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Quick Reference Guide

Reference guide to help those in the industry navigate WA' building laws. Note table is accurate as of 10 September 2024 and is a summary only.

| LEGISLATION | APPLIES TO: | PURPOSE(S) | KEY PROVISIONS |
|--|--|---|---|
| <p>Architects Act 2004 (WA)</p> <p><i>Architects Regulations 2005 (WA)</i></p> | <p>Any natural person seeking registration as an architect to carry on the practice of architecture</p> <p>Any company seeking a licence to carry on the practice of architecture under the title of "architect"</p> | <p>Provides for the registration of natural persons and corporations as architects</p> <p>Regulates the practice of architecture</p> <p>Makes it an offence to pretend to be an architect</p> | <ul style="list-style-type: none"> Registration and licensing of architects: ss29-42 Disciplinary proceedings: ss56-60 Offences: ss64-70 |
| <p>Building Act 2011 (WA)</p> <p><i>Building Regulations 2012 (WA)</i></p> <p><i>National Construction Code</i></p> | <p>Any person doing building work or demolition work</p> <p>Owners or occupiers of a building</p> | <p>Sets out the process for determining building standards and ensuring these standards are met through a system of certifying compliance, granting building, demolition and occupancy permits and inspecting building work</p> <p>Regulates work affecting other land and standards that apply to certain existing buildings</p> <p>Provides for enforcement of standards and processes by permit authorities.</p> | <ul style="list-style-type: none"> Building and demolition permits: ss 9-36 Building standards: ss 37-39 and Part 4 of the Building Regulations* Occupancy permits and building approval certificates: ss 40-65 Work affecting other land: ss 75-91 <p>*In general, the applicable building standard in relation to construction is the National Construction Code.</p> |

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| <p><i>Building and Construction Industry (Security of Payment) Act 2021 (WA)</i></p> <p><i>Building and Construction Industry (Security of Payment) Regulations 2022 (WA)</i></p> | <p>All construction contracts entered into on or after 1 August 2022</p> | <p>Provides contractors or claimants with a statutory right to get paid and a process for third party adjudication of payment disputes</p> <p>Prohibits and modifies certain contractual terms</p> <p>Improves protection for performance securities</p> | <ul style="list-style-type: none"> • Prohibited terms: s14 • Notice-based time bar: s16 • Right to progress payments: ss17-21 • Payment claims and schedules: ss22-27 • Adjudication of payment disputes: ss28-55 • Claimant's rights with respect to performance security: ss56-68 • Retention money trusts: ss 69-87 |
| <p><i>Building Services (Complaint Resolution and Administration) Act 2011 (WA)</i></p> <p><i>Building Services (Complaint Resolution and Administration) Regulations 2011 (WA) as amended by the Commerce Regulations Amendment (Building Services) Regulations 2023 (WA)</i></p> | <p>A person whose interests are being or have been adversely affected by the carrying out of a regulated building service</p> <p>An owner or builder under a contract for carrying out home building work</p> | <p>Establishes the Building Commissioner and Building and Energy as the central place for customers</p> <p>Sets out the process for dealing with complaints and resolving disputes, which may involve conciliation or referral to the SAT, the provision of orders to remedy building work and the authorisation for audits, inspections and investigations</p> | <ul style="list-style-type: none"> • Complaints about the carrying out of regulated building services or home building work contract matters: ss5-13 • Complaints about disciplinary matters: ss14-22 • Conciliation: ss23-29 • Orders (including interim orders, building remedy orders and HBWC remedy orders): ss30-58 • Inspections and investigations: ss59-75 |

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| <p>Building Services (Registration) Act 2011 (WA)</p> <p><i>Building Services (Registration) Regulations 2011 (WA) as amended by the Commerce Regulations Amendment (Building Services) Regulations 2023 (WA)</i></p> | <p>Individuals seeking registration as a building practitioner to perform particular building work</p> <p>Individuals, partnerships and companies seeking registration as a building contractor to trade as builders</p> | <p>Provides for the registration of individuals, partnerships and companies as building service practitioners or building service contractors</p> <p>Provides for approval of owner-builders</p> <p>Establishes the Building Services Board</p> | <ul style="list-style-type: none"> • Registration of building service practitioners: s17 • Registration of building service contractors: s18 Regulations |
| <p>Building Services Levy Act 2011 (WA)</p> | <p>Applicants for a building permit, demolition permit or occupancy permit</p> | <p>Imposes a levy in respect of building approval certificates and permits</p> | <ul style="list-style-type: none"> • See s94 of the Building Services (Complaint Resolution and Administration) Act 2011 (WA) and Part 3 of the Building Services (Complaint Resolution and Administration) Regulations |
| <p>Commerce Regulations Amendment (Building Services) Regulations 2023 (WA)</p> | <p>Building engineers carrying out or contracting with consumers to carry out building engineering work in WA</p> <p>Note: Registration of structural and fire safety building engineers commenced from 1 July 2024 and will become mandatory on 1 July 2026. Registration of civil and mechanical building engineers will commence from 1 July 2025 and become mandatory on 1 July 2027.</p> | <p>Introduces a framework to register engineers carrying out the following 4 classes of building engineering work – Civil, Structural, Mechanical and Fire Safety</p> <p>Introduces PII requirements for building engineering contractors</p> <p>Introduces CPD requirements for building engineering practitioners</p> <p>Introduces the WA Building Engineer’s Code of Conduct 2024</p> <p>Imposes application and registration fees for building engineering practitioners and contractors</p> | <ul style="list-style-type: none"> • Insurance requirements for building surveying contractors and building engineering contractors: regs 28F and 28O • Qualifications and experience for building engineering practitioners: reg 28M • Financial requirements for building engineering contractors: reg 28N • Prescribed requirements for building engineering practitioners: reg 28P |

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| <p>Construction Contracts (Former Provisions) Act 2004 (WA)</p> <p><i>Construction Contracts Regulations 2004 (WA)</i></p> | <p>All construction contracts entered into before 1 August 2022</p> | <p>Prohibits or modifies certain provisions in construction contracts</p> <p>Implies provisions in construction contracts about certain matters if there are no written provisions about the matters in the contracts</p> <p>Provides a process for third party adjudication of payment disputes</p> | <ul style="list-style-type: none"> • Construction work and related goods and services: ss4 and 5 • Payment dispute: s6 • Prohibited provisions: ss9-12 • Implied provisions: ss13-23 • Adjudication of disputes: ss24-46 |
| <p>Dividing Fences Act 1961 (WA)</p> <p><i>Dividing Fences Regulations 1971 (WA)</i></p> | <p>Fences that separate the lands of different owners but excluding retaining walls, fence height restrictions or encroachments: see <i>Building Act 2011 (WA)</i></p> | <p>Regulates dividing fences in WA</p> | <ul style="list-style-type: none"> • Construction of dividing fences: ss7-13 • Repair of dividing fences: ss14-16 |

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| <p>Home Building Contracts Act 1991 (WA)</p> <p><i>Home Building Contracts (Home Indemnity Insurance Exemptions) Regulations 2002 (WA)</i></p> <p><i>Home Building Contracts Regulations 1992 (WA)</i></p> | <p>Parties entering into a contract for home building and associated work valued between \$7,500 and \$500,000</p> | <p>Regulates contracts between consumers and builders for the performance of home building work</p> <p>Makes provision for the 'Notice for the Home Owner', home indemnity insurance, requirements of home building work contracts and conditions regarding deposits, progress payments and variations</p> | <ul style="list-style-type: none"> • Notice for the Home Owner: s4 • Variations: s7 • Building permit implied conditions: s9 • Deposits and progress payments: s10 • Defects liability implied condition: s11 • Prohibition on rise and fall: s13 • Cost plus contracts requirements: s14 • Remedies: ss17-20* • Home indemnity insurance: ss25A-25L** <p>*Owner or builder may make a complaint under s5(2) of the BSCRAA in relation to some breach of contract claims (which may be referred to SAT): ss17, 20 and Schedule 1 clause 5.</p> <p>**There are exemptions from the requirement to have HII in the <i>Home Building Contracts (Home Indemnity Insurance Exemptions) Regulations 2002 (WA)</i>. For example, "multi-storey multi-unit developments" and "developers" are exempt.</p> |

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| <p>Plumbers Licensing Act 1995 (WA)</p> <p><i>Plumbers Licensing and Plumbing Standards Regulations 2000 (WA)</i></p> <p><i>Water Services Coordination Regulations 1996 (WA)</i></p> | <p>A person seeking to carry out plumbing work.</p> | <p>Authorises licensed plumbing contractors and tradespersons to undertake plumbing work</p> <p>Administers a compliance and inspection framework to certify plumbing work standards</p> <p>Establishes the Plumbers Licensing Board with functions to licence plumbers, regulate their plumbing work and provide the Minister with advice on the qualification and training needs of the trade</p> | <ul style="list-style-type: none"> • Plumbers Licensing Board: ss59-59L and regs 5-8 • Licences and permits: regs 9-26B • Disciplinary proceedings: regs 26C-34 • Plumbing standards: regs 48-59 • Inspection, investigation and enforcement: regs 66-90 |

This article was written by Natasha Breach, Partner and Caitlin Grehan, Associate.

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