

South Australia

Building and Construction Industry Security of Payment Regulations 2011

under the *Building and Construction Industry Security of Payment Act 2009*

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Legislative history

1—Short title

These regulations may be cited as the *Building and Construction Industry Security of Payment Regulations 2011*.

3—Interpretation

In these regulations—

Act means the *Building and Construction Industry Security of Payment Act 2009*.

4—Recognised financial institutions

Each person or body that is a body regulated by the Australian Prudential Regulation Authority under the *Australian Prudential Regulation Authority Act 1998* of the Commonwealth is prescribed for the purposes of the definition of ***recognised financial institution*** in section 4 of the Act.

5—Related goods and services

- (1) Subject to subregulation (2), services of the following kind are prescribed for the purposes of section 6(1) of the Act:
 - (a) project management services in relation to construction work;
 - (b) contract management services in relation to construction work;
 - (c) consultancy services in relation to construction work.
- (2) Subregulation (1) does not apply to any services provided under a prescribed contract (within the meaning of regulation 7).

6—Eligibility criteria for adjudicators

Pursuant to section 18(1)(b) of the Act, a natural person is eligible to be an adjudicator in relation to a construction contract if—

- (a) the person has successfully completed a formal course of training of at least 2 days duration in adjudication of payment disputes in the building and construction industry that required the person to pass a written examination; and
- (b) the person—
 - (i) holds a degree, diploma or other qualification in—
 - (A) architecture; or
 - (B) building surveying; or
 - (C) building; or
 - (D) construction; or
 - (E) law; or
 - (F) project management; or
 - (G) quantity surveying,from a university; or
 - (ii) is, or is eligible to be, a member (other than a student member) of any 1 or more of the following professional bodies:
 - (A) The Royal Australian Institute of Architects;
 - (B) Engineers Australia;
 - (C) Australian Institute of Building Surveyors;
 - (D) The Institute of Arbitrators and Mediators Australia;
 - (E) The Australian Institute of Building;
 - (F) Australian Institute of Project Management; or
 - (iii) holds registration as a building work supervisor under the *Building Work Contractors Act 1995* that authorises the person to supervise construction work of a kind carried out, or to be carried out, under the construction contract.

7—Exemption from adjudication provisions

- (1) Pursuant to section 35(2) of the Act, a party to a prescribed contract is exempt from the operation of the following provisions of the Act in respect of that contract:
 - (a) section 14(4);
 - (b) section 15;
 - (c) section 16(2)(a)(ii) and (4);
 - (d) Part 3 Divisions 2 and 3;
 - (e) section 30;

(f) section 31.

(2) In this regulation—

Crown includes a Minister, agency or instrumentality of the Crown;

prescribed contract means a contract (whether entered into before or after the commencement of this regulation) entered into between the Crown and another person under which the total amount payable to the other person will exceed \$4 000 000 (excluding GST) over the term of the contract;

term of the contract does not include any extension of the contract.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Revocation of regulations

The *Building and Construction Industry Security of Payment Regulations 2011* were revoked by Sch 1 of the *Building and Construction Industry Security of Payment Regulations 2026* on 1.9.2026.

Principal regulations and variations

Year	No	Reference	Commencement
2011	251	<i>Gazette 1.12.2011 p4785</i>	10.12.2011: r 2
2025	17	<i>Gazette 1.5.2025 p834</i>	1.5.2025: r 2

Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.5.2025</i>
r 5		
r 5(1)	r 5 amended and redesignated as r 5(1) by 17/2025 r 3(1), (2)	1.5.2025
r 5(2)	inserted by 17/2025 r 3(2)	1.5.2025
r 7	inserted by 17/2025 r 4	1.5.2025