

South Australia

Development Variation Regulations 2003

under the *Development Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development Variation Regulations 2003*.

2—Commencement

These regulations will come into operation on 1 July 2003.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Development Regulations 1993* (Gazette 27.10.1993 p 1954) as varied

4—Variation of regulation 63B—Prescribed fee

Regulation 63B(1)(a)—delete "\$1 183" and substitute:

\$1 229

5—Variation of regulation 93A—Register of private certifiers

- (1) Regulation 93A(2)(b)—delete "\$59.40" and substitute:

\$61.50

- (2) Regulation 93A(5)(a)—delete "\$35.40" and substitute:

\$36.75

6—Substitution of Schedule 6

Schedule 6—delete Schedule 6 and substitute:

Schedule 6—Fees

- 1 The following fees are payable in relation to an application under Part 4 of the Act:

- (1) A Lodgement Fee \$31.50 plus \$43.25 if the application requires a relevant authority to assess the development against the provisions of the Building Rules and the development cost exceeds \$5 000
- (2) If the application requires the relevant authority to assess the development against the provisions of the relevant Development Plan, other than where the application relates—
- (a) to a *complying development* under these regulations or the Development Plan; or
- (b) to a proposed division of land into allotments which does not involve the performance of building work,
- a Development Plan Assessment Fee of the following amount—
- (c) if the development cost does not exceed \$10 000 \$19.50
- (d) if the development cost exceeds \$10 000 but does not exceed \$100 000 \$64
- (e) if the development cost exceeds \$100 00 0.1 per cent of the development cost up to a maximum of \$100 000
- (3) If the application relates to a proposed division of land—
- (a) other than where the application relates to a *complying development* under these regulations or the

Development Plan, a Land Division Fee of the following amount—

- | | | |
|------|--|---|
| (i) | if the number of allotments resulting from the division is equal to or less than the number of existing allotments | \$19.50 |
| (ii) | if the number of allotments resulting from the division is greater than the number of existing allotments | \$64.00 plus \$6.25 for each allotment up to a maximum of \$1 229 |

and

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|-----|--|-------|
| (b) | a Statement of Requirements Fee for the purposes of section 33(1)(c) or (d) of the Act | \$167 |
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and

- | | | |
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| (c) | a Certificate of Approval Fee for the purposes of section 51 of the Act | \$64 |
|-----|---|------|

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| (4) | If the application relates to a proposed development that is of a kind described as a <i>non-complying</i> development under the relevant Development Plan—in respect of the requirement for a concurrence (or concurrences) under section 35(3) of the Act (one fee)—a Non-complying Fee | \$64 |
| (5) | If the application must be referred to a body prescribed under Schedule 8 for the purposes of section 37 of the Act—for each body to which the application must be referred—a Referral Fee | \$64 |
| (6) | If the proposed development is a Category 2 or Category 3 development for the purposes of section 38 of the Act—a Public Notification Fee | \$64 |
| (7) | If the proposed development is a Category 3 development for the purposes of section 38 of the Act—an Advertisement Fee | An amount determined by the relevant authority as being appropriate to cover its reasonable costs in giving public notice of the application under section 38(5)(c) of the Act |
| (8) | If the application requires a relevant authority to assess the development against the provisions of the Building Rules— | |
| (a) | in the case of a building that has a floor area | $F = 0.002 \times CI \times A \times CF$, or \$34.50, whichever is the |

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- (b) in the case of a building that does not have a floor area greater
- $F = 0.002 \times CI \times S \times CF$
- , or \$34.50, whichever is the greater

where—

F is the fee (in dollars) payable under this component (unless the \$34.50 minimum applies)

CI is the construction index determined by the Minister from time to time and set out in the Schedule of Construction Indices published in the Gazette

A is the prescribed floor area

S is the projected area of the largest side or plane of the building

CF is the complexity factor

- (9) If the application requires a relevant authority to grant consent to a development that is at variance with the Building Rules \$97.50
- (10) If the application requires referral to the Building Rules Assessment Commission for concurrence before granting consent to a development that is at variance with the performance requirements of the Building Code \$198

For the purposes of this item:

- (a) "development cost" does not include any fit-out costs;
- (b) "allotment" does not include an allotment for road or open space requirements;
- (c) no fee is payable—
- (i) in respect of a development which is to be undertaken by a council, except where the primary reason for the proposed development is to raise revenue for the council; or
- (ii) in respect of a development which is undertaken by a State agency and assessed under section 49 of the Act, or which is excluded from the provisions of section 49 of the Act by a regulation under section 49(3);
- (d) subject to Schedule 7, a body prescribed under Schedule 8 for the purposes of section 37 of the Act may waive the whole or part of a fee due to the body under component (5), or refund any such fee (in whole or in part).

2 The following fee is payable in respect of an application for assignment of a classification to a building or a change in the classification of a building for the purposes of section 66 of the Act:

- (a) in the case of a building that has a floor area—

$$F = 0.0016 \times CI \times A \times CF$$

, or \$34.50, whichever is the greater

(b) in the case of a building that does not have a floor area—

$$F = 0.0016 \times CI \times S \times CF$$

, or \$34.50, whichever is the greater

where—

F is the fee (in dollars) payable under this component (unless the \$34.50 minimum applies)

CI is the construction index determined by the Minister from time to time and set out in the Schedule of Construction Indices published in the Gazette

A is the prescribed floor area

S is the projected area of the largest side or plane of the building

CF is the complexity factor.

3 A fee of \$6.75 is payable in respect of an application for a certificate of occupancy.

4 A fee of \$34.50 is payable in respect of an application under regulation 76(3)(b).

The following provisions also apply for the purposes of items 1(8) and 2:

(a) the prescribed floor area is—

(i) for the purpose of calculating the fee on an application for assessment against the provisions of the Building Rules that consists of the erection of a building or the demolition of a building—the aggregate of the floor areas of the building proposed to be erected or demolished;

(ii) for the purpose of calculating the fee on an application for assessment against the provisions of the Building Rules where the building work consists of an alteration to a building—

(A) the aggregate of the floor areas of the rooms or compartments to be altered; or

(B) where the alteration consists of the fixing or erection of an attachment that does not have a floor area—the floor area of the building within a distance of three metres of where the attachment is to be fixed or erected;

- (iii) for the purpose of calculating the fee on application for assignment of a classification to, or a change in the classification of, a building—the aggregate of the floor areas of the building;
- (b) the floor area of a building is to be measured over any enclosing walls and is to include the area of the floor of any fully or partly covered carport, portico, verandah, balcony, porch or other similar structure attached or to be attached to the building;
- (c) where a building is without storeys, or has a storey of a height of more than 10 metres, the floor area is to be calculated as if the building contained floors at 10 metre intervals, measured vertically;
- (d) a building is to be taken not to have any floor area if it is principally of open framework or web construction or solid construction and without any fully or partly enclosed space intended for occupation or use by persons;
- (e) the ***complexity factor*** is—
 - (i) except as below—1.0;
 - (ii) for building work for the erection or alteration of a building that exceeds six storeys—1.3;
 - (iii) for building work for the erection or alteration of a building that contains an atrium—1.3;
 - (iv) for building work for the erection or alteration of a building that contains an arcade exceeding 40 metres in length—1.3;
 - (v) for building work that consists solely of the demolition of a building—0.2;
 - (vi) for assignment of classification or a change in classification where no building work is proposed—0.8;
- (f) where a building is made up of parts that have different construction indices, the fee payable for the assessment of building work against the provisions of the Building Rules, the assignment of classification or a change in classification, is the aggregate of the fees calculated in accordance with this Schedule for those parts;
- (g) subject to paragraph (h), where an application for the assessment of building work against the provisions of the Building Rules incorporates an application for the assignment of a classification to, or a change in the classification of, the building, one fee is payable in respect of the applications, being whichever of the fees for those applications that is of the greater amount;

- (h) where a relevant authority consents to receive an application for approval of building work in stages, the following fees are payable:
- (i) for assignment of classification to the building—5 per cent of the fee payable for approval of the total building work;
 - (ii) for approval of the siting of, excavation and filling for, and general arrangements of, the building—25 per cent of the fee payable for approval of the total building work;
 - (iii) for approval of construction of the substructure—20 per cent of the fee payable for approval of the total building work;
 - (iv) for approval of construction of the superstructure—the fee payable for approval of the total building work less any fees paid for stages approved within 12 months preceding the application for approval of construction of the superstructure.
- 5 (1) If the matter involves an application to a private certifier for an assessment of a development against the provisions of the Building Rules, a fee equal to four per cent of the fee that would apply under component (8) of item 1 if a council were the relevant authority for that assessment, exclusive of any GST component, is payable by the applicant.
- (2) The fee must be paid by the applicant to the private certifier at the time of application.
- (3) The fee must be held by the private certifier pending payment to the Minister under Schedule 7.
- (4) Except as provided above, the fee to be paid to a private certifier will be determined by agreement between the applicant and the private certifier.
- 6 The following fees are payable in respect of a referral to the Building Rules Assessment Commission under section 36(2b) of the Act:
- (a) for Class 1 and 10 buildings — \$307;
 - (b) for Class 2 to 9 buildings — \$676.
- 7 A fee of \$10 is prescribed for the purposes of section 57(2d) of the Act.

7—Variation of Schedule 7

- (1) Schedule 7, item 2(a)(iii)—delete \$55.25 and substitute:
\$57.50
- (2) Schedule 7, item 3(a)(iii)—delete "\$105.75" and substitute:
\$110

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Part 2—Variation of *Development Regulations 1993* (Gazette 27.10.1993 p 1954) as varied

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 29 May 2003

No 131 of 2003

CPSA 2003/006