

# Home building hiring someone

November 2007

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Building a home or having work done on existing properties can involve spending big sums of money, so it is important that both the home owner and the person doing the work are protected against unfair practices.

The work you want done may range from small repair or renovation jobs to a major home building project. You may have need for a builder or another contractor eg bricklayer, carpenter, tiler, painter or plumber.

## **Legislative protection**

Four main Acts of Parliament help protect consumers and businesses and promote fair trading in the building industry.

### **Home Building Contracts Act**

This Act requires a builder/contractor and you, the consumer, to enter into a written contract for certain kinds of home building work, improvements and associated work valued at between \$7,500 and \$500,000 anywhere in WA.

The Act covers situations such as:

- ◆ construction of a new home, including site works;
- ◆ a transportable home placed on land;
- ◆ renovations or additions to an existing home;
- ◆ landscaping; and
- ◆ installation of a swimming pool.

It has effect where a builder/contractor deals directly with the home owner but does not apply to sub-contractors working for a builder who is constructing a house for a client, or to fittings in the home eg curtains.

To comply with the Act, contracts must be for a fixed price and in writing, containing all terms and conditions relating to the particular job. The requirement for written contracts helps avoid disputes and protects the rights of all parties involved.



### **Builders' Registration Act**

This Act provides for the registration of builders who undertake building work valued at \$20,000 or more in Perth and most of the South West Land Division (from Kalbarri to Hopetoun), plus a number of town sites in the Eastern Goldfields region and the North West, Pilbara and Kimberley regions.

Builders are registered by the Builders' Registration Board of Western Australia which is responsible for regulating the industry and maintaining standards. The Board can issue certificates of registration and commence proceedings for offences against the Act.

The Act provides for a six-year statutory warranty on building work, whereby the builder remains responsible for the work up to six years from the date of practical completion.

The Building Disputes Tribunal, which is independent of the Board, deals with financial, contractual and workmanship disputes within the building industry.

### **Painters' Registration Act**

This Act provides for the registration of painters who carry out work valued at more than \$200 in the Perth metropolitan area and most of the South West Land Division, plus a number of town sites in the Eastern Goldfields region.

It covers workmanship issues relating to painting, wallpapering and roof coating, but excludes work on concrete floors that are not part of a building or structure, paths or driveways.

Painters are registered by the Painters' Registration Board which is responsible for maintaining standards in the industry. The Board can issue painters' registrations and commence proceedings for breaches of the Act. The Board also deals with painting workmanship disputes within the jurisdiction of the Act.

### **Fair Trading Act**

All builders/contractors must comply with this Act when offering their services and carrying out work.

The Act applies to issues such as:

- ◆ misleading or deceptive conduct;
- ◆ false representation;
- ◆ product information, quality and safety;
- ◆ conditions and warranties in consumer transactions; and
- ◆ unsolicited goods and services.

### **Choosing a builder/contractor**

If you intend to have work done on your property eg painting, the bathroom floor tiled, a fence erected, take time and care when deciding who to engage. Ask your friends and associates for recommendations or visit some recently completed projects.

You should always check a contractor's qualifications, for example whether a painter is registered with the Painters' Registration Board. Always specify the work you want done and obtain an accurate written quote. A quote is a fixed price. Don't simply rely on an estimate of what the cost might be, as this could change. When receiving a written quote, make sure the document shows the word 'quote'. It is wise to obtain a few quotes, which will give you a good guide to the value of the work and will help you in choosing the contractor.

Don't pay big deposits before work starts. A small percentage is usually sufficient, no more than 6.5 per cent for work covered by the *Home Building Contracts Act*.

#### **Regional offices:**

Goldfields/Esperance	(08) 9021 5966
Great Southern	(08) 9842 8366
Karratha	(08) 9169 2811
Mid-West	(08) 9964 5644
North-West	(08) 9185 0900
South-West	(08) 9722 2888

**National Relay Service: 13 36 77**

**Quality of Service Feedback Line: Tel: 1800 30 40 59**

## Home Indemnity Insurance

Amendments to the *Home Building Contracts Act* make home indemnity insurance compulsory for all residential building work worth more than \$20,000 carried out by a builder or owner builder on or after 1 February 1997.

Indemnity insurance is not necessary where the contract covers only the construction or carrying out of 'associated work' for example swimming pools, pergolas, fences, landscaping and 'other like works'.

Builders will not be able to obtain a building licence from a local government authority to construct, extend or renovate a residential property until they have taken out indemnity insurance.

The indemnity insurance must cover you as the dwelling owner and subsequent purchasers of the property against financial loss if the builder dies, disappears or becomes insolvent during the construction period or within six years of 'practical completion'.

If you wish to build your own home, you will not need to take out indemnity insurance cover to obtain a building licence from the local government authority but must take out this form of insurance if you wish to sell your property within seven years of obtaining the building licence.

For more information on indemnity insurance refer to our fact sheet *Home indemnity insurance*.

## Other forms of insurance

Check that the builder/contractor has adequate insurance cover, including worker's compensation insurance, public liability insurance, and all-risk insurance for loss or damage of materials. Speak to your insurer to determine the liability of the contractor and yourself.

If you are having work done on an existing property, you should also provide your insurer with details of the work to ensure it will be adequately covered by your policy.

### Work between \$7,500 and \$500,000

Make sure you have a written contract before having any home building work done where the price is above \$7,500 and below \$500,000. The contract formally sets out the deal between you and the builder/contractor.

## Plans and approval

If you are building a house or making additions, a building licence must be obtained from the local council. This is applied for by the builder, but check with the Builders' Registration Board if the builder suggests that you take out the licence as a owner-builder.

In some areas, council approval will also be required for work such as garages, sheds, pergolas and swimming pools. Approval may also be needed from the Water Authority.

Make sure the plans for the work are correct, including the specifications for the type and style of materials to be used.

## Preparation of plans agreements

These relate to the construction of new homes and are commonly entered into before the contract details are finalised, to cover the builder for costs incurred in surveying the site and preparing plans when applying for a building licence.

They can cost around \$1000 and so are usually not covered by the *Home Building Contracts Act*. Be aware that the money is not refundable if you decide later not to proceed with construction. If you tell the builder that you need credit for the cost of construction you may be entitled to end the agreement if you have made reasonable attempts to get credit but have been refused.

If you do enter into a formal contract, the cost is usually deducted from the contract price.

For further information refer to our fact sheet *Understanding the 'Preparation of Plans Agreement' and 'Preliminary Work Contract'*.

### Preliminary contracts

This is where a consumer signs a document indicating an intention to enter into a contract to have a home built. Although this type of contract is generally covered by the *Home Building Contracts Act*, be careful when considering one as it can lock you in to signing a formal building contract later.

### Before you sign the home building contract

The *Home Building Contracts Act* requires that the person doing the work must give you a special information notice before the contract is signed.

It is a standard document, *Notice for the Home Owner*, which explains the main sections of the Act so that you understand your rights before you sign. This notice refers to factors such as the contract price, 'cost plus' contracts, deposits and progress payments for work done, so make sure you are given a copy.

### Your copy of the contract

The contract should be completed and signed in such a way that no unauthorised amendments can be made later. Initial each page and any amendments, and don't leave blank spaces. Make sure you receive a copy of the contract once it is signed and before work begins.

### Further information

Consumer Protection can provide further information or refer you to the appropriate authority for any queries or problems relating to general home building or renovation work.

You can visit our website at [www.docep.wa.gov.au](http://www.docep.wa.gov.au) or call the Consumer Protection Advice Line on **1300 30 40 54** (cost of a local call statewide).

