

CAYMAN ISLANDS



Supplement No. 7 published with Gazette No. 16
dated 4 August, 2008

THE BUILDERS LAW, 2008
(LAW No. 4 of 2007)

THE BUILDERS REGULATIONS, 2008

THE BUILDERS REGULATIONS, 2008

ARRANGEMENT OF REGULATIONS

**PART I
PRELIMINARY**

1. Citation.
2. Interpretation.

**PART II
REGISTRATION OF BUSINESS ENTITIES**

3. Responsibilities of the person applying.
4. Issuance of licence.
5. Joint ventures.
6. Insurance.
7. Financial responsibility and business reputation.
8. Change of particulars.
9. Restoration to the register.
10. Content of applications.
11. Website showing licensed business entities.

**PART III
REGISTRATION OF QUALIFIED INDIVIDUALS**

12. Financial responsibility and business reputation.
13. Change of particulars.
14. Restoration to the register.
15. Appointment of examiners.
16. Application for registration.
17. Applications for examination.
18. Content of applications.
19. Oral examination.
20. Written examination.
21. Review and monitoring of examinations.

**PART IV
GENERAL**

22. Forms and guidelines.

CAYMAN ISLANDS

THE BUILDERS LAW, 2008
(LAW No. 4 of 2007)

THE BUILDERS REGULATIONS, 2008

In exercise of the powers conferred upon the Governor in Cabinet by section 40 of the Builders Law, 2007 (Law 4 of 2007) the following Regulations are hereby made-

PART 1
PRELIMINARY

1. These Regulations may be cited as the Builders Regulations, 2008 and shall come into operation on the date that the Law comes into force. Citation

2. In these Regulations unless the context otherwise requires- Interpretation

“application” means the first application for registration after commencement of this Law, an application for renewal and an application seeking re-categorization;

“Board” means the Builders Board established by section 3 of the Law;

“insurer” includes an insurance agent;

“Law” means the Builders Law, 2007; (2007 Revision)

“qualifying person” means a person whose expertise the business entity concerned needs to have in order to qualify for registration in a category; and

“registered” means-

- (a) in relation to a business entity, registered in one of the categories specified in section 5 (4) of the Law or other category determined thereunder; and
- (b) in relation to a qualified individual, registered as such under section 16 (1) of the Law,

to undertake building work in relation to which the registration relates and includes temporary registration under section 5 (2) of the Law and re-registration by way of re-categorisation under section 5 (3) of the Law.

**PART II
REGISTRATION OF BUSINESS ENTITIES**

Responsibilities of the person applying

3. Any person applying for registration of a business entity under section 5 of the Law shall furnish as part of this application-

- (a) proof that the business entity complies with section 6 (6) of the Law; and
- (b) such other details as the Board may require.

Issuance of licence

4. (1) The Board shall register the business entity concerned rather than the individual who applies for registration, and such registration shall not extend to any other individual, or other legal entity such as a subsidiary or parent company.

(2) Any person who applies for the registration of a business entity shall not apply for the registration of another business entity without the prior approval of the Board, which shall consider whether his involvement with the second or subsequent entity would undermine the ability of entities in which he is or is to be involved.

(3) No company, partnership or trust shall be registered unless it is authorised by law to carry on business in the Islands.

Joint ventures

5. (1) In addition to paragraph (2), no joint venture business entity shall be registered under the Law unless at least one of the business entities comprising the venture is registered and the Board shall licence the business entity that constitutes the joint venture rather than its constituent entities.

(2) In addition to paragraph (1), no joint venture business entity shall be registered unless-

- (a) there is a written joint venture agreement;
- (b) each participating joint venture has, in writing, authorised the joint venture business entity to conduct business on behalf of the participating business entities.

Insurance

6. (1) An applicant for registration shall submit evidence in the form of an original certificate of insurance that he-

- (a) has public liability insurance for his business as follows:
 - (i) for a general contractor, \$1,000,000;
 - (ii) for a building contractor, \$1,000,000;

- (iii) for a residential contractor, \$1,000,000;
 - (iv) for sub-trade, \$500,000;
 - (v) civil contractor, is \$1,000,000; and
- (b) workers' compensation in accordance with requirements of the Workmen's Compensation Law (1996 Revision).

(1996 Revision)

(2) Once registered, a business entity shall maintain the level of coverage prescribed by paragraph (1) and if, upon application for renewal, the Board finds that any aspect of the insurance was not maintained, it may reject the application on that ground or grant it subject to requirements as to periodic reporting and such other reasonable terms and conditions as it thinks fit.

(3) Where a business entity does not submit evidence of insurance as specified in paragraph (1) but submits a quotation for such insurance, the Board may inform the applicant that the licence will be granted if such insurance is provided within such period as the Board may determine.

(4) The certificate of insurance shall be prepared by an insurer registered under the Insurance Law (2004 Revision) and shall contain the following information-

(2004 Revision)

- (a) the date that the certificate of insurance was issued;
- (b) the effective date of the policy;
- (c) the name of the insurance agent;
- (d) the name of the business entity that has been insured;
- (e) the name of the insurance company;
- (f) the policy number, it being understood that tinder numbers or copies of policies will not be acceptable;
- (g) the expiration date of policy;
- (h) the level of insurance prescribed by paragraph (1); and
- (i) the insurer's signature.

(5) Each policy shall contain a provision to the effect that should the relevant public liability or workman's insurance coverage be liable to cancellation before the expiration date thereof the issuing insurer shall mail a notice giving the insured thirty days' notice of cancellation.

(6) If the insurance provided for by this regulation lapses or is declared to be void, the insured shall promptly, but in any case within less than thirty days, inform the Board.

7. (1) Before issuing a licence to a business entity, the Board shall inquire into the financial responsibility and business reputation of the applicant for registration or a change of the category under which he is registered to ascertain that he has the ability to ensure that the public will not sustain economic loss

Financial responsibility
and business reputation

resulting from the contractor's inability to meet his lawful obligations under any relevant contract or undertaking.

(2) In exercise of its powers under paragraph (1), the Board shall consider any relevant factors including but not limited to-

- (a) evidence that the applicant has filed voluntary or involuntary bankruptcy within the five years immediately preceding the application;
- (b) the existence (within the five years immediately preceding the application) of an unsatisfied court judgment rendered against the applicant based upon the failure of the applicant to meet his just obligations to parties with whom the applicant conducted business as a contractor; and
- (c) the applicant's lack of financial stability necessary to assure compliance with its responsibilities as a contractor.

Change of particulars

8. (1) Except as otherwise provided in this regulation, where there is any material change to the particulars supplied by the business entity to the Board at the time of seeking registration, the entity shall, within thirty days of such change, inform the Board in writing and, where the Board is so informed, the entity may continue operating subject to further directions of the Board.

(2) A business entity which loses a qualifying person shall, within sixty days from the date that the qualifier leaves the entity obtain another qualifying person, but the Board may extend the period upon the entity showing that it has made its best efforts to obtain a replacement, or other good cause.

(3) While making the efforts referred to in paragraph (2), the business entity shall do its best to ensure that the work that was being performed by the qualifying person is being done by a person who best measures up to the qualifications and experience of the qualifying person.

(4) A business entity may have more than one qualifying person, in which case, the loss of one or more of those persons shall not necessitate their replacement as long as at least one person is still employed by the business entity who is capable of qualifying the company.

Restoration to the register

9. (1) The Board shall not restore to the register any business entity whose registration has been revoked until appropriate rehabilitation has been shown and all provisions of any final orders by the court or the Board entered against such business entity shall have been complied with.

(2) Any business entity which voluntarily relinquishes its licence for any reason must make a new application to the Board.

Content of applications

10. (1) An application for the registration of a business entity shall contain the following-

- (a) the name of the business entity;
- (b) the names of the qualifying persons;
- (c) the date of application;
- (d) the signature of the applicant and his title;
- (e) the grade the business entity is seeking;
- (f) evidence of compliance with such requirements as may be contained in the Health Insurance Commission Law; (2005 Revision)
- (g) evidence of compliance with such requirements as may be contained in the Workmen's Compensation Law (1996 Revision); (1996 Revision)
- (h) evidence of compliance with such requirements as may be contained in any Law the enforcement of which falls under the Director of Labour appointed under the Labour Law (2001 Revision); (2001 Revision)
- (i) evidence of compliance with such requirements as may be contained in the National Pensions Law (2000 Revision); (2000 Revision)
- (j) the date on which the business entity was established;
- (k) a description of the block and parcel of land where the equipment and materials relative to the business will be stored;
- (l) evidence of the requisite level of public liability insurance as specified in regulation 6 (1); and
- (m) the information referred to in regulation 3 (2).

(2) The applicant may submit, in addition to the required information listed in regulation 6 and paragraph (1) of this regulation, any and all written information and other documentation he sees fit to substantiate his application for his desired category and such information may include-

- (a) the number of years of relevant experience the entity has had;
- (b) a letter stating the amount of a performance bond his bankers are prepared to provide for the business entity;
- (c) the amount of overdraft his bankers allow him;
- (d) a bank reference stating that the applicant is in good standing with the bank and the approximate amount he has on deposit;
- (e) references from registered contractors and registered sub-contractors who are familiar with the applicant's competency and general reputation;

- (f) references from members or the Cayman Society of Architects, Surveyors and Engineers or members of other related professions;
- (g) references from suppliers of materials;
- (h) references from clients;
- (i) information documenting the qualifications of any employees that may serve to substantiate the application;
- (j) information documenting projects the applicant has undertaken that may serve to substantiate the application;
- (k) a list of names of employees, stating what occupation each is employed in;
- (l) a listing of the equipment his business entity owns relative to his construction work; and
- (m) a copy of the company's safety record and policy.

Website showing
licensed business entities

11. The Secretary of the Board shall establish and maintain a website which shall contain-

- (a) a list of all licensed business entities and such other information as the Board may determine; and
- (b) a copy of the Builders Law and these Regulations.

PART III REGISTRATION OF QUALIFIED INDIVIDUALS

Financial responsibility
and business reputation

12. (1) Before issuing a licence to an individual, the Board shall inquire into the financial responsibility and professional reputation of the applicant for registration or a change of the category under which he is registered to ascertain that he has the ability to ensure that the public will not sustain economic loss resulting from the his professional inability to meet his lawful obligations under any relevant contract or undertaking.

(2) In exercise of its powers under paragraph (1), the Board shall consider any relevant factors including but not limited to-

- (a) evidence that the applicant has filed voluntary or involuntary bankruptcy within the five years immediately preceding the application;
- (b) the existence (within the five years immediately preceding the application) of an unsatisfied court judgment rendered against the applicant based upon the failure of the applicant to meet his just obligations to parties with whom the applicant conducted business; and
- (c) the applicant's lack of financial stability necessary to assure compliance with his professional responsibilities.

13. Except as otherwise provided in this regulation, where there is any material change to the particulars supplied by a qualified individual to the Board at the time of seeking registration, the individual shall, within thirty days of such change, inform the Board in writing and where the Board is so informed, the individual may continue to practise his profession subject to further directions of the Board.

Change of particulars

14. (1) The Board shall not restore any qualified individual to the register until appropriate rehabilitation (to include restitution if the Board deems this to be necessary) has been shown and all provisions of any final orders entered against such individual shall have been complied with.

Restoration to the register

(2) A qualified individual who voluntarily relinquishes his licence for any reason must make a new application to the Board to seek restoration.

15. The Board shall from time to time appoint (and may remove) such proctors as may be required to set and administer all examinations which are required from time to time for the purposes of the Law and these Regulations.

Appointment of examiners

16. (1) If provision for a licensing examination exists, any applicant who wishes to take the licensing examination must (as a precondition thereto) submit proof that he meets the eligibility requirements for the particular category in which he seeks to qualify.

Application for registration

(2) Any applicant who seeks to demonstrate that he meets certain educational standards which are relevant to the kind of work for which he desires to be certified must direct the college, university or other relevant institution which he attended to submit proof to the Board that the applicant attained the requisite level of education or training.

(3) Active experience in the category in which the applicant seeks to qualify shall be shown by affidavits prepared or signed by some person or persons (other than the applicant) listing chronologically the active experience in the trade, including the name and address of employers and dates of employment, which may be corroborated independently by the Board.

(4) Any applicant wishing to take the licensing examination in the category of general contractor must submit proof that he possesses at least one year of active experience in the construction of structures not less than three stories in height or have a contractual relationship with a company that has the expertise and capacity to erect structures not less than three stories in height and that is prepared to provide the necessary expertise to erect such structures.

- Applications for examination
17. (1) If provision exists for a licensing examination, applications to sit an examination for purposes of being registered as a qualified individual must be sent so as to be received by the Board at least forty-five days prior to the examination.
- (2) Thirty days prior to the examination, the Secretary of the Board shall prepare a list of people who have been authorised to take the examination concerned.
- (3) Instructions relating to the taking of the examination shall be sent to authorised candidates so as to reach them not less than fifteen days prior to the examination.
- Content of applications
18. (1) An examination shall require that a form be completed detailing such matters as the Board may require.
- (2) The applicant may submit, in addition to the required information listed in regulation 6 and paragraph (1) of this regulation, any and all written information and other documentation he sees fit to substantiate his application for his desired category and such information may include-
- (a) the number of years of experience he has had;
 - (b) references from members or the Cayman Society of Architects, Surveyors and Engineers or members of other related professions; and
 - (c) information documenting projects that the applicant has undertaken that may serve to substantiate the application.
- Oral examinations
19. (1) An applicant who wishes to take an oral examination must submit the same application and supporting documents as are required of other applicants, accompanied by the same amount of examination fees.
- (2) The Secretary of the Board or other person authorised by the Board shall read aloud the examination questions to the applicant.
- (3) The Secretary of the Board or other person authorised by the Board may ask any questions of the applicant that are relative to his application and may take any information received into consideration in its deliberation on the application.
- (4) The examination shall be open-book.
- (5) The pass mark for the oral examination shall be 75%.

20. (1) The Board may set a written examination. Written examination
- (2) If the Board has set a written examination, an applicant may choose to take either a written or oral examination.
- (3) The written examination shall be open-book.
- (4) The pass mark for the written examination shall be 75%.
21. (1) The Board shall review and approve the security and monitoring procedures for all examinations under the Law. Review and monitoring of examinations
- (2) The Board shall nominate a member of the Board or other suitable person to act as proctor for the examination.

**PART IV
GENERAL**

22. The Board shall from time to time- Forms and guidelines
- (a) determine the forms that shall be used for the purposes of the Law and these Regulations; and
- (b) issue guidelines for the same purpose,
- and cause, under the hand of the Chairman, such forms and guidelines to be published in the Gazette for public information.

Made in Cabinet the 22nd day of July, 2008.

Carmena Watler
Clerk of the Cabinet.