



New South Wales

Home Building Amendment (Penalty Notices) Regulation 1999

under the

Home Building Act 1989

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Home Building Act 1989*.

JOHN WATKINS, M.P.,

Minister for Fair Trading

Explanatory note

The objects of this Regulation are to prescribe certain offences under the Home Building Act 1989 as penalty notice offences and to prescribe short descriptions for those offences.

This Regulation is made under the *Home Building Act 1989*, including section 138A (Penalty notices) and section 140 (the general regulation-making power).

1999 No 543

Clause 1 Home Building Amendment (Penalty Notices) Regulation 1999

Home Building Amendment (Penalty Notices) Regulation 1999

1 Name of Regulation

This Regulation is the *Home Building Amendment (Penalty Notices) Regulation 1999*.

2 Amendment of Home Building Regulation 1997

The *Home Building Regulation 1997* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 2)

[1] Clauses 67 and 68

Insert after clause 66:

67 Penalty notice offences

For the purposes of section 138A of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 4 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 3 of Schedule 4.

68 Short description of offences

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 4 consists of:
 - (a) the expression specified in Column 2 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 4, the prescribed expression is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.

(4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

[2] Schedule 4

Insert after Schedule 3:

Schedule 4 Penalty notice offences and short descriptions

(Clauses 67 and 68)

Column 1	Column 2	Column 3
Offence	Prescribed expression	Penalty
Offences under the Act		
Section 4	contract to do unlicensed residential building work/specialist work	\$500
Section 7A	contract to do work where form requirements not met	\$250
Section 7B	fail to give other party copy of contract	\$250
Section 8 (1) (a)	demand/receive deposit exceeding maximum	\$250
Section 8 (1) (b)	contract for deposit exceeding maximum	\$250
Section 12	do unlicensed residential building work/ specialist work	\$500
Section 16DA	contract to supply kit home where form requirements not met	\$250
Section 16DB	fail to give other party copy of kit home contract	\$250
Section 16E (1) (a)	demand/receive kit home deposit exceeding maximum	\$250

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Amendments

Schedule 1

Section 16E (1) (b)	contract for kit home deposit exceeding maximum	\$250
Section 36	contravene condition of authority	\$150
Section 44 (1)	fail to lodge cancelled/varied/different authority/statement about cancelled/varied/different authority	\$150
Section 47 (c)	fail to produce authority to person authorised under s47 (c)	\$150
Section 47 (d)	fail to produce authority to person authorised under s47 (d)	\$150
Section 47 (e)	fail to produce authority to investigator	\$150
Section 78 (1)	fail to lodge cancelled/suspended/varied licence/certificate/statement about cancelled/suspended/varied licence/certificate	\$150

Offences under this Regulation

Clause 62 (3)	fail to display required sign	\$150
Clause 63	fail to include required details in advertisement	\$150

BY AUTHORITY