

I certify that this is a copy of the authorised version of this Statutory Rule as at 1 January 2019, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 January 2019.

Robyn Webb
Chief Parliamentary Counsel
Dated 22 June 2021

TASMANIA

OCCUPATIONAL LICENSING (BUILDING SERVICES WORK) REGULATIONS 2016

STATUTORY RULES 2016, No. 112

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OCCUPATIONAL LICENSING (BUILDING SERVICES WORK) REGULATIONS 2016

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Occupational Licensing Act 2005*.

Dated 13 December 2016.

C. WARNER
Governor

By Her Excellency's Command,

GUY BARNETT
Minister for Building and Construction

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the *Occupational Licensing (Building Services Work) Regulations 2016*.

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Part 1 – Preliminary

2. Commencement

These regulations take effect on the day on which the *Occupational Licensing Amendment Act 2016* commences.

3. Interpretation

(1) In these regulations –

Act means the *Occupational Licensing Act 2005*;

building services work determination means the determination, made under section 30 of the Act, as amended from time to time, in respect of –

- (a) building services work; and
- (b) the classes of building services work; and
- (c) any details relating to the classes of building services work;

specified fee means a fee specified in Schedule 2.

(2) Unless the contrary intention appears, an expression used in these regulations that is defined in the building services work determination has the same meaning in these regulations as in that determination.

PART 2 – BUILDING SERVICES WORK

4. Prescribed work

(1) In this regulation –

site plan means a plan of a site, showing site features, boundaries, orientation and access, existing or proposed structures and distribution of services, together with the location of a proposed structure or of proposed work.

(2) For the purposes of the definition of prescribed work in section 3(1) of the Act, work specified in Part 1 of Schedule 1 is determined to be prescribed work, unless exempted under section 99(1)(b) of the Act.

(3) Despite subregulation (2), work specified in Part 2 of Schedule 1 is excluded from the application of the Act.

(4) Work referred to in subregulation (2) is prescribed as building services work for the purposes of paragraph (a) of the definition of building services work in section 3(1) of the Act unless –

(a) excluded from the application of the Act under subregulation (3); or

(b) the work is design work carried out by a plumber practitioner (certifier), within the meaning of the *Occupational*

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2010*, working within his or her area of
competence; or

- (c) the work is the preparation of a site plan, or as-constructed plan, in relation to work, or in association with work, carried out by a plumber practitioner (certifier), within the meaning of the *Occupational Licensing (Plumbing Work) Regulations 2010*, working within his or her area of competence; or
- (d) the work is the preparation of a site plan in relation to work performed on, or in association with work performed on, Class 10 buildings or Class 7b farm buildings.

5. Administrator to be notified of changes

- (1) The holder of a building services licence that is not a licensed entity must notify the Administrator in writing within 21 days after any change to the following information:
 - (a) his or her name;
 - (b) his or her residential address;
 - (c) a telephone or fax number used in connection with the licence;
 - (d) an email address used in connection with the licence.

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Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 25 penalty units; or
 - (b) a natural person, a fine not exceeding 10 penalty units.
- (2) The holder of a building services licence that is a licensed entity must notify the Administrator in writing within 21 days after a change to the following information, if applicable:
- (a) the name of the licensed entity;
 - (b) a registered business name used in connection with the licence;
 - (c) a person who is a director or partner of the licensed entity, or a person who is a licensed person for a municipal council;
 - (d) the address of the holder's registered office;
 - (e) the address of the holder's principal place of business;
 - (f) a telephone or fax number used in connection with the licence;
 - (g) an email address used in connection with the licence.

Penalty: Fine not exceeding 25 penalty units.

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6. Records of building services work

- (1) A building services provider must keep, for at least 10 years after the work is completed, records, in an approved form, of all building services work, undertaken by the building services provider.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 50 penalty units; or
 - (b) an individual, a fine not exceeding 25 penalty units.
- (2) For the purposes of this regulation, building services work is completed –
- (a) if the building services work is building work or demolition work, other than low-risk work, within the meaning of the *Building Act 2016*, on the earlier of the following days:
 - (i) the day on which a certificate of completion is issued under that Act in respect of the work;
 - (ii) the day on which the contract to perform the building work, or demolition work, is terminated; or
 - (b) if the building services work is building work that is covered by a building permit

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issued under the *Building Act 2000*, on the earlier of the following days:

- (i) the day on which a certificate of completion is issued under that Act, or the *Building Act 2016*, in respect of the work;
 - (ii) the day on which the contract to perform the building work, or demolition work, is terminated; or
- (c) if the building services work is building work that is not covered by paragraph (a) or (b), on the earlier of the following days:
- (i) the day on which the work is last attended to by the building services provider;
 - (ii) the day on which the contract to perform the building services work is satisfied by both parties to the contract or terminated; or
- (d) if the buildings services work is not building work, on the earlier of the following days:
- (i) the day on which all of the building services provider's statutory obligations in respect of the work under the *Building Act*

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2000, or the Building Act 2016,
are discharged;

- (ii) the day on which his or her engagement as a building services provider in respect of the work ceases under the *Building Act 2000* or the *Building Act 2016*.

7.

8. Duties of licence holders

For the purposes of section 25(2A) of the Act, all building services work is prescribed.

PART 3 – OWNER BUILDERS

9. Prescribed criteria

(1) In this regulation –

building authority includes an authority allowing an accredited building practitioner to carry out or manage building work under the *Building Act 2000*, and a building services licence.

(2) For the purposes of section 29B(1)(a) of the Act, the prescribed criteria for a person to hold an owner builder permit are –

- (a) the person is a natural person; and
- (b) the person owns the premises in respect of which the work to be performed under the proposed permit relates; and
- (c) the person intends, or another owner builder in respect of the premises intends, to carry out or manage the building work on the premises under the authority of the proposed permit, whether or not that work has commenced before the proposed permit is issued; and
- (d) the person does not intend, or another owner of the premises does not intend, to perform permit demolition work, or notifiable demolition work, within the

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meaning of the *Building Act 2016*, under the authority of the proposed permit; and

- (e) other than building work carried out or managed under a building authority, the person and each other owner of the premises, in aggregate, have not already carried out or managed building work, under an authorisation as an owner builder, on 2 or more buildings in the 10 years immediately before the person made the application for the proposed permit; and
- (f) each other owner of the premises meets the prescribed criteria set out in paragraphs (a), (b), (c), (d) and (e).

10. Owner builder permit not required

A person does not require an owner builder permit under this Part if the person intends to manage or carry out building work –

- (a) that is excluded work under items 1 or 2 of Part 2 of Schedule 1; or
- (b) in respect of a Class 7b farm building.

11. Obligation to hold insurance, &c.

For the avoidance of doubt, an obligation under the Act in respect of a person performing work as an owner builder is in addition to, and not limited by, any obligation in respect of that

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person that he or she would be required to meet if performing the work other than as an owner builder.

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Part 4 – Miscellaneous

PART 4 – MISCELLANEOUS

Division 1 – Fees

12. Fees generally

(1) In this regulation –

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

(2) The fees specified in Schedule 2 –

(a) are inclusive of any GST that may be payable in respect of those fees; and

(b) are prescribed as the fees payable to the Administrator in respect of the matter to which they relate.

(3) If an application under these regulations for the issue of a licence is refused, any annual or triennial fee paid in respect of the issue of the licence is to be refunded to the person who paid the fee.

13. Licence fees

A person applying for the issue of a building services licence must pay the fee specified in Schedule 2 for that licence.

14. Additional occupations

In addition to any other specified fee required to be paid, a person intending to apply for, or to renew, a licence in respect of more than one occupation must pay, on application, the fee specified in Schedule 2 for each additional occupation to be included, or renewed, on the licence.

15. Owner builder permit fees

A person applying for the issue of an owner builder permit under these regulations must pay the application fee specified in Schedule 2 for that permit.

Division 2 – Infringement notices

16. Infringement notices

- (1) For the purposes of section 62(1) of the Act –
 - (a) an offence against a provision of the Act specified in column 1 of the table in Part 1 of Schedule 3 is prescribed as an offence for which an infringement notice may be issued; and
 - (b) an offence against a provision of these regulations specified in column 1 of the table in Part 2 of Schedule 3 is prescribed as an offence for which an infringement notice may be issued.

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Part 4 – Miscellaneous

- (2) A penalty specified in column 2 of a table in Part 1 or 2 of Schedule 3 is prescribed as the penalty for a body corporate for the relevant offence specified in column 1 of the relevant table.
- (3) A penalty specified in column 3 of a table in Part 1 or 2 of Schedule 3 is prescribed as the penalty for a natural person for the relevant offence specified in column 1 of the relevant table.
- (4) If an infringement notice is served under section 62 of the Act and is not withdrawn, the authorised officer serving the infringement notice is to forward a copy of the notice to the Administrator.

SCHEDULE 1 – BUILDING SERVICES WORK

Regulation 4

PART 1 – PRESCRIBED WORK

1. Building work or demolition work that is –
 - (a) work carried out on, or as part of, the construction, erecting or re-erecting, installation, replacement, repair, underpinning, alteration, addition, maintenance, demolition or removal of any premises, building or temporary structure; or
 - (b) excavating or filling incidental to an activity referred to in paragraph (a); or
 - (c) the management, carrying out, certification or entering of a contract for any of the types of work in paragraph (a) or (b).

2. Design work that is –
 - (a) architectural analysis, design and documentation of any premises, building or temporary structure; or
 - (b) engineering analysis, design and documentation of any premises, building or temporary structure, or of building components and structural systems,

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including research, analysing criteria, and finding and analysing solutions; or

- (c) design of the building services of any premises, building or temporary structure, or of building components or systems, including matters related to the design of mechanical, electrical, hydraulic, acoustics, energy management and fire protection components or systems; or
- (d) assessment and certification of architectural or engineering designs of proposed building work, hydraulic or plumbing work, or demolition work, including reviews by specialists, experts, and third parties, of designs or performance solutions; or
- (e) the management, carrying out, certification or entering of a contract for any of the types of work in paragraphs (a), (b), (c) or (d).

3. Assessment or certification work that is –

- (a) assessment and certification of architectural or engineering designs of proposed building work, or demolition work, including work performed for the purpose of obtaining statutory approvals, permits or authorisations to perform that building or demolition work; or

- (b) assessment and certification of designs of proposed plumbing work, plumbing installations or hydraulic work, or engineering hydraulic work, including for the purpose of obtaining statutory approvals, permits or authorisations to perform that plumbing work; or
- (c) inspection, assessment, testing, reporting, advising, authorisation or certification of building work, premises, buildings or temporary structures; or
- (d) inspection, assessment, testing, reporting, advising or certification of plumbing work, plumbing installations, building services-hydraulic work or engineering hydraulic work; or
- (e) the management, carrying out, certification or entering of a contract for any of the types of work in paragraphs (a), (b), (c) or (d).

PART 2 – EXCLUDED WORK

1. Work that –

- (a) is low-risk work within the meaning of the *Building Act 2016*; and
- (b)

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- (c) is not required under that Act to be performed by a licensed builder, within the meaning of that Act.

- 2. Work that is performed by a person as part of an investigation of the conditions of a building or premises and performed for the purposes of the person providing a certificate referred to in section 321 of the *Building Act 2016* in respect of the building or premises.

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SCHEDULE 2 – FEES

Regulations 3, 13, 14 and 15

1. In this Schedule –

architect has the same meaning as in the
Architects Act 1929.

	Provision of Act or regulations	Matter	Fee units
1.	Section 45	Issue of replacement certificate of identification	25
2.	Section 29C(c)	Fee for owner builder permit – (a) if work intended to be performed under the permit by the holder of the permit involves work on a Class 1a or 1b building; or (b) if work intended to be performed under the permit by the holder of the permit does not involve work on a Class 1a or 1b building	240 120
3.	Regulation 12	Annual fee for building services licence in respect of an individual or licensed entity except the occupation of architect	240
4.	Regulation 12	Annual fee for building services licence in respect of an individual or licensed entity for the occupation of architect	195
5.	Regulation 12	Triennial fee for building services licence in respect of an individual or licensed entity except the occupation of architect	645

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	Provision of Act or regulations	Matter	Fee units
6.	Regulation 12	Triennial fee for building services licence in respect of an individual or licensed entity for the occupation of architect	525
7.	Regulation 14	Fee for each additional occupation to be included on a licence	120

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**SCHEDULE 3 – INFRINGEMENT NOTICE
PENALTIES**

Regulation 16

PART 1 – OFFENCES UNDER THE ACT

	Column 1	Column 2	Column 3
	Section of Act	Body corporate infringement notices (penalty units)	Natural person infringement notices (penalty units)
1.	Section 13(2)	5	2.5
2.	Section 16(4)	12.5	6
3.	Section 16(5)	2.5	1
4.	Section 20	20	10
5.	Section 22A(1)	20	10
6.	Section 22A(3)	20	10
7.	Section 23(1)	5	2.5
8.	Section 23(2)	5	2.5
9.	Section 24	2.5	1
10.	Section 25(1)	12.5	6
11.	Section 25(2A)	20	10

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	Column 1	Column 2	Column 3
	Section of Act	Body corporate infringement notices (penalty units)	Natural person infringement notices (penalty units)
12.	Section 29(3A)	20	10
13.	Section 29(3B)	20	10
14.	Section 29(4)	9	4.5
15.	Section 29(5)	9	4.5
16.	Section 38(1)	9	4.5
17.	Section 38(3)	9	4.5
18.	Section 38(4)	9	4.5
19.	Section 38(5)	9	4.5
20.	Section 38(6)	12.5	6
21.	Section 38(7)	20	10
22.	Section 38(8)	20	10
23.	Section 40(2)	9	4.5
24.	Section 41(3)	9	4.5
25.	Section 44(2)	2.5	1
26.	Section 47(1)	2.5	1

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	Column 1	Column 2	Column 3
	Section of Act	Body corporate infringement notices (penalty units)	Natural person infringement notices (penalty units)
27.	Section 47(2)	2.5	1
28.	Section 54(2)	5	2.5
29.	Section 58(3)	9	4.5
30.	Section 97	5	2.5
31.	Section 99(4)	20	10

PART 2 – OFFENCES UNDER THE REGULATIONS

	Column 1	Column 2	Column 3
	Regulation	Body corporate infringement notices (penalty units)	Natural person infringement notices (penalty units)
1.	Regulation 5(1)	1	0.5
2.	Regulation 6	20	10

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 21 December 2016.

These regulations are administered in the Department of Justice.

NOTES

The foregoing text of the *Occupational Licensing (Building Services Work) Regulations 2016* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 January 2019 are not specifically referred to in the following table of amendments.

Citation	Serial Number	Date of commencement
<i>Occupational Licensing (Building Services Work) Regulations 2016</i>	S.R. 2016, No. 112	1.1.2017
<i>Building Legislation (Miscellaneous Amendments) Act 2018</i>	No. 39 of 2018	1.1.2017 Part 4 17.12.2018 Part 5
<i>Occupational Licensing (Building Services Work) Regulations 2016</i>	S.R. 2016, No. 112	1.1.2019 Expiry of rule 7

TABLE OF AMENDMENTS

Provision affected	How affected
Regulation 7	Rescinded by S.R. 2016, No. 112
Regulation 9	Amended by No. 39 of 2018, s. 54
Part 2 of Schedule 1	Amended by No. 39 of 2018, s. 55
Schedule 2	Amended by No. 39 of 2018, s. 57