



Western Australia

Procurement Act 2020

**Procurement (Debarment of Suppliers)  
Regulations 2021**



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# Procurement (Debarment of Suppliers) Regulations 2021

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### Defined terms



# Procurement (Debarment of Suppliers) Regulations 2021

## Part 1 — Preliminary

### 1. Citation

These regulations are the *Procurement (Debarment of Suppliers) Regulations 2021*.

### 2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 January 2022.

### 3. Terms used

- (1) In these regulations —

***Australian Consumer Law*** means the Australian Consumer Law as defined in the *Competition and Consumer Act 2010* (Commonwealth) section 130 or the Australian Consumer Law (WA) as defined in the *Fair Trading Act 2010* section 17(1);

***Category A debarment conduct*** has the meaning given in regulation 9;

***Category B debarment conduct*** has the meaning given in regulation 10;

***Commonwealth Criminal Code*** means the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* (Commonwealth);

**Corporations Act** means the *Corporations Act 2001* (Commonwealth);

**corresponding debarment regime** means a law or administrative policy of another jurisdiction (whether an Australian or overseas jurisdiction) under which suppliers are debarred from supplying goods, services or works to government or other agencies because of their conduct;

**official investigation** means an investigation into an alleged offence or other conduct by —

- (a) a police officer or prosecuting authority; or
- (b) any other public officer or body;

**other debarment conduct** has the meaning given in regulation 11;

**penalty** includes a decision by a court or a public officer or body for —

- (a) the payment of a fine or other amount; or
- (b) the taking or restraining of action because of any conduct;

**related body corporate** has the meaning given in the Corporations Act section 9;

**senior officer**, of a supplier, means an officer, as defined in the Corporations Act section 9, of the supplier;

**supplier undertaking** means an undertaking about the future conduct of a supplier entered into between the Department CEO and the supplier under Part 7;

**WA Criminal Code** means *The Criminal Code*.

- (2) A term used in these regulations has the same meaning as it has in Part 7 of the Act.

**4. Affiliates of debarred suppliers**

- (1) For the purposes of the definition of *affiliate* in section 32 of the Act, a person or body is an affiliate of a debarred supplier if the person or body —
- (a) controls or is controlled by the debarred supplier; or
  - (b) is a related body corporate of the debarred supplier; or
  - (c) has a senior officer who is also a senior officer of the debarred supplier; or
  - (d) is the successor (whether immediate or not) to, or of the whole or part of the business of, the debarred supplier.
- (2) For the purposes of this regulation —
- (a) the Corporations Act section 50AA applies to the determination of whether a person or body controls another person or body; and
  - (b) a person or body may be the successor of a debarred supplier because of a merger, amalgamation, acquisition, restructure, takeover, divestiture or consolidation or because of any other reason; and
  - (c) a person or body may be the affiliate of a debarred supplier even if the debarred supplier has ceased to exist.

*[Parts 2-8 have not come into operation.]*

*[Schedules 1 and 2 have not come into operation.]*

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## Notes

This is a compilation of the *Procurement (Debarment of Suppliers) Regulations 2021*. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

### Compilation table

<b>Citation</b>	<b>Published</b>	<b>Commencement</b>
<i>Procurement (Debarment of Suppliers) Regulations 2021</i> Pt. 1	SL 2021/187 5 Nov 2021	5 Nov 2021 (see r. 2(a))

### Uncommenced provisions table

To view the text of the uncommenced provisions see *Subsidiary legislation as made* on the WA Legislation website.

<b>Citation</b>	<b>Published</b>	<b>Commencement</b>
<i>Procurement (Debarment of Suppliers) Regulations 2021</i> Pt. 2-8 and Sch. 1 and 2	SL 2021/187 5 Nov 2021	1 Jan 2022 (see r. 2(b))



## 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>
Australian Consumer Law .....	3(1)
Category A debarment conduct.....	3(1)
Category B debarment conduct.....	3(1)
Commonwealth Criminal Code .....	3(1)
Corporations Act.....	3(1)
corresponding debarment regime .....	3(1)
official investigation .....	3(1)
other debarment conduct.....	3(1)
penalty.....	3(1)
related body corporate.....	3(1)
senior officer .....	3(1)
supplier undertaking.....	3(1)
WA Criminal Code .....	3(1)