

Building Services (Registration) Amendment Regulations 2023

SL 2023/76

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Building Services (Registration) Amendment Regulations 2023*.

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* (***gazettal day***);
- (b) the rest of the regulations — on the day after the period of 12 months beginning on gazettal day.

3. Regulations amended

These regulations amend the *Building Services (Registration) Regulations 2011*.

4. Regulations 7A and 7B inserted

After regulation 7 insert:

7A. Information prescribed for register

- (1) For the purposes of section 29(4)(g) and (5)(h), the information is as follows —
 - (a) conviction of an offence under any of the following —
 - (i) the Act;
 - (ii) the *Building Services (Complaint Resolution and Administration) Act 2011*;
 - (iii) the *Home Building Contracts Act 1991*;
 - (b) if the registered building service provider is a building service contractor, details of a fine imposed by the State Administrative Tribunal under section 59(3) on a person who is —

- (i) a nominated supervisor of the contractor; or
 - (ii) if the contractor is a partnership — a partner; or
 - (iii) if the contractor is a body corporate — a director of the body corporate or a person who is concerned in the management of the body corporate; or
 - (iv) if the contractor is an unincorporated body — a person who is concerned in the management of the body;
 - (c) if the registered building service provider is a building service practitioner, details of a fine imposed by the State Administrative Tribunal under section 59(3) on that person in the person's capacity as —
 - (i) a nominated supervisor of a building service contractor; or
 - (ii) a partner of a building service contractor that is a partnership; or
 - (iii) a director of, or person concerned in the management of, a building service contractor that is a body corporate; or
 - (iv) a person concerned in the management of a building service contractor that is an unincorporated body;
 - (d) details of an order made by the Board under section 57(2)(a);
 - (e) details of a caution or reprimand issued by the Board under section 57(2)(b);
 - (f) details of a requirement of the Board for an undertaking under section 57(2)(c);
 - (g) details of an order made by the Board under section 57(2)(d) or 57(3);
 - (h) details of a caution or reprimand issued by the State Administrative Tribunal under section 58(1)(c).
- (2) A reference in subregulation (1)(a) to a conviction includes a finding of guilt, or the acceptance of a guilty plea, whether or not a conviction is recorded.
 - (3) In the case of a building service contractor that is a partnership, subregulation (1)(a) applies in relation to the conviction of a partner.
 - (4) This regulation does not apply in relation to conduct by a registered building service provider that occurred before the commencement of the *Building Services*

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regulation 4.

7B. Removing information from register

- (1) The Building Commissioner must remove the information referred to in regulation 7A(1)(a), (b) or (c) as soon as practicable after, and in any event not later than 28 days after, the earlier of the following —
 - (a) the expiry of the period of 3 years beginning on the day of conviction or the day on which the fine is imposed (whichever is relevant);
 - (b) the conviction or the decision to impose a fine (whichever is relevant) is set aside on appeal.
- (2) The Building Commissioner must remove the information referred to in regulation 7A(1)(d), (e), (f), (g) or (h) as soon as practicable after, and in any event not later than 28 days after, the earlier of the following —
 - (a) the expiry of the period of 12 months beginning on the day on which the order, caution or reprimand or requirement (whichever is relevant) is made or issued;
 - (b) the decision to make the order or issue the caution or reprimand or requirement (whichever is relevant) is set aside on review by the State Administrative Tribunal.
- (3) A reference in subregulation (1)(a) to the day of conviction means (as applicable) —
 - (a) the day on which the conviction is recorded; or
 - (b) if no conviction is recorded —
 - (i) the day on which the finding of guilt is made in relation to the building service provider; or
 - (ii) the day on which the plea of guilty by the building service provider is accepted.

N. HAGLEY, Clerk of the Executive Council.