



Registered Building Contractor (Individual, Partnership or Company)

Application Guidelines

To contract to provide building services in the class of builder work in Western Australia you must be registered by the Building Services Board (the Board) as a builder contractor (individual, partnership or company). The Board registers building contractors under the *Building Services (Registration) Act 2011* (the Act) and the *Building Services (Registration) Regulations 2011* (the Regulations).

Authorisation

A building contractor registration authorises the holder to:

- use the prescribed title of registered building services contractor for the licence class they are registered for; and
- contract to carry out building services meeting the definition of builder work set out in regulation 13(1) of the Regulations. In summary, *builder work* is defined as work with the value of \$20,000 or more where a building permit is required within the designated areas of the State.

Application for registration as a building contractor

In accordance with the Act, to be eligible to obtain a building contractor registration an applicant must:

- provide a complete written application including payment of application and registration fees (the fees are specified in Schedule 1 of the Regulations);
- provide additional information relevant to the application as required by the Board, noting that this may need to be provided in the form of a statutory declaration;
- on registration have at least one nominated supervisor for the class of building service contractor applied for;
- have arrangements in place to ensure that building services to be carried out will be managed and supervised in a proficient manner;
- is not a body of which an ineligible person is an officer of; and
- comply with any other requirements prescribed by the regulations for registration and a building service contractor in that class which is having the financial capacity to meet debts as and when they fall due.

Information supplied as part of the application is confidential.

Note: a trust cannot apply for or obtain registration. The trustee of a trust may apply for registration and all documentation including financial information must pertain to the trustee only. As the Board is only able to register the trustee company, the name of the trust will not be reflected on the register of Builders.

When making an application for registration as a building services contractor, it is considered a serious offence to:

- make a statement or provide or cause to be provided information that you know is false; or
- make a statement or provide or cause to be provided information with reckless regard as to whether or not the statement or information is false or misleading in a material particular.

This offence carries a **penalty of \$25,000**.

A building services contractor must **at all times** have a nominated supervisor in the class of building services in which the contractor is registered. If at any time there is no nominated supervisor, it is an offence to undertake to carry out or carry out any building services work. This offence carries a **penalty of \$25,000**.

If a change in nominated supervisor does occur the building contractor is required to give written notice to the Board within seven days of this change occurring. Failure to notify the Board within seven days of the change is an offence and carries a **penalty of \$10,000**.

Trusts

A trust is not eligible for registration as a building contractor as **it is not a legal entity**. A trust is a structure that describes a legal relationship, and is often set up to achieve a particular goal or benefit. While your business structure may involve a trust, the trust itself cannot hold a registration.

There is often confusion about the ability of a trust to apply for registration as a building contractor. Please note that while Australian tax administration considers a trust a separate entity for taxation purposes, this does not mean that a trust is a legal entity.

For more information you may wish to discuss this with your accountant, or go to www.ato.gov.au and search 'Trusts'.

A **trustee** of a trust is a **legal entity** and can apply for registration. In applying for registration, the Building Services Board will need to scrutinise the financial position of the trustee in its own right in order to determine whether it meets the eligibility requirements for registration.

Financial capacity

The Board must be satisfied that an applicant has sufficient resources to meet debts as and when they become due: regulation 18(1). Regulation 18(2) further provides that, for the purpose of assessing whether an applicant has the required financial capacity, the Board may consider the applicant's:

- Net assets;
- Liquid funds;
- Access to loan or overdraft facilities;
- Equity in property or non-current assets that a loan may be raised against;
- Proposed scale of operation; and/or
- Any other consideration relevant to the applicant's financial capacity.

The Building Services Board generally requires an applicant for building contractor registration to demonstrate access to a **minimum of \$50,000 in liquid funds** to meet the financial eligibility requirement.

Financial particulars - Individual applicants

If you are an individual and sole trader seeking registration as a contractor, you must provide a personal financial statement as required by page 5 and 6 of the Form 13 application.

Financial particulars - Partnership applicants

Each partner of the partnership will need to complete a financial statement. Each partner that is a natural person will be required to complete a personal statement of assets and liabilities. Each partner that is a body corporate will be required to provide proof of working capital, as outlined for body corporate(company) applicants below. Note: a body corporate partner that has been trading in any capacity must also provide special purpose financial reports. Please see the section 'Financials – special purpose financial reports' below for an explanation of the requirements.

Financial particulars - Body corporate (company) applicants

All companies seeking registration must provide proof of working capital supported by documented evidence as outlined below.

Companies that have not been trading/dormant for an extended period

If the company has not traded since incorporation or has remained dormant for an extended period of time, verification is to be provided in the form of written confirmation from the company accountant. Please arrange for the company accountant to download and complete the pro-forma '[Statement by accountant – non-trading company](#)' in support of the application for registration.

Companies that have been trading

If the company has commenced trading, please provide in writing what activities the company has been involved in. This should include a list of the projects undertaken during the past 12 months, their value and the name of the builder on the building licence.

If the company has been trading in any capacity it must also provide special purpose financial reports for the past two years – prepared and certified by an accountant and signed off by a director. Please see the section 'Financials – special purpose financial reports' below for an explanation of these requirements.

An interim Special Purpose Financial Report (SPFR) for the company (no older than three months) prepared and certified by an independent accountant and signed off by a director. The interim SPFR should include a Balance Sheet, Trading Profit and Loss Statement, list of aged debtors, creditors and breakdown of work in progress, totaling the amounts as shown in the financials and notes to and forming part of the statements.

Where the applicant company is part of a group of companies

In circumstances where the applicant company is part of a collection of parent and subsidiary companies (a 'group of companies'), separate financial information must be provided **for the applicant company only**. A group of companies may be considered as a single economic entity for taxation purposes, however does not have a separate legal identity as structure. The Board is therefore unable to consider the financial position of the group and can only scrutinize the financial position of the company applying for registration.

Financial resources available to the company – specific documentation required

Please advise what financial resources the company is reliant on to meet its obligations as a builder. This must be supported by verification:

- **Current bank statement**

A certified copy or original bank statement verifying the name of the applicant company's 'cash at bank' and identifying it as the sole account holder.

- **Gift**

If it is intended to be a gift to the company which will not require repayment, then a written statement in the form of a statutory declaration will need to be provided ensuring that the capital provided is beyond recall.

- **Loans**

If the company has any liability loans in place, copies of the **loan agreement** detailing the loan position (ie. amount left outstanding and extent of any redraw on the amount paid back) and the terms and conditions will need to be provided. (Please include a 'default clause' outlining what would constitute a default and the consequences of the default in the event that the borrower may not be in a financial position to repay the loan).

Loans that are repayable on demand or repayable within a period shorter than 12 months, which include default clauses giving priority to related party creditors over general and unsecured creditors, or where the terms of the loan can be varied at the request of a related party, are less likely to be accepted by the Board (given the risk exposure to the company) than independent third party loans.

Note: When loans are not from a financial institution (including director or related entity loans to/from the company or body corporate) the applicant will need to provide the Board with an impact statement from an independent accountant, detailing the impact of the loan and its terms and conditions on the current financial position, with particular focus on the company or body corporate's liquidity relative to its proposed future building activities.

- **Overdraft Facility**

If it is an overdraft facility with a financial institution, you will need to provide verification that it has already been established and the current available balance.

- **Share issue**

If it is to be paid up share capital, you will need to provide documentation in the form of share certificates and an ASIC company search showing that the shares are fully paid.

Company financial's – Special purpose financial reports

Companies that have commenced trading in any capacity are required to provide special purpose financial reports in the name of the company, for the preceding two years. An interim special purpose financial report, no more than three months old, must also be supplied, providing a recent snapshot of the company's financial position. **Note:** an interim SPFR may not be required if the SPFR's for the preceding two years includes the period within three months of the date of application lodgement.

The objective of special purpose financial reports is to provide the Board with an accurate and up to date assessment of the applicant's financial position. The reports should relate to the entirety of the company or body corporate, irrespective of whether or not the applicant engages, or proposes to engage, in activities other than building.

Special purpose financial reports should include:

- balance sheet (including working capital);
- trading profit & loss statement;
- list of aged debtors and creditors;
- list of work in progress (if applicable);
- notes to and forming part of the statements for the preceding two years.

Note: The reports must be certified by an independent accountant and one of the directors of the applicant company, or members of the board of management of the body corporate.

The Board may, where it considers necessary, request further information to clarify the applicant company's financial position. General purpose or audited financials, proof of ownership and valuation of property may be requested. The Board may also require the company to provide a report, prepared by a financial member of a recognised Australian accounting body eg. CA, CPA or NIA, confirming the financial position and ability/viability to trade as a registered building services contractor (in accordance with the business plan provided to the Board) and highlighting the impact of any loans (particularly director and related entity loans) on the company or body corporate's financial position.

Management and supervision of building services

An applicant for registration as a building services contractor must demonstrate that arrangements are in place to ensure that building services to be carried out will be managed and supervised in a proficient manner. This is in accordance with section 18(1)(e) of the Act. For more information, you may consult the Building Services Board approved 'Management and Supervision Policy'.

In order to assess compliance with section 18(1)(e), every applicant must complete and submit with their application:

- the 'Management and Supervision' questionnaire; and
- the 'Business Profile Information' document.

These documents are available for download on the Building and Energy website www.commerce.wa.gov.au/building-and-energy/building-contractor-registration

The application forms for building contractor registration are available from the Department of Mines, Industry Regulation and Safety website at www.commerce.wa.gov.au/building-and-energy/building-contractor-registration.

Check that you have the correct form(s)/attachments by referring to the below table:

Individual (sole trader) applicant	Partnership applicant	Company / Body Corporate applicant
Form 13	Form 14 <i>Partner details:</i> Form A2.1 – Natural person (individual) partner; or Form A2.2 – Body corporate partner	Form 15
Management and Supervision Questionnaire	Management and Supervision Questionnaire	Management and Supervision Questionnaire
Business Profile Information document	Business Profile Information document	Business Profile Information document

- Complete and return the application form **and attachments** appropriate to your intended trading structure
- Each form includes an application checklist to ensure your application is complete
- Your application cannot be processed unless all of the relevant information and certified copies of supporting documentation, if required, are provided

Certified copies

If you are providing a copy of a required document with your application (for example, proof of identification) it must be a certified copy. To have a copy certified you must show a copy of the document, together with the original document, to a person who is an authorised witness. A list of authorized witnesses is available at www.commerce.wa.gov.au/consumer-protection/authorised-witnesses.

The witness must:

- certify the copy is a true copy of the original;
- place their signature, together with their full name and their qualification to be a witness, immediately adjacent to the words of certification.

Payment and fees

The application and registration fees must be paid at the time of lodging the application. If your application is deemed unsuccessful or you wish to withdraw an application, the registration fee will be refunded.

- Application fee is non-refundable
- GST is not applicable

Once your application has been determined, you will be notified of the decision in writing. Building contractor registrations are valid for three years from the date approved.

Application lodgement

You may lodge your completed application:



Online

Submit your application and pay online:

<https://www.commerce.wa.gov.au/building-and-energy/building-contractor-registration>



By post

Pay by credit card using our payment slip form:

<https://www.commerce.wa.gov.au/publications/application-payment-form>, or

through cheque or money order made payable to:

Department of Mines, Industry Regulation and Safety Licensing Services Branch

Locked Bag 100

EAST PERTH WA 6892



In person

Submit your application and pay by cash, cheque, money order or card at the customer service counter.

Applications will not be assessed for completeness upon submission.

Your application will be assessed following allocation to a Licensing Officer.

Level 1, 303 Sevenoaks Street

CANNINGTON WA 6107

Office hours are:

Mon–Fri 8:30am to 4:30pm.

Should you have any queries regarding your application for building contractor registration, please contact the Licensing area on 1300 489 099 or email be.licensingenquiries@dmirs.wa.gov.au

Note: emailed applications CANNOT be accepted.