sufficient knowledge of their obligations as a licensee and the ability to read and interpret technical and regulatory documents that apply to their work.

Applicants are given two attempts at passing an examination before a decision is made on the application.

From July to December 2019, the Construction Occupations Registrar issued 550 builder licences. This includes both new licences and renewal of existing licences.

278 of the licences issued were class A, B and C builder licences, which can be subject to licence exams. The remainder were Class D builder and owner builder licences.

90 applicants sat a licence examination, with 45% failing their first attempt. 15 applicants failed their second attempts resulting in the refusal of their licence. Of these, 10 were builders applying for a licence renewal, and five were applicants for a new licence.

From July to December 2019 Access Canberra has received 388 complaints relating to planning matters and 171 complaints relating to building matters.

This includes complaints from more than one party about the same issue, which are treated and investigated as a single case. The 559 complaints resulted in 194 new cases. To date, 140 of these have been resolved.

126 were resolved by the Rapid Regulatory Response team, who were often able to work with the homeowner and the builder to reach a satisfactory outcome without the need for regulatory enforcement.

Under building laws, four rectification orders and two emergency rectification orders have been made to licensed builders. A further matter is currently subject to a notice of intention to make a rectification order.

Three property owners have also been ordered to undertake building work.

In relation to planning matters, from July to December 2019 eight show cause notices as to why a controlled activity order should not be issued were issued. Two orders have been issued, in two instances it was decided not to issue an order, and the remaining four are still under consideration.

8 of the 16 stop notices issued in the last financial year remain in place.

Some actions may take a while to be finalised because they are subject to an application to review or appeal.

In addition to formal regulatory action, the Registrar has issued 38 demerit points to construction licensees. Half of these were to licensed builders.

From 1 July 2019 to 29 February 2020, the number of inspections undertaken were:

Electrical Inspections – 19,265

Plumbing and Gas Inspections – 14,308

Building Inspections – 598

As well as the work being undertaken in the ACT, we are also participating in work at a national level under the Building Ministers' Forum.

At the July 2019 Building Ministers' Forum, all jurisdictions undertook to develop a national framework for implementation of the Building Confidence report recommendations.

As the report mentioned, this does not necessarily require a one-size-fits-all approach to implementation.

The suggested inclusions in the Building Confidence report are not necessarily unique to that report. Many are already in place in the ACT and do not require further work to implement.

Of the 20 recommendations that relate to state and territory systems:

- seven require no further action for implementation in the ACT as the recommended features are already in Territory laws,
- seven are already partially in place,
- one is of limited relevance given that the ACT does not allow issue of retrospective building approvals, and

- one is not applicable in the ACT as it relates to the coordination between multiple layers of government and the range of bodies with enforcement powers. With one level of government and one building regulatory agency with enforcement powers, it isn't relevant to the ACT.

The recent amendments in the Building and Construction Legislation Amendment Bill gave the regulator additional powers to take action where appropriate and provided for enforceable rectification undertakings. This completed work in relation to recommended regulator powers under recommendation 6 of the building confidence report.

For those recommendations requiring national work, such as the development of training on the National Construction Code, implementing the recommendations will be dependent on the timing of that work.

The Building Ministers' Forum will release further information about timing and outputs of national work. An implementation plan has been developed and includes, amongst other information, a summary of the reforms underway in each jurisdiction. The ACT Government has been updating this information and the updated *Building Confidence Report Implementation Plan*, current to December 2019, has now been published by the national secretariat.

The ACT Government will continue to work with colleagues across other states and territories. However, we have been clear that we will be continuing with our reforms and we will not be winding back or removing existing standards.

The Government is continuing to take action to benefit the community and strengthen the integrity of the building industry across the supply chain.

There are a few remaining reforms, on which work is continuing.

The community and industry has been consulted on a draft builders' code of practice and a final version of the code is in development.

A new residential dispute resolution scheme is being established. The scheme will provide an alternative to formal litigation or a regulatory process for working through a range of contractual and other building disputes. Of course, this alternative won't be suitable for all types of disputes, but there will still be courts, tribunals and formal complaints mechanisms for those who need them. There will be further consultation on the fine details of the scheme.

A review of the security of payments system in the ACT is being finalised, which will complement the National Review of Security of Payment Laws.

Consultation on licensing and accountability of practitioners in the industry, and on warranties and insurance is being undertaken.

New auditing tools to support audits and inspections of building projects, including checking compliance with new codes and guidelines will be finalised.

Standard information that will need to accompany a residential building contract, including for sales off-the-plan is being finalised. This will help people know their rights and obligations when they are entering into contracts.

There will also be a review whether any other assessment of licensees is required now that the builders licensing exams are up and running.

The Government will continue to make changes to the system to work towards having the best buildings in the country and the highest confidence in both the system and the regulator. We want to make sure people who make one of their biggest investments of their life, are getting a high-quality product.

We will continue to improve the system to ensure this occurs. We will continue to seek to remove the poor-quality builders from the industry. We will progress our nation leading developer licencing scheme to ensure accountability throughout the supply chain. We have listened to the community, we have looked at the data and we will continue to make changes to ensure the system is best working for the people of Canberra.