

CM301\*

Home Building Contracts Act 1991

## Home Building Contracts Amendment Regulations 2012

Made by the Governor in Executive Council.

### 1. Citation

These regulations are the *Home Building Contracts 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 Regulations 1992*.

### 4. Schedule 1 amended

In Schedule 1 under the heading “**NOTICE FOR THE HOME OWNER**”:

- (a) in the fourth clause under the heading “**What the Act covers**” delete “Disputes Tribunal” and insert:

Commissioner

- (b) in the final clause under the heading “**Home indemnity insurance**” delete “Either the Builders’ Registration Board or the Department of Consumer and Employment Protection” and insert:

The Building Commission staff

- (c) in the third clause under the heading “**Special rules for cost plus contracts**” delete the passage that begins with “apply to the Building Disputes Tribunal” and ends with “failing to rectify” and insert:

make a complaint to the Building Commissioner about

- (d) in the fourth clause under the heading “**Special rules for cost plus contracts**” delete the passage that begins with “successive” and ends with “Act” and insert:

subsequent owner against financial loss where an order is made against the builder

- (e) in the final clause under the heading “**Provisions that are not allowed**” delete “refer the matter to the Building Disputes Tribunal —” and insert:

make a complaint to the Building Commissioner —

- (f) in the final clause under the heading “**Contract price must be fixed**” delete “apply to the Building Disputes Tribunal within this period to assess whether the price rise is justified.” and insert:

make a complaint to the Building Commissioner within this period.

- (g) in clause 3 under the heading “**Varying the contract**” delete “apply to the Building Disputes Tribunal,” and insert:

make a complaint to the Building Commissioner,

- (h) under the heading “**Where approvals are delayed**” delete “building licence” (each occurrence) and insert:

building permit

- (i) under the heading “**Where approvals are delayed**” in the Table delete subparagraph (iii) and insert:

- (iii) you may, within 10 working days after receiving the notice, make a complaint about the matter to the Building Commissioner.

- (j) in the second clause under the heading “**Termination of contract**” delete “the Building Disputes Tribunal can make” and insert:

you may make a complaint to the Building Commissioner claiming

- (k) delete the entire passage from the heading “**Disputes**” to the end of the notice and insert:

## **Disputes**

### *1. Contracts generally*

You can make a complaint to the Building Commissioner under the *Building Services (Complaint Resolution and Administration) Act 2011* if there is a dispute between you and a builder about a contract that falls within the Act. Such a complaint to the Commissioner must be made within 3 years from when you became entitled to take legal action.

There are monetary limits on orders that can be made under that Act. The limits are \$100 000 if an order is made by the Building Commissioner and \$500 000 if the order is made by the State Administrative Tribunal following a referral by the Building Commissioner.

### *2. Standard of services*

You can make a complaint to the Building Commissioner under the *Building Services (Complaint Resolution and Administration) Act 2011* about certain building services not being carried out in a proper and proficient manner or being faulty or unsatisfactory.

Such a complaint to the Commissioner must be made within 6 years from the time the building service is completed. The building service is completed —

- (a) if the building service is carried out under a building permit, when a notice of cessation or a notice of completion in relation to the permit has been given to the relevant permit authority;
- (b) otherwise, on the date on which the building service was last carried out.

There are monetary limits on orders that can be made under that Act. The limits are \$100 000 if an order is made by the Building Commissioner and \$500 000 if the order is made by the State Administrative Tribunal following a referral by the Building Commissioner.

3. *Procedure*

Before you make a complaint to the Building Commissioner about a contract that falls within this Act, written notice that you propose to make a complaint must be given to the other party together with a description of the remedy that you propose to seek and the evidence on which you propose to rely. You must provide a copy of that notice to the Building Commissioner at the time of making a complaint.

Advice on how to make a complaint to the Building Commissioner and related matters may be obtained from Building Commission staff or from the Building Commission's website at [www.buildingcommission.wa.gov.au](http://www.buildingcommission.wa.gov.au).

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.