



Commerce Regulations Amendment (Infringement Notices) Regulations 2019

This industry bulletin advises that the Commerce Regulations Amendment (Infringement Notices) Regulations 2019 (the Amendment Regulations) was published in the Government Gazette on Friday 26 April 2019 and has commenced operation. The Amendment Regulations are accessible on the Western Australian Legislation website www.legislation.wa.gov.au

The Amendment Regulations will allow for Infringement Notices (modified penalties) to be issued for certain non-indictable offences under the building services legislation, including:

- *Building Act 2011* (Building Act);
- Building Regulations 2012 (Building Regulations);
- *Building Services (Complaint Resolution and Administration) Act 2011* (BSCRA Act);
- *Building Services (Registration) Act 2011* (Registration Act); and
- Building Services (Registration) Regulations 2011 (Registration Regulations).

There are only two classes of persons who may issue Infringement Notices:

1. Authorised officers appointed by the local government under the *Criminal Procedure Act 2004* (CP Act) Part 2.
2. Authorised officer appointed by the Building Commissioner for the purposes of the (CP Act).

An Authorised officer (local government) may only issue Infringement Notices for certain offences under the Building Act and Building Regulations.

An Authorised officer (Building and Energy) may only issue Infringement Notices for certain offences under the BSCRA Act, Registration Act and Registration Regulations.

The following tables contains a list of offences for which Infringement Notices may be issued.

Building Act and Building Regulations – Authorised officers (local government)

Section/Regulation	Offence	Modified penalty
s.33(1)	Failure to give notice of completion (BA7)	\$500
s.34(3)	Failure to give notice of cessation	\$250
s.42	Failure to display or bring attention to occupancy permit details	\$250
s.76(1)	Encroachment beyond boundaries without consent, court order or other authority	\$2,500
s.80(1)	Removal of fence, gate or other barrier to land without consent, court order or other authority	\$1,000
s.80(3)	Failure to erect adequate temporary barrier	\$1,000

Section/Regulation	Offence	Modified penalty
r.50(1)	Failure to install barrier around private swimming pool	\$1,000
r.56(1)	Failure to ensure smoke alarms compliant prior to transfer of dwelling	\$1,000
r.58	Failure to ensure smoke alarms compliant prior to tenancy	\$1,000
r.59	Failure to ensure smoke alarms compliant prior to hiring of dwelling	\$1,000

BSCRA Act, Registration Act, Registration Regulations – Authorised officers (Building and Energy)

Section/Regulation	Offence	Modified penalty
BSCRA Act		
s.25(2)	Failure to attend a conciliation proceeding as requested by the Building Commissioner	\$1,000
s.47(2)	Failure to comply with a direction of the Building Commissioner to provide information or produce records	\$2,000
Registration Act		
s.4(1)	Using a title when not registered in a class of building service contractor or building service practitioner	\$2,500 - title of builder or building surveyor \$1,250 - title of painter
s.5(1)	Falsely claiming to be registered in class of building service practitioner	\$2,500 - builder or building surveyor \$1,250 - painter
s.5(2)	Falsely claiming to be registered in class of building service contractor	\$2,500 - builder or building surveyor \$1,250 - painter
s.6(1)	Falsely claiming an entitlement to carry out a prescribed building service	\$2,500 - builder or building surveyor work \$1,250 - painter work
s.7(1)	Carrying out, or undertaking to carry out, prescribed building service when not registered	\$2,500 - builder or building surveyor work \$1,250 - painter work
s.7(5)	Subcontracting a prescribed building service to a person who is not entitled to carry out the building service	\$2,500 - builder or building surveyor \$1,250 - painter
s.8	Failure to cause building service contractor's registration number to appear in advertisement	\$250
s.22(2)	Carrying out, or undertaking to carry out, building service without nominated supervisor	\$2,500 – builder or building surveyor \$750 - painter
s.22(3)	Failure to notify the Board of ceasing to have a nominated supervisor	\$500 – builder or building surveyor \$250 - painter
s.25	Contravening a condition of building service provider's registration	\$2,500
s.32(1)	Failure to notify Board of change of address	\$250
s.33(1)	Failure to notify the Board of change in circumstances affecting eligibility to remain registered	\$1,000
s.34(1)	Failure to notify the Board of financial difficulty	\$1,000
s.34(3)	Failure to notify the Board of insolvency	\$1,000
s.35(1)	Failure to notify the Board of being charged with a serious offence	\$500

Section/Regulation	Offence	Modified penalty
s.35(2)	Failure to notify the Board of being convicted of a serious offence	\$500
s.35(3)	Failure to notify the Board of conviction of an offence against the Commonwealth or another jurisdiction	\$500
s.36(1)	Failure to notify the Board of disciplinary action	\$500
s.37(1)	Failure to return registration certificate	\$500
s.49	Contravening a condition that applies to an owner-builder approval	\$2,500
Registration Regulations		
r.21	Failure to display sign – building contractor	\$200
r.27(2)	Failure to display sign – owner-builder	\$200
r.28J(1)	Failure to display certificate of registration – building surveyor contractor	\$200
r.28K(1)	Failure to display sign – building surveying contractor	\$200
r.36	Failure to display sign – painting contractor	\$100

Disclaimer – The information contained in this fact sheet is provided as general information and a guide only. It should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations, you should obtain independent legal advice.

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