

Building and Construction Industry (Security of Payment) Amendment Regulations 2025

DRAFT REGULATIONS FOR PUBLIC COMMENT

The Government proposes to amend the *Building and Construction Industry (Security of Payment) Regulations 2022*.

These draft regulations have been prepared for public comment but it does not necessarily represent the Government's settled position.

All submissions must be forwarded to: sopreform@lgirs.wa.gov.au

For further information please see the Department of Local Government, Industry Regulation and Safety website at www.lgirs.wa.gov.au.

Building and Construction Industry (Security of Payment) Amendment Regulations 2025

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Building and Construction Industry (Security of Payment) Amendment Regulations 2025

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Building and Construction Industry (Security of Payment) Amendment Regulations 2025*.

2. Commencement

These regulations come into operation on the day on which the *Building and Construction Industry (Security of Payment) Amendment Act 2025* section 20 comes into operation.

3. Regulations amended

These regulations amend the *Building and Construction Industry (Security of Payment) Regulations 2022*.

4. Part 3A inserted

After regulation 10 insert:

Part 3A — Trust contracts

10A. Prescribed construction money threshold

For the purposes of Part 4 Division 2 of the Act, the prescribed construction money threshold is \$1 500 000.

10B. Exempt contracts

- (1) In this regulation —
exempt contract — see section 76A of the Act;
maintenance work —

- (a) means any of the following —
- (i) testing;
 - (ii) taking samples and restoring the sample site;
 - (iii) work required on an ongoing basis to prevent deterioration or failure of a thing;

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- (iv) work required on an ongoing basis to restore a thing to its correct operating specifications;
- (v) work required on an ongoing basis to replace a component at the end of its working life;

but

- (b) does not include any of the following —
 - (i) improving a building to increase its capabilities or functions;
 - (ii) improving a building to meet new statutory requirements applying to the building;
 - (iii) a refurbishment or replacement of a building that extends the life of the building;

practical completion, of a contract, means —

- (a) practical completion as provided for under the contract; or
- (b) if the contract does not provide for practical completion — the day on which work or supply under the contract would reasonably be estimated to be completed —
 - (i) in compliance with the contract, including all plans and specifications for the work and all statutory requirements applying to the work or supply; and
 - (ii) without any defects or omissions, other than minor defects or minor omissions that will not unreasonably affect the intended use of the work or supply;

professional services means services relating directly to construction work or the assessment of its feasibility in relation to any of the following —

- (a) surveying;
- (b) planning;
- (c) costing;
- (d) architecture;
- (e) design;

- (f) plan drafting;
 - (g) engineering;
 - (h) quantity surveying;
 - (i) project management.
- (2) For the purposes of Part 4 Division 2 of the Act, the following kinds of construction contracts are exempt contracts —
 - (a) a contract under which only maintenance work or professional services, or both, are required to be carried out or supplied;
 - (b) a contract under which there is less than 90 days between —
 - (i) the day on which the contract would have, were it not for this regulation, been a trust contract; and
 - (ii) the day practical completion of the contract is expected to occur.

Clerk of the Executive Council