

South Australia

Planning, Development and Infrastructure (Accredited Professionals) (Miscellaneous) Amendment Regulations 2023

under the *Planning, Development and Infrastructure Act 2016*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (Accredited Professionals) (Miscellaneous) Amendment Regulations 2023*.

2—Commencement

These regulations come into operation on the day on which they are made.

Part 2—Amendment of *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*

3—Amendment of regulation 3—Interpretation

- (1) Regulation 3—after the definition of *classes of accreditation* insert:

corresponding Act means an Act of another State or a Territory relating to building or planning;

- (2) Regulation 3, definition of *disqualifying event*—after paragraph (b) insert:

- (ba) acting unlawfully, or improperly, negligently or unfairly, in the performance, exercise or discharge, or purported performance, exercise or discharge, of a function, power or duty under the Act, a corresponding Act, the repealed Act or any regulations under the Act (including these regulations), a corresponding Act or the repealed Act; or

4—Amendment of regulation 6—Assessment manager

Regulation 6—after paragraph (a) insert:

- (aa) any functions, powers or duties that an Accredited professional—planning level 2, Accredited professional—planning level 3 or Accredited professional—planning level 4 is authorised to perform, exercise or discharge;

5—Amendment of regulation 8—Accredited professional—planning level 3

Regulation 8—after paragraph (a) insert:

- (aa) any functions, powers or duties that an Accredited professional—planning level 2 is authorised to perform, exercise or discharge;

6—Amendment of regulation 17—Conditions

Regulation 17(4)—delete "the approved form" and substitute:

writing

7—Amendment of regulation 18—Duration of accreditation

Regulation 18—delete "regulation 19" and substitute:

regulations 19 and 19A

8—Amendment of regulation 19—Continuation of accreditation

- (1) Regulation 19(1)—delete "A" and substitute:

Subject to regulation 19A, a

- (2) Regulation 19(2)(f)—delete "28 days before each anniversary of the granting of the accreditation" and substitute:

14 days before the relevant anniversary date

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- (3) Regulation 19(4)—delete "(and, if the accreditation is to continue, the anniversary date continues to apply for future applications)"
- (4) Regulation 19—after subregulation (4) insert:
- (4a) Subject to subregulation (4b), if an accreditation is to continue, the anniversary date, being the anniversary of the granting of the accreditation, continues to apply for future applications regardless of whether the application for the continuation of an accreditation (being an application under subregulation (2)(f) or (3)) is decided before or after the relevant anniversary date.
 - (4b) An accredited professional's anniversary date may be a date other than the anniversary of the granting of the accreditation if—
 - (a) the accredited professional nominates, in writing, a different date; and
 - (b) the nominated date is earlier than the next occurring anniversary of the granting of the accreditation; and
 - (c) the accreditation authority approves, by notice in writing to the accredited professional, the nominated date being the accredited professional's anniversary date for future applications.
- (5) Regulation 19—after subregulation (5) insert:
- (5a) After considering an application for continuation of accreditation, the accreditation authority may—
 - (a) approve the application; or
 - (b) refuse the application.
 - (5b) As soon as practicable after making a decision on an application, the accreditation authority must give notice of the decision to the applicant.
 - (5c) If the accreditation authority refuses an application, it must include in the notice of the decision—
 - (a) the reasons for the refusal; and
 - (b) the rights of review that the applicant has under these regulations.

9—Insertion of regulation 19A

After regulation 19 insert:

19A—Extension of accreditation

- (1) Despite regulation 19, an accredited professional may, before the next occurring anniversary date, apply to the accreditation authority for an extension of their accreditation under this regulation.
- (2) An application for the extension of an accreditation must—
 - (a) be in writing; and

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- (b) be made at least 14 days before the anniversary date.
- (3) The accreditation authority may, if the accreditation authority thinks fit, determine a late application for the extension of an accreditation (being an application made during the 14 day period before the anniversary date).
- (4) If an application under this regulation is not decided before the anniversary date, the accredited professional's accreditation continues in operation after the anniversary date until the relevant time specified in subregulation (8) or (9).
- (5) The accreditation authority may extend the accredited professional's accreditation for a period of 3 months, if satisfied that it is appropriate to do so—
 - (a) due to the accredited professional—
 - (i) being pregnant or taking leave from work due to the birth of a child; or
 - (ii) being seriously ill or severely disabled; or
 - (iii) being required to care for a member of the accredited professional's immediate family for an extended period of time; or
 - (iv) being under severe financial stress; or
 - (b) on the basis of other exceptional circumstances of which the accredited professional has provided sufficient evidence.
- (6) As soon as practicable after making a decision on an application under this regulation, the accreditation authority must give notice of the decision to the applicant.
- (7) The 3 month extension period begins on—
 - (a) if the application under this regulation is decided on or before the anniversary date—the anniversary date; or
 - (b) if the application under this regulation is decided after the anniversary date—the day on which the application is decided.
- (8) If the accreditation authority extends an accredited professional's accreditation in accordance with this regulation, the accreditation continues in operation until—
 - (a) the 3 month extension period ends (in which case the accreditation ceases by force of this regulation); or
 - (b) if an application for continuation of the accreditation is lodged by the accredited professional before the end of the 3 month extension period—that application is decided (and, if the accreditation is to continue, the anniversary date continues to apply for future applications).

- (9) If the accreditation authority refuses to extend an accredited professional's accreditation in accordance with this regulation, the accreditation continues in operation until—
- (a) the anniversary date or 14 days after the accreditation authority gives notice of the refusal under this regulation (whichever is the later) (in which case the accreditation ceases by force of this regulation); or
 - (b) if an application for continuation of the accreditation is lodged by the accredited professional before the anniversary date or before the end of the 14 day period after the accreditation authority gives notice of the refusal under this regulation (as the case requires)—the application for continuation is decided (and, if the accreditation is to continue, the anniversary date continues to apply for future applications).

10—Amendment of regulation 21—Cancellation or suspension

Regulation 21(2)(h)—after subparagraph (ii) insert:

or

- (iii) has otherwise acted unlawfully, or improperly, negligently or unfairly, in the performance, exercise or discharge, or purported performance, exercise or discharge, of a function, power or duty under the Act, a corresponding Act, the repealed Act or any regulations under the Act (including these regulations), a corresponding Act or the repealed Act.

11—Amendment of regulation 24—Register

- (1) Regulation 24(2)(b)—delete paragraph (b)
- (2) Regulation 24—after subregulation (3) insert:
 - (3a) The accreditation authority may remove from the register details relating to a person whose accreditation is no longer in force.

12—Amendment of regulation 25—CPD scheme

- (1) Regulation 25(2)—delete "in the period of 12 months immediately preceding the date of the application being lodged with the accreditation authority (the *relevant CPD period*)." and substitute:
 -
 - (a) in the period of 12 months immediately preceding the relevant anniversary date; or
 - (b) if the accredited professional's accreditation has been extended in accordance regulation 19A—in the period beginning 12 months prior to the relevant anniversary date and ending at the end of the 3 month extension period,
(the *relevant CPD period*).

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(2) Regulation 25—after subregulation (2) insert:

- (2a) Any CPD units that are counted towards the amount of continuing professional development completed by an accredited professional in respect of a particular CPD period for an accreditation cannot also be counted towards the amount of continuing professional development completed by the accredited professional in respect of another CPD period for that accreditation.
- (2b) If an accredited professional holds more than 1 accreditation under these regulations, a CPD unit completed by the accredited professional may be counted towards the amount of continuing professional development completed by them in respect of each accreditation.

13—Amendment of regulation 30—Circumstances in which an accredited professional may not act

Regulation 30(2)—after "Crown" insert:

or an officer or employee of a council

14—Amendment of Schedule 1—Continuing professional development

(1) Schedule 1, clause 2—delete clause 2 and substitute:

2—Planning (level 1)

- (1) This clause applies in relation to an Accredited professional—planning level 1.
- (2) The amount of continuing professional development required to be obtained by an accredited professional to which this clause applies in the relevant CPD period is 20 CPD units.
- (3) The 20 CPD units required under subclause (2) must include at least the following number of units in the following professional competencies:
 - (a) 2 units in performance based planning or design;
 - (b) 2 units in decision making in development assessment;
 - (c) 2 units in legislative compliance;
 - (d) 1 unit in ethics in planning.

(2) Schedule 1, clause 3(2)—delete "10 CPD units" and substitute:

4 CPD units

(3) Schedule 1, clause 3(3)—delete "10 CPD units" and substitute:

4 CPD units

- (4) Schedule 1—after clause 3 insert:

3A—Planning (levels 3 and 4) and surveyors

- (1) This clause applies in relation to—
- (a) an Accredited professional—planning level 3; and
 - (b) an Accredited professional—planning level 4; and
 - (c) an Accredited professional—surveyor.
- (2) The amount of continuing professional development required to be obtained by an accredited professional to which this clause applies in the relevant CPD period is 20 CPD units.
- (3) The 20 CPD units required under subclause (2) must include at least the following number of units in the following professional competencies:
- (a) 2 units in decision making in development assessment;
 - (b) 2 units in legislative compliance;
 - (c) 1 unit in ethics in planning.
- (5) Schedule 1, clause 4(3)(e)—delete "2 units" and substitute:
1 unit
- (6) Schedule 1, clause 5(3)(c)—delete paragraph (c)

Schedule 1—Transitional provisions

1—CPD requirements

- (1) Schedule 1 of the principal regulations, as amended by regulation 14 of these regulations, applies to the prescribed CPD period of each accredited professional (as well as to subsequent CPD periods).
- (2) Regulation 25(2) of the principal regulations, as in force immediately before the relevant day, applies to the prescribed CPD period of each accredited professional such that any CPD units completed by the accredited professional in the 12 months immediately preceding the prescribed day count towards the amount of CPD completed by the accredited professional during the prescribed CPD period.
- (3) In this clause—
- prescribed CPD period*** means a CPD period that has commenced but not ended by the relevant day;
- prescribed day*** means the day on which an application under regulation 19 in respect of the accredited professional is next lodged with the accreditation authority after the relevant day;
- principal regulations*** means the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*;
- relevant day*** means the day on which this clause comes into operation.

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Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 26 May 2023

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