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BUILDERS' REGISTRATION ACT 1939

**BUILDERS' REGISTRATION
AMENDMENT REGULATIONS
(No. 2) 2001**

HOME BUILDING CONTRACTS ACT 1991

**HOME BUILDING
CONTRACTS AMENDMENT
REGULATIONS 2001**

Builders' Registration Act 1939

**Builders' Registration Amendment
Regulations (No. 2) 2001**

Made by the Builders' Registration Board of Western Australia and approved by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Builders' Registration Amendment Regulations (No. 2) 2001*.

2. Commencement

These regulations come into operation on the day on which section 26 of the *Building Legislation Amendment Act 2000* comes into operation.

3. The regulations amended

The amendments in these regulations are to the *Builders' Registration Regulations**.

[* Reprinted as at 22 September 2000.]

4. Regulation 8 amended

Regulation 8(2)(b)(i) is amended before "in the form" by inserting —

“ that includes a statutory declaration and is ”.

5. Regulation 8D amended

Regulation 8D is amended after "No. 10" by inserting —

“ in the First Appendix ”.

6. Regulations 8E, 8F and 8G inserted

After regulation 8D the following regulations are inserted —

“

8E. Prescribed manner of certifying payment of fee under section 4A(1)(c)(iii)

- (1) For the purposes of subparagraph (iii) of section 4A(1)(c) of the Act, the prescribed manner of certifying to a local government the payment to the Board of the fee determined by the Minister under that subparagraph is in the form of Form No. 10A in the First Appendix.

- (2) The form is not validly completed unless it has been stamped by the Board to confirm that the payment has been received by the Board.

8F. Prescribed period for furnishing particulars and remitting fee to Board under section 4B(2)

For the purposes of section 4B(2) of the Act, the prescribed period is 14 days.

8G. Prescribed particulars under section 4B(2)(a)

- (1) For the purposes of section 4B(2)(a) of the Act, the particulars that are to be furnished to the Board in relation to a building licence are —
- (a) the name and address of the person the building licence was issued to;
 - (b) the number and date of issue of the building licence;
 - (c) the name and number of the street, the lot number, the suburb, townsite or other locality and the postcode where the building is to be constructed under the building licence;
 - (d) if the builder who is to construct the building under the building licence is not the person the building licence was issued to — the name and address of that builder;
 - (e) if the builder who is to construct the building under the building licence is registered under the Act — the registration number of that builder;
 - (f) the name and address of the owner of the land where the building is to be constructed under the building licence;
 - (g) a description of the construction to be carried out under the building licence and the estimated total fee or charge payable in respect of that construction; and
 - (h) if a policy of home indemnity insurance is in force in relation to the building to be constructed under the building licence — the name of the insurer and the number of the policy.
- (2) In subregulation (1) —
- “**constructed**” includes altered, repaired, added to and improved;
 - “**policy of home indemnity insurance**” means a policy of insurance that complies with Part 3A Division 2 of the *Home Building Contracts Act 1991*.

7. Regulation 9 repealed and heading deleted

Regulation 9 is repealed, and the heading before that regulation is deleted.

8. Regulation 10 amended

Regulation 10 is amended by deleting “be undertaken by persons desirous of submitting themselves for examination held by the Board shall be” and inserting instead —

“

have been completed by a person who applies to be registered under section 10 of the Act is

”.

9. Regulation 11 repealed and heading deleted, and consequential amendment to First Appendix

- (1) Regulation 11 is repealed, and the heading before that regulation is deleted.
- (2) The First Appendix is amended by deleting Form No. 4.

10. Regulation 12 repealed, and consequential amendment to First Appendix

- (1) Regulation 12 is repealed.
- (2) The First Appendix is amended by deleting Form No. 5.

11. Regulation 13 repealed and heading deleted, and consequential amendment to First Appendix

- (1) Regulation 13 is repealed, and the heading before that regulation is deleted.
- (2) The First Appendix is amended by deleting Form No. 6.

12. Regulation 16A repealed and heading deleted

Regulation 16A is repealed, and the heading before that regulation is deleted.

13. Regulations 19, 20, 21, 22, 23, 24 and 25 inserted

After regulation 18 the following regulations are inserted —

“

19. Prescribed fee for complaint or application to Disputes Tribunal (section 34A)

- (1) For the purposes of section 34A of the Act, the fee that accompanies a complaint or application made to the Disputes Tribunal is the fee in item 10 of the Second Appendix.

- (2) In item 10 of the Second Appendix —
- “financially disadvantaged person”** means a person who produces, or in respect of whom there is produced, evidence that satisfies the registrar that the person holds —
- (a) a —
 - (i) Health Care Card;
 - (ii) Commonwealth Seniors Health Card;
 - (iii) Pensioner Concession Card; or
 - (iv) Repatriation Health Card,
issued by the Commonwealth Government;
 - (b) a State Concession Card issued by the Department for Community Welfare of the State; or
 - (c) an entitlement to the rate of pension provided for in section 24 of the *Veterans’ Entitlements Act 1986* of the Commonwealth.

20. Board to keep register of ineligible persons

- (1) The Board is to keep in a form approved by the Board a register of persons declared to be ineligible persons under section 13(1ba)(a) of the Act.
- (2) Each entry in the register in respect of an ineligible person is to state —
 - (a) the full name of the ineligible person;
 - (b) the date when the declaration in respect of the ineligible person was made; and
 - (c) the period during which that declaration has effect.
- (3) The Board is to delete a person’s name from the register —
 - (a) on the expiry of the period during which the declaration in respect of the person has effect; or
 - (b) on the revocation of that declaration under section 13(1ba)(b) of the Act.
- (4) The Board is to publish a copy of the register at least twice in each year in a newspaper circulating generally in the State.

21. Prescribed amount of maximum fine under section 13A

For the purposes of section 13A of the Act, the amount that a fine is not to exceed is \$25 000.

**22. Prescribed offences and modified penalties
(section 20B(2) and (4))**

- (1) For the purposes of section 20B(2) of the Act, an offence against a provision of the Act specified in column 2 of the Table to this regulation is an offence for which an infringement notice may be given.
- (2) For the purposes of section 20B(4) of the Act, the amount specified in column 3 of the Table to this regulation opposite a provision of the Act specified in column 2 of that Table is the modified penalty for an offence against that provision.

Table

Column 1 Item	Column 2 Provision of Act	Column 3 Modified penalty
1.	section 4(1)(A)(d)	\$1 000
2.	section 4A(2)	\$1 000
3.	section 4A(2a)	\$20
4.	section 4A(3)	\$2 000
5.	section 9AA	\$200
6.	section 10(3aa)	\$200
7.	section 10(4)	\$50
8.	section 10AA	\$50
9.	section 10B	\$50
10.	section 10C	\$50
11.	section 16(1)	\$400
12.	section 16(2)	\$400
13.	section 18(2)	\$200
14.	section 19(1)	\$10
15.	section 39(c)	\$400
16.	section 45A(4)	\$1 000

**23. Prescribed form of preliminary notice under
section 12A(3)**

For the purposes of section 12A(3) of the Act, the form of a preliminary notice is Form No. 12 in the First Appendix.

**24. Prescribed form of infringement notice under
section 20B(3)**

For the purposes of section 20B(3) of the Act, the form of an infringement notice is Form No. 13 in the First Appendix.

**25. Prescribed form of notice withdrawing infringement
notice under section 20B(7)**

For the purposes of section 20B(7) of the Act, the form of a notice stating that an infringement notice has been withdrawn is Form No. 14 in the First Appendix.

14. Various headings deleted

- (1) The headings before regulations 2, 4, 7, 8, 14 and 17 are deleted.
- (2) The heading after regulation 6 (the heading before repealed regulation 6A) is deleted.

15. First Appendix amended

- (1) The First Appendix is amended by deleting Form No. 9 and inserting the following form instead —

“

Form No. 9

Builders' Registration Act 1939

Builders' Registration Regulations

FINANCIAL STATEMENT BY APPLICANT

(Regulation 8(2))

TO THE APPLICANT

Under section 9A(2) and 10(2a) of the *Builders' Registration Act 1939* the Board may require an applicant for registration to satisfy the Board that the applicant has sufficient material and financial resources to meet financial obligations as and when they become due.

Under regulation 8(2)(b), the applicant is required to complete this form OR provide a prepared financial statement certified by the applicant's accountant.

Please indicate if any or all of the items below are held in joint names or by a partnership. You may attach further written details to this form if there is not enough space to include all relevant matters. *[Note: do not include intangibles such as goodwill, rights of indemnity, intellectual property such as trademarks and patents, formation expenses or borrowing expenses.]*

Assets

Properties

Value
\$

Residential and other properties (*eg. house, flat, factory, shop, vacant land*)

.....
.....
.....

Value of contents

Cash balances (*list bank, building society, etc. and branch*)

.....
.....

Building related assets

Salary, annual leave accrual

Plant & equipment (*exclude leased items*)

Motor vehicles (*exclude leased items*)

Tools of trade

Stock of materials

Trade debtors (*supply list*)

Properties	Value
	\$
Other assets	
Personal effects	
Life insurance policies	
Superannuation accrued benefit	
Boat/caravan	
Other (<i>eg shares, investments</i>)	
Total Assets	\$

Liabilities	
Properties	Value
	\$
Owing on residential property	
Owing on other properties	
Owing on hire purchase/lease	
Owing on personal loans, credit cards	
Bank overdraft (<i>limit</i>)	
Trade creditors (<i>supply list</i>)	
Unpaid tax liability	
Other liabilities (<i>please specify</i>)	
Total liabilities	\$

Summary	
Total Assets	\$
Less Total Liabilities	\$
Net tangible assets	\$

Details of past business

Have you ever been declared bankrupt or been a partner or director of an insolvent business? Yes/No
[If yes, please attach a written explanation and provide the name of the trustee, administrator, receiver, receiver and manager or liquidator.]

Guarantees

List all personal or business guarantees or indemnities signed to secure debts, and the amounts secured.

Statutory declaration

I of

Name

Address

.....
Occupation

do solemnly and sincerely declare that the particulars contained in this financial statement are true and correct, and I make this solemn declaration by virtue of section 106 of the *Evidence Act 1906*.

Declared at in the State of

Western Australia this day

of 20

Before me

.....
J.P. or Commissioner for Declarations	Signature of applicant/declarant

”

- (2) The First Appendix is amended after Form No. 10 by inserting the following form —

“

Form No. 10A

Builders' Registration Act 1939

Builders' Registration Regulations

CERTIFICATE OF PAYMENT OF FEE UNDER SECTION 4A(1)(c)(iii)

(Regulation 8E)

To: *(state name of local government)*

The person whose name appears below certifies that the person has paid to the Builders' Registration Board the fee determined by the Minister under section 4A(1)(c)(iii) of the *Builders' Registration Act 1939*.

Name:

Date of payment of fee:

Signed:

Officer *(if signing on behalf of a body corporate)*:

[This certificate is not valid unless it has been stamped by the Builders' Registration Board.]

”

- (3) The First Appendix is amended after Form No. 11 by inserting the following forms —

“

Form No. 12

Builders’ Registration Act 1939

Builders’ Registration Regulations

PRELIMINARY NOTICE UNDER SECTION 12A(3)

(Regulation 23)

[If you intend to make a complaint to the Disputes Tribunal under section 12A(1) or (1a) of the Builders’ Registration Act 1939 about any building work, the complaint cannot be made until this preliminary notice has been completed and given to the person who carried out the building work. A copy of this notice must also be given to the Disputes Tribunal at the time the complaint is made to the Disputes Tribunal.]

PART A	<p>Who is making the complaint (the “complainant”)? Name of complainant Address of complainant</p>
	<p>Where was the building work about which the complaint is being made carried out? Address where building work was carried out</p> <p>Who carried out the building work about which the complaint is being made (the “respondent”)? Name of respondent Address of respondent</p>
PART B	<p>What are the matters the respondent is called on to rectify or attempt to settle? <i>[Set out here the matters that you are calling on the respondent to rectify/attempt to settle and indicate what remedy or settlement you are seeking. You may attach further written details to this notice if there is not enough space to include all relevant matters.]</i></p> <p>Signed (by complainant) Date</p>
<p>TAKE NOTICE that the complainant calls on the respondent to rectify the matters, or to attempt to settle the matters that are in dispute, as set out in Part B above.</p>	

Form No. 13

Builders' Registration Act 1939

Builders' Registration Regulations

INFRINGEMENT NOTICE

(Regulation 24)

No. of notice:

Date of service:

1.	To: (name) of (address) Postcode It is alleged that at about a.m./p.m. on the day of at you committed the offence described below and are liable for the modified penalty stated. Name and title of authorised person giving this notice Signature		
2.	Section of Act	Description of offence	Modified penalty
3.	If you wish to have a complaint of the alleged offence heard and determined by a court, you need not reply to this notice or pay the modified penalty, but in that case court proceedings may be taken against you and you may be liable for costs and a fine for the offence.		
4.	If you do not wish to have a complaint of the alleged offence heard and determined by a court, you may pay the modified penalty within 28 days after the date of this notice. If the modified penalty is not paid within that period, you will be taken to have declined to pay it and court proceedings may be taken against you and you may be liable for costs and a fine for the offence.		
5.	Payment may be made by either — (a) posting this form and a cheque or money order, made payable to the Builders' Registration Board for the amount of the modified penalty stated in item 2, to the Corporate Services Manager, Builders' Registration Board, 18 Harvest Terrace, West Perth WA 6005; or (b) delivering this form, and paying the amount of the modified penalty stated in item 2, to an authorised person* at the Builders' Registration Board, 18 Harvest Terrace, West Perth WA 6005. [*Authorised persons for the purposes of paragraph (b) are the Registrar, the Deputy Registrar and the Corporate Services Manager of the Builders' Registration Board.]		

Form No. 14

Builders' Registration Act 1939

Builders' Registration Regulations

WITHDRAWAL OF INFRINGEMENT NOTICE

(Regulation 25)

No. of notice:

Date of service:

To: <div style="text-align: center;">(name)</div> of <div style="text-align: center;">(address)</div> Infringement notice no. served on you on the day of for the offence described below has been withdrawn. The modified penalty: <div style="margin-left: 100px;"> *has been paid and a refund is enclosed. *has not been paid and should not be paid. [*Delete as appropriate.] </div> Name and title of authorised person giving this notice Signature		
Section of Act	Description of offence	Modified penalty

16. Second Appendix replaced

The Second Appendix is repealed and the following Appendix is inserted instead —

Second Appendix

	Fees	
Item no. section/ regulation	Description of circumstance	Fee \$
1. s. 4(1a) r. 8A	On an application, by an unregistered person, for an authorisation to construct a specified building	220
2. s. 9(6)(a)	To obtain from the registrar a list of the names and addresses of all persons registered in the register	25

Item no. section/ regulation	Description of circumstance	Fee \$
3. s. 9(6)(b)	To obtain from the registrar a certificate as to the registration or non-registration of a named person on a specific date or during a specific period For an individual —	15
4. s. 10(1)(a)	(a) (not a company or other body corporate) to be registered under the Act	210
5. s. 9A(1)(e)	(b) who is an architect, engineer etc. with 5 years experience to be registered under the Act	210
6. s. 10(2)(a) r. 8B(2)	For a partnership to be registered under the Act	157
7. s. 10(2)(a) r. 8C(2)	For a company or other body corporate to be registered under the Act	210
8. s. 22(1) r. 8(6)	For the issue of a [Form 3] certificate of registration	20
9. s. 24(1)(i) r. 15(2)	On an application for a temporary licence — (a) for an individual (b) for a partnership (c) for a company or other body corporate	220 301 682
10.s. 34A r. 19	On a complaint or application to the Disputes Tribunal — (a) by a financially disadvantaged person (b) by any other person	15 25

”.

The common seal of the)
 Builders' Registration Board)
 of Western Australia was)
 affixed in the presence of —)

PAUL MARSH, Chairman.
 VIC WEBSDANE, Acting Registrar.

Approved by the Governor,

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

Home Building Contracts Act 1991

Home Building Contracts Amendment Regulations 2001

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Home Building Contracts Amendment Regulations 2001*.

2. Commencement

These regulations come into operation on the day on which section 56 of the *Building Legislation Amendment Act 2000* comes into operation.

3. 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 16 January 2001 see 1999 Index to Legislation of Western Australia, Table 4, p. 140, and Gazette 3 March 2000.]

4. Regulation 6A inserted

After regulation 6 the following regulation is inserted —

“

6A. Prescribed form of preliminary notice under section 17(3)

For the purposes of section 17(3) of the Act, the form of a preliminary notice is Form 1 in Schedule 9.

”

5. Regulations 8, 9 and 10 inserted

After regulation 7 the following regulations are inserted —

“

8. Prescribed offences and modified penalties (section 31B(2) and (4))

- (1) For the purposes of section 31B(2) of the Act, an offence against a provision of the Act specified in column 2 of the Table to this regulation is an offence for which an infringement notice may be given.

- (2) For the purposes of section 31B(4) of the Act, the amount specified in column 3 of the Table to this regulation opposite a provision of the Act specified in column 2 of that Table is the modified penalty for an offence against that provision.

Table

Column 1 Item	Column 2 Provision of Act	Column 3 Modified penalty
1.	section 4(4)	\$400
2.	section 5(2)	\$100
3.	section 5(3)	\$1 000
4.	section 7(3)	\$100
5.	section 10(1)	\$1 000
6.	section 10(5)	\$1 000
7.	section 12(1)	\$1 000
8.	section 13(1)	\$1 000
9.	section 14(1)	\$1 000
10.	section 25C(1)	\$2 000
11.	section 25C(2)	\$500
12.	section 25F	\$2 000
13.	section 26(1)	\$200

**9. Prescribed form of infringement notice
(section 31B(3))**

For the purposes of section 31B(3) of the Act, the form of an infringement notice is Form 2 in Schedule 9.

**10. Prescribed form of notice withdrawing infringement
notice (section 31B(7))**

For the purposes of section 31B(7) of the Act, the form of a notice stating that an infringement notice has been withdrawn is Form 3 in Schedule 9.

6. Schedule 9 inserted

After Schedule 8 the following Schedule is inserted —

Schedule 9 — Prescribed forms

[rr. 6A, 9, 10]

Form 1

Home Building Contracts Act 1991

Home Building Contracts Regulations 1992

PRELIMINARY NOTICE UNDER SECTION 17(3)

[If you intend to make an application to the Disputes Tribunal under section 17(1) of the Home Building Contracts Act 1991, the application cannot be made until this preliminary notice has been completed and given to the other party. A copy of this notice must also be given to the Disputes Tribunal at the time the application is made to the Disputes Tribunal.]

PART A	<p>Who is making the application (the “applicant”)?</p> <p>Name of applicant:</p> <p>Address of applicant:</p> <p>Who is the other party (“the respondent”) in relation to the matters complained of in the application?</p> <p>Name of respondent</p> <p>Address of respondent</p>
PART B	<p>What are the matters the respondent is called on to rectify or attempt to settle?</p> <p><i>[Set out here the matters that you are calling on the respondent to rectify/attempt to settle and indicate what remedy or settlement you are seeking. You may attach further written details to this notice if there is not enough space to include all relevant matters.]</i></p> <p>Signed (by applicant):</p> <p>Date:</p>
<p>TAKE NOTICE that the applicant calls on the respondent to rectify the matters, or to attempt to settle the matters that are in dispute, as set out in Part B above.</p>	

Form 2

Home Building Contracts Act 1991

Home Building Contracts Regulations 1992

INFRINGEMENT NOTICE

No. of notice:

Date of service:

1.	<p>To: (name)</p> <p>of (address)</p> <p>..... Postcode</p> <p>It is alleged that at about a.m./p.m. on the day of at</p> <p>you committed the offence described below and are liable for the modified penalty stated.</p> <p>Name and title of authorised person giving this notice:</p> <p>Signature:</p>		
2.	Section of Act	Description of offence	Modified penalty
3.	<p>If you wish to have a complaint of the alleged offence heard and determined by a court, you need not reply to this notice or pay the modified penalty, but in that case court proceedings may be taken against you and you may be liable for costs and a fine for the offence.</p>		
4.	<p>If you do not wish to have a complaint of the alleged offence heard and determined by a court, you may pay the modified penalty within 28 days after the date of this notice. If the modified penalty is not paid within that period you will be taken to have declined to pay it, and court proceedings may be taken against you and you may be liable for costs and a fine for the offence.</p>		
5.	<p>Payment may be made by either —</p> <p>(a) posting this form and a cheque or money order, made payable to the Builders' Registration Board for the amount of the modified penalty stated in item 2, to the Corporate Services Manager, Builders' Registration Board, 18 Harvest Terrace, West Perth WA 6005; or</p> <p>(b) delivering this form, and paying the amount of the modified penalty stated in item 2, to an authorised person* at the Builders' Registration Board, 18 Harvest Terrace, West Perth WA 6005.</p> <p>[*Authorised persons for the purposes of paragraph (b) are the Registrar, the Deputy Registrar and the Corporate Services Manager of the Builders' Registration Board.]</p>		

Form 3

Home Building Contracts Act 1991

Home Building Contracts Regulations 1992

WITHDRAWAL OF INFRINGEMENT NOTICE

No. of notice:

Date of service:

To:
 (name)

of
 (address)

Infringement notice no. served on you on the day of
 for the offence described below has been
 withdrawn.

The modified penalty:
 * has been paid and a refund is enclosed.
 * has been not been paid and should not be paid.
 [* Delete as appropriate.]

Name and title of authorised person giving this notice:

Signature:

Section of Act	Description of offence	Modified penalty

By Command of the Governor,

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

