



New South Wales

Building Professionals Amendment (Insurance) Regulation 2019

under the

Building Professionals Act 2005

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Building Professionals Act 2005*.

Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to provide that certain risks associated with cladding and the use, application or installation of cladding are not risks in respect of which an accredited certifier is required to be indemnified.

This Regulation is made under the *Building Professionals Act 2005*, including sections 65 and 94 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Building Professionals Amendment (Insurance) Regulation 2019*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

3 Amendment of Building Professionals Regulation 2007

Clause 14A

Insert after clause 14:

14A Exclusion for accredited certifiers

- (1) A professional indemnity contract may provide that the indemnity provided by the contract does not apply to any claim made against the insured in relation to:
 - (a) cladding that does not comply with the requirements of the *Building Code of Australia*, an Australian Standard or an Act or other law of the Commonwealth, this State or any other State or Territory to the extent that it applies to cladding, or
 - (b) cladding that is used, installed or applied to a building in a manner that does not comply with the requirements of the *Building Code of Australia*, an Australian Standard or an Act or other law of the Commonwealth, this State or any other State or Territory to the extent that it applies to the use, installation or application of cladding.
- (2) This clause applies only in respect of a professional indemnity contract providing indemnity for a period, not exceeding 12 months, commencing on or before 30 June 2020.
- (3) In this clause:

Australian Standard means a standard published by Standards Australia.

cladding means cladding or a cladding system (including, but not limited to, the panels, lining, attachment or finishes of any cladding or cladding system), whether or not insulated or made of composite materials, that is applied to any of a building's external walls or to another external area of a building.