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## INDUSTRY REGULATION

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IS301

Building Act 2011  
Building Services (Complaint Resolution and Administration) Act 2011  
Building Services (Registration) Act 2011  
Home Building Contracts Act 1991

### Commerce Regulations Amendment (Infringement Notices) Regulations 2019

Made by the Governor in Executive Council.

#### Part 1 — Preliminary

**1. Citation**

These regulations are the *Commerce Regulations Amendment (Infringement Notices) Regulations 2019*.

**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.

#### Part 2 — *Building Regulations 2012* amended

**3. Regulations amended**

This Part amends the *Building Regulations 2012*.

**4. Regulation 70 amended**

- (1) Before regulation 70(1) insert:

- (1A) In subregulation (1) —

*specified employee* means an employee, as defined in the *Local Government Act 1995* section 1.4, to whom power to perform a function under section 9.19 or 9.20 of that Act is delegated under section 5.44(1) of that Act.

- (2) In regulation 70(1) delete “a person appointed under the *Local Government Act 1995* section 9.10(1) and authorised for the purpose of performing functions under section 9.19 or 9.20 of that Act.” and insert:

a specified employee of the local government.

**5. Schedule 6 replaced**

Delete Schedule 6 and insert:

**Schedule 6 — Prescribed offences and modified penalties**

[r. 69]

**Division 1 — Offences under the Act**

	<b>Offence under the Act</b>	<b>Modified penalty</b>
s. 33(1)	Failure to give notice of completion	\$500
s. 34(3)	Failure to give notice of cessation	\$250
s. 42	Failure to display or bring attention to occupancy permit details	\$250
s. 76(1)	Encroachment beyond boundaries without consent, court order or other authority	\$2 500
s. 80(1)	Removal of fence, gate or other barrier to land without consent, court order or other authority	\$1 000
s. 80(3)	Failure to erect adequate temporary barrier	\$1 000

**Division 2 — Offences under these regulations**

	<b>Offence under these regulations</b>	<b>Modified penalty</b>
r. 50(1)	Failure to install barrier around private swimming pool	\$1 000
r. 56(1)	Failure to ensure smoke alarms compliant prior to transfer of dwelling	\$1 000
r. 58	Failure to ensure smoke alarms compliant prior to tenancy	\$1 000
r. 59	Failure to ensure smoke alarms compliant prior to hire of dwelling	\$1 000

**6. Schedule 7 amended**

- (1) In Schedule 7 Form 1 delete “Regulation of the *Building Regulations 2012*”.
- (2) In Schedule 7 Form 2 delete “Regulation of the *Building Regulations 2012*”.

**Part 3 — *Building Services (Complaint Resolution and Administration) Regulations 2011* amended****7. Regulations amended**

This Part amends the *Building Services (Complaint Resolution and Administration) Regulations 2011*.

**8. Part 3A inserted**

After regulation 22 insert:

**Part 3A — Infringement notices****22A. Prescribed offences and modified penalties**

- (1) The offences specified in Schedule 1 are offences for which an infringement notice may be issued under the *Criminal Procedure Act 2004* Part 2.
- (2) The modified penalty specified opposite an offence in Schedule 1 is the modified penalty for that offence for the purposes of the *Criminal Procedure Act 2004* section 5(3).

**22B. Authorised officers and approved officers**

- (1) The Building Commissioner may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the *Criminal Procedure Act 2004* Part 2.
- (2) The Building Commissioner must issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.

**22C. Forms**

For the purposes of the *Criminal Procedure Act 2004* Part 2 —

- (a) Schedule 2 Form 1 is the prescribed form for an infringement notice; and
- (b) Schedule 2 Form 2 is the prescribed form for the withdrawal of an infringement notice.

**9. Schedules 1 and 2 inserted**

After regulation 27 insert:

**Schedule 1 — Prescribed offences and modified penalties**

[r. 22A]

<b>Offence under the Act</b>		<b>Modified penalty</b>
s. 25(2)	Failure to attend a conciliation proceeding as requested by the Building Commissioner	\$1 000
s. 47(2)	Failure to comply with a direction of the Building Commissioner to provide information or produce records	\$2 000

**Schedule 2 — Forms**

[r. 22C]

**Form 1 — Infringement notice**

<i>Building Services (Complaint Resolution and Administration) Act 2011</i>		Infringement notice no.
<b>INFRINGEMENT NOTICE</b>		
<b>Alleged offender</b>	Name	
	Address	
<b>Alleged offence</b>	Date or period	
	Time	
	Place	
	Details of offence	
	Written law contravened	
<b>Date</b>	Date of notice	
<b>Issuing officer</b>	Name	
	Office	
	Signature	
<b>Modified penalty</b>	\$	



	In person	Pay the cashier at: [Address]	
<b>Method of service</b>		<b>Date of service</b>	

**Form 2 — Withdrawal of infringement notice**

<i>Building Services (Complaint Resolution and Administration) Act 2011</i>		Withdrawal no.
<b>WITHDRAWAL OF INFRINGEMENT NOTICE</b>		
<b>Alleged offender</b>	Name	
	Address	
<b>Details of infringement notice</b>	Infringement notice no.	
	Date of issue	
<b>Alleged offence</b>	Date or period	
	Time	
	Place	
	Details of offence	
	Written law contravened	
<b>Approved Officer withdrawing notice</b>	Name	
	Office	
	Signature	
<b>Date</b>	Date of withdrawal	

<p><b>Withdrawal of infringement notice</b></p> <p><i>[*Delete whichever is not applicable]</i></p>	<p>The above infringement notice issued against you for the above alleged offence has been withdrawn.</p> <p>If you have already paid the modified penalty for the alleged offence, you are entitled to a refund.</p> <p>* Your refund is enclosed</p> <p>or</p> <p>* If you have paid the modified penalty but a refund is not enclosed, you may claim your refund by signing and dating this notice and posting it to:</p> <p>Approved Officer — <i>Building Services (Complaint Resolution and Administration) Act 2011</i></p> <p style="text-align: center;"><i>[Address]</i></p>		
<p><b>Your signature</b></p>		<p><b>Date</b></p>	

#### **Part 4 — *Building Services (Registration) Regulations 2011* amended**

**10. Regulations amended**

This Part amends the *Building Services (Registration) Regulations 2011*.

**11. Part 3B inserted**

After regulation 36 insert:

#### **Part 3B — Infringement notices**

**36A. Prescribed offences and modified penalties**

- (1) The offences specified in Schedule 5 are offences for which an infringement notice may be issued under the *Criminal Procedure Act 2004* Part 2.
- (2) The modified penalty specified opposite an offence in Schedule 5 is the modified penalty for that offence for the purposes of the *Criminal Procedure Act 2004* section 5(3).

**36B. Authorised officers and approved officers**

- (1) The Building Commissioner may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the *Criminal Procedure Act 2004* Part 2.

- (2) The Building Commissioner must issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.

### 36C. Forms

For the purposes of the *Criminal Procedure Act 2004* Part 2 —

- (a) Schedule 6 Form 1 is the prescribed form for an infringement notice; and
- (b) Schedule 6 Form 2 is the prescribed form for the withdrawal of an infringement notice.

## 12. Schedules 5 and 6 inserted

After Schedule 4 insert:

### Schedule 5 — Prescribed offences and modified penalties

[r. 36A]

#### Division 1 — Preliminary

##### 1. Terms used

In this Schedule —

*building contractor* has the meaning given in regulation 13;

*building surveying contractor* has the meaning given in regulation 28A;

*building surveying practitioner* means —

- (a) a building surveying practitioner level 1; or
- (b) a building surveying practitioner level 2;

*building surveying work* has the meaning given in regulation 28A;

*painting contractor* has the meaning given in regulation 28.



**Division 2 — Offences under the Act**

<b>Offence under the Act</b>		<b>Modified penalty</b>
s. 4(1)	Using a title when not registered in a class of building service practitioner or building service contractor entitled to use that title	For a person who uses the title that a building practitioner, building surveying practitioner, building contractor or building surveying contractor is entitled to use — \$2 500  For a person who uses the title that a painting practitioner or painting contractor is entitled to use — \$1 250
s. 5(1)	Falsely claiming to be registered in a class of building service practitioner	For a person who claims to be registered as a building practitioner or building surveying practitioner — \$2 500  For a person who claims to be registered as a painting practitioner — \$1 250
s. 5(2)	Falsely claiming to be registered in a class of building service contractor	For a person who claims to be registered as a building contractor or building surveying contractor — \$2 500  For a person who claims to be registered as a painting contractor — \$1 250
s. 6(1)	Falsely claiming an entitlement to carry out a prescribed building service	For a person who claims an entitlement to carry out builder work or building surveying work — \$2 500  For a person who claims an entitlement to carry out painter work — \$1 250
s. 7(1)	Carrying out, or undertaking to carry out, a prescribed building service when not registered	For a person who carries out, or undertakes to carry out, builder work or building surveying work — \$2 500  For a person who carries out, or undertakes to carry out, painter work — \$1 250
s. 7(5)	Subcontracting a prescribed building service to a person who is not entitled to carry out the building service	For a building contractor or building surveying contractor — \$2 500  For a painting contractor — \$1 250

<b>Offence under the Act</b>		<b>Modified penalty</b>
s. 8	Failure to cause building service contractor's registration number to appear in an advertisement published by the contractor	\$250
s. 22(2)	Carrying out, or undertaking to carry out, relevant building service without nominated supervisor	For a building contractor or building surveying contractor — \$2 500 For a painting contractor — \$750
s. 22(3)	Failure to notify the Board of ceasing to have a nominated supervisor	For a building contractor or building surveying contractor — \$500 For a painting contractor — \$250
s. 25	Contravening a condition to which building service provider's registration is subject	\$2 500
s. 32(1)	Failure to notify the Board of change of address	\$250
s. 33(1)	Failure to notify the Board of change in circumstances affecting eligibility to remain registered	\$1 000
s. 34(1)	Failure to notify the Board of financial difficulty	\$1 000
s. 34(3)	Failure to notify the Board of insolvency	\$1 000
s. 35(1)	Failure to notify the Board of being charged with a serious offence	\$500
s. 35(2)	Failure to notify the Board of being convicted of a serious offence	\$500
s. 35(3)	Failure to notify the Board of conviction of an offence against the Commonwealth or another jurisdiction	\$500
s. 36(1)	Failure to notify the Board of disciplinary action	\$500
s. 37(1)	Failure to return registration certificate	\$500

<b>Offence under the Act</b>		<b>Modified penalty</b>
s. 49	Contravening a condition that applies to an owner-builder approval	\$2 500

### **Division 3 — Offences under these regulations**

<b>Offence under these regulations</b>		<b>Modified penalty</b>
r. 21	Failure to display sign — building contractor	\$200
r. 27(2)	Failure to display sign — owner-builder	\$200
r. 28J(1)	Failure to display certificate of registration — building surveying contractor	\$200
r. 28K(1)	Failure to display sign — building surveying contractor	\$200
r. 36	Failure to display sign — painting contractor	\$100

### **Schedule 6 — Forms**

[r. 36C]

#### **Form 1 — Infringement notice**

<i>Building Services (Registration) Act 2011</i>		Infringement notice no.
<b>INFRINGEMENT NOTICE</b>		
<b>Alleged offender</b>	Name	
	Address	
<b>Alleged offence</b>	Date or period	
	Time	
	Place	
	Details of offence	
	Written law contravened	
<b>Date</b>	Date of notice	

<b>Issuing officer</b>	Name	
	Office	
	Signature	
<b>Modified penalty</b>	\$	
<b>TAKE NOTICE</b>	<p>It is alleged that you have committed the above offence.</p> <p><b>If you do not want to be prosecuted in court for the offence</b>, pay the modified penalty to the Approved Officer within 28 days after the date of this notice.</p> <p><b>If you do not pay</b> the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act, some or all of the following action may be taken — your driver’s licence may be suspended; your vehicle licence may be suspended or cancelled; your details may be published on a website; your vehicle may be immobilised or have its number plates removed; and your property may be seized and sold.</p> <p><b>If you need more time</b> to pay the modified penalty, you should contact the Approved Officer at the address below.</p> <p>Paying the modified penalty will not be regarded as an admission for the purposes of any civil or criminal court case.</p> <p><b>If you want this matter to be dealt with by prosecution in court</b>, sign and date here:</p> <p>_____ / /20</p> <p>and post this notice to the Approved Officer at the address below within 28 days after the date of this notice.</p>	
<b>How to pay</b>	By post	<p>Tick the relevant box below and post this notice to:</p> <p>Approved Officer — <i>Building Services (Registration) Act 2011</i></p> <p>[Address]</p> <p><input type="checkbox"/> I want to pay the modified penalty. A cheque or money order (payable to ‘Approved Officer’ — <i>Building Services (Registration) Act 2011</i>) for the modified penalty is enclosed.</p> <p><input type="checkbox"/> I want to pay the modified penalty by credit card. Please debit my credit card account.</p>



<p><b>Withdrawal of infringement notice</b></p> <p><i>[*Delete whichever is not applicable]</i></p>	<p>The above infringement notice issued against you for the above alleged offence has been withdrawn.</p> <p>If you have already paid the modified penalty for the alleged offence, you are entitled to a refund.</p> <p>* Your refund is enclosed</p> <p>or</p> <p>* If you have paid the modified penalty but a refund is not enclosed, you may claim your refund by signing and dating this notice and posting it to:</p> <p>Approved Officer — <i>Building Services (Registration) Act 2011</i>  <i>[Address]</i></p>		
<p><b>Your signature</b></p>		<p><b>Date</b></p>	

## **Part 5 — *Home Building Contracts Regulations 1992* amended**

### **13. Regulations amended**

This Part amends the *Home Building Contracts Regulations 1992*.

### **14. Schedule 9 amended**

In Schedule 9 Form 2:

- (a) delete “**Builders’ Registration Board**” and insert:

**Building Services Board**

- (b) delete “Builders’ Registration Board,” (each occurrence) and insert:

Building Services Board,

- (c) delete “Builders’ Registration Board.” and insert:

Building Services Board.

R. KENNEDY, Clerk of the Executive Council.