

FT301\*

Home Building Contracts Act 1991

## **Home Building Contracts Amendment Regulations 2000**

Made by the Governor in Executive Council.

**1. Citation**

These regulations may be cited as the *Home Building Contracts Amendment Regulations 2000*.

**2. The regulations amended**

The amendments in these regulations are to the *Home Building Contracts Regulations 1992\**.

[\* Reprinted as at 17 October 1997.

For amendments to 5 January 2000 see 1998 Index to  
Legislation of Western Australia, Table 4, p. 161.]

**3. Regulation 4A inserted**

After regulation 4 the following regulation is inserted —

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**4A. Special condition for GST adjustments**

- (1) This regulation applies in relation to contracts signed after this regulation comes into operation and before 1 July 2000.
- (2) When this regulation applies, the forms of contracts set out in Schedules 2 to 7 are taken to include a special condition in the form set out in Schedule 8.

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**4. Schedule 8 inserted**

After Schedule 7 the following Schedule is inserted —

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**Schedule 8 — Special conditions for GST adjustments**

[r. 4A]

- (a) This special condition will apply if:
  - (i) this Contract is signed before 1 July 2000 and a supply is made under this Contract on or after 1 July 2000;
  - (ii) the Builder is registered or required to be registered for the purposes of the GST Act and has incurred further costs or had further costs imposed as a direct consequence of the introduction of the GST Act; and
  - (iii) the Builder has sought to claim the amount of GST payable on any supply made under this Contract as an adjustment to the Contract Price.
- (b) The Contract Price is to be adjusted for the amount of GST payable on each supply made under this Contract on or after 1 July 2000 and any reduction in the price of goods or materials to reflect the full effect of the repeal of wholesale sales tax.
- (c) If the Builder claims an adjustment to the Contract Price pursuant to this Special Condition the Builder must give the Owner a notice setting out details of the adjustment including the way in which the price adjustment has been calculated and must state that the adjustment is solely the result of the introduction of the GST Act.
- (d) Each adjustment to the Contract Price because of the amount of the GST payable on the supply or the repeal of wholesale sales tax is to be made by the Builder claiming or allowing a change to the price of the Works in a progress or final claim. Where the cost of a supply which is covered by a progress claim has both increased and decreased the net result of the change is to be claimed or allowed.

- (e) The Builder is not entitled to claim the amount of GST payable on any supply made under this Contract on or after 1 July 2000 as an adjustment to the Contract Price unless:
- (i) the value of all work and materials permanently incorporated in or affixed to the Site as at 1 July 2000 has been determined in accordance with the requirements of Section 19 of the Transition Act;
  - (ii) the supply to which the claim for payment of GST relates has been made under this Contract at the time of the claim; and
  - (iii) the valuation required by this Special Condition is the obligation of the Builder and is at the Builder's cost.
- (f) In this special condition:
- “GST Act”** means *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;
- “Transition Act”** means *A New Tax System (Goods and Services Tax Transition) Act 1999* of the Commonwealth;
- “GST”** and **“supply”** have the meanings given to those terms in the GST Act.

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By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.