



Building (Product Certification) Amendment Regulations 2019

Patsy Reddy, Governor-General

Order in Council

At Wellington this 16th day of September 2019

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 402(1) and 405 of the Building Act 2004—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Building and Construction.

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Regulations

1 Title

These regulations are the Building (Product Certification) Amendment Regulations 2019.

2 Commencement

(1) The following regulations come into force on 1 November 2020:

- (a) regulation 8:
- (b) regulation 10(2).

(2) The following regulations come into force on 1 November 2021:

- (a) regulation 9:

- (b) regulation 10(3).
- (3) The rest of these regulations come into force on 1 November 2019.

3 Principal regulations

These regulations amend the Building (Product Certification) Regulations 2008 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

In regulation 3, insert in its appropriate alphabetical order:

accredited conformity assessment body means a certifying body that is accredited to ISO/IEC 17021–1:2015 (Conformity assessment—Requirements for bodies providing audit and certification of management systems—Part 1: Requirements)—

- (a) by the Joint Accreditation System of Australia and New Zealand; or
- (b) by an equivalent overseas accreditation body that is recognised by the Joint Accreditation System of Australia and New Zealand in relation to ISO/IEC 17021–1:2015 under a mutual recognition agreement

5 New regulation 3A inserted (Transitional, savings, and related provisions)

After regulation 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Criteria and standards for accreditation as product certification body

6 Regulation 5 replaced (Compliance with ISO/IEC Guide 65:1996)

Replace regulation 5 with:

5 Compliance with ISO/IEC 17065:2012 Conformity assessment

- (1) A product certification body must comply with all relevant requirements under ISO/IEC 17065:2012 (Conformity assessment—Requirements for bodies certifying products, processes and services).
- (2) However,—
 - (a) a product certification body that complies with regulation 7A need not comply with the requirements under clause 8 of ISO/IEC 17065:2012 (management system requirement); and
 - (b) a product certification body that complies with regulation 7B need not comply with—
 - (i) the requirements under clause 6.2.1 of ISO/IEC 17065:2012 (internal resources); and

- (ii) the requirements under clause 6.2.2.1 of ISO/IEC 17065:2012 (external resources (outsourcing)).

7 Regulation 7 amended (Records relating to certificates)

In regulation 7(4), replace “clause 4.9.1 of ISO/IEC Guide 65:1996 (E): General requirements for bodies operating product certification systems” with “clause 7.12 (records) of ISO/IEC 17065:2012 (Conformity assessment—Requirements for bodies certifying products, processes and services)”.

8 New regulation 7A inserted (Compliance with ISO 9001:2015 Quality management systems—Requirements)

After regulation 7, insert:

7A Compliance with ISO 9001:2015 Quality management systems—Requirements

A product certification body that is not an accredited conformity assessment body must have a quality management system that has been certified as meeting ISO 9001:2015 (Quality management systems—Requirements) by an accredited conformity assessment body.

9 New regulation 7B inserted (Compliance with ISO/IEC 17025:2017 General requirements for the competence of testing and calibration laboratories)

After regulation 7A (as inserted by regulation 8 of these regulations), insert:

7B Compliance with ISO/IEC 17025:2017 General requirements for the competence of testing and calibration laboratories

- (1) A product certification body must ensure that the body does not accept test reports from a testing laboratory in respect of a building method or product, and does not test building methods or products at a testing laboratory, unless—
 - (a) the testing laboratory complies with the provisions of ISO/IEC 17025:2017 (General requirements for the competence of testing and calibration laboratories) that are relevant to that building method or product; and
 - (b) the testing laboratory is an accredited laboratory in relation to those tests; and
 - (c) the testing of the building method or product is within the scope of that accreditation of that testing laboratory.
- (2) In this regulation, **accredited laboratory**, in relation to a test, means—
 - (a) a testing laboratory that is accredited for the relevant test by the Accreditation Council (as that term is defined in section 4(1) of the Standards and Accreditation Act 2015) operating as International Accreditation New Zealand; or

- (b) an equivalent overseas laboratory that is accredited for the relevant test by an overseas accreditation body recognised by International Accreditation New Zealand under a mutual recognition agreement.

Criteria and standards for certification of building methods or products

10 Regulation 10 amended (Criteria and standards for certification)

- (1) Replace regulation 10(a) with:
- (a) must comply with—
- (i) clause B2 (Durability) of the Building Code; and
 - (ii) the provisions of clauses F1 to F9 of the Building Code that are relevant to the intended use of the building method or product; and
 - (iii) all other provisions of the Building Code that are relevant to the intended use; and
- (ab) must have been certified by a product certification body that—
- (i) complies with regulation 5 in relation to the certification; and
- (2) After regulation 10(ab)(i) (as inserted by subclause (1)), insert:
- (ii) complies with regulation 7A; and
- (3) After regulation 10(ab)(ii) (as inserted by subclause (2)), insert:
- (iii) has complied with regulation 7B in relation to the testing of the building method or product; and

11 Regulation 11 amended (Quality plan for building method or product sought to be certified)

In regulation 11(2)(c), replace “ISO 10005, Second Edition 2005-06-01: Quality management systems—Guidelines for quality plans” with “ISO 10005:2018 (Quality management—Guidelines for quality plans)”.

Product certificates

12 Regulation 14 replaced (Content of product certificates)

Replace regulation 14 with:

14 Content of product certificates

- (1) The body of each product certificate must contain all the information referred to in items 1 to 8 of Schedule 2 that is—
- (a) applicable; and
 - (b) not too lengthy, detailed, specific, technical, or complex to be included in the body.
- (2) The body must—

- (a) be headed “Key information” and contain sections in the same order, and using the same headings, as items 1 to 8 of Schedule 2; and
 - (b) be written in plain English; and
 - (c) contain the date of issue of the certificate.
- (3) The Schedule of the product certificate must contain—
- (a) any information referred to in items 1 to 8 of Schedule 2 that is applicable and that is not included in the body; and
 - (b) all the supporting information referred to in items 9 to 14 of Schedule 2 that is applicable; and
 - (c) any other information that is needed to ensure that the certificate provides a good overview of the building method or product and of any conditions or limitations of use.
- (4) The Schedule must be headed “Schedule: Information that supports key information” and contain sections in the same order, and using the same headings, as items 9 to 14 of Schedule 2.
- (5) The sections of the product certificate must be numbered sequentially.
- (6) On request, a product certification body must make information and documents referred to in item 13 of Schedule 2 readily available to the chief executive or product certification accreditation body.

13 Regulation 15 amended (Conditions relating to notification)

In regulation 15, replace “regulation 14(1)(e)” with “item 14 of Schedule 2”.

General provisions

14 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 1 of these regulations as the first schedule to appear after the last regulation of the principal regulations.

15 Schedule amended

- (1) In the Schedule heading, replace “**Schedule**” with “**Schedule 1**”.
- (2) In regulation 9(1), replace “the Schedule” with “Schedule 1”.

16 New Schedule 2 inserted

After the Schedule (as renumbered by regulation 15(1)), insert the Schedule 2 set out in Schedule 2 of these regulations.

**Schedule 1
New Schedule 1AA inserted**

r 14

**Schedule 1AA
Transitional, savings, and related provisions**

r 3A

**Part 1
Provision relating to Building (Product Certification) Amendment
Regulations 2019**

- 1 Product certificates issued before 1 November 2019**
- (1) Subclause (2) applies—
- (a) to a current product certificate that was issued under section 269 of the Act before 1 November 2019; and
 - (b) until the date on which the product certification body must review the product certificate under section 270 of the Act.
- (2) The product certificate continues, until the start of the review, to have the same effect as if these regulations had not been amended by the Building (Product Certification) Amendment Regulations 2019.
- (3) However, the review must be conducted on the basis that these regulations were so amended.

Schedule 2

New Schedule 2 inserted

r 16

Schedule 2

Content of product certificates

r 14

Key information

1 Certificate holder details:

- legal name
- trading name, or trading names, in New Zealand
- address for service in New Zealand
- email address and phone number in New Zealand
- Internet site

2 Product certification body details:

- legal name
- trading name, or trading names, in New Zealand
- address for service in New Zealand
- email address and phone number in New Zealand
- Internet site
- Internet link to the publicly available information on the product certification body's complaint process

3 Summary of description of building method or product, including—

- the name or names of the building method or product in New Zealand (including the brand or brands used for marketing)
- the building method or product's catalogue or model identification number or numbers or other unique identifiers that might be used by specifiers or suppliers to identify the building method or product
- in the case of a building method or product that is a tangible product, the product's physical attributes
- as required by section 269(2) of the Act, whether there are any matters that should be taken into account in the use or application of the building method or product, and if so, what those matters are

4 Summary of intended use of building method or product,—

- as described in the building method or product's manual and other instructional materials

- clearly stating the function or purpose of the building method or product
- 5 Building Code provisions**, listing the specific provisions of the Building Code with which the building method or product complies, and stating—
- for each provision under a heading of “Performance”, how the building method or product complies with the provision
 - the building method or product’s specific contribution to compliance where used as part of a system
 - any qualifications on the extent of compliance with the provision (including where the building method or product must be used as part of a system)
- 6 Conditions and limitations of use**, listing any conditions or limitations of conformity for each individual performance requirement the building method or product is compliant with, including the following:
- requirements for the building method or product’s use to be in accordance with the installation instructions and requirements against which the building method or product was assessed
 - requirements for people with the qualifications and skills to install or use the building method or product
 - known or demonstrated situations where the building method or product should not be used
- 7 Health and safety information**, including any health, safety, and well-being declarations associated with installation, maintenance, and use of the building method or product, and their specific editions and dates necessary to ensure the objective, functional, and performance requirements of clauses F1 to F9 of the Building Code can be met
- 8 Signatures** of the following:
- the product certification body’s authorised representative
 - the person or persons assigned by the product certification body to make the certification decision in accordance with clause 7.6.2 of ISO/IEC 17065:2012 (Conformity assessment—Requirements for bodies certifying products, processes and services)
 - the certificate holder’s authorised representative
- Schedule: Information that supports key information***
- 9 Supporting information about description of building method or product**, including any of the information referred to in item 3 that could not be easily summarised in the key information
- 10 Supporting information about intended use of building method or product**, including any of the information referred to in item 4 that could not be easily summarised in the key information

- 11 Supporting information about conditions and limitations of use**, including any of the information referred to in item 6 that could not be easily summarised in the key information
- 12 Basis for certification**, including how the performance requirements in the Building Code were met
- 13 Supporting documentation for certification**, including—
- reference to any acceptable solutions, verification methods, New Zealand Standards, or other compliance pathways referenced against each individual performance requirement the building method or product is compliant with, and their specific version and date
 - reference to documents describing tests and evaluations, along with their full and correct title, specific version and date, and the outcome of the test or evaluation, as relevant to the building method or product's certification
 - reference to any other documents relied on for certification, or used to prove compliance, including their full title, specific version, and date
- 14 Conditions relating to notification** set out in regulation 15

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Building (Product Certification) Regulations 2008. Those regulations, with the Building Act 2004, provide the legislative basis for the CodeMark scheme in New Zealand, which is a building product certification scheme owned by the Ministry of Business, Innovation, and Employment.

Most of these regulations come into force on 1 November 2019. Exceptions are noted later.

Criteria and standards for accreditation as product certification body

Regulation 4 defines accredited conformity assessment body. Accredited conformity assessment bodies certify the quality management systems of product certification bodies.

Regulation 6 updates the requirements with which product certification bodies must comply. Currently, they have to comply with ISO/IEC Guide 65:1996 and IAF GD 5: 2006. The new requirements are in ISO/IEC 17065:2012 (Conformity assessment—Requirements for bodies certifying products, processes and services).

Regulation 7 updates another reference to the ISO/IEC requirements for conformity assessment.

Regulation 8, which comes into force on 1 November 2020, requires certain product certification bodies to have an independently certified quality management system that is consistent with ISO 9001:2015 (Quality management systems—Requirements).

Regulation 9, which comes into force on 1 November 2021, provides that product certification bodies must not accept test reports from a testing laboratory in respect of a building method or product, or test building methods or products at a testing laboratory, unless certain conditions are met.

Criteria and standards for certification of building methods or products

Regulation 10 amends references to the parts of the Building Code that a building method or product must comply with in order to meet the criteria and standards for certification. Currently, regulation 10 requires the building method or product to comply with the provisions of the Building Code in respect of which certification is sought in the application for certification. The amendments will instead require the building method or product to comply with all of the provisions of the Building Code that are relevant to the building method or product. This will include, without limitation, clause B2 (durability) and the relevant provisions of clauses F1 to F9.

Regulation 11 updates the references to guidelines with which a quality plan must be consistent. Currently, regulation 11 specifies ISO 10005, Second Edition 2005-06-01: Quality management systems—Guidelines for quality plans. The new guidelines are ISO 10005:2018 (Quality management—Guidelines for quality plans).

Product certificates

Regulation 12 replaces the information required to be contained in product certificates.

Regulation 13 makes a consequential change.

General provisions

Regulation 14 inserts *new Schedule 1AA*, which contains transitional, savings, and related provisions.

Regulation 15 renumbers the existing Schedule as Schedule 1.

Regulation 16 inserts *new Schedule 2*, which sets out the new content required for product certificates.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 19 September 2019.

These regulations are administered by the Ministry of Business, Innovation, and Employment.