

CAYMAN ISLANDS



Builders Law

BUILDERS REGULATIONS

(2018 Revision)

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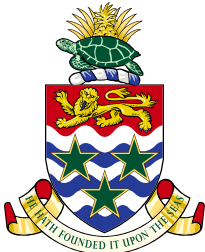
The Builders (Amendment) Regulations, 2017 made the 17th May, 2017

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(2018 Revision)

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(2018 Revision)

PART 1 - PRELIMINARY

Citation

1. These Regulations may be cited as the Builders Regulations (*2018 Revision*).

Interpretation

2. In these Regulations unless the context otherwise requires —

“**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 (2018 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 6 (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. (1) 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.
- (2) An application for the renewal of registration shall be made at least twenty-eight days before the date of expiry of the registration and an application for registration or for the renewal of registration shall be accompanied by the appropriate application fee and licence fee set out in the Schedule, the former being non-refundable; but in the case of a business entity whose registered principal place of business is in Cayman Brac or Little Cayman the application shall be accompanied by a fee of fifty per cent of such fee.
- (3) A business entity which fails to submit its application for the renewal of registration within the period specified in paragraph (2) shall, if it wishes to continue operating after the expiry of its licence, incur a penalty of 50% of the prescribed annual fee if a valid application, the application fee and licence fee are submitted within a period of ninety days after the expiry of the licence, and every director and manager of the entity who authorises or permits (including through negligence) such default shall incur the like penalty; but the entity shall be required to apply for registration under section 5 of the Law if it wishes to continue operating after that period of ninety days.

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.
- (3) Joint ventures between Caymanian construction business entities and non-Caymanian construction business entities shall be for one project only and any additional project shall be subject to a new and separate application for registration.
- (4) Joint venture agreements, between Caymanian and non-Caymanian construction business entities, shall provide to the satisfaction of the Board that the Caymanian construction business entity is registered in the category in which the project falls.
- (5) Joint ventures between Caymanian and non-Caymanian business entities shall be carried out subject to compliance with the *Local Companies (Control) Law (2015 Revision)*.

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 a trades contractor, \$200,000;
 - (v) for a civil engineering contractor, \$1,000,000; and
 - (b) workers' compensation in accordance with requirements of the *Workmen's Compensation Law (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 licensed under the *Insurance Law, 2010 [Law 32 of 2010]* and shall contain the following information —
 - (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.

Financial responsibility and business reputation

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 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 qualifying person of the business entity;
 - (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 (2016 Revision)*;
 - (g) evidence of compliance with such requirements as may be contained in the *Workmen's Compensation Law (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 (2011 Revision)*;
 - (i) evidence of compliance with such requirements as may be contained in the *National Pensions Law (2012 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 or surety that a locally based insurance agency or banker is 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.

Change of particulars

- 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.

Restoration to the register

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

Appointment of examiners

- 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.

Application for registration

- 16.** (1) When 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.
- (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 shall submit proof that the applicant possesses at least one year of active experience in the construction of structures not less than four stories in height.
- (5) An application for the renewal of registration shall be made at least twenty-eight days before the date of expiry of the registration and an application for



registration or for the renewal of registration shall be accompanied by the appropriate application fee and licence fee set out in the Schedule, the former being non-refundable; but in the case of an individual whose registered principal place of business is in Cayman Brac or Little Cayman the application shall be accompanied by a fee of fifty per cent of such fee.

- (6) A qualified individual who fails to submit the individual's application for the renewal of registration within the period specified in paragraph (5) shall, if the individual wishes to continue operating after the expiry of the individual's licence, incur a penalty of 50% of the prescribed annual fee if a valid application, the application fee and licence fee are submitted within a period of ninety days after the expiry of the licence, but the individual shall be required to apply for registration under section 16 of the Law if the individual wishes to continue operating after that period of ninety days.

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.

Repealed

19. Repealed by regulation 9 of the Builders (Amendment) Regulations, 2015



Written examination

20. (1) The Board may set a written examination.
- (2) When the Board has set a written examination, a qualifying person shall take and pass the written examination as set out in the following table —

Item	Category	Applicable certification
1	General contractor	National Contractor (B)
2	Building contractor	National National Contractor (A)
3	Residential contractor	National Residential Contractor
4	Trade contractor	National Trade Contractor
5	Civil engineering contractor	Civil engineering qualifications req.

- (3) The written examination shall be open-book.
- (4) The pass mark for the written examination shall be 75%.

Review and monitoring of examinations

21. (1) The Board shall review and approve the security and monitoring procedures for all examinations under the Law.
- (2) The Board shall nominate a member of the Board or other suitable person to act as proctor for the examination.

PART IV - GENERAL

Forms and guidelines

22. The Board shall from time to time —
- (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.



Schedule

FEES FOR BUSINESS ENTITIES AND QUALIFIED INDIVIDUALS

(Regulations 3 and 16)

Item	Category	Application fee	License fee
(a)	General contractor	\$75	Nil
(b)	Building contractor	\$75	Nil
(c)	Residential contractor	\$75	Nil
(d)	Trade contractor	\$75	Nil
(e)	Civil engineering contractor	\$75	Nil

Notes for trades contractors:

A trades contractor may register in one or more Trade categories for up to a total of six Trades for the application and registration fees as indicated in this Schedule. To register for more than six Trades simultaneously, the trades contractor shall pay an additional registration fee. Where a business entity has an existing registration in one or more Trades, a new application and registration fee shall be paid.

Each trades contractor's registration shall list the specific sub-trades that the Trade Contractor is certified and registered to carry out under each trade. Additional sub-trades may be added to a registered Trade by the approval of the Board without any additional fee. The trades contractor shall, however, satisfy the Board of its qualifiers' ability to perform each specific sub-trade applied for under a Trade.

Notes for sub-trades:

Where an individual seeks to be registered in one or more categories, the fees shall be as indicated in this Schedule; however, where an individual has a subsisting registration in one or more sub-trades and seeks to add one or more sub-trades, the second or subsequent application shall be treated as a new application to the extent that a new application fee shall be payable, but no licence fee shall be payable.

Publication in consolidated and revised form authorised by the Cabinet this 13th of March, 2018.

Kim Bullings
Clerk of the Cabinet

