



## **Building Services Board Policy**

### **Acceptance of late applications (renewals)**

#### **OBJECTIVE**

The objective of this policy is to guide members of the Building Services Board (the Board) and Building Commission staff in making appropriate, consistent and legally defensible decisions on the approval or refusal of a late application for renewal of the registration of a registered building service provider.

#### **SCOPE**

This policy applies to all requests to submit an application for renewal of registration made by written notice, within 6 months after the end date of the renewal period under section 15(2) of the *Building Services (Regulation) Act 2011* (the BSRA).

#### **CONTEXT**

Under section 15(2) of the Act, the Board may, by written notice, accept an application made within 6 months after the end of the renewal period (even after the expiry of the registration sought to be renewed) if satisfied that the delay was caused by reasons beyond the control of the applicant, or other special circumstances that warrant acceptance of the application. The provision implies that the Board must decide on the reasons tendered whether to accept the late application, and if accepted the Board will then consider the merits of the application.

#### **TERMS USED**

Expiry date	Each registration expires on an expiry date shown on the registration certificate
Late application	An application form to renew registration received after the applicable expiry date is a late application
Six months	Six calendar months from the expiry date

#### **POLICY PRINCIPLES**

##### **Generally**

The following policy does not constrain the Board's capacity to depart from this policy as appropriate in the circumstances for any particular application for the renewal of a building service provider's registration.

The Board revokes all previous policies applicable to late applications for renewal of registration.

##### **Opportunity to request a late application for renewal of registration**

Section 15(2) of the BSRA empowers the Board to accept a late application for renewal of registration provided the late application was submitted within 6 months after the end of the renewal period. The Board may accept a late application if:

- (a) the delay was caused by reasons beyond the control of the applicant, or
- (b) other special circumstances warrant acceptance of the application.

## **The consequences that arise when an application is not lodged by the expiry date**

When no part of an application to renew registration is received by the Building Commission by the expiry date the registration automatically expires. If the registered entity is a contractor, the contractor must immediately cease providing building services. If the contractor is a builder, building permits issued for relevant building projects are automatically suspended. If the entity is a practitioner that practitioner ceases to be a nominated supervisor for any contractor.

## **Reasons that are acceptable**

In this policy "reasons beyond the control of the applicant" are external factors or the consequences of external factors preventing the applicant from submitting an application to renew registration by the expiry date and include events such as but not limited to:

- the applicant is suffering an incapacitating injury or physical or mental illness;
- a serious injury or physical or mental illness of a member of the applicant's immediate family;
- an act of violence or the threat of an act of violence sufficient to disrupt or distract from the applicant's positive intention to lodge an application not later than the expiry date;
- the applicant being detained beyond their control at a time relevant to the lodgement of the application not later than the expiry date;
- an act of God such as but not limited to flood, storm, earthquake, tsunami, damaging fire at a time relevant to the lodgement of the application not later than the expiry date;
- the failure of the delivery provider contracted to deliver the application not later than the expiry date;
- the applicant was away from the location where the renewal is normally delivered for the entire period unexpectedly until the expiry date and out of reach by modern communications;
- changes to administrative processes made by the Building Commission and/or Department of Commerce resulting in unintended or unanticipated consequences for applicants which delay or prevent the timely receipt of renewal applications.

When considering the reason that the application was late because of the failure of a delivery service provider the Board may have regard for documentary evidence provided by the applicant to support the applicant's submission.

In this policy "other special circumstances" include circumstances such as, but not limited to, the presence of a public interest of sufficient importance to justify the acceptance of a particular late application to renew registration.

The death of a member of the applicant's immediate family in the period close to the date of expiry could also be considered by the Board as a special circumstance.

When considering special circumstances the Board or its delegate will have regard for the foreseeable harms or costs if any that would reasonably be caused by refusing to accept a late application.

Each request for a late application will be considered on its merits. Notwithstanding that acceptable reasons will usually be sufficient ground for the Board to accept a late application, the submission of an acceptable reason does not oblige the Board to accept a late application.

### **Reasons that are not acceptable**

The Board will not usually accept applications that are late for reasons such as but not limited to:

- the applicant or an assistant forgot to mail or submit the application for renewal;
- the applicant or assistant was out of the office or on planned travel
- the applicant did not receive the Building Commission's renewal advice; and
- an unsubstantiated claim that the postage courier service took longer to deliver the application to renew than anticipated by the applicant.

Notwithstanding that reasons listed above will usually be insufficient grounds for the Board to accept a late application the submission of a reason that is not acceptable does not oblige the Board to refuse a late application.

### **When the expiry date is an excluded day**

Pursuant to section 61(1) (e) and (2) of the *Interpretations Act 1984* if the expiry date falls on an excluded day being a Saturday, Sunday, or a public holiday or public holiday in Western Australia or in that part of the state from which the application is lodged applications may be submitted by midnight the following working day.

### **Applications submitted by facsimile, email or electronic lodgement**

With the Building Commissioner's written approval, application for renewal of registration will be accepted by facsimile transmission, email, electronic lodgement or by other electronic means. Applications will be received by such means time stamped by the transmitting infrastructure with a date and time not later than midnight on the expiry date.

### **Late fees**

Section 15(4) of the BSRA provides for a late fee if the Board sees fit to be required as a condition of acceptance of a late application. It is the policy of the Board to require the late fee prescribed for the class of building service provider for all late applications for renewal of registration except for:

- The Board will not require a single entity being an individual building service contractor to pay a late fee for both the provider's practitioner and the contractor registrations that expire on the same day. The Board will require a late fee only for the contractor late application.

### **Application to re-register**

As an alternative to a late application to renew registration or in the event that the Board refuses to accept a late application, a building service provider can apply for initial registration using the approved forms and by paying the fees prescribed for the application.

The *Building Services (Registration) Regulations 2011* (the Regulations) do not require a former building practitioner who applies to be registered within three years of the expiry of a registration in the same class, to submit evidence of qualification and experience.

**Any part of an application lodged by the expiry date**

To assist applicants who may experience difficulty in completing all parts of an application and submitting by the expiry date, the Board will accept an incomplete renewal form or a renewal without payment, not later than the expiry date. All outstanding parts of such an application must be submitted within a period of 28 days commencing when the application has been assessed as incomplete and the applicant notified of the deficiencies of the application. Applications still incomplete after 28 days will be then be identified as incomplete and the relevant registration will expire.

**Consequences when the Board accepts a late application**

When the Board accepts a late application the Board's acceptance re-instates the entities registration status and causes the registered status to extend back in time to the entity's former registration. It is then as if the entity's registration never expired.

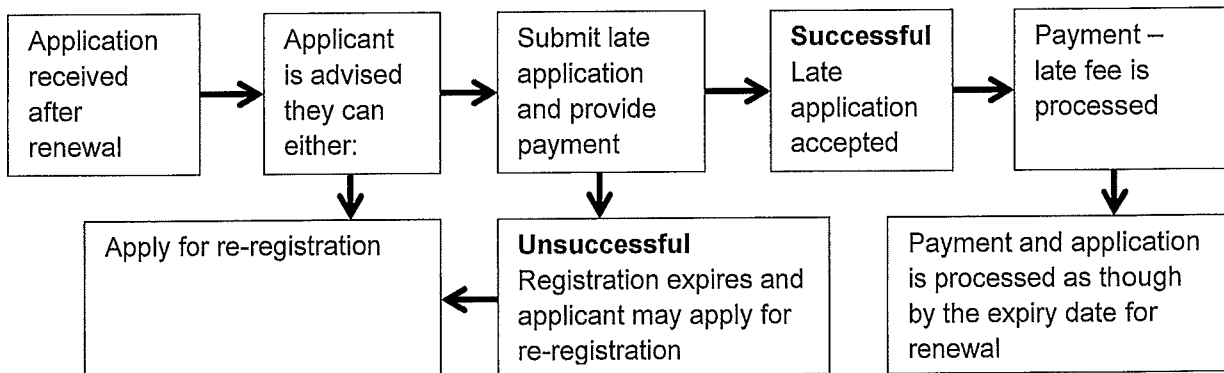
If the late application is subsequently unsuccessful, the entity's registration expires on the date the Board determines not to renew registration.

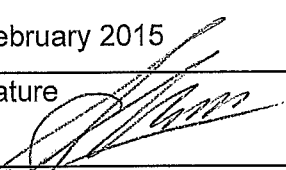
**Appeals against a decision of the Board**

The Board's decision to refuse to accept a late application is not subject to appeal. It is therefore prudent to provide all information to the Board at the time of application. A decision of the Board to refuse to register or renew a registration may be appealed to the State Administrative Tribunal.

**POLICY IMPLEMENTATION**

Building Commission Officers reporting to the Board will present recommendations based on the policy and will inform applicants of the policy. Building Commission officers informing applicants about the process steps and information flows associated with late applications will refer to the following process diagram.



Resolved by the BSB	Meeting Date 13 February 2015	Item Number 2.1
Chairperson	Signature 	Date 13/2/15.
Keywords	Late applications, renewals, expiry date	
Next review		