

Home Building Contracts Amendment Regulations 2012

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Home Building Contracts Amendment Regulations 2012*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Home Building Contracts Regulations 1992*.

4. Schedule 1 amended

In Schedule 1 under the heading “**NOTICE FOR THE HOME OWNER**”:

- (a) in the fourth clause under the heading “**What the Act covers**” delete “Disputes Tribunal” and insert:

Commissioner

- (b) in the final clause under the heading “**Home indemnity insurance**” delete “Either the Builders’ Registration Board or the Department of Consumer and Employment Protection” and insert:

The Building Commission staff

- (c) in the third clause under the heading “**Special rules for cost plus contracts**” delete the passage that begins with

“apply to the Building Disputes Tribunal” and ends with “failing to rectify” and insert:

make a complaint to the Building Commissioner about

- (d) in the fourth clause under the heading “**Special rules for cost plus contracts**” delete the passage that begins with “successive” and ends with “Act” and insert:

subsequent owner against financial loss where an order is made against the builder

- (e) in the final clause under the heading “**Provisions that are not allowed**” delete “refer the matter to the Building Disputes Tribunal —” and insert:

make a complaint to the Building Commissioner —

- (f) in the final clause under the heading “**Contract price must be fixed**” delete “apply to the Building Disputes Tribunal within this period to assess whether the price rise is justified.” and insert:

make a complaint to the Building Commissioner within this period.

- (g) in clause 3 under the heading “**Varying the contract**” delete “apply to the Building Disputes Tribunal,” and insert:

make a complaint to the Building Commissioner,

- (h) under the heading “**Where approvals are delayed**” delete “building licence” (each occurrence) and insert:

building permit

- (i) under the heading “**Where approvals are delayed**” in the Table delete subparagraph (iii) and insert:

(iii) you may, within 10 working days after receiving the notice, make a complaint about the matter to the Building Commissioner.

- (j) in the second clause under the heading “**Termination of contract**” delete “the Building Disputes Tribunal can make” and insert:

you may make a complaint to the Building Commissioner claiming

- (k) delete the entire passage from the heading “**Disputes**” to the end of the notice and insert:

Disputes

1. Contracts generally

You can make a complaint to the Building Commissioner under the *Building Services (Complaint Resolution and Administration) Act 2011* if there is a dispute between you and a builder about a contract that falls within the Act. Such a complaint to the Commissioner must be made within 3 years from when you became entitled to take legal action.

There are monetary limits on orders that can be made under that Act. The limits are \$100 000 if an order is made by the Building Commissioner and \$500 000 if the order is made by the State Administrative Tribunal following a referral by the Building Commissioner.

2. Standard of services

You can make a complaint to the Building Commissioner under the *Building Services (Complaint Resolution and Administration) Act 2011* about certain building services not being carried out in a proper and proficient manner or being faulty or unsatisfactory.

Such a complaint to the Commissioner must be made within 6 years from the time the building service is completed. The building service is completed —

- (a) if the building service is carried out under a building permit, when a notice of cessation or a notice of completion in relation to the permit has been given to the relevant permit authority;
- (b) otherwise, on the date on which the building service was last carried out.

There are monetary limits on orders that can be made under that Act. The limits are \$100 000 if an order is made by the Building Commissioner and \$500 000 if the order is made by the State Administrative Tribunal following a referral by the Building Commissioner.

3. *Procedure*

Before you make a complaint to the Building Commissioner about a contract that falls within this Act, written notice that you propose to make a complaint must be given to the other party together with a description of the remedy that you propose to seek and the evidence on which you propose to rely. You must provide a copy of that notice to the Building Commissioner at the time of making a complaint.

Advice on how to make a complaint to the Building Commissioner and related matters may be obtained from Building Commission staff or from the Building Commission's website at www.buildingcommission.wa.gov.au.

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.