



Western Australia

# **Finance Brokers Control (General) Regulations 2005**

Compare between:

[01 Jul 2006, 00-d0-05] and [05 Jan 2007, 00-e0-05]



## **Finance Brokers Control (General) Regulations 2005**

### **1. Citation**

These regulations are the *Finance Brokers Control (General) Regulations 2005*.

### **2. Commencement**

These regulations come into operation on the day on which the *Finance Brokers Control Amendment Act 2004* comes into operation.

### **3. Interpretation**

In these regulations —

**“financial services licensee”** means a financial services licensee as defined in the *Corporations Act 2001* of the Commonwealth;

**“provided by an approved training provider”** means delivered or assessed by an organisation registered by an Australian State or Territory recognition authority to deliver training and/or conduct assessments and issue nationally recognised qualifications in accordance with the Australian Quality Training Framework;

**“relevant professional indemnity insurance”** means professional indemnity insurance that meets the requirements of guidelines issued by the Commissioner;

**“relevant supplementary Western Australian material”** means material that meets the Western Australian competency guidelines issued by the Commissioner.

**4. Exemption — Financial services licensee (section 5(2) and (3))**

- (1) Except as provided in subregulation (2), a financial services licensee who negotiates or arranges loans of money is exempted from the provisions of the Act in relation to the negotiation and arrangement of those loans.
- (2) The exemption in subregulation (1) does not apply to a financial services licensee unless the loans are negotiated or arranged in the course of negotiating or arranging —
  - (a) life policies;
  - (b) contracts of insurance; or
  - (c) other facilities for the management of financial risk,

(as defined in Part 7.1 of Chapter 7 of the *Corporations Act 2001* of the Commonwealth), that the licensee is authorised to arrange or manage by the terms of the licence.

**5. Exemption — Finance broker (section 5(2) and (3))**

Sections 48 to 72 of the Act do not apply to or in relation to a licensee who does not receive or hold monies on behalf of other persons in the course of his or her broking business.

**5A. Exemption — Residents of other Australian States or Territories need not reside in WA (section 5(2) and (3))**

- (1) This exemption applies to an individual who is able to satisfy the Commissioner that he or she is a resident of an Australian State or Territory other than this State.
- (2) An individual to whom subregulation (1) applies is exempted from complying with the licensing requirement set out in section 27(1)(a) of the Act when applying for a licence under section 27 of the Act.

*[Regulation 5A inserted in Gazette 5 May 2006 p. 1729.]*

**6. Licence application by an individual (section 24)**

(1) An application by an individual for a finance brokers licence is to be made by completing an application in the approved form and sending it, together with —

- (a) the documents set out in subregulation (3); and
- (b) the fee set out in Schedule 1,

to the Commissioner, either by pre-paid mail, or by delivering it to the Commissioner's office.

(2) The following information is required as a part of an application under subregulation (1) —

- (a) the applicant's date and place of birth;
- (b) the applicant's address;
- (c) whether the applicant ordinarily resides in Western Australia;
- (d) the address of any registered office, the principal place of business and any branch offices;
- (e) the applicant's ABN (if any);
- (f) the applicant's phone number(s), fax number(s) and business email address;
- (g) the applicant's trading or business name (if any);
- (h) details of the applicant's trust account (if any), auditor (if any), bond/bank guarantee (if any) and relevant professional indemnity insurance relating to the applicant;
- (i) the class of licence sought by the applicant;
- (j) if the applicant has been known by another name or the applicant's name has been changed — details of those names and the reason for the changes;
- (k) the current and past solvency of the applicant, and a statement by the applicant that he or she believes that he

- or she will be able to meet the debts of the business when and as they fall due;
- (l) any convictions of the applicant, including convictions under laws other than Australian laws;
  - (m) particulars of any previous licence denials, suspensions, disqualifications or other disciplinary action (fines, cautions or reprimands) relating to the applicant;
  - (n) the applicant's statement that he or she understands the duties and obligations imposed under the *Finance Brokers Control Act 1975*.
- (3) The following documents are required to accompany an application under subregulation (1) —
- (a) a certificate from the Police Force, given not more than ~~one month~~ 3 months before the application is lodged, setting out details of any offences committed by the applicant against the law of any State or a Territory or of the Commonwealth;
  - (b) a copy of the applicant's credit history issued by an approved credit reference agency no more than 3 months before the application is lodged;
  - (c) at least 2 business testimonials (each given not more than 6 months before the application is lodged) as to the applicant's good character, repute and fitness to hold a licence;
  - (d) a statement of the applicant's academic record from an approved training provider, showing whether or not the relevant approved qualifications have been successfully completed;
  - (e) a statement of the applicant's relevant experience;
  - (f) where applicable —
    - (i) written confirmation that a trust account has been opened;
    - (ii) a letter of consent from the nominated auditor;

- (iii) ~~a copy of~~ the bond/bank guarantee; and
- (iv) a copy of the relevant professional indemnity insurance held by the applicant.

*[Regulation 6 amended in Gazette 5 Jan 2007 p. 7.]*

**7. Licence application by a firm (section 24)**

- (1) An application by a firm for a finance brokers licence is to be made by completing an application in the approved form and sending it, together with —
  - (a) the documents set out in subregulation (3); and
  - (b) the fee set out in Schedule 1,to the Commissioner, either by pre-paid mail, or by delivering it to the Commissioner's office.
- (2) The following information is required as a part of an application under subregulation (1) —
  - (a) the firm's name, address and ABN;
  - (b) the address of any registered office, the principal place of business and any branch offices;
  - (c) the applicant's phone number(s), fax number(s) and business email address;
  - (d) the applicant's trading or business name (if any);
  - (e) details of the current members/partners of the firm;
  - (f) details of the directors of, and of any persons concerned in the management or control of, a body corporate that is a partner in the firm;
  - (g) the class of licence sought by the applicant;
  - (h) details of the licensed person to be in bona fide control of the firm's finance broking business, and any licensed managers of branch offices;
  - (i) details of any partners who hold or are applicants for a licence;

- (j) the current and past solvency of the firm and its partners;
  - (k) details of the trust account, auditor, bond/bank guarantee (if any) and relevant professional indemnity insurance relating to the firm and each of its members and partners;
  - (l) any convictions of a partner of the firm (including a director or person involved in the management of a body corporate that is a partner in the firm), including convictions under laws other than Australian laws;
  - (m) the current and past solvency of the directors of, and of any persons concerned in the management or control of, a body corporate that is a partner in the firm;
  - (n) particulars of any previous licence denials, suspensions, disqualifications or other disciplinary action (fines, cautions or reprimands) relating to the applicant firm and its partners and members.
- (3) The following documents are required to accompany an application under subregulation (1) —
- (a) for each individual that is a current member/partner of the firm — a certificate from the Police Force, given not more than ~~one month~~ 3 months before the application is lodged, setting out details of any offences committed by that individual against the law of any State or a Territory or of the Commonwealth;
  - (b) for each director of, and each person concerned in the management or control of, a body corporate that is a partner in the firm — a certificate from the Police Force, given not more than ~~one month~~ 3 months before the application is lodged, setting out details of any offences committed by that individual against the law of any State or a Territory or of the Commonwealth;
  - (c) for each body corporate that is a partner in the firm — a certified copy of that body corporate's minutes detailing



the solvency resolution passed by the body corporate in respect of its last annual statement for ASIC, or a copy of the body corporate's most recent financial report lodged with ASIC, if the body corporate has existed for sufficient time for the documents to be produced;

- (d) a copy of the firm's credit history, and a copy of the credit history of any partner of the firm (including a director or person involved in the management of a body corporate that is a partner in the firm), issued by an approved credit reference agency no more than 3 months before the application is lodged;
- (e) for each individual that is a current member/partner of the firm (other than a licence holder) — at least 2 business testimonials (each given not more than 6 months before the application is lodged) as to the good character, repute and fitness to hold a licence;
- (f) for each director of, and each person concerned in the management or control of, a body corporate that is a partner in the firm (other than an individual that is a licence holder) — at least 2 business testimonials (each given not more than 6 months before the application is lodged) as to the good character, repute and fitness to hold a licence;
- (g) for each body corporate that is a partner in the firm — a copy of that body corporate's Certificate of Incorporation;
- (h) for the firm —
  - (i) written confirmation that a trust account has been opened (where applicable);
  - (ii) a letter of consent from the nominated auditor (where applicable);
  - (iii) ~~a copy of~~ the bond/bank guarantee (if any); and
  - (iv) a copy of the relevant professional indemnity insurance held by each partner.

*[Regulation 7 amended in Gazette 5 Jan 2007 p. 8.]*

**8. Licence application by a body corporate (section 24)**

- (1) An application by a body corporate for a finance brokers licence is to be made by completing an application in the approved form and sending it, together with —
- (a) the documents set out in subregulation (3); and
  - (b) the fee set out in Schedule 1,
- to the Commissioner, either by pre-paid mail, or by delivering it to the Commissioner's office.
- (2) The following information is required as a part of an application under subregulation (1) —
- (a) the body corporate's name, its ACN, ABN and trading name;
  - (b) the address of the body corporate's principal place of business, any branch office addresses and the body corporate's registered office, if it is different from its principal place of business;
  - (c) the class of licence sought;
  - (d) details of the directors of, and of any persons concerned in the management or control of, the body corporate;
  - (e) details of the licensed person to be in bona fide control of the body corporate's finance broking business, and any licensed managers of branch offices;
  - (f) details of any directors who hold or are applicants for a licence;
  - (g) any convictions of the body corporate, its directors or persons involved in its management, including convictions under laws other than Australian laws;
  - (h) the current and past solvency of the body corporate and of the directors of, and of any persons concerned in the management or control of, the body corporate;

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- (i) details of the trust account (where applicable), auditor (where applicable), bond/bank guarantee (if any) and relevant professional indemnity insurance relating to the body corporate;
  - (j) any previous licence denials, suspensions, disqualifications or other disciplinary action (fines, cautions or reprimands) relating to the body corporate, its directors and persons involved in its management.
- (3) The following documents are required to accompany an application under subregulation (1) —
- (a) for each of the directors of, and persons concerned in the management or control of, the body corporate — a certificate from the Police Force, given not more than ~~one month~~ 3 months before the application is lodged, setting out details of any offences committed by that individual against the law of any State or a Territory or of the Commonwealth;
  - (b) a certified copy of the body corporate's minutes detailing the solvency resolution passed by the body corporate in respect of its last annual statement for ASIC, or a copy of the body corporate's most recent financial report lodged with ASIC, if the body corporate has existed for sufficient time for the documents to be produced;
  - (c) a copy of the credit history of the body corporate, its directors and persons involved in its management, issued by an approved credit reference agency no more than 3 months before the application is lodged;
  - (d) for each director of, and each person concerned in the management or control of, a body corporate that is a partner in the firm (other than an individual that is a licence holder) — at least 2 business testimonials (each given not more than 6 months before the application is lodged) as to the good character, repute and fitness to hold a licence;

- (e) a copy of the body corporate's Certificate of Incorporation;
- (f) for the body corporate —
  - (i) written confirmation that a trust account has been opened (where applicable);
  - (ii) a letter of consent from the nominated auditor (where applicable);
  - (iii) ~~a copy of~~ the bond/bank guarantee (if any); and
  - (iv) a copy of the relevant professional indemnity insurance held by the body corporate.

*[Regulation 8 amended in Gazette 5 Jan 2007 p. 8.]*

**9. Notice of application for licence**

- (1) Notice of an application for the grant of a licence, to be advertised pursuant to section 24(2) of the Act —
  - (a) is to be in a form approved by the Commissioner; and
  - (b) is to be published by the applicant in a newspaper with State-wide circulation within 28 days prior to, or any time after, the day on which the application is made.
- (2) The whole page of the newspaper, in which notice of an application was advertised in accordance with this regulation, is to be lodged with the Commissioner by the applicant, at the same time as, or any time after, the application is lodged.

*[Regulation 9 amended in Gazette 5 Jan 2007 p. 8-9.]*

**10. Requirements for persons in bona fide control (sections 28 and 29)**

- (1) For the purposes of section 28(d) of the Act, a person who is in bona fide control of the finance broking business of a firm is required to be the holder of a class of licence that is —
  - (a) unrestricted; or

- (b) where the firm's licence is a type of restricted licence — an unrestricted licence or a restricted licence with the same or less onerous conditions.
- (2) For the purposes of section 29(d) of the Act, a person who is in bona fide control of the finance broking business of a body corporate is required to be the holder of a class of licence that is —
  - (a) unrestricted; or
  - (b) where the body corporate's licence is a type of restricted licence — an unrestricted licence, or a restricted licence with the same or less onerous conditions.

**11. Renewal of licence (section 32)**

- (1) An application by an individual, firm or body corporate for the renewal of a finance brokers licence is to be made by completing a renewal application in the approved form and sending it, together with —
  - (a) the documents set out in the approved form as being required by the Commissioner; and
  - (b) the renewal fee set out in Schedule 1,to the Commissioner, either by pre-paid mail, or by delivering it to the Commissioner's office.
- (2) If a licence is renewed after it has expired, a late fee equal to one quarter of the renewal fee set out in Schedule 1 for renewal of the licence is payable in addition to that fee.

**12. Exemption from bond requirements (section 35A)**

A licensee who does not receive or hold monies on behalf of other persons in the course of business is exempted from the requirement under section 35 of the Act to lodge a bond or guarantee.

**r. 13. Code of conduct prescribed (section 81)**

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**13. Code of conduct prescribed (section 81)**

The code of conduct approved by the former Finance Brokers Supervisory Board of Western Australia and published in the *Gazette* of 4 December 2001, p. 6141-66, is prescribed under section 81 of the Act as a code of conduct for finance brokers.

**14. Particulars to be included in register (section 84(2))**

In the register of licensees kept under section 84 of the Act the Commissioner shall cause to be recorded in respect of each licensee the following particulars —

- (a) the name of the licensee;
- (b) the business name under which the licensee carries on business as a finance broker;
- (c) the address of any registered office of the licensee in the State;
- (d) the address of the principal place in the State at which the licensee carries on business as a finance broker (if any);
- (e) the address of any branch office in the State at which the licensee carries on business as a finance broker and the name and licence number of the licensee managing that branch office;
- (f) if the licensee is a firm — the names of the partners in the firm, the names of the directors of any body corporate that is a partner in the firm and the name of the person in bona fide control of the finance broker's business of the firm;
- (g) if the licensee is a body corporate — the names of the directors of the body corporate and the name of the person in bona fide control of the finance broker's business of the body corporate;
- (h) details of any conviction of the licensee for an offence against the Act or these regulations, and of any

disciplinary action taken against the licensee under the Act;

- (i) the licence number and class of the licence issued to the licensee, the date of its issue, and the date on which it next becomes due for renewal;
- (j) any special condition to which the licence is subject.

**15. Notification of changes in particulars**

- (1) Within one month after a person ceases to be, or becomes —
  - (a) a director of a body corporate that is a licensee or is a partner in a firm that is a licensee; or
  - (b) the person in bona fide control of the finance broker's business of a firm or body corporate that is a licensee,

that licensee shall give to the Commissioner notice in writing of that fact.

Penalty: a fine of \$1 000.

- (2) Where the principal place in the State at which a licensee carries on business as a finance broker is changed from one address to another the licensee shall, within one month after the change of address occurs, give to the Commissioner notice in writing of the address of the new principal place of business.

Penalty: a fine of \$1 000.

**16. Classes of licences (section 95(2)(b)) and transitional provisions**

- (1) A licence granted under section 95(2)(b) of the Act may be an unrestricted licence or a restricted licence.
- (2) An unrestricted licence is classified as an "A" class licence.
- (3) A restricted licence can be classified as either —
  - (a) a "B" class licence — granted subject to a condition restricting or limiting the lenders with whom the

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licensee can negotiate or arrange loans of money under the licence; or

- (b) a “C” class licence — granted subject to —
- (i) a condition restricting or limiting the lenders with whom the licensee can negotiate or arrange loans of money under the licence; and
  - (ii) a condition that requires the licensee to carry on business as a finance broker operating under the exclusive supervision of a nominated ~~broker.~~ “A” class licensee or “B” class licensee;

or

- (c) a “D” class licence — granted subject to a condition that —

- (i) the individual is either a partner of a firm or a director of a body corporate that is the holder of a licence; and
- (ii) another individual in the employ of the firm or body corporate who has bona fide control of the finance broking operations of the business holds an “A” class or a “B” class licence.

- (4) For an “A” class licence to be granted to an individual, that individual must satisfy the prerequisite criteria set out in regulation 17.
- (5) For a “B” class licence or a “C” class licence to be granted to an individual, that individual must satisfy the prerequisite criteria set out in regulation 18.

(5a) For a “D” class licence to be granted to an individual, that individual must satisfy the prerequisite criteria set out in regulation 18A.

- (6) The transitional provisions in Schedule 4 have effect.

[Regulation 16 amended in Gazette 5 Jan 2007 p. 9.]



**17. Qualifications required for an “A” class licence  
(section 95(2)(ba))**

- (1) The requirements set out in the Table to this subregulation are imposed as prerequisite criteria to the grant of an “A” class licence to an individual.

**Table**

**Experiential requirements**

- |    |  |
|----|--|
| 1. | Two years’ full-time relevant experience in the preceding 5 years. |
|----|--|

- (2) Subject to subregulation (3), the following qualifications are imposed as prerequisite criteria to the grant of an “A” class licence to an individual.

**Table**

**Qualifications**

- |    |   |
|----|---|
| 1. | Successful completion of Certificate IV in Financial Services (Finance/Mortgage Broking), including relevant supplementary Western Australian material provided by an approved training provider; and |
| 2. | Successful completion of a Diploma of Mortgage Lending provided by an approved training provider.   |

~~(3) Where the application for the grant of an “A” class licence is made on or before 31 December 2005, the same alternative qualifications may be substituted for subregulation (2) item 1 as are available for those applying for the grant of a “B” class licence under regulation 18(3) on or before that date.~~

~~[(3) repealed]~~

[Regulation 17 amended in Gazette 5 Jan 2007 p. 9.]

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**18. Qualifications required for a “B” class or “C” class licence (section 95(2)(ba))**

- (1) The requirements set out in the Table to this subregulation are imposed as prerequisite criteria to the grant of a “B” class licence to an individual.

**Table**

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**Experiential requirements**

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1. Two years’ full-time relevant experience in the preceding 5 years.
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- (2) Subject to subregulation (3), the qualification set out in the Table to this subregulation is imposed as prerequisite criteria to the grant of a “B” class licence or a “C” class licence.

**Table**

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**Qualifications**

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1. Successful completion of Certificate IV in Financial Services (Finance/Mortgage Broking), including relevant supplementary Western Australian material provided by an approved training provider.
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~~(3) Any one of the qualifications set out as an item in the Table to this subregulation is prescribed as an alternative to the qualification in subregulation (2), where the application for the grant of a “B” class licence or a “C” class licence is made on or before 31 December 2005.~~

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**Table**


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**Alternative Qualifications to Certificate IV  
(pre-2006)**


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1. Successful completion of Finance Broking Practice 1 and Finance Broking Practice 2 provided by Central TAFE Perth, plus —
  - (a) the modules Loan Serviceability, Real Estate Law, Maintain Trust Accounts and Develop Product Knowledge — HP and Leases, provided by Central TAFE Perth or TAFE NSW; or
  - (b) the Western Australian Bridging Module, comprising the sections Qualification of a Client for Credit — The Principles of Lending, Types and Classes of Mortgage and Credit Products, Basic Principles of WA Property Law and Maintaining Trust Accounts, provided by the Australian College of Financial Services or by the Australian Academy of Mortgage Consultants.
2. Successful completion of Certificate III in Mortgage Lending III, provided by an approved training provider, plus —
  - (a) the modules Real Estate Law, and Maintain Trust Accounts and Develop Product Knowledge — HP and Leases, provided by Central TAFE Perth or TAFE NSW; or
  - (b) the Western Australian Bridging Module, comprising the sections Qualification of a Client for Credit — The Principles of Lending, Types and Classes of Mortgage and Credit Products, Basic Principles of WA Property Law and Maintaining Trust Accounts, provided by the Australian College of Financial Services or by the Australian Academy of Mortgage Consultants.
3. Successful completion of a Diploma of Financial Services that includes the units Generic Financial Services Competencies (DFSA), Financial Planning Competencies (DFSB), Financial Analysis and Follow Up (DFSG) and Provide Advice in Mortgage (DFSM), provided by an

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~~Alternative Qualifications to Certificate IV  
(pre-2006)~~

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~~approved training provider, plus—~~

~~(a) the WA supplementary unit provided by Australian College of Financial Services; and~~

~~(b) one of the following units provided by an approved training organisation—~~

~~• Provide Advice in Superannuation (DFSC);~~

~~• Provide Advice in Insurance (DFSD); or~~

~~• Provide Advice in Investments, Securities and Derivatives (DFSE).~~

~~4. Successful completion of a course that is provided by an approved training provider and that the applicant satisfies the Commissioner is equivalent to one of the courses set out in this Table, together with any relevant supplementary Western Australian material associated with the course.~~

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~~[(3) repealed]~~

~~[Regulation 18 amended in Gazette 10 Feb 2006 p. 660;  
5 Jan 2007 p. 9.]~~

**18A. Requirements for a “D” class licence (section 95(2)(ba))**

The following requirements are imposed as prerequisite criteria to the grant of a “D” class licence to an individual —

(a) the individual must be either a partner of a firm or a director of a body corporate that is a licensee, or that is applying for a licence under section 24 of the Act or renewing a licence under section 32 of the Act;

(b) the individual must identify and nominate another individual in the employ of the firm or body corporate who has bona fide control of the finance broking operations of the business of the firm or body corporate;

(c) the individual nominated under paragraph (b) must be the holder of an “A” class licence or a “B” class licence.

~~[Regulation 18A inserted in Gazette 5 Jan 2007 p. 9-10.]~~

**19. Fees**

The fees set out in Schedule 1 are payable in respect of the matters prescribed in that Schedule.

**20. Recovery of fees**

The amount of any fee prescribed by these regulations is a debt due to the Crown in right of the State and may be sued for and recovered in any court of competent jurisdiction.

**21. Modified penalties**

- (1) The offences created by the provisions of the Act or these regulations specified in the second column of Schedule 2 are prescribed for the purposes of section 95(2)(f) of the Act.
- (2) The amount specified in the fourth column of Schedule 2 corresponding to an offence created by a provision of the Act or these regulations specified in the second column of that Schedule is the modified penalty for that offence.

**22. Infringement notice**

An infringement notice given under section 92A(2) of the Act is to be in the form of Schedule 3 Form 1.

**23. Withdrawal of infringement notice**

A notice under section 92A(7) of the Act withdrawing an infringement notice is to be in the form of Schedule 3 Form 2.

**24. Repeal**

- (1) The *Finance Brokers Control (General) Regulations 1977* are repealed.
- (2) The *Finance Brokers Supervisory Board (Elections) Regulations 1978* are repealed.

**Schedule 1 — Fees**

[r. 6, 7, 8, 11 & 19]

	\$
1. Application for licence by a natural person .....	525
2. Application for licence by a firm .....	525
3. Application for licence by a body corporate .....	525
4. For renewal of licence — (for a period of 3 years) .....	525
5. Inspection of register .....	10
6. Certificate as to an individual registration —	
— first page .....	10
— each subsequent page .....	2
7. Certificate of all registrations in register .....	122

*[Schedule 1 amended in Gazette 27 Jun 2006 p. 2255.]*

**Schedule 2 — Modified penalties**

[r. 21]

Item	Section or regulation	Description of offence	Modified penalty (\$)
1.	s. 30(3)(b)	Failing to surrender licence following suspension by Commissioner	400
2.	s. 34(3)	Failing to comply with a licence condition	400
3.	s. 36(1)	Failing to give notice of commencing or ceasing to carry on business	400
4.	s. 36(2)	Failing to give notice of ceasing to have a registered office and of residential address	400
5.	s. 36(3)	Failing to give notice of change of residential address	400
6.	s. 37(1)	Failing to have a registered office	400
7.	s. 38(1)	Failing to give notice of the location of a branch office	400
8.	s. 41(1)(a)	Carrying on business under more than one name	200
9.	s. 41(1)(b)	Failing to display surname and initials on top of correspondence	200
10.	s. 41(2)	Failing to give notice of change of business name	200
11.	s. 42	Failing to display licensee's name, branch manager's name, etc.	400
12.	s. 45(1)	Publishing an unauthorised advertisement	400
13.	s. 45(2)	Failing to display licence number in advertisement	400
14.	s. <del>45(2)</del> <u>45(3)</u>	Failing to include comparative rate in advertisement where required	400

**Finance Brokers Control (General) Regulations 2005**  
**Schedule 2** Modified penalties

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<b>Item</b>	<b>Section or regulation</b>	<b>Description of offence</b>	<b>Modified penalty (\$)</b>
15.	s. 46	Failing to provide a copy of a loan document as required or failing to obtain acknowledgment of receipt of the copy	400
16.	s. 49	Failing to issue and record a receipt as required	400
17.	r. <del>14</del> <u>15</u> (1)	Failing to give notice of changes in particulars of directors, partners, etc.	200
18.	r. <del>14</del> <u>15</u> (2)	Failing to give notice of change of address of principal place of business	200

*[Schedule 2 amended in Gazette 5 Jan 2007 p. 10.]*



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**Schedule 3 — Forms**

[r. 22 & 23]

Form 1

*Finance Brokers Control Act 1975*

**Infringement notice**

Serial No .....

Date...../...../.....

To: <sup>(1)</sup>.....

of: <sup>(2)</sup>.....

It is alleged that on ...../...../..... at <sup>(3)</sup>.....

at <sup>(4)</sup>.....

you committed the following offence —

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

contrary to —

- section <sup>(5)</sup>..... of the *Finance Brokers Control Act 1975*.\*.
- regulation <sup>(5)</sup>..... of the *Finance Brokers Control (General) Regulations 2005*\*.

\* Delete as appropriate.

The modified penalty for the offence is \$ .....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of money specified in this notice as the modified penalty may be paid within a period of 28 days after the giving of this notice. Payment may be made by either —

- (a) posting this form with a cheque, money order or postal note for the specified amount of money, payable to the chief executive officer, to the Department of Consumer and Employment Protection, Locked Bag 14, Cloisters Square, Perth WA 6850; or
- (b) presenting this form and paying the specified amount to an authorised person <sup>(6)</sup> at the Department of Consumer and Employment Protection, Ground Floor, 219 St Georges Terrace, Perth WA 6000.

Name and title of authorised person giving this notice: .....

Signature: .....

- (1) Name of alleged offender
- (2) Address of alleged offender
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Section or regulation designation
- (6) Description of authorised persons

Form 2

*Finance Brokers Control Act 1975*

**Withdrawal of infringement notice**

Serial No .....

Date ...../...../.....

To: <sup>(1)</sup>.....

of: <sup>(2)</sup>.....

Infringement notice No. .... dated ...../...../..... for the alleged  
offence of.....

.....  
.....

has been withdrawn.

The modified penalty of \$.....

- \*      has been paid and a refund is enclosed.
- \*      has not been paid and should not be paid.
- \*      Delete as appropriate

Name and title of authorised person giving this notice: .....

Signature: .....

- (1)      Name of alleged offender given the infringement notice
- (2)      Address of alleged offender

## Schedule 4 — Transitional

[r. 16]

### 1. Interpretation

In this Schedule —

“**commencement day**” means the day on which the *Finance Brokers (Control) Amendment Act 2004* comes into operation.

### 2. Licences for former certificate holders after the commencement day

- (1) A finance broker who held a licence immediately before the commencement day and who also held a business certificate that was not restricted in the type of loan it authorised is, for the purpose of these provisions, taken to be the holder of an “A” class licence for what would be the remaining period of currency of the business certificate.
- (2) A finance broker who held a licence immediately before the commencement day and who also held a business certificate that was endorsed with a condition restricting the type of loan it authorised is, for the purpose of these provisions, taken to be the holder of a “B” class licence for what would be the remaining period of currency of the business certificate.
- (3) A finance broker who held a licence immediately before the commencement day and who also held a business certificate that was endorsed with a condition restricting both the type of loan it authorised, and tying the certificate holder to another broker is, for the purpose of these provisions, taken to be the holder of a “C” class licence for what would be the remaining period of currency of the business certificate.

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**Notes**

- <sup>1</sup> This is a compilation of the *Finance Brokers Control (General) Regulations 2005* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Finance Brokers Control (General) Regulations 2005</i>	14 Oct 2005 p. 4585-613	31 Oct 2005 ( see r. 2 and <i>Gazette</i> 28 Oct 2005 p. 4839.)
<i>Finance Brokers Control (General) Amendment Regulations 2006</i>	10 Feb 2006 p. 659-60	10 Feb 2006
<i>Finance Brokers Control (General) Amendment Regulations (No. 2) 2006</i>	5 May 2006 p. 1729	5 May 2006
<i>Finance Brokers Control (General) Amendment Regulations (No. 3) 2006</i>	27 Jun 2006 p. 2255	1 Jul 2006 (see r. 2)
<a href="#"><i>Finance Brokers Control (General) Amendment Regulations (No. 5) 2006</i></a>	<a href="#">5 Jan 2007</a> <a href="#">p. 7-10</a>	<a href="#">5 Jan 2007</a>