



BUILDING NOTE

Number 60

June 2008

Local Government (Miscellaneous Provisions) Amendment Act 2007
Building Amendment Regulations (No 3) 2008
Local Government (Building Surveyors) Regulations 2008

The purpose of this Building Note is to advise that changes in relation to:

- Local governments ability to issue a building approval certificate for unauthorised building work;
- Qualification of building surveyors
- Delegation of building surveyors by local government; and
- Clarifying the criteria used to determine application fees (namely for major infrastructure projects) and the increase in the minimum fee for building licence applications

were gazetted on Friday 6 June 2008 and will take effect on July 1 2008.

Please find appended electronic copies of the amendments to the Act and the Regulations.

The Department will publish further Building Notes in respect to the matters covered in the Regulations in due course.

Peter Gow
EXECUTIVE DIRECTOR BUILDING INDUSTRY DEVELOPMENT

Building Notes are produced by the Department of Housing and Works (DHW) primarily to inform building surveyors and the building industry. The information contained in this Note is intended for general guidance only and must not be relied upon in any particular set of circumstances. To ascertain your precise rights and obligations, you should consult a building surveyor or other appropriate professional or refer to the applicable legislation. Copies of Building Notes may be obtained from the DHW at 108 Adelaide Terrace, East Perth or by accessing the Department's web site at www.dhw.wa.gov.au.



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CONTENTS

PART 1

	Page
Local Government (Miscellaneous Provisions) Act 1960—Building Amendment Regulations (No. 3) 2008	2179
Proclamations—Local Government (Miscellaneous Provisions) Amendment Act 2007 (No. 11 of 2007)	2179

PART 2

Agriculture	2189
Cemeteries	2189
Deceased Estates	2202
Electoral Commission	2191
Environment	2192
Fisheries	2192
Health	2196
Heritage	2196
Housing and Works	2179
Justice	2197
Legal Practice Board	2197
Planning and Infrastructure	2198
Racing, Gaming and Liquor	2202

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— PART 1 —

PROCLAMATIONS

AA101*

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) AMENDMENT ACT 2007

No. 11 of 2007
PROCLAMATION

Western Australia
By His Excellency
Doctor Kenneth Comminos Michael,
Companion of the Order of Australia,
Governor of the State of Western Australia
KENNETH COMMINOS MICHAEL
Governor

[L.S.]

I, the Governor, acting under the *Local Government (Miscellaneous Provisions) Amendment Act 2007* section 2 and with the advice and consent of the Executive Council, fix 1 July 2008 as the day on which sections 5 to 14 of that Act, come into operation.

Given under my hand and the Public Seal of the State on 20 May 2008.

By Command of the Governor,

M. ROBERTS, Minister for Housing and Works.

Note: Under the *Interpretation Act 1984* section 25(3), the *Building Amendment Regulations (No. 3) 2008* and the *Local Government (Building Surveyors) Regulations 2008* take effect on the day on which the *Local Government (Miscellaneous Provisions) Amendment Act 2007* section 5 commences in accordance with this proclamation.

HOUSING AND WORKS

HW301*

Local Government (Miscellaneous Provisions) Act 1960

Building Amendment Regulations (No. 3) 2008

Made by the Governor in Executive Council under section 433A of the Act and the *Local Government Act 1995* section 9.60.

1. Citation

These regulations are the *Building Amendment Regulations (No. 3) 2008*.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government (Miscellaneous Provisions) Amendment Act 2007* section 5 comes into operation.

3. The regulations amended

The amendments in these regulations are to the *Building Regulations 1989*.

4. Part 4 heading amended

The heading to Part 4 is amended by inserting after “Building applications” —

“

and applications for building approval certificates

”.

5. Regulation 11 amended

Regulation 11(6) is amended by inserting after “other manner as the” —

“ building surveyor of the ”.

6. Regulation 11A inserted

After regulation 11 the following regulation is inserted —

“

11A. Application for building approval certificate

- (1) An application to a local government for a building approval certificate in relation to unauthorised building work shall be made in the form of Form 8.
- (2) An application for a building approval certificate in relation to unauthorised building work shall be accompanied by —
 - (a) 2 complete sets of drawings (to scale not less than 1:100) showing the following —
 - (i) a plan of every storey;
 - (ii) at least 2 elevations of external fronts;
 - (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;
 - (ix) any other information that the local government may require, all clearly figured and dimensioned;
- and
- (b) a block and drainage plan (to a scale not less than 1:500) showing the following —
 - (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 the unauthorised building work and of any other 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;
- and
- (c) a description of the unauthorised building work including the materials used in the work and such information as is necessary to show that the unauthorised building work substantially conforms with the requirements of the Act; and
 - (d) any further details required by the local government to show that the unauthorised building work substantially conforms with the requirements of the Act; and
 - (e) the value or the estimated current value (calculated in the manner set out in regulation 24A(2)) of the unauthorised building work.
- (3) An owner of a building making an application for a building approval certificate shall deposit with the Fire and Emergency Services Authority of Western Australia a description of the unauthorised building work, including the materials used in the work, of sufficient detail to enable the Authority to assess compliance of the work with the Fire Requirements of the Building Code of Australia.
- (4) Subregulation (3) does not apply in respect of a building of class 1 or 10 according to the Building Code.

- (5) The unauthorised building work shall be clearly delineated on the drawings by colouring or other suitable means.
- (6) The drawings referred to in subregulation (2) shall be legible and durable and shall be not less in size than sheet A4.
- (7) Without limiting subregulation (2)(a)(vii), if any alteration has been carried out to the conformation of the ground on the site, 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.
- (8) If a local government refuses to issue a building approval certificate, the local government shall give the applicant for the certificate notice in writing of —
 - (a) the refusal; and
 - (b) the reasons for the refusal; and
 - (c) the applicant's rights under section 374AAD(1) of the Act to apply to the State Administrative Tribunal for a review of the refusal.
- (9) A building approval certificate issued under section 374AA(4) of the Act shall be in the form of Form 9.
- (10) If a local government issues a certificate subject to conditions specified in it, the local government shall give the applicant for the certificate notice in writing of —
 - (a) the reasons for issuing the certificate subject to conditions; and
 - (b) the applicant's rights under section 374AAD(1) of the Act to apply to the State Administrative Tribunal for a review of those conditions.

”.

7. **Regulation 14 amended**

Regulation 14(2)(b) is deleted and the following paragraph is inserted instead —

“

- (b) a person acting pursuant to a delegation under section 374AAB(1) of the Act,

”.

8. Regulation 15 amended

Regulation 15(1) is amended as follows:

- (a) by deleting “or the building surveyor, as the case may be,”;
- (b) by deleting “or building surveyor may at its or his or her” and inserting instead —
“ may at its ”.

9. Regulation 16 amended

Regulation 16(1) is amended by inserting after “as approved by” —

“ the building surveyor of the ”.

10. Regulation 20 amended

After regulation 20(1) the following subregulation is inserted —

“

- (1a) Where approval has not been given for the erection of a building and a building approval certificate is issued in relation to the unauthorised building work, subregulation (1) applies as if the local government had approved the erection of the building.

”.

11. Regulation 21 amended

- (1) Regulation 21 is amended by inserting before “Where” the subregulation designation “(1)”.
- (2) At the end of regulation 21 the following subregulation is inserted —

“

- (2) Where —
 - (a) a certificate of classification has been issued for a portion of an uncompleted building; and
 - (b) a building approval certificate is issued in relation to unauthorised building work on the building; and
 - (c) the local government approves the occupation of a further portion of the building,

it shall —

- (d) revoke that certificate; and
- (e) 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.

”.

12. Regulation 24 amended

- (1) After regulation 24(2) and before the Table to the regulation the following subregulations are inserted —

“

- (3) For the purposes of subregulation (2)(a), if the contract price includes the value of plant or equipment to be housed in, on or around the proposed building and that plant or equipment is not for the purpose of providing services to or maintaining the building, the estimated value of the construction work does not include the value of the plant or equipment.
- (4) For the purposes of subregulation (2)(b), the estimated value of the construction work does not include the value of plant or equipment to be housed in, on or around the proposed building if the plant or equipment is not for the purpose of providing services to or maintaining the building.

”.

- (2) The Table to regulation 24 is amended by deleting “\$40.” in both places where it occurs and inserting instead —

“ \$85. ”.

13. Regulation 24A inserted

After regulation 24 the following regulation is inserted in Part 6 —

“

24A. Scale of fees: application for building approval certificate for unauthorised building work

- (1) The scale of fees set out in the Table to this regulation shall be chargeable by and received by a local government in relation to an application for a building approval certificate.
- (2) For the purposes of the Table to this regulation the estimated current value of the unauthorised building work shall be the sum of the current 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.
- (3) In subregulation (2) the estimated current value of the unauthorised building work does not include the value of plant or equipment housed in, on or around the building if the plant or equipment is not for the purpose of providing services to or maintaining the building.

Scale of fees

Description	Fee
For the issue of a building approval certificate in relation to a building of Class 1 or 10.	0.7% of 10/11 of the estimated current value of the unauthorised building work as determined by the local government, but not less than \$170.
For the issue of a building approval certificate in relation to a building other than a building of Class 1 or 10.	0.4% of 10/11 of the estimated current value of the unauthorised building work as determined by the local government, but not less than \$170.

14. Various references to building surveyor amended

- (1) Each provision listed in the Table to this subregulation is amended by inserting after “building surveyor” —

“ of the local government ”.

Table

r. 10(2)	r. 26(1)
r. 11(1)	r. 27(2)
r. 12(1)	r. 28
r. 13(1)(b)	r. 29(1)
r. 14(1)	r. 31(1)(c), (d) and (l)
r. 18(1) and (3)	

- (2) Each provision listed in the Table to this subregulation is amended by deleting “building surveyor” and inserting instead —

“ local government ”.

Table

r. 8(2) and (3)	r. 17 (twice)
r. 11(1)(e)	

15. Schedule 1 amended

- (1) Schedule 1 Form 4 is amended as follows:

(a) after “Building surveyor” by inserting —

“ of the local government ”;

(b) in the note by inserting after “building surveyor” —

“ of the local government ”;

(c) by deleting “section 374” and inserting instead —

“ section 374AAD ”.

- (2) Schedule 1 Form 5 is amended as follows:
- (a) after “Building surveyor” by inserting —
“ of the local government ”;
- (b) in the note by inserting after “building surveyor” —
“ of the local government ”.
- (3) Schedule 1 Form 6 is amended as follows:
- (a) after “Building surveyor” by inserting —
“ of the local government ”;
- (b) in the conditions by inserting after “building surveyor”
in each place where it occurs —
“ of the local government ”.
- (4) Schedule 1 Form 7 is amended after “Building surveyor” by
inserting —
“ of the local government ”.
- (5) After Schedule 1 Form 7 the following forms are inserted —

“

Form 8. Application for building approval certificate

Local Government (Miscellaneous Provisions) Act 1960, s. 374AA
Building Regulations 1989, r. 11A

BUILDING APPROVAL CERTIFICATE APPLICATION

Property where building is built	Street	No.:	Street name:	
	Address	Suburb:	Postcode:	
	Lot/Location No.:			
Applicant (must be owner of building)	Name:			
	Address:			
	Postal address:			
	Phone (H):	(W):	(Mob):	
	Fax:	Email:		
	Signature:			Date:

Details of building (tick box or boxes)	Type of building constructed:
	<input type="checkbox"/> Single dwelling <input type="checkbox"/> Patio <input type="checkbox"/> Swimming pool <input type="checkbox"/> Warehouse <input type="checkbox"/> Grouped dwelling <input type="checkbox"/> Outbuilding <input type="checkbox"/> Retaining wall <input type="checkbox"/> Office <input type="checkbox"/> Pergola <input type="checkbox"/> Factory <input type="checkbox"/> Shop <input type="checkbox"/> Other (specify):
	Floor area of the building in m ² (including the width of all walls):
	Estimated current value of unauthorised building work (including GST): \$

Form 9. Building approval certificate

Local Government (Miscellaneous Provisions) Act 1960,
s. 374AA(4)(a)
Building Regulations 1989, r. 11A(9)

Certificate no.:

BUILDING APPROVAL CERTIFICATE**Local Government:** _____

Owner	Name:
	Address:

Property where building is built	Address	No.:	Street name:
		Suburb:	Postcode:
	Lot/Location No.:		
	Certificate of Title	Volume:	Folio:

Description of building covered by this certificate	
--	--

The documentation provided by other building professionals, supporting substantial conformity of the building with the requirements of the Act, is listed at the back of this certificate.

The building has been assessed as being of Class(es) _____

Building surveyor of the local government	Name:
	Signature:

Back of Form 9**DOCUMENTATION**

List documentation provided by other building professionals, supporting substantial conformity of the building with the requirements of the Act.

CONDITIONS

This certificate is subject to the following conditions.

If you are dissatisfied with these conditions you may apply to the State Administrative Tribunal for a review under section 374AAD(1)(d) of *Local Government (Miscellaneous Provisions) Act 1960*.

”

By Command of the Governor,

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



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LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1960

LOCAL GOVERNMENT (BUILDING SURVEYORS) REGULATIONS 2008

Western Australia

Local Government (Building Surveyors) Regulations 2008

CONTENTS

Part 1 — Preliminary

1. Citation
2. Commencement
3. Terms used in these regulations

Part 2 — Qualifications for appointment to the office of building surveyor

4. Qualifications

Part 3 — Delegation of authority to approve plans of buildings or unauthorised building work

5. Limitation on delegation of authority to approve plans of buildings or unauthorised building work
6. Prescribed qualifications that must be held by delegate of authority to approve plans of buildings or unauthorised building work

Part 4 — Building Surveyors Qualifications Committee

7. Building Surveyors Qualifications Committee established
8. Membership of Committee
9. Chairperson of the Committee
10. Functions of the Committee

Local Government (Building Surveyors) Regulations 2008**Contents**

- 11. Term of office
- 12. Deputy members
- 13. Vacation of office by member
- 14. Remuneration
- 15. Leave of absence
- 16. Secretary
- 17. Meetings

Part 5 — Certificate of qualification

- 18. Types of certificate of qualification
- 19. Prescribed qualifications
- 20. Application for certificate of qualification
- 21. Grant of certificate of qualification
- 22. Certificate
- 23. Cancellation of certificate
- 24. Reason for cancellation to be in writing
- 25. Surrender of certificate
- 26. Fee

**Part 6 — Review by State
Administrative Tribunal**

- 27. Review

**Part 7 — *Local Government
(Qualification of Municipal
Officers) Regulations 1984
repealed***

- 28. The *Local Government (Qualification of Municipal Officers) Regulations 1984* repealed

Local Government (Miscellaneous Provisions) Act 1960

Local Government (Building Surveyors) Regulations 2008

Made by the Governor in Executive Council under the *Local Government (Miscellaneous Provisions) Act 1960* sections 373A and 374AAB and the *Local Government Act 1995* section 9.59.

Part 1 — Preliminary

1. Citation

These regulations are the *Local Government (Building Surveyors) Regulations 2008*.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Local Government (Miscellaneous Provisions) Amendment Act 2007* section 5 comes into operation.

3. Terms used in these regulations

In these regulations, unless the contrary intention appears —
“**BSCQ**” means a Building Surveyors Certificate of Qualification granted under regulation 21;

Local Government (Building Surveyors) Regulations 2008**Part 1** Preliminary**r. 3**

- “Building Surveyor Level 1 certificate”** means a Building Surveyor Level 1 certificate granted under regulation 21;
- “Building Surveyor Level 2 certificate”** means a Building Surveyor Level 2 certificate granted under regulation 21;
- “Building Surveyor Technician certificate”** means a Building Surveyor Technician certificate granted under regulation 21;
- “CEO”** means the chief executive officer of the department;
- “certificate of qualification”** means a certificate granted under regulation 21;
- “commencement day”** means the day on which the *Local Government (Miscellaneous Provisions) Amendment Act 2007* section 5 comes into operation;
- “Committee”** means the Building Surveyors Qualifications Committee established by regulation 7;
- “department”** means the department of the Public Service principally assisting in the administration of the *Local Government (Miscellaneous Provisions) Act 1960* Part XV;
- “MBSCQ”** means a Building Surveyors Certificate of Qualification issued by the Municipal Building Surveyors Qualifications Committee under regulation 12(1) or (2) of the repealed regulations;
- “repealed regulations”** means the *Local Government (Qualification of Municipal Officers) Regulations 1984*;
- “the Act”** means the *Local Government (Miscellaneous Provisions) Act 1960*;
- “Training Accreditation Council”** means the Training Accreditation Council established under the *Vocational Education and Training Act 1996* section 25(1);
- “transition period”** means the period of 5 years beginning on the commencement day.

Local Government (Building Surveyors) Regulations 2008

Qualifications for appointment to the office of building surveyor

Part 2**r. 4****Part 2 — Qualifications for appointment to the office of building surveyor****4. Qualifications**

- (1) For the purpose of section 373A of the Act, during the transition period a person must hold one of the following before the person is appointed to the office of building surveyor of a local government —
 - (a) a Building Surveyor Level 1 certificate;
 - (b) a Building Surveyor Level 2 certificate;
 - (c) a MBSCQ;
 - (d) a BSCQ;
 - (e) a Building Surveyor Technician certificate.
- (2) For the purpose of section 373A of the Act, after the transition period a person must hold one of the following before the person is appointed to the office of building surveyor of a local government —
 - (a) a Building Surveyor Level 1 certificate;
 - (b) a Building Surveyor Level 2 certificate.

Local Government (Building Surveyors) Regulations 2008

Part 3 Delegation of authority to approve plans of buildings or unauthorised building work

r. 5

Part 3 — Delegation of authority to approve plans of buildings or unauthorised building work**5. Limitation on delegation of authority to approve plans of buildings or unauthorised building work**

- (1) Subject to regulation 6, a person to whom a local government may delegate the authority to approve or refuse to approve —
- (a) plans and specifications submitted under section 374 of the Act; or
 - (b) unauthorised building work,

must be a person employed under a contract of service by the local government or another local government.

- (2) If a delegation of an authority is made under section 374AAB(1) of the Act to a person (the “**delegate**”), the delegation is subject to the following conditions —
- (a) the delegate must not exercise the authority in relation to —
 - (i) plans and specifications submitted by the delegate under section 374 of the Act; or
 - (ii) an application made by the delegate for the issue of a building approval certificate under section 374AA of the Act;
 - (b) the delegate must not exercise the authority if the delegate —
 - (i) is to be the builder in relation to the building work to be carried out under plans and specifications submitted under section 374 of the Act; or
 - (ii) was the builder in relation to unauthorised building work which is the subject of an application for the issue of a building approval certificate under section 374AA of the Act;

Local Government (Building Surveyors) Regulations 2008
Delegation of authority to approve plans of buildings or unauthorised building work **Part 3**

r. 6

- (c) the delegate must not exercise the authority in relation to a matter in relation to which the delegate has or had an interest of a type referred to in the *Local Government Act 1995* section 5.60(c) or (d).

6. Prescribed qualifications that must be held by delegate of authority to approve plans of buildings or unauthorised building work

- (1) For the purposes of section 374AAB(2) of the Act, during the transition period, the authority to approve or refuse to approve plans and specifications submitted under section 374 of the Act or unauthorised building work in relation to any building must not be delegated to a person unless that person holds one of the following —
- (a) a Building Surveyor Level 1 certificate;
 - (b) a MBSCQ;
 - (c) a BSCQ.
- (2) For the purposes of section 374AAB(2) of the Act, after the transition period, the authority to approve or refuse to approve plans and specifications submitted under section 374 of the Act or unauthorised building work in relation to any building must not be delegated to a person unless that person holds a Building Surveyor Level 1 certificate.
- (3) Despite subregulations (1) and (2), for the purposes of section 374AAB(2) of the Act, the authority to approve or refuse to approve plans and specifications submitted under section 374 of the Act or unauthorised building work in relation to a building with a maximum floor area of 2 000 m² and not more than 3 storeys may be delegated to a person if that person holds a Building Surveyor Level 2 certificate.
- (4) Despite subregulations (1) and (2), for the purposes of section 374AAB(2) of the Act, the authority to approve or refuse to approve plans and specifications submitted under section 374 of the Act or unauthorised building work in relation

Local Government (Building Surveyors) Regulations 2008

Part 3 Delegation of authority to approve plans of buildings or unauthorised building work

r. 6

to a building with a maximum floor area of 500 m² and not more than 2 storeys may be delegated to a person if that person holds a Building Surveyor Technician certificate.

- (5) If a delegation to an individual under section 374(1b) of the Act (as in force before the commencement day) to approve or refuse to approve plans and specifications under section 374 of the Act has not ceased to have effect immediately before the commencement day, that delegation continues to have effect on or after that day as if it had been made under section 374AAB(1)(a) of the Act.

Local Government (Building Surveyors) Regulations 2008
Building Surveyors Qualifications Committee **Part 4**

r. 7

Part 4 — Building Surveyors Qualifications Committee

7. Building Surveyors Qualifications Committee established

The Minister is to establish a committee called the Building Surveyors Qualifications Committee.

8. Membership of Committee

The Committee consists of 5 members appointed by the Minister, of whom —

- (a) one is to be the CEO or an officer of the department, nominated by the CEO; and
- (b) 3 are to be persons who are practising as a building surveyor; and
- (c) one is to be a person with knowledge of building surveyor education and training.

9. Chairperson of the Committee

The CEO or the officer appointed under regulation 8(a) is the chairperson of the Committee.

10. Functions of the Committee

The functions of the Committee are as follows —

- (a) to assess applications for certificates of qualification;
- (b) to grant certificates of qualification;
- (c) to perform the other functions that are conferred on the Committee by these regulations.

11. Term of office

- (1) A member of the Committee appointed under regulation 8(b) or (c) holds office for the term, not exceeding 3 years, specified in the member's instrument of appointment.

Local Government (Building Surveyors) Regulations 2008**Part 4** Building Surveyors Qualifications Committee**r. 12**

- (2) A member of the Committee appointed under regulation 8(b) or (c) is not to hold office for more than 9 years, consecutively or otherwise.

12. Deputy members

- (1) The Minister may appoint a person to be a deputy of a member and may terminate such an appointment at any time.
- (2) The provisions of regulation 8 that apply in relation to the appointment of a member apply, with any necessary modification, in relation to the appointment of the deputy of that member.
- (3) A deputy of a member may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.
- (4) Despite anything in these regulations, a deputy of a member may continue to act as a member, after the occasion for so acting has ceased, for the purpose of completing any function.
- (5) A deputy of a member, while acting as a member, has all the functions of a member.
- (6) No act or omission of a person acting in place of another under this clause is to be questioned on the ground that the occasion for so acting had not arisen or had ceased.

13. Vacation of office by member

- (1) A member of the Committee may resign from office by notice in writing given to the Minister.
- (2) A member of the Committee may be removed from office by the Minister if the member —
- (a) becomes permanently incapable of performing his or her duties; or
 - (b) becomes a person who would not be qualified to be appointed a member; or

Local Government (Building Surveyors) Regulations 2008
Building Surveyors Qualifications Committee **Part 4**

r. 14

- (c) carries out any act or omission that in the opinion of the Minister may cause prejudice or injury to the Committee.

14. Remuneration

A member of the Committee is to be paid such remuneration and allowances (if any) as the Minister, on the recommendation of the Minister for Public Sector Management, determines from time to time.

15. Leave of absence

The Minister may grant leave of absence to a member of the Committee, or a deputy of a member, for such period and upon such terms and conditions as the Minister determines.

16. Secretary

The Committee is to have a secretary, nominated by the CEO from time to time, who must be an officer of the department.

17. Meetings

- (1) The Committee is to hold such meetings as it considers necessary for conducting its affairs.
- (2) At a meeting of the Committee —
 - (a) 3 members form a quorum; and
 - (b) the chairperson, or in his or her absence the person appointed his or her deputy, must preside, or if both are absent or there is no deputy so appointed, the members present at the meeting must elect one of their number to act as chairperson at that meeting; and
 - (c) all questions must be decided by a majority of votes of the members present and voting; and
 - (d) the chairperson, or other person presiding as chairperson, at the meeting has a deliberate vote but no casting vote, and in the event of an equality of votes, the motion must be declared “not carried”.

Local Government (Building Surveyors) Regulations 2008**Part 5** Certificate of qualification**r. 18**

Part 5 — Certificate of qualification**18. Types of certificate of qualification**

The following types of certificate of qualification may be granted by the Committee —

- (a) Building Surveyor Level 1 certificate;
- (b) Building Surveyor Level 2 certificate;
- (c) a Building Surveyors Certificate of Qualification;
- (d) Building Surveyor Technician certificate.

19. Prescribed qualifications

- (1) Under sections 373A(1) and 374AAB(3) of the Act, the qualification for a Building Surveyor Level 1 certificate is —
 - (a) completion of a course of study comparable to that required by the Central Queensland University for the grant by it in 2007 of a Bachelor of Building Surveying and Certification; and
 - (b) 3 years' experience as a building surveyor.
- (2) Under sections 373A(1) and 374AAB(3) of the Act, during the transition period, the following qualifications are also qualifications for a Building Surveyor Level 1 certificate —
 - (a) a BSCQ or a MBSCQ and 5 years' unrestricted experience as a building surveyor for a local government in the period of 10 years immediately before the commencement day;
 - (b) an Advanced Diploma in Building Surveying awarded in relation to a course accredited by the Training Accreditation Council and 5 years' unrestricted experience as a building surveyor for a local government in the period of 10 years immediately before the commencement day.

Local Government (Building Surveyors) Regulations 2008

Certificate of qualification

Part 5**r. 19**

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- (3) Under sections 373A(1) and 374AAB(3) of the Act, the qualification for a Building Surveyor Level 2 certificate is —
- (a) an Advanced Diploma in Building Surveying awarded in relation to a course accredited by the Training Accreditation Council; and
 - (b) 2 years' experience as a building surveyor.
- (4) Under sections 373A(1) and 374AAB(3) of the Act, during the transition period, the following qualifications are also qualifications for a Building Surveyor Level 2 certificate —
- (a) a Diploma in Building Surveying awarded in relation to a course accredited by the Training Accreditation Council and 4 years' unrestricted experience as a building surveyor for a local government in the period of 10 years immediately before the commencement day;
 - (b) 6 years' unrestricted experience as a building surveyor for a local government in the period of 10 years immediately before the commencement day.
- (5) Under sections 373A(1) and 374AAB(3) of the Act, during the transition period, the qualification for a BSCQ is —
- (a) an Advanced Diploma in Building Surveying awarded in relation to a course accredited by the Training Accreditation Council; and
 - (b) 2 years' experience as a building surveyor for a local government.
- (6) Under sections 373A(1) and 374AAB(3) of the Act, during the transition period, the following qualifications are a qualification for a Building Surveyor Technician certificate —
- (a) a Diploma in Building Surveying awarded in relation to a course accredited by the Training Accreditation Council;

Local Government (Building Surveyors) Regulations 2008**Part 5** Certificate of qualification**r. 20**

- (b) 12 months' experience as a building surveyor for a local government in the period of 12 months immediately before the commencement day.

20. Application for certificate of qualification

An application for a certificate of qualification is to be —

- (a) for one and only one type of certificate; and
- (b) in the form approved in writing by the Committee; and
- (c) accompanied by the fee prescribed by regulation 26 for that type of certificate.

21. Grant of certificate of qualification

- (1) The Committee must grant a certificate of qualification of the type applied for if the Committee determines that the applicant has —
 - (a) a prescribed qualification for that type of certificate; or
 - (b) an equivalent interstate or overseas qualification; or
 - (c) sufficient knowledge and experience to qualify the applicant to carry out the functions of persons who hold a certificate of that type.
- (2) For the purpose of making a determination about an applicant's qualifications or knowledge and experience, the Committee may require that an applicant's qualifications or knowledge and experience be assessed by another person or body specified by the Committee and the Committee is not required to make the determination until the assessment has been completed.

22. Certificate

A certificate of qualification granted by the Committee is to be in or substantially in a form approved in writing by the Committee.

Local Government (Building Surveyors) Regulations 2008

Certificate of qualification

Part 5**r. 23****23. Cancellation of certificate**

- (1) The Committee may at any time cancel the certificate of qualification issued to a person —
 - (a) who has obtained such certificate by fraud or misrepresentation; or
 - (b) who is a bankrupt as defined in the Commonwealth *Bankruptcy Act 1966* or has a substantially similar status under a law applicable in a place where that Act does not apply; or
 - (c) if the Committee is satisfied that the person is no longer capable of exercising, because of mental defect, the duties to which the certificate of qualification relates; or
 - (d) who has been convicted in this State of any crime or misdemeanour or who has been convicted in any place outside this State of any offence which, if committed in this State, would be a crime or misdemeanour; or
 - (e) who is proved to the Committee to have been guilty of fraudulent or dishonest conduct.
- (2) The cancellation takes effect when a notice of the decision is given to the person under regulation 24.

24. Reason for cancellation to be in writing

If the Committee cancels a certificate of qualification, it is to record the grounds on which the decision was based, and its reasons, and is as soon as is practicable, but in any case not later than 30 days after making the decision, to give written notice of the decision, together with those grounds and reasons, to the person to whom the decision relates.

25. Surrender of certificate

- (1) If a person's certificate of qualification is cancelled under these regulations, the person is, within 14 days after the day on which

Local Government (Building Surveyors) Regulations 2008**Part 5** Certificate of qualification**r. 26**

the person is notified by the Committee of the cancellation, to surrender his or her certificate to the Committee.

Penalty: a fine of \$1 000.

- (2) It is a defence to a prosecution for an offence against subregulation (1) if the accused satisfies the court that the failure to surrender the certificate was due to its loss or destruction.
- (3) The cancellation of a certificate of qualification has effect despite any failure to surrender the certificate.

26. Fee

The fee specified in column 2 of the Table to this regulation is payable by a person who applies for a certificate of a type specified in column 1 of the Table opposite that fee.

Fees

Type of certificate	Fee \$
Building Surveyor Level 1 certificate	200
Building Surveyor Level 2 certificate	200
BSCQ	150
Building Surveyor Technician certificate	150

Local Government (Building Surveyors) Regulations 2008

Review by State Administrative Tribunal

Part 6**r. 27**

Part 6 — Review by State Administrative Tribunal**27. Review**

A person whose —

- (a) application for a certificate of qualification is refused by the Committee; or
- (b) certificate of qualification is cancelled by the Committee,

may apply to the State Administrative Tribunal for a review of that refusal or cancellation.

Local Government (Building Surveyors) Regulations 2008

Part 7 Local Government (Qualification of Municipal Officers)
 Regulations 1984 repealed

r. 28

Part 7 — *Local Government (Qualification of Municipal Officers) Regulations 1984* repealed

28. *The Local Government (Qualification of Municipal Officers) Regulations 1984* repealed

The Local Government (Qualification of Municipal Officers) Regulations 1984 are repealed.

By Command of the Governor,

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