



Western Australia

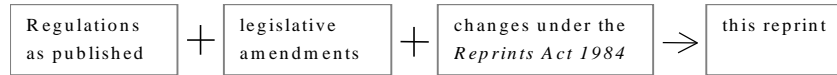
Finance Brokers Control Act 1975

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

**Reprint 2: The regulations as at 22 March 2013**

## Guide for using this reprint

### *What the reprint includes*



### *Endnotes, Compilation table, and Table of provisions that have not come into operation*

1. Details about the original regulations and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Transitional, savings, modifying or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the regulations being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### *Notes amongst text (italicised and within square brackets)*

1. If the reprint includes a regulation that was inserted, or has been amended, since the regulations being reprinted were made, editorial notes at the foot of the regulation give some history of how the regulation came to be as it is. If the regulation replaced an earlier regulation, no history of the earlier regulation is given (the full history of the regulations is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
  - removed (because it was repealed or deleted from the law); or
  - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

### *Reprint numbering and date*

1. The reprint number (in the footer of each page of the document) shows how many times the regulations have been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3<sup>rd</sup> reprint since the regulations were published. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the regulations are reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

## Finance Brokers Control (General) Regulations 2005

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**Defined terms**



Western Australia

Reprinted under the  
*Reprints Act 1984* as  
at 22 March 2013

Finance Brokers Control Act 1975

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

### **1. Citation**

These regulations are the *Finance Brokers Control (General) Regulations 2005*<sup>1</sup>.

### **2. Commencement**

These regulations come into operation on the day on which the *Finance Brokers Control Amendment Act 2004* comes into operation<sup>1</sup>.

### **3. Terms used**

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;

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**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. Partial exemption from Act: financial services licensee for some loans**

- (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; or
  - (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. Partial exemption from Act: licensee not holding trust monies**

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. Partial exemption from Act: Australian resident outside WA**

- (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.]*

**5B. Partial exemption from Act: certain bodies providing low interest loans**

- (1) This exemption applies to the following not for profit entities —
- (a) “Good Shepherd Youth and Family Service Inc.” (ABN 61 354 551 576); and
  - (b) “Mercy Community Services Inc.” (ABN 96 487 116 582); and
  - (c) “WA Low Interest Loans Network Inc.” (Incorporated Association Number: A1013117E).
- (2) An entity set out in subregulation (1) is exempted from complying with the requirements of the Act when it negotiates or arranges the provision of a low interest loan known as the “Low Interest Step Up Loan” in accordance with an agreement between the National Australia Bank and Good Shepherd Youth and Family Service Inc.

*[Regulation 5B inserted in Gazette 2 Feb 2007 p. 243-4; amended in Gazette 20 Apr 2007 p. 1739.]*

**6. Manner etc. prescribed for licence application by individual (Act s. 24(1))**

- (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 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; and
    - (ii) a letter of consent from the nominated auditor; and
    - (iii) the bond/bank guarantee;
  - (g) a summary of the current policy of professional indemnity insurance that covers the applicant, in the form approved by the Commissioner.

*[Regulation 6 amended in Gazette 5 Jan 2007 p. 7; 20 Apr 2007 p. 1737; 27 May 2008 p. 2039.]*

**7. Manner etc. prescribed for licence application by firm  
(Act s. 24(1))**

- (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 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 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); and
  - (ii) a letter of consent from the nominated auditor (where applicable); and
  - (iii) the bond/bank guarantee (if any); and
  - (iv) for each partner of the firm — a summary of the current policy of professional indemnity insurance that covers the partner, in the form approved by the Commissioner.

*[Regulation 7 amended in Gazette 5 Jan 2007 p. 8; 20 Apr 2007 p. 1738; 27 May 2008 p. 2039.]*

**8. Manner etc. prescribed for licence application by body corporate (Act s. 24(1))**

- (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;

- (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 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); and
  - (ii) a letter of consent from the nominated auditor (where applicable); and
  - (iii) the bond/bank guarantee (if any); and
  - (iv) a summary of the current policy of professional indemnity insurance that covers the body corporate, in the form approved by the Commissioner.

*[Regulation 8 amended in Gazette 5 Jan 2007 p. 8; 20 Apr 2007 p. 1738; 27 May 2008 p. 2039.]*

**9. Advertising notice of application for licence (Act s. 24(2))**

- (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 3 months prior to, or 6 months 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; 20 Apr 2007 p. 1738; 30 Nov 2007 p. 5930.]*

**10. Requirements prescribed (Act s. 28(d) and 29(1)(d))**

- (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(1)(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. Manner etc. prescribed for application to renew licence (Act s. 32(2))**

- (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 (Act s. 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.

[13. Deleted in Gazette 29 Jun 2007 p. 3181.]

**14. Particulars prescribed for register (Act s. 84)**

In the register of licensees kept under section 84<sup>2</sup> 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. Changes of information, Commissioner to be notified of**

- (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 prescribed; 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

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 “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.]*

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**17. “A” class licence, prerequisites for**

- (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**

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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) The following qualifications are imposed as prerequisite criteria to the grant of an “A” class licence to an individual.

**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; and
2. Successful completion of a Diploma of Mortgage Lending, a Diploma of Lending or a Diploma of Financial Services (Lending), provided by an approved training provider.
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*[Regulation 17 amended in Gazette 5 Jan 2007 p. 9; 20 Apr 2007 p. 1738; 27 May 2008 p. 2039-40.]*

**18. “B” class or “C” class licence, prerequisites for**

- (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) 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**

<b>Qualifications</b>	
1.	Successful completion of Certificate IV in Financial Services (Finance/Mortgage Broking), including relevant supplementary Western Australian material provided by an approved training provider.

*[Regulation 18 amended in Gazette 10 Feb 2006 p. 660; 5 Jan 2007 p. 9; 27 May 2008 p. 2040.]*

**18A. “D” class licence, prerequisites for**

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 (Sch. 1)**

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

**20. Fees, recovery of**

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.

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**21A. Licence expiring on 1 July 2010 (referral day), refund of fee for**

(1) In this regulation —

*expired licence* means a licence which expires on the referral day under section 30(1A) of the Act;

*last licence fee* means —

- (a) in the case of an expired licence which continues without expiry or renewal from the day it is first granted until the referral day, the amount of the fee paid under regulation 6, 7 or 8 on application for the grant of the licence; and
- (b) in the case of any other expired licence, the amount of the renewal fee paid under regulation 11 on application for the last renewal of the licence before the referral day, disregarding any late fee paid under regulation 11(2);

*refund period*, in respect of an expired licence, means a period beginning on the referral day and ending —

- (a) in the case of an expired licence which continues without expiry or renewal from the day it is first granted until the referral day, on the last day of the licence period for which it was originally granted; and
  - (b) in the case of any other expired licence, on the last day of the licence period for which it was renewed at its last renewal before the referral day.
- (2) Within 3 months after the expiry of an expired licence, the former licensee may apply in writing in a form acceptable to the Commissioner for a proportionate refund of the last licence fee.
- (3) As soon as is reasonably practicable after receiving an application under subregulation (2), the Commissioner is to pay to the former licensee an amount by way of proportionate refund

of the last licence fee calculated in accordance with the following formula —

$$\text{\$R} = \text{\$F} \times (\text{D}/1095)$$

where —

- \$R = the amount to be paid by way of proportionate refund;
- \$F = the amount of the last licence fee;
- D = the number of days in the refund period.

*[Regulation 21A inserted in Gazette 30 Jun 2010 p. 3182-3.]*

**21B. Application fee, repayment of for application not decided at 1 July 2010**

- (1) Where —
  - (a) a person applies for a licence and pays the fee required under regulation 6, 7 or 8; and
  - (b) on the referral day, the Commissioner has neither granted a licence pursuant to the application nor rejected the application,

as soon as is reasonably practicable after the referral day the Commissioner is to repay to the applicant the amount of the application fee.

- (2) Where —
  - (a) a person applies for the renewal of a licence and pays the renewal fee required under regulation 11; and
  - (b) on the referral day, the Commissioner has neither renewed the licence pursuant to the application nor refused to renew it,

as soon as is reasonably practicable after the referral day the Commissioner is to repay to the applicant the amount of the renewal fee.

*[Regulation 21B inserted in Gazette 30 Jun 2010 p. 3183-4.]*

**21. Infringement notices, offences and modified penalties prescribed for**

- (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, form of prescribed**

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, form of prescribed**

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. *Omitted under the Reprints Act 1984 s. 7(4)(f).*]



**Schedule 1 — Fees**

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

	\$
1. Application for licence by a natural person .....	1 000
2. Application for licence by a firm .....	1 000
3. Application for licence by a body corporate .....	1 000
4. For renewal of licence — (for a period of 3 years) .....	1 000
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; 15 Jun 2007 p. 2774; 17 Jun 2008 p. 2551-2.]*

**Schedule 2 — Modified penalties**

[r. 21]

<b>Item</b>	<b>Section or regulation</b>	<b>Description of offence</b>	<b>Modified penalty (\$)</b>
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) <sup>3</sup>	Failing to give notice of commencing or ceasing to carry on business	400
4.	s. 36(2) <sup>3</sup>	Failing to give notice of ceasing to have a registered office and of residential address	400
5.	s. 36(3) <sup>3</sup>	Failing to give notice of change of residential address	400
6.	s. 37(1) <sup>3</sup>	Failing to have a registered office	400
7.	s. 38(1) <sup>3</sup>	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. 45(3)	Failing to include comparative rate in advertisement where required	400

<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. 15(1)	Failing to give notice of changes in particulars of directors, partners, etc.	200
18.	r. 15(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.]*

**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 prosecution notice 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<sup>4</sup>, 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<sup>4</sup>, 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 1 amended in Gazette 27 May 2008 p. 2040.]*

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. Term used: commencement day**

In this Schedule —

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

**2. Licence and business certificate holder at 31 Oct 2005**

- (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 reprint is a compilation as at 22 March 2013 of the *Finance Brokers Control (General) Regulations 2005* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

**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)
<i>Finance Brokers Control (General) Amendment Regulations (No. 5) 2006</i>	5 Jan 2007 p. 7-10	5 Jan 2007
<i>Finance Brokers Control (General) Amendment Regulations 2007</i>	2 Feb 2007 p. 243-4	2 Feb 2007
<i>Finance Brokers Control (General) Amendment Regulations (No. 3) 2007</i>	20 Apr 2007 p. 1737-8	20 Apr 2007
<i>Finance Brokers Control (General) Amendment Regulations (No. 4) 2007</i>	20 Apr 2007 p. 1738-9	20 Apr 2007
<i>Finance Brokers Control (General) Amendment Regulations (No. 5) 2007</i>	15 Jun 2007 p. 2774	r. 1 and 2: 15 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))
<i>Finance Brokers Control (General) Amendment Regulations (No. 2) 2007</i>	29 Jun 2007 p. 3181	29 Jun 2007
<b>Reprint 1: The <i>Finance Brokers Control (General) Regulations 2005</i> as at 21 Sep 2007</b> (includes amendments listed above)		
<i>Finance Brokers Control (General) Amendment Regulations (No. 6) 2007</i>	30 Nov 2007 p. 5930	r. 1 and 2: 30 Nov 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Dec 2007 (see r. 2(b))
<i>Finance Brokers Control (General) Amendment Regulations 2008</i>	27 May 2008 p. 2038-40	r. 1 and 2: 27 May 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 28 May 2008 (see r. 2(b))



<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Finance Brokers Control (General) Amendment Regulations (No. 2) 2008</i>	17 Jun 2008 p. 2551-2	r. 1 and 2: 17 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2008 (see r. 2(b))
<i>Finance Brokers Control (General) Amendment Regulations 2010</i>	30 Jun 2010 p. 3181-4	1 Jul 2010 (see r. 2(a)(ii) and (b)(ii) and <i>Gazette</i> 30 Jun 2010 p. 3187)

**Reprint 2: The Finance Brokers Control (General) Regulations 2005 as at 22 Mar 2013** (includes amendments listed above)

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- <sup>2</sup> The *Finance Brokers Control Act 1975* s. 84 was deleted by the *Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Act 2010* s. 74.
- <sup>3</sup> The *Finance Brokers Control Act 1975* s. 36-38 were deleted by the *Finance Brokers Control Amendment Act 2004* s. 20.
- <sup>4</sup> Under the *Public Sector Management Act 1994* the names of departments may be changed. At the time of this reprint the former Department of Consumer and Employment Protection is called the Department of Commerce.

**Defined terms**

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**Defined terms**

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
commencement day .....	Sch. 4 cl. 1
expired licence .....	21A(1)
financial services licensee .....	3
last licence fee .....	21A(1)
provided by an approved training provider .....	3
refund period .....	21A(1)
relevant professional indemnity insurance .....	3
relevant supplementary Western Australian material .....	3