

## Guarantees and Bonds

This updates the previous Practice Note 2014-10 issued June 2014.

### 1. SUMMARY

Under the Building Regulations 2006 (the Regulations) bonds or guarantees may apply to the issuing of building permits. The Regulations state the amounts and how they are imposed.

### 2. GUARANTEES AND BONDS

Regulation 323 sets the bond or guarantee referred to in section 22 of the Building Act 1993 (the Act):

- (a) in the case of the demolition or removal of a building, must not exceed the lesser of —
  - I. the estimated cost of carrying out the work authorised by the building permit; or
  - II. \$100 for every 1m<sup>2</sup> of floor area of the building; and
- (b) in the case of re-erection of a building, must not exceed the lesser of —
  - I. the estimated cost of carrying out the work authorised by the building permit; or
  - II. \$5000

Under section 22 of the Act, the relevant building surveyor (RBS) may issue a building permit with a condition that a bond or guarantee be deposited with Council or the Victorian Building Authority (the Authority). This section gives 'permission' to include a

condition on a building permit that would not ordinarily be appropriate.

Note: Where the RBS is a Private Building Surveyor (PBS) the bond or guarantee is lodged with the Authority.

Where the RBS is the Municipal Building Surveyor (MBS) the bond or Guarantee is lodged with the Council.

When the prescribed circumstances described by regulation 323 arise, a bond or guarantee maybe required. There is, however, discretion under regulation 323 for the RBS to determine the appropriate amount of bond or guarantee. The amount set out in the regulation is the upper limit of the bond or guarantee. The RBS must determine the amount.

#### Purpose of the Bond or Guarantee

The purpose of the bond or guarantee enables the council or the Authority to use the bond or guarantee to carry out any work necessary to finish the demolition, removal or re-erection of the building where the applicant has not completed the work (sections 123(2) & 205O(3)(b) of the Act). Therefore the RBS should set a realistic amount that would cover the cost of completing the work.

If an RBS sets an unrealistically low amount, the Victorian Building Authority (VBA) could investigate the building surveyor. The RBS must set the amount of bond for each building permit issued. Transport costs are not to be included in the bond.

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## Refund of Bond or Guarantee

The RBS is responsible for ensuring that the building work is completed in accordance with the Act, the Regulations and the building permit.

The RBS can apply for a partial refund of the bond if they believe this will enable the owner to complete the necessary building work for completion in accordance with the Act, the Regulations and the building

Once the building work has been completed and the RBS has issued a certificate of final inspection or an occupancy permit, the RBS should then notify the Council (if an MBS) or the Authority (if a PBS) and seek the return of the bond or guarantee

Upon receipt by the Council or Authority of written confirmation from the RBS that the building work has been completed in accordance with the Act and Regulations and along with a copy of the certificate of final inspection or occupancy permit, the bond or guarantee will be refunded. (Refer to pro forma letter use for the Authority Attachment 1)

## Relocation of a building

The relocation of a building requires two separate permits – one for the removal of a building from an allotment and another to re-erect it on another allotment.

The removal of a building is treated in the same way as a demolition. Therefore section 29A and B of the Act applies to the removal of a building.

If you have a technical enquiry please email: [technicalenquiry@vba.vic.gov.au](mailto:technicalenquiry@vba.vic.gov.au) or phone 1300 815 127

Victorian Building Authority  
733 Bourke Street Docklands VIC 3008

# Practice Note 2016-10

Date:

Accounts Department  
Victorian Building Authority  
PO Box 536  
Melbourne VIC 3001

Dear Sir / Madam

RE: Refund of Bond or Guarantee

I wish to advise that the building work authorised under building permit

BP No:	Date of issue:
For the Demolition / Removal / Re-erection* (cross out which is not applicable)	
at (insert address of property)	

has been satisfactorily completed in accordance with the Building Act 1993, Building Regulation 2006 and the building permit.

I have attached a final inspection certificate /occupancy permit and request that the Bond / Guarantee for the amount of \$\_\_\_\_\_be returned.

Name of RBS	Registration No.
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Signature