



New South Wales

Home Building Amendment (Fees and Penalties) Regulation 2005

under the

Home Building Act 1989

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

DIANE BEAMER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Home Building Regulation 2004 (the Regulation)* as a consequence of recent amendments to the *Home Building Act 1989 (the Act)* by the *Home Building Amendment Act 2004*. The amendments to the Regulation are as follows:

- (a) to introduce a fee for an individual, partnership or corporation for the variation of an authority (that is, a licence or certificate) issued under the Act as it applies to different categories of residential building work or specialist work, and
- (b) to provide for additional penalties for a number of offences under the Act and the Regulation, and
- (c) to provide for penalties to apply to corporations as well as individuals.

Section 21 (1) (a) and (b) of the Act provide that a contractor licence authorises its holder to contract to do any residential building work or specialist work that is described in the contractor licence when it is issued (being work of a category or categories prescribed by the Regulation). Section 21 (2) (b) of the Act provides that the authority conferred by a contractor licence may, on the application of the holder of that licence, be varied by an order of the Director-General (for the purposes of the Act, being the Commissioner for Fair Trading, Department of Commerce) set out in a notice served on the holder of that licence. Similar provisions relating to certificates are set out in section 27 of the Act.

Section 138A of the Act provides for penalty notices to be served for offences prescribed in the Regulation.

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Explanatory note

This Regulation also effects minor law revision by omitting an out-of-date reference to roof plumbing work being a category of specialist work.

This Regulation is made under the *Home Building Act 1989*, including sections 21, 27, 138A and 140 (the general regulation-making power) and, in particular, section 140 (2) (j) and the various sections referred to in this Regulation.

Home Building Amendment (Fees and Penalties) Regulation 2005

under the

Home Building Act 1989

1 Name of Regulation

This Regulation is the *Home Building Amendment (Fees and Penalties) Regulation 2005*.

2 Commencement

This Regulation commences on 21 November 2005.

3 Amendment of Home Building Regulation 2004

The *Home Building Regulation 2004* is amended as set out in Schedule 1.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 42 Application fees

Insert “, variation” after “restoration” in clause 42 (1).

[2] Clause 87 Penalty notice offences

Insert “(in respect of an individual) or in Column 3 of Schedule 6 (in respect of a corporation)” after “Column 2 of Schedule 6” in clause 87 (b).

[3] Schedule 4 Application fees

Insert under the headings “**Contractor licence**” and “**Building contractor or supplier of kit homes**” in relation to a licence for an individual after the matter relating to a new licence in Columns 1–5, respectively:

Variation to add a category or categories referred to in clause 46 (1) (a), (b) or (d)	Not applicable	\$215	Nil	\$215
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Variation to add a category or categories referred to in clause 46 (1) (c) or (e)–(ab) or (2) (a)–(j)	Not applicable	\$89	Nil	\$89
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[4] Schedule 4

Insert under the headings “**Contractor licence**” and “**Building contractor or supplier of kit homes**” in relation to a licence for a partnership after the matter relating to a new licence in Columns 1–5, respectively:

Variation to add a category or categories referred to in clause 46 (1) (a), (b) or (d)	Not applicable	\$215	Nil	\$215
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Amendments

Schedule 1

Variation to add a category or categories referred to in clause 46 (1) (c) or (e)–(ab) or (2) (a)–(j)	Not applicable	\$89	Nil	\$89
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[5] Schedule 4

Insert under the headings “**Contractor licence**” and “Building contractor or supplier of kit homes” in relation to a licence for a corporation after the matter relating to a new licence in Columns 1–5, respectively:

Variation to add a category or categories referred to in clause 46 (1) (a), (b) or (d)	Not applicable	\$215	Nil	\$215
Variation to add a category or categories referred to in clause 46 (1) (c) or (e)–(ab) or (2) (a)–(j)	Not applicable	\$89	Nil	\$89

[6] Schedule 4

Insert under the headings “**Contractor licence**” and “Other construction or specialist contractor” in relation to a licence for an individual after the matter relating to a new licence in Columns 1–5, respectively:

Variation to add a category or categories referred to in clause 46 (1) (a), (b) or (d)	Not applicable	\$215	Nil	\$215
Variation to add a category or categories referred to in clause 46 (1) (c) or (e)–(ab) or (2) (a)–(j)	Not applicable	\$89	Nil	\$89

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Schedule 1 Amendments

[7] Schedule 4

Insert under the headings “**Contractor licence**” and “Other construction or specialist contractor” in relation to a licence for a partnership after the matter relating to a new licence in Columns 1–5, respectively:

Variation to add a category or categories referred to in clause 46 (1) (a), (b) or (d)	Not applicable	\$502	Nil	\$502
Variation to add a category or categories referred to in clause 46 (1) (c) or (e)–(ab) or (2) (a)–(j)	Not applicable	\$89	Nil	\$89

[8] Schedule 4

Insert under the headings “**Contractor licence**” and “Other construction or specialist contractor” in relation to a licence for a corporation after the matter relating to a new licence in Columns 1–5, respectively:

Variation to add a category or categories referred to in clause 46 (1) (a), (b) or (d)	Not applicable	\$547	Nil	\$547
Variation to add a category or categories referred to in clause 46 (1) (c) or (e)–(ab) or (2) (a)–(j)	Not applicable	\$89	Nil	\$89

[9] Schedule 4

Insert under the headings “**Supervisor certificate**” and “Building supervisor” after the matter relating to a new certificate in Columns 1–5, respectively:

Variation to add a category or categories referred to in clause 46	Not applicable	\$62	Nil	\$62
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[10] Schedule 4

Insert under the headings “**Supervisor certificate**” and “Other construction or specialist work supervisor” after the matter relating to a new certificate in Columns 1–5, respectively:

Variation to add a category or categories referred to in clause 46	Not applicable	\$62	Nil	\$62
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[11] Schedule 4

Insert under the heading “**Tradesperson certificate**” after the matter relating to a new certificate in Columns 1–5, respectively:

Variation to add a category or categories referred to in clause 46 (2) (a)–(j)	Not applicable	\$62	Nil	\$62
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[12] Schedule 5 Extended descriptions of work authorised by contractor licences or certificates

Omit “Roof plumbing” and “Roof plumbing work” from Columns 1 and 2, respectively, of the Table to the Schedule in the matter relating to specialist work.

[13] Schedule 6

Omit the Schedule. Insert instead:

Schedule 6 Penalty notice offences

(Clause 87)

Column 1	Column 2	Column 3
Offence	Penalty—Individual	Penalty—Corporation
Offences under the Act		
Section 4 (1)–(4)	\$750	\$1,500
Section 5 (1) and (2)	\$250	\$500
Section 7AA (1)	\$250	\$500

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Schedule 1 Amendments

Column 1	Column 2	Column 3
Offence	Penalty—Individual	Penalty—Corporation
Section 7A	\$250	\$500
Section 7B	\$250	\$500
Section 8 (1)	\$500	\$1,000
Section 9 (2)	\$250	\$500
Section 12	\$500	Nil
Section 13 (1)	\$500	Nil
Section 14 (1), (3) and (4)	\$500	Nil
Section 15	\$500	Nil
Section 16	\$750	\$1,500
Section 16A (1) and (2)	\$750	\$1,500
Section 16DAA (1)	\$250	\$500
Section 16DA	\$250	\$500
Section 16DB	\$250	\$500
Section 16E (1)	\$500	\$1,000
Section 16F (2)	\$250	\$500
Section 18H (1) and (2)	\$750	\$1,500
Section 18L (1)	\$250	\$500
Section 18N	\$250	\$500
Section 18O	\$250	\$500
Section 18T	\$500	Nil
Section 18U	\$750	\$1,500
Section 22A (4)	\$250	\$500
Section 22B (5)	\$250	\$500
Section 32AA (1)	\$750	Nil
Section 34 (1)	\$250	\$500
Section 36 (2)	\$250	\$500
Section 44 (1)	\$250	\$500
Section 46A (1)	\$750	\$1,500
Section 47	\$250	\$500

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Amendments

Schedule 1

Column 1	Column 2	Column 3
Offence	Penalty—Individual	Penalty—Corporation
Section 48T (2)	\$500	Nil
Section 65 (3)	\$500	\$1,000
Section 66 (1)	\$250	\$500
Section 92 (1) and (2)	\$1,500	\$3,000
Section 92A	\$250	\$500
Section 93 (1) and (2)	\$1,500	\$3,000
Section 93A	\$250	\$500
Section 95 (1) and (2)	\$1,500	\$3,000
Section 95 (2A)	\$250	\$500
Section 96 (1) and (2)	\$1,500	\$3,000
Section 96 (2B)	\$250	\$500
Section 96A (1)	\$1,500	\$3,000
Section 96A (1A)	\$250	\$500
Section 127 (4)	\$500	\$1,000
Section 127A (4)	\$500	Nil
Offences under this Regulation		
Clause 41	\$250	\$500
Clause 84 (3)	\$250	\$500
Clause 85	\$250	\$500

BY AUTHORITY