



New South Wales

# Home Building Amendment (Contractor Licences) Regulation 2006

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 *Home Building Regulation 2004* provides for certain requirements in relation to the granting, renewal and restoration of authorities (including contractor licences) under the *Home Building Act 1989*. A contractor licence cannot be granted (or renewed or restored) unless the Director-General of the Department of Commerce is satisfied that (among other things) the applicant is not, or has not been within 3 years of the date of the application, financially insolvent. However, the Director-General may still grant (or renew or restore) a contractor licence to such an applicant in certain circumstances. The object of this Regulation is to make those circumstances consistent for the granting of licences for such applicants and for the renewal or restoration of those licences.

In the case of all such applicants, the Director-General may grant (or renew or restore) a contractor licence if the Director-General is of the opinion that the applicant took all reasonable steps to avoid the financial insolvency and there is no evident risk to the public that the applicant will be unable to complete building contracts entered into in the future.

In the case of an applicant who is financially insolvent, a licence can only be granted that authorises the holder to do work of a certain kind, and is subject to the condition that the holder is not to contract for work valued over \$12,000.

In the case of an applicant who was financially insolvent during the 3 year period prior to the application, the Director-General may grant (or renew or restore) a licence authorising its holder to do work of a certain kind, or that authorises the holder not to contract for work valued over \$12,000.

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

## **2006 No 281**

Clause 1 Home Building Amendment (Contractor Licences) Regulation 2006

---

# **Home Building Amendment (Contractor Licences) Regulation 2006**

under the

Home Building Act 1989

### **1 Name of Regulation**

This Regulation is the *Home Building Amendment (Contractor Licences) Regulation 2006*.

### **2 Amendment of Home Building Regulation 2004**

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

---

## Schedule 1 Amendments

(Clause 2)

### [1] Clause 26 Additional requirements for obtaining contractor licences

Omit clause 26 (2) (b). Insert instead:

- (b) the Director-General is of the opinion that:
  - (i) there is no evident risk to the public that the applicant will be unable to complete building contracts entered into in the future for the doing of residential building work or specialist work of that kind, or both, and
  - (ii) the relevant person concerned took all reasonable steps to avoid the bankruptcy, liquidation or appointment of a controller or administrator, and

### [2] Clause 26 (3) and (3A)

Omit clause 26 (3). Insert instead:

- (3) Despite clause 25 (1) (a) (xiii), the Director-General may issue a contractor licence if the Director-General is of the opinion that:
  - (a) there is no evident risk to the public that the applicant will be unable to complete building contracts entered into in the future for the doing of residential building work or specialist work of that kind, or both, and
  - (b) the relevant person concerned took all reasonable steps to avoid the bankruptcy, liquidation or appointment of a controller or administrator.
- (3A) A contractor licence issued under subclause (3) may be issued subject to any of the following conditions:
  - (a) that the licence authorises its holder to do residential building work or specialist work of the kind prescribed by clause 46 (clause 46 (1) (a) and (b) excepted) but not of any other kind,
  - (b) that the holder of the licence not do work:
    - (i) if the contract price exceeds \$12,000 (inclusive of GST), or
    - (ii) if the contract price is not known—where the reasonable cost of the labour and materials involved in the work exceeds \$12,000 (inclusive of GST).

**[3] Clause 39A General requirements for renewal or restoration of authorities**

Omit “, unless the Director-General is satisfied that the person took all reasonable steps to avoid the bankruptcy, liquidation or administration” from clause 39A (1) (d).

**[4] Clause 39A (1A) and (1B)**

Insert after clause 39A (1):

- (1A) Despite subclause (1) (c) and (d), the Director-General may renew or restore a contractor licence if the Director-General is of the opinion that:
  - (a) there is no evident risk to the public that the applicant will be unable to complete building contracts entered into in the future for the doing of residential building work or specialist work of that kind, or both, and
  - (b) the relevant person concerned took all reasonable steps to avoid the bankruptcy, liquidation or appointment of a controller or administrator.
- (1B) A contractor licence renewed or restored under subclause (1A) may be renewed or restored subject to any of the following conditions:
  - (a) that the licence authorises its holder to do residential building work or specialist work of the kind prescribed by clause 46 (clause 46 (1) (a) and (b) excepted) but not of any other kind,
  - (b) that the holder of the licence not do work:
    - (i) if the contract price exceeds \$12,000 (inclusive of GST), or
    - (ii) if the contract price is not known—where the reasonable cost of the labour and materials involved in the work exceeds \$12,000 (inclusive of GST).