

STATUTORY RULES 2025

S.R. No. xxx/2025

Building Act 1993

Building (Developer Bonds) Regulations 2025

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

HARRIET SHING

Minister for Housing and Building

Clerk of the Executive Council

1 Objectives

The objective of these Regulations is to prescribe—

- (a) qualifications to be held by a person to be a qualified person eligible for appointment as a building assessor under the **Building Act 1993**; and
 - (b) certain defective building work as reportable defective building work for the purpose of the **Building Act 1993**; and
 - (c) the manner for determining the estimated total cost of building work; and
 - (d) certain developers of residential apartment buildings as exempt from the requirement to issue or execute a developer bond; and
 - (e) matters to be included in a notice given by a developer to the Authority on the issue or execution of a developer bond; and
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- (f) information to be given by a developer to a building assessor; and
- (g) the manner in which building assessors must conduct preliminary inspections and final inspections; and
- (h) the form and content of preliminary reports and final reports; and
- (i) circumstances in which the Authority may release a developer bond to a developer; and
- (j) certain fees payable.

2 Authorising provisions

These Regulations are made under sections 261 and 262 of the **Building Act 1993**.

3 Commencement

These Regulations come into operation on 1 July 2026.

4 Definitions

In these Regulations—

affected person has the same meaning as in section 137ZZU of the Act;

builder, in relation to building work, has the same meaning as in section 37 of the Act;

building assessor has the same meaning as in section 137ZM of the Act;

building permit means a permit issued under Division 3 of Part 3 of the Act;

common property has the same meaning as in section 3 of the **Owners Corporation Act 2006**;

defective building work has the same meaning as in section 137ZM of the Act;

developer, in relation to a residential apartment building, has the same meaning as in section 137ZM of the Act;

developer bond has the same meaning as in section 137ZN of the Act;

eligible BTR development has the same meaning as in section 70B of the **Land Tax Act 2005**;

final inspection has the same meaning as in section 137ZM of the Act;

final report has the same meaning as in section 137ZM of the Act;

Homes Victoria has the same meaning as in section 4(1) of the **Housing Act 1983**;

preliminary inspection has the same meaning as in section 137ZM of the Act;

preliminary report has the same meaning as in section 137ZM of the Act;

registered agency has the same meaning as in section 4(1) of the **Housing Act 1983**;

registered plan of strata subdivision has the same meaning as in section 3(1) of the **Subdivision Act 1988**;

review decision has the same meaning as in section 137ZZU of the Act;

reviewable decision has the same meaning as in section 137ZZU of the Act;

serious defect has the same meaning as in section 75A of the Act;

the Act means the **Building Act 1993**;

unlimited owners corporation has the same meaning as in section 3(1) of the **Subdivision Act 1988**.

5 Definition of *qualified person*

- (1) For the purposes of the definition of ***qualified person*** in section 137ZM of the Act, the following qualifications are prescribed—
- (a) registration under Part 11 of the Act in any of the following classes of building practitioner—
 - (i) domestic builder (unlimited);
 - (ii) building inspector (unlimited);
 - (iii) building surveyor (unlimited);
 - (b) a qualification approved by the Authority in a notice given in accordance with subregulation (2).
- (2) For the purposes of subregulation (1)(b), the Authority, by written notice given to a person, may approve a qualification held by the person if the Authority is satisfied that the qualification provides the person with relevant skills and experience to carry out the functions under section 137ZS of the Act.

6 Definition of *reportable defective building work*

For the purposes of the definition of ***reportable defective building work*** in section 137ZM of the Act, the following defective building work is prescribed—

- (a) defective building work in the common property of a residential apartment building;
 - (b) defective building work in the private residential lot of a residential apartment building;
 - (c) serious defects in any building work in any part of a residential apartment
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building that is not a private residential lot or common property.

7 Meaning of *total build cost*

- (1) For the purposes of section 137ZO(2) of the Act, the estimated total cost of the building work is the amount specified in subregulation (2) less any amount deducted under subregulation (3).
 - (2) For the purposes of subregulation (1), the amount is—
 - (a) in the case of a residential apartment building for which a building permit other than a staged permit was issued, the cost of the building work estimated by the relevant building surveyor and provided to the applicant for the building permit under section 205I(1)(a)(ii) of the Act; or
 - (b) in the case of a residential apartment building for which a staged permit was issued, the cost of the stage of the building work estimated by the relevant building surveyor and provided to the applicant for the staged permit under section 205I(2)(a)(iii) of the Act.
 - (3) For the purposes of subregulation (1), a developer may deduct the cost of any building work that was—
 - (a) included in the estimated cost referred to in subregulation (2); and
 - (b) not carried out for or in connection with the construction of the residential apartment building.
 - (4) The deduction of an amount under subregulation (3) must be consistent with guidance published by the Authority.
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- (5) For the purposes of subregulation (4), the Authority may specify in guidelines the cost of any building work that may be deducted.
- (6) The guidelines must be published on the Authority's Internet site.

8 Developer must arrange for issue of developer bond

For the purposes of section 137ZP(1) of the Act, the following developers are exempt from the requirement to issue or execute a developer bond—

- (a) a developer of a residential apartment building that is an eligible BTR development;
 - (b) a developer of a residential apartment building if—
 - (i) the development of the residential apartment building is carried out by or on behalf of Homes Victoria; and
 - (ii) the residential apartment building will be controlled or managed by or on behalf of Homes Victoria; and
 - (iii) the developer does not intend to offer any lot for sale;
 - (c) a developer of a residential apartment building if—
 - (i) the developer is a registered agency; and
 - (ii) the developer does not intend to offer any lot for sale;
 - (d) a developer of a residential apartment building if the building permit for the building work carried out for or in connection with the construction of that residential apartment building was issued before 1 July 2027.
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9 Notice of developer bond to be given to Authority

- (1) For the purposes of section 137ZQ(1)(e) of the Act, the following matters are prescribed—
 - (a) the registration number of the registered plan of strata subdivision for the residential apartment building;
 - (b) the street address of the residential apartment building to which the developer bond relates;
 - (c) the name and address of the relevant building surveyor for any building work carried out for or in connection with the construction of the residential apartment building;
 - (d) an address for service of notices to the developer of the residential apartment building;
 - (e) an address for service of notices to the owners corporation for the residential apartment building (where applicable);
 - (f) a copy of each contract entered into between the developer and the builder relating to the building work carried out for or in connection with the construction of the residential apartment building;
 - (g) a copy of any other documents relevant to the determination of the total build cost of the residential apartment building.
- (2) For the purposes of section 137ZQ(2)(b) of the Act, the prescribed fee is 89.23 fee units.

10 Developer liable for cost of assessor

For the purposes of section 137ZZ(4) of the Act, the prescribed fee is 98.16 fee units.

11 Information to be given to building assessor

For the purposes of section 137ZZC(1)(c) of the Act, the following information is prescribed—

- (a) a copy of the application for the building permit for the residential apartment building;
 - (b) a copy of the documents required under regulation 24(3) of the Building Regulations 2018¹ to accompany the application for the building permit;
 - (c) a copy of the information required under regulation 29 of the Building Regulations 2018 to be submitted in relation to the application for the building permit;
 - (d) a copy of any report and consent of a reporting authority relating to a matter referred to in the following—
 - (i) regulation 31(a) or (c) of the Building Regulations 2018; or
 - (ii) items 25 to 30 of Part 2 of Schedule 5 to the Building Regulations 2018;
 - (e) any computations and reports lodged with the application for the building permit before the building permit was issued;
 - (f) a copy of the building permit for the construction of the residential apartment building;
 - (g) a copy of any determination of a performance solution recorded by the relevant building surveyor under regulation 38 of the Building Regulations 2018 in relation to the construction of the residential apartment building;
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- (h) a copy of the documents referred to in regulation 39(1)(b) of the Building Regulations 2018;
 - (i) a copy of the documents given to the relevant council by the relevant building surveyor under section 30(1A) of the Act;
 - (j) a copy of any protection work notice required to be served under section 84 of the Act including the accompanying documents referred to in regulation 113 of the Building Regulations 2018;
 - (k) a copy of any building notice referred to in section 106 of the Act relating to the residential apartment building;
 - (l) a copy of any building order made under section 111, 112 or 113 of the Act in relation to the residential apartment building;
 - (m) a copy of the application for the occupancy permit for the residential apartment building;
 - (n) any documents required under regulation 186(2)(b) of the Building Regulations 2018 to accompany the application for the occupancy permit;
 - (o) a copy of any report and consent required under regulation 187 of the Building Regulations 2018;
 - (p) a copy of a list of assets and information (if any) relating to assets on the common property of the residential apartment building;
 - (q) a copy of any warranty on any matter that relates to the residential apartment building for which an unlimited owners corporation is responsible, other than any consumer right or warranty arising under an Act, including an Act of the Commonwealth.
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12 Preliminary inspection and preliminary report

- (1) For the purposes of section 137ZZD(2) of the Act, the prescribed manner is the manner set out in guidelines published by the Authority.
- (2) For the purposes of subregulation (1), the Authority may publish guidelines in relation to the manner in which a preliminary inspection must be conducted.
- (3) The guidelines must be published on the Authority's Internet site.
- (4) For the purposes of section 137ZZD(4)(c) of the Act, the prescribed matters are the matters specified by the Authority.
- (5) For the purposes of subregulation (4), the Authority may specify matters to be included in a preliminary report.
- (6) The matters must be published on the Authority's Internet site.

13 Arrangements for final inspection

For the purposes of section 137ZZE(4)(b) of the Act, the prescribed fee is 6.84 fee units.

14 Final inspection and final report

- (1) For the purposes of section 137ZZH(2) of the Act, the prescribed manner is the manner set out in guidelines published by the Authority.
 - (2) For the purposes of subregulation (1), the Authority may publish guidelines in relation to the manner in which a final inspection must be conducted.
 - (3) The guidelines must be published on the Authority's Internet site.
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- (4) For the purposes of section 137ZZH(4)(d) of the Act, the prescribed matters are the matters specified by the Authority.
- (5) For the purposes of subregulation (4), the Authority may specify matters to be included in a final report.
- (6) The matters must be published on the Authority's Internet site.

15 Release of developer bond

For the purposes of section 137ZZR(2)(c) of the Act, the prescribed circumstances are the latest of the following to occur—

- (a) the expiration of a period of 12 months after the date on which the building assessor gives a copy of the final report for the residential apartment building to the Authority;
 - (b) the expiration of a period of 150 days after the last day on which an affected person may apply to the Authority under section 137ZZV of the Act for an internal review of a reviewable decision;
 - (c) if applicable, the expiration of a period of 150 days after the last day on which an affected person may apply to VCAT under section 137ZZZA of the Act for a review of a reviewable decision or a review decision (as the case requires);
 - (d) if applicable, the expiration of a period of 150 days after the last day on which VCAT has made a determination on an application by an affected person for a review of a reviewable decision or a review decision under section 137ZZZA of the Act (as the case requires);
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- (e) if applicable, the expiration of a period of 150 days after the determination of an appeal against a decision made by VCAT in relation to a reviewable decision or review decision (as the case requires).

Endnotes

- ¹ Reg. 8: S.R. No. 38/2018 as amended by S.R. Nos 38/2018, 75/2018, 100/2018, 180/2018, 40/2019, 116/2019, 21/2020, 42/2020, 83/2020, 101/2020, 73/2021, 128/2021, 50/2022, 61/2022, 65/2023, 80/2023, 102/2023, 122/2023, 132/2023, 2/2024, 59/2024, 106/2024 and S.R. No. 125/2025.