

CM301\*

Home Building Contracts Act 1991

## **Home Building Contracts (Home Indemnity Insurance Exemptions) Amendment Regulations 2012**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Home Building Contracts (Home Indemnity Insurance Exemptions) Amendment Regulations 2012*.

### **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 after that day.

### **3. Regulations amended**

These regulations amend the *Home Building Contracts (Home Indemnity Insurance Exemptions) Regulations 2002*.

### **4. Regulation 3 amended**

- (1) In regulation 3(1) delete the definitions of:

***Building Code of Australia***  
***building licence***

- (2) In regulation 3(1) insert in alphabetical order:

***Building Code of Australia*** means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

*Housing Authority* means the Housing Authority referred to in the *Housing Act 1980* section 6(4);

**5. Regulation 4 amended**

In regulation 4(1):

- (a) delete “licence is to be issued after these regulations commence” and insert:

permit is to be granted

- (b) in paragraph (a) delete “licence is to be issued; and” and insert:

permit is to be granted; and

Note: The heading to amended regulation 4 is to read:

**Exemption from Part 3A of the Act — contracts entered into before building permit granted**

**6. Regulation 5 amended**

In regulation 5:

- (a) delete “licence is to be issued after these regulations commence” and insert:

permit is to be granted

- (b) in paragraph (a) delete “licence is to be issued,” and insert:

permit is to be granted.

Note: The heading to amended regulation 5 is to read:

**Exemption from Part 3A of the Act — no contracts entered into at the time building permit granted**

**7. Regulation 6 amended**

- (1) Before regulation 6(1) insert:

- (1A) In this regulation —

*commencement day* means the day on which the *Building Act 2011* section 20 comes into operation;

*former exemption* means an exemption from Part 3A of the Act under regulation 4 or 5 as in force immediately before commencement day.

- (2) In regulation 6(1) delete “licence for the building work is issued,” and insert:
- permit for the building work is granted,
- (3) After regulation 6(1) insert:
- (2A) A former exemption of particular residential building work ceases if, before entering into a building contract or sale contract in respect of the building work after a building licence for the building work was issued, the builder does not give a notice in the form set out in Schedule 1 Form 1 to the other party to the contract.
- (4) In regulation 6(2) after “subregulation (1)” (each occurrence) insert:
- or (2A)
- (5) In regulation 6(4)(a) after “subregulation (1)” insert:
- or (2A)

Note: The heading to amended regulation 6 is to read:

**Exemption from Part 3A of the Act — contracts entered into after building licence issued or building permit granted**

**8. Regulation 7 amended**

In regulation 7(1) delete “6(1)” and insert:

6(1), (2A)

**9. Regulation 7A amended**

In regulation 7A(1) delete “6(1)” and insert:

6(1), (2A)

**10. Regulation 9 amended**

- (1) In regulation 9(1)(b)(ii) delete “local government that is to issue the building licence.” and insert:

permit authority that is to grant the building permit.

- (2) In regulation 9(3) delete “local government” and insert:

permit authority

**11. Regulation 10 amended**

- (1) In regulation 10(1) after “regulation 9(1),” insert:

whether before or after the commencement day as defined in regulation 6(1A),

- (2) In regulation 10(2)(a) delete “a remedy under section 12A of the *Builders’ Registration Act 1939*” and insert:

a building remedy order as defined in the *Building Services (Complaint Resolution and Administration) Act 2011* section 3

**12. Part 4 heading replaced**

Delete the heading to Part 4 and insert:

**Part 4 — Housing Authority**

**13. Regulation 11 amended**

- (1) In regulation 11(1) delete “State Housing Commission” and insert:

Housing Authority

- (2) In regulation 11(2) delete “State Housing Commission” and insert:

Housing Authority

- (3) In regulation 11(3)(a) delete “a remedy under section 12A of the *Builders’ Registration Act 1939*” and insert:

a building remedy order as defined in the *Building Services (Complaint Resolution and Administration) Act 2011* section 3

- (4) Delete regulation 11(6).

Note: The heading to amended regulation 11 is to read:

**Exemption — Housing Authority**

**14. Schedule 1 amended**

In Schedule 1 Form 2 clause 8 delete “Department of Consumer and Employment Protection” and insert:

Department of Commerce

By Command of the Governor,

N. HAGLEY, Clerk of the Executive Council.