

Building and construction industry review

Changes to maximum penalties and expiation fees

<i>Building Work Contractors Act 1995</i>			
Section	Brief Explanation ¹	Previous penalty	New Penalty
6(1) — Obligation of building work contractors to be licensed	A person must not carry on business or appear to be carrying on business as a building work contractor without a license.	Maximum penalty: \$250,000 or imprisonment for 6 months (for an individual).	Maximum penalty: \$550,000 or imprisonment for 6 months (for an individual). Expiation fee: \$5,000.
19(7) — Approval as building work supervisor in relation to licensed building work contractor's business – Partnerships	Failure to notify the Commissioner in writing within 14 days the composition of a partnership changing or a partnership dissolving.	Maximum penalty: \$2,500. Expiation fee: \$80.	Maximum penalty: \$10,000. Expiation fee: \$3,000.
19(8) — Approval as building work supervisor in relation to licensed building work contractor's business – Change In Employment	Failure to notify the Commissioner in writing within 14 days that building work supervisor ceases to be employed or engaged to perform that function.	Maximum penalty: \$2,500. Expiation fee: \$80.	Maximum penalty: \$10,000. Expiation fee: \$3,000.
25(1) — Disciplinary action	The District Court may, if it is satisfied on the balance of probabilities that there is proper cause for taking disciplinary action, impose a fine.	Maximum fine: \$20,000.	Maximum fine: \$50,000.

¹ Summarised explanation of the relevant section in the *Building Work Contractors Act 1995*. For precise wording of the section, refer to the BWC Act.

Building Work Contractors Act 1995

Section	Brief Explanation¹	Previous penalty	New Penalty
26— Contravention of orders	A person must not contravene of an order of the District Court.	Maximum fine: \$35,000 or imprisonment for 6 months (for an individual).	Maximum fine: \$500,000 or imprisonment for 6 months (for an individual).
28(2)— Formal requirements in relation to domestic building work contracts	A person must comply with the requirements in relation to domestic building contracts.	Maximum penalty: \$5,000.	Maximum penalty: \$250,000. Expiation fee: \$5,000.
29(9)— Price and domestic building work contracts	A person must comply with the requirements in relation to pricing for domestic building contracts.	Maximum penalty: \$5,000.	Maximum penalty: \$250,000. Expiation fee: \$5,000.
30(1)— Payments under or in relation to domestic building work contracts	A person must not demand or require that a payment be made under a domestic building work contract or preliminary work contract by the person for whom work is to be performed under the contract unless permitted under 30(1).	Maximum penalty: \$5,000.	Maximum penalty: \$500,000.
30(2a)— Payments under or in relation to domestic building work contracts	A person must not demand or require that a payment be made under a domestic building work contract or preliminary work contract by the person for whom work is to be performed under the contract unless it is a prescribed payment.	NEW.	Maximum penalty: \$500,000. Expiation fee: \$5,000.
31(2)— Exhibition houses	A person must comply with the requirements in relation to exhibition houses.	Maximum penalty: \$5,000. Expiation fee: \$160.	Maximum penalty: \$10,000. Expiation fee: \$3,000.

Building Work Contractors Act 1995

Section	Brief Explanation¹	Previous penalty	New Penalty
34 — Requirements of insurance	A person must not perform building work unless a compliant policy of insurance is in force.	Maximum penalty: \$20,000.	Maximum penalty: \$500,000. Expiation fee: \$20,000.
37(9) — Powers of court in relation to domestic building work	A person must perform remedial work, or to cause remedial work to be performed, in accordance with an order of the Magistrates Court.	Maximum fine: \$10,000.	Maximum fine: \$250,000.
47A — Licensed building work contractor must not contract with unlicensed person	A licensed building work contractor must not contract a person unless they are appropriately licenced.	NEW.	Maximum penalty: \$500,000. Expiation fee: \$5,000.
47B — Building work contractor not to use another person's licence number etc.	A building work contractor must not, use or refer to a licence number that is not the licence number assigned to their licence.	NEW.	Maximum penalty: \$500,000. Expiation fee: \$5,000.
47C — Offence to hold out as licensed etc.	A person who is not licensed or is licenced with conditions must not hold themselves as being licenced without conditions or permit another to do so.	NEW.	Maximum penalty: \$500,000. Expiation fee: \$5,000.
47D — Offence to hold out as registered etc.	A person who is not registered or is registered with conditions must not hold themselves as being licenced without conditions or permit another to do so.	NEW.	Maximum penalty: \$500,000. Expiation fee: \$5,000.
48(a) — False or misleading information (knowingly made)	A person must not knowingly must not make a statement that is false or misleading in a material particular.	Maximum penalty: \$10,000.	Maximum penalty: \$500,000.
48(b) — False or misleading information (in any other case)	A person must not make a statement that is false or misleading in a material particular.	Maximum penalty: \$2,500.	Maximum penalty: \$250,000.

Building Work Contractors Act 1995

Section	Brief Explanation¹	Previous penalty	New Penalty
49 — Name in which building work contractor may carry on business	A licensed building work contractor must not carry on business as a building work contractor except in the name in which the contractor is licensed or registered.	Maximum penalty: \$2,500. Expiation fee: \$80.	Maximum penalty: \$250,000. Expiation fee: \$5,000.
50 — Publication of advertisements	A licensed building work contractor must not advertise the business carried on under the authority of the licence unless the advertisement specifies all relevant licence details.	Maximum penalty: \$2,500. Expiation fee: \$80.	Maximum penalty: \$25,000. Expiation fee: \$3,000.
51 — Licensed building work contractor to have sign showing name etc. on each building site	A licensed building work contractor must install or erect a sign showing in clearly legible characters specifying all relevant licence details.	Maximum penalty: \$2,500. Expiation fee: \$80.	Maximum penalty: \$25,000. Expiation fee: \$3,000.
62 — Regulations	A person must not contravene a regulation.	Maximum fine: \$2,500.	Maximum fine: \$5,000.

Plumbers, Gas Fitters and Electricians Act 1995

Section	Brief Explanation²	Previous penalty	New Penalty
6(1) — Obligation of building work contractors to be licensed	A person must not carry on business or appear to be carrying on business as a plumber, gas fitter or electrician without a license.	Maximum penalty: \$250,000 or imprisonment for 6 months (for an individual). Expiation fee: \$1,000.	Maximum penalty: \$550,000 or imprisonment for 6 months (for an individual). Expiation fee: \$5,000.
12 — Licensed contractor's work to be carried out by registered worker	If plumbing, gas fitting or electrical work performed in the course of a licensed contractor's business is not carried out personally by a registered worker authorised to carry out such work, the licensed contractor is guilty of an offence.	Maximum penalty: \$20,000.	Maximum penalty: \$50,000. Expiation fee: \$5,000.
13 — Obligation of workers to be registered	A person must not act or hold themselves out as a plumbing worker, a gas fitting worker or an electrical worker except as authorised by registration.	Maximum penalty: \$20,000 or imprisonment for 12 months (for an individual).	Maximum penalty: \$150,000 or imprisonment for 12 months (for an individual). Expiation fee: \$5,000.
25 — Contravention of orders	A person must not contravene of an order of the Tribunal.	Maximum fine: \$35,000 or imprisonment for 6 months (for an individual).	Maximum fine: \$150,000 or imprisonment for 6 months (for an individual).
32(a) — False or misleading information (knowingly made)	A person must not knowingly must not make a statement that is false or misleading in a material particular.	Maximum penalty: \$10,000.	Maximum penalty: \$500,000.
32(b) — False or misleading information (in any other case)	A person must not make a statement that is false or misleading in a material particular.	Maximum penalty: \$2,500.	Maximum penalty: \$250,000.

² Summarised explanation of the relevant section in the *Plumbers, Gas Fitters and Electricians Act 1995*. For precise wording of the section, refer to the PGE Act.

Plumbers, Gas Fitters and Electricians Act 1995

Section	Brief Explanation ²	Previous penalty	New Penalty
33 — Name in which building work contractor may carry on business	A licensed contractor must not carry on business as a contractor except in the name in which the contractor is licensed or registered.	Maximum penalty: \$2,500. Expiation fee: \$80.	Maximum penalty: \$250,000. Expiation fee: \$5,000.
33A — Publication of advertisements	A licensed contractor must not advertise the business carried on under the authority of the licence unless the advertisement specifies all relevant licence details.	Maximum penalty: \$2,500. Expiation fee: \$80.	Maximum penalty: \$25,000. Expiation fee: \$3,000.
33B — Requirements for contracts for domestic plumbing, gas fitting or electrical work that contain a charging clause	A person must comply with the requirements in relation to contracts for plumbing, gas fitting or electrical work on domestic property contains a charging clause.	Maximum penalty: \$5,000.	Maximum penalty: \$25,000. Expiation fee: \$3,000.
44 — Regulations	A person must not contravene a regulation.	Maximum fine: \$2,500.	Maximum fine: \$10,000.

Fair Trading Act 1987

Section	Brief Explanation ³	Previous penalty	New Penalty
8A — Conciliation	A trader who is asked by the Commissioner to attend a conference must attend the conference if the Commissioner indicates in the request that attendance is compulsory.	Maximum penalty: \$10,000. Expiation fee: \$315.	Maximum penalty: \$50,000. Expiation fee: \$5,000.

³ Summarised explanation of the relevant section in the *Fair Trading Act 1987*. For precise wording of the section, refer to the *Fair Trading Act 1987*.