



Western Australia

## **Construction Contracts Regulations 2004**

Compare between:

[21 Mar 2020, 01-c0-01] and [28 Oct 2020, 01-d0-00]



## Construction Contracts Regulations 2004

**1. Citation**

These are the *Construction Contracts Regulations 2004*.

**2. Commencement**

These regulations come into operation on the day on which section 55 of the Act comes into operation.

**3. Terms used**

In these regulations, unless the contrary intention appears —

**ABN** means Australian Business Number as defined in section 41 of the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth;

**ACN** means Australian Company Number as defined in section 9 of the *Corporations Act 2000* of the Commonwealth;

**contact details** has the meaning given in regulation 4.

**4. Giving a person's contact details**

If a person is required by these regulations to give the contact details of a person, the person required to give the details must give the address, telephone and facsimile numbers and ABN of the person or the person's business (or ACN of the person if there is no ABN) to the extent to which the person required to give the details knows those details.

**5. Prescribed information in application for adjudication**

For the purposes of section 26(2)(a) of the Act, an application to have a payment dispute adjudicated must, in addition to the other information required by section 26(2) of the Act, contain —

- (a) the name of the appointed adjudicator or prescribed appointor and the adjudicator's or appointor's contact details; and
- (b) the applicant's name and contact details; and
- (c) the respondent's name and contact details.

**6. Prescribed information in response to an application for adjudication**

For the purposes of section 27(2)(a) of the Act, a response to an application for adjudication must, in addition to the other information required by section 27(2) of the Act, contain —

- (a) the name of the appointed adjudicator or prescribed appointor and the adjudicator's or appointor's contact details; and
- (b) the applicant's name and contact details; and
- (c) the respondent's name and contact details.

**7. Prescribed information in adjudicator's determination**

For the purposes of section 36(b) of the Act, an appointed adjudicator's decision must, in addition to the other information required by section 36 of the Act, contain —

- (a) the name of the appointed adjudicator; and
- (b) the applicant's name and contact details; and
- (c) the respondent's name and contact details; and
- (d) the date and identification number (if any) of the adjudicator's determination.

**8. Prescribed information in notice of intention to suspend performance of obligations**

For the purposes of section 42(2)(b) of the Act, a contractor's notice of intention to suspend the performance of its obligations must, in addition to the other information required by section 42(2) of the Act, contain —

- (a) the name of the appointed adjudicator; and
- (b) the principal's name and contact details; and
- (c) the contractor's name and contact details; and
- (d) the date and identification number (if any) of the adjudicator's determination; and
- (e) the amount to be paid by the principal to the contractor under the determination; and
- (f) the date by which the principal is to pay the amount to the contractor under the determination.

**9. Qualifications of registered adjudicators**

- (1) For the purposes of section 48(1) of the Act, an individual must have the qualifications and experience set out in subregulations (2), (3) and (4) to be eligible to be a registered adjudicator.
- (2) The individual must —
  - (a) have a degree, from a university or other tertiary institution in Australia, in a course listed in the Table to this paragraph, or an equivalent qualification from an overseas university or tertiary institution;

**Table**

Architecture	Building
Engineering	Construction
Quantity surveying	Law
Building surveying	Project management

or

- (b) be eligible for membership of a professional institution listed in the Table to this paragraph;

**Table**

The Royal Australian Institute of Architects  
Institution of Engineers Australia  
Australian Institute of Quantity Surveyors  
Australian Institute of Building Surveyors  
The Australian Institute of Building  
The Institute of Arbitrators and Mediators of Australia  
Australian Institute of Project Management  
or

- (c) be a builder registered under the *Builders' Registration Act 1939*.
- (3) The individual must have had at least 5 years' experience in —
    - (a) administering construction contracts; or
    - (b) dispute resolution relating to construction contracts.
  - (4) The individual must have successfully completed an appropriate training course which qualifies the person for the performance of the functions of an adjudicator under the Act.
  - (5) For the purposes of subregulation (2)(a), a qualification is equivalent to another if the course of study for the first qualification covers approximately the same matters as does the course of study for the second.

**10. Adjudicator application fee**

For the purposes of section 48(3) of the Act, a fee of \$56.65 is payable on the application of an individual for registration as a registered adjudicator.

*[Regulation 10 amended: Gazette 17 Jun 2014 p. 1962; 23 Jun 2015 p. 2170; 3 Jun 2016 p. 1756; 23 Jun 2017 p. 3232; 25 Jun 2018 p. 2336.]*

**10A. Waiver and refund of fees in response to COVID-19 pandemic**

(1) In this regulation —

*commencement day* means the day on which the *Commerce Regulations Amendment (COVID-19 Response) Regulations (No. 2) 2020* regulation 15 comes into operation.

(2) Despite regulation 10, the fee prescribed in that regulation is waived during the period beginning on commencement day and ending on 31 March 2021.

(3) If a person paid the fee prescribed in regulation 10 during the period beginning on 1 April 2020 and ending on the day before commencement day, the Building Commissioner must refund the fee to the person.

*[Regulation 10A inserted: SL 2020/196 r.15.]*

**11. Prescribed appointors**

For the purposes of the definition of “prescribed appointor” in section 3 of the Act, the persons listed in the Table to this regulation are prescribed.

**Table**

Adjudicate Today Pty Limited  
Australian Institute of Building  
Australian Institute of Project Management  
Master Builders’ Association of Western Australia  
(Union of Employers) Perth  
Resolution Institute  
RICS Australasia Pty Ltd  
The Electrical and Communications Association of  
Western Australia Inc.

**r. 11**

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*[Regulation 11 inserted: Gazette 1 Apr 2005 p. 1064; amended:  
Gazette 12 Aug 2005 p. 3653; SL 2020/16 r. 4.]*

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## Notes

This is a compilation of the *Construction Contracts Regulations 2004* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

### Compilation table

Citation	Published	Commencement
<i>Construction Contracts Regulations 2004</i>	14 Dec 2004 p. 6006-9	1 Jan 2005 (see r. 2 and <i>Gazette</i> 14 Dec 2004 p. 5999)
<i>Construction Contracts Amendment Regulations 2005</i>	1 Apr 2005 p. 1063-4	1 Apr 2005
<i>Construction Contracts Amendment Regulations (No. 2) 2005</i>	12 Aug 2005 p. 3652-3	12 Aug 2005
<i>Construction Contracts Amendment Regulations 2014</i>	17 Jun 2014 p. 1961-2	r. 1 and 2: 17 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2014 (see r. 2(b))
<i>Construction Contracts Amendment Regulations 2015</i>	23 Jun 2015 p. 2170	r. 1 and 2: 23 Jun 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2015 (see r. 2(b))
<i>Commerce Regulations Amendment (Fees and Charges) Regulations 2016 Pt. 6</i>	3 Jun 2016 p. 1745-73	1 Jul 2016 (see r. 2(b))
<i>Commerce Regulations Amendment (Fees and Charges) Regulations 2017 Pt. 7</i>	23 Jun 2017 p. 3213-52	1 Jul 2017 (see r. 2(b))
<b>Reprint 1: The Construction Contracts Regulations 2004 as at 14 Jul 2017</b> (includes amendments listed above)		
<i>Commerce and Industrial Relations Regulations Amendment (Fees and Charges) Regulations 2018 Pt. 6</i>	25 Jun 2018 p. 2325-53	1 Jul 2018 (see r. 2(b))
<i>Construction Contracts Amendment Regulations 2020</i>	SL 2020/16 20 Mar 2020	r. 1 and 2: 20 Mar 2020 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Mar 2020 (see r. 2(b))
<a href="#"><i>Commerce Regulations Amendment (COVID-19 Response) Regulations (No. 2) 2020 Pt. 5</i></a>	<a href="#">SL 2020/196</a> <a href="#">27 Oct 2020</a>	<a href="#">28 Oct 2020 (see r. 2(b))</a>



