

BUILDING NOTE

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TRANSITIONAL REGULATIONS RELATED TO BUILDING REGULATION 15A (Inspections)

Purpose

To provide details of the commencement of Building Amendment (exemption from Inspection) Regulations 2007 (No. 2 of 2007)

The regulation was notified in Northern Territory Government Gazette G6 on 7 February 2007 (copy of regulation attached).

The regulation mimics the effect of section 51 of the Act in that it provides that regulation 15A does not apply to residential building work –

- for which a building permit was granted before 3 July 2006; or
- for which an application for a building permit was made before **1 January 2007** provided the building certifier certifies that substantial progress was made on the design of the building before 3 July 2006.

The cut-off date of 1 January 2007 has been inserted to ensure the transitional arrangements are limited to a reasonable period after the legislative reforms commenced.

Background

Amendments made to the principal Act by the *Building Amendment Act 2004* include the insertion of new Part 4A (Building Contractors) and Part 4B (Owner-builders). Provisions of the principal Act relating to inspection and certification of building work and the occupancy of buildings were also amended. These amendments were commenced on 3 July 2006.

Regulations necessary for the effective operation of the amendments to the Act referred to above were made on 14 December 2005. Although they technically commenced on that date most of the regulations had no practical application until the relevant amendments to the Act commenced on 3 July 2006.

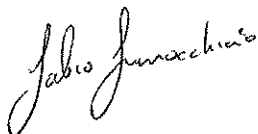
An exception was new regulation 15A which specified mandatory inspection stages for residential building work, as provided under existing section 62(2). As it was intended that the mandatory inspection requirements should only be invoked at the same time as the other reforms, the application of regulation 15A was suspended by a Ministerial declaration under section 6(3) of the Act. This declaration was revoked and replaced on 3 July 2006 with the effect that the mandatory inspection requirements now apply to residential building work in the Darwin and Alice Springs Building Areas.

Broadly, it was intended that the legislative reforms commenced on 3 July 2006 should only apply to residential building work under building permits granted after that date. Some transitional provisions to that effect were included in the amending legislation and these were subsequently extended by transitional regulations.

It was also expected that section 51 of the Act would operate towards this objective. Section 51 provides that regulations or amendments to the regulations do not apply to work under building permits granted before commencement of the regulations concerned, or to work under permits granted after commencement where the building certifier has certified that substantial progress had already been made on design of the building.

Subsequent to the commencement it was found that an exception to this was regulation 15A which clearly commenced on 14 December 2005, notwithstanding that its application was then suspended by Ministerial declaration.

As clearly it was intended that section 51 would apply to regulation 15A as at 3 July 2006 transitional regulations have been made under section 168(3) and (4) of the Act to parallel in effect to the provisions of section 51 of the Act.



Fabio Finocchiaro
Director Building Control

7th February 2007



NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. [2] of 2007*

Building Amendment (Exemption from Inspection) Regulations 2007

I, EDWARD JOSEPH EGAN, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Building Act*.

Dated 31 January 2007.


Administrator

By His Honour's Command



Minister for Employment, Education and Training acting for
Minister for Planning and Infrastructure

* Notified in the *Northern Territory Government Gazette* on [] 2007.

7 February

Building Amendment (Exemption from Inspection) Regulations 2007

1. Citation

These Regulations may be cited as the *Building Amendment (Exemption from Inspection) Regulations 2007*.

2. Principal Regulations amended

These Regulations amend the *Building Regulations*.

3. New Part 15

After regulation 49

insert

PART 15 – TRANSITIONAL MATTERS FOR INSPECTION STAGES OF RESIDENTIAL BUILDING WORK

50. Inspection stages for pre-July 2006 residential building work

Regulation 15A does not apply to:

- (a) residential building work for which a building permit has been granted prior to 3 July 2006; or
- (b) residential building work for which:
 - (i) an application for a building permit was made before 1 January 2007; and
 - (ii) a building certifier has certified in writing that substantial progress was made in the design of the building prior to 3 July 2006.