

Version No. 001

**Building and Construction Industry Security
of Payment Regulations 2003**

S.R. No. 50/2003

Version as at 3 June 2003

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Version No. 001

**Building and Construction Industry Security
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S.R. No. 50/2003

Version as at 3 June 2003

1. Objective

The objective of these Regulations is to prescribe forms for the purposes of Division 4 of Part 3 of the **Building and Construction Industry Security of Payment Act 2002**.

2. Authorising provision

These Regulations are made under section 52 of the **Building and Construction Industry Security of Payment Act 2002**.

3. Definition

In these Regulations, "**the Act**" means the **Building and Construction Industry Security of Payment Act 2002**.

4. Notice of claim

For the purposes of section 32(2) of the Act, a notice of claim is in the prescribed form if it is in the form of Form 1 in the Schedule.

5. Debt certificate

For the purposes of section 33(2) of the Act, a debt certificate is in the prescribed form if it is in the form of Form 2 in the Schedule.

6. Discharge notice

For the purposes of section 40(2) of the Act, a discharge notice is in the prescribed form if it is in the form of Form 3 in the Schedule.

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**7. Notice of names of persons from whom the claimant
may recover**

For the purposes of section 41(1) of the Act, a
notice is in the prescribed form if it is in the form
of Form 4 in the Schedule.

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SCHEDULE

FORMS

FORM 1

Regulation 4

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NOTICE OF CLAIM

(Section 32(2) of the **Building and Construction Industry Security of
Payment Act 2002**)

To: *[name and address of principal]*

An adjudicator has determined that an adjudicated amount is payable by *[insert name and address of respondent]* to me, *[insert name and address of claimant]*, in respect of a construction contract dated *[insert relevant date of contract]* between me and the respondent. The adjudicated amount is in respect of:

[insert details of the time and place that the construction work was carried out and, if relevant, the time and place any goods and services were supplied].

A debt certificate has been issued under section 33 of the Act by the *[insert name of Court]* dated *[insert date certificate was issued]* and is attached *[attach a copy of the certificate]*.

Unless, on your application, a court grants a stay of payments under section 37 of the Act, section 35 of the Act provides that after a notice of claim is served on you, you are required to pay me the amount you owe to the respondent under a related contract with the respondent, as set out in the attached debt certificate.

If you fail to make such payment, under section 38 of the Act, I am entitled to sue and recover the debt from you.

Signature of claimant:

Print name and address of claimant:

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FORM 2

Regulation 5

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DEBT CERTIFICATE

(Section 33(2) of the **Building and Construction Industry Security of Payment Act 2002**)

IN THE [*name of court*] of VICTORIA

AT [*insert place*]

In proceedings between—

[*name of claimant*] of [*address*]

and

[*name of respondent*] of [*address*]

On the application of the claimant under section 33 of the **Building and Construction Industry Security of Payment Act 2002**, judgment having been *given/*entered in these proceedings for the recovery of [*insert amount*] being an adjudicated amount ordered on [*insert date*] to be recovered as a debt, this certificate for [*insert amount*] is issued with respect to the debt.

Date of issue: [*insert relevant date*]

[*Signature of relevant court officer*]

[*Court seal*]

* delete whichever is not applicable.

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FORM 3

Regulation 6

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DISCHARGE NOTICE

(Section 40(2) of the **Building and Construction Industry Security of
Payment Act 2002**)

To: [*name and address of principal/respondent*]

I acknowledge the payment of \$ _____ by [*insert name of
*principal/*respondent*] to me as *partial/*full discharge of the amount due
to me in accordance with the debt certificate issued by the [*insert name of
Court*] under section 33 of the Act on [*insert date certificate issued*].

Dated:

Signature of claimant:

Print name and address of claimant:

* delete whichever is not applicable

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FORM 4

Regulation 7

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**NOTICE OF NAMES OF PERSONS FROM WHOM A CLAIMANT
MAY RECOVER**

(Section 41(1) of the **Building and Construction Industry Security of
Payment Act 2002**)

To: *[name and address of claimant]*

I have carried out construction work or supplied goods and services in respect
of: *[insert details of the time and place the construction work was carried
out and, if relevant, the time and place any goods and services were
supplied]* to the following *person/*persons:

[insert name of person or persons]

Dated:

Signature of respondent:

Print name and address of respondent:

* delete whichever is not applicable

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Endnotes

ENDNOTES

1. General Information

The Building and Construction Industry Security of Payment Regulations 2003, S.R. No. 50/2003 were made on 3 June 2003 by the Lieutenant-Governor as the Governor's Deputy with the advice of the Executive Council under section 52 of the **Building and Construction Industry Security of Payment Act 2002**, No. 15/2002 and came into operation on 3 June 2003.

The Building and Construction Industry Security of Payment Regulations 2003 will sunset 10 years after the day of making on 3 June 2013 (see section 5 of the **Subordinate Legislation Act 1994**).

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Endnotes

2. Table of Amendments

There are no amendments made to the Building and Construction Industry Security of Payment Regulations 2003 by statutory rules, subordinate instruments and Acts.

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Endnotes

3. Explanatory Details

No entries at date of publication.