

## PRACTICE NOTE 10-2018

*This updates the previous Practice Note-2016-10 issued January 2016*

### Summary

This Practice Note outlines under the Building Regulations 2018 (the Regulations) bonds or guarantees may apply to the issuing of building permits. The Regulations state the amounts and how they are imposed.

### Guarantees and bonds

Regulation 48 sets the bond or guarantee referred to in section 22 of the Building Act 1993 (the Act):

- in the case of the demolition or removal of a building, must not exceed the lesser of —
  - the estimated cost of building work to which the building permit applies; or
  - The sum of \$100 for every 1m<sup>2</sup> of floor area of the building; and
- in the case of the re-erection of a building, must not exceed the lesser of —
  - the estimated cost of the building work to which the building permit applies; or
  - \$10 000

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 the relevant 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 relevant Council.

When the prescribed circumstances described by regulation 48 arise, a bond or guarantee maybe required. There is, however, discretion under

regulation 48 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 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) & 205 (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 Authority 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.

### 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 permit.

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 relevant Council (if an MBS) or the Authority (if a PBS) and seek the return of the bond or guarantee.

Upon receipt by the relevant 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 building permit, certificate of final

inspection or occupancy permit, the bond or guarantee will be refunded.

When applying to the Authority, the letter must include the;

- VBA reference number (found on the VBA receipt); and
- The Building permit number and issue date; and
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- The owners name and current address; and
- The RBS printed name, registration number and contact number;

(Refer to separate pro forma letter on VBA website)

## Further information

### Want to know more?

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

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