



New Building Legislation – Overview

In 2011 the government introduced new legislation that regulates the building industry and the approvals needed for building, demolishing and occupying buildings. The new laws replace legislation over 50 years old and will operate more effectively with approvals required under other legislation, such as planning, health and heritage.

What is the new building legislation?

The new building legislation consists of:

- The **Building Services (Registration) Act** that deals with the registration of building practitioners and contractors (in effect from **29 August 2011**);
- The **Building Services (Complaint Resolution and Administration) Act** that empowers the Building Commissioner to administer and investigate the building industry, and sets up a new process for dealing with complaints about building services (in effect from **29 August 2011**);
- The **Building Services Levy Act** that allows for a levy on building, demolition and occupancy permits to fund the operations of the Building Commission (in effect from **29 August 2011**);
- The **Building Act** that requires approval for building, demolition and occupancy, sets building and demolition standards and empowers the State and local governments to issue permits and enforce compliance (in effect from **02 April 2012**).

What other building legislation is there?

The new building legislation works alongside existing legislation including:

- The **Home Building Contracts Act** that limits provisions in most home building contracts to protect consumers and requires builders to provide home indemnity insurance;
- The **Construction Contracts Act** that limits unfair payment provisions in contracts to protect contractors and subcontractors and provides a rapid adjudication process for payment disputes;
- The **Architects Act** that restricts the title of architect to qualified people;
- The **Dividing Fences Act** that provides a mechanism for sharing the cost of dividing fences.



PROTECTING CONSUMERS - STANDARDS AND REGISTRATION

Together, this building legislation protects the community by setting standards, making sure contractors have the skills, experience and financial capacity to deliver what they promise, and providing a single place, the Building Commission, for people to get information and seek help with complaints.

Building Standards

The Building Act and its regulations sets out standards for new building work to ensure buildings are safe, accessible and sustainable. Most substantial building work requires a building permit, and before a building permit is issued, a registered building surveyor must certify that the building will meet the relevant standards. The builder named on the building permit is responsible for ensuring the building is constructed in accordance with the approved drawings and specifications and that it meets the building standards.

The Building Act also sets out some standards that apply to existing buildings. These standards continue the existing requirements such as hard-wired smoke alarms for houses and units when they are sold or rented, and swimming pool safety barriers.

Competent Contractors

The community invests a lot of money in buildings. If a contract to build or renovate goes wrong it can cost the owner a lot of money, as well as time and anguish. The Building Services (Registration) Act sets up a process to register building practitioners who can demonstrate skills and experience, and to register contractors who have the capacity to deliver building services.

A person who is not a registered building service contractor must not carry out, or contract to carry out, prescribed building services. These building services are:

- **Building** - carrying out building work that requires being named as builder on a building permit.
- **Painting** - doing painting work for another person on a commercial basis where the value of the work exceeds \$1,000.
- **Building Surveying** - issuing certificates of design compliance, construction compliance and building compliance.

Owners of houses or small commercial buildings can get approval from the Building Services Board (BSB) to be an owner-builder if they intend to reside in or use the building themselves. This means they take the full responsibility of the builder, including the need to comply with building standards and liability to future owners for building defects. The BSB will need to know that they have sufficient knowledge of the duties and responsibilities of an owner-builder before giving approval.



Information and Complaints

The Building Commission is the central place to go for information about building and plumbing.

Consumers can lodge complaints with the Building Commissioner about building services, home building work contracts and disciplinary matters for registered practitioners and contractors. The Building Services (Complaint Resolution and Administration) Act lets the Building Commissioner investigate complaints and make orders to do work or pay compensation. The Building Commissioner can conciliate differences between consumers and contractors to try to get an agreed outcome, and can pass intractable matters on to the State Administrative Tribunal (SAT) for formal hearings.

PROTECTING THE COMMUNITY - APPROVING BUILDING WORK AND BUILDINGS

The Building Act sets out the processes for getting approval to do building work and to occupy completed buildings. It sets out standards for buildings and demolition work, and how to deal with work that affects other land. The Building Act also provides the State and local governments with powers to issue permits and enforce compliance with permits and standards.

Approval to do Building Work

Most substantial building work requires a building permit. Exemptions apply to minor work in towns and urban areas, and for simple buildings in regional and remote areas.

A formal application is made for a building permit when consumers are ready to start building. The application requires information about the owner, the builder, and copies of the plans and specifications for the building. The application must also include a certificate of design compliance signed by a registered building surveyor that confirms that the building will meet the applicable building standards. Owners may use a building surveyor in private practice to provide the certificate, or they can ask their local government if it provides a certification service. For single residential housing and related sheds and structures the local government will accept uncertified applications and arrange the necessary certification.

Approval to Demolish Buildings

Demolition of buildings and substantial structures will require a demolition permit. Some high risk demolition work requires a licensed demolition contractor. The local government can advise if a demolition permit is required.

Approval to Occupy Buildings

New commercial and multi-residential buildings will require an occupancy permit. The occupancy permit confirms the classification of the building (and therefore which



building standards it meets) and the approved use of the building under planning or other approvals. Temporary occupancy permits are available for unfinished buildings, and occupancy permits can be used to confirm a building is suitable for strata titling or to approve a building that was constructed without approval. An occupancy permit is also required for a change of classification or use of an existing building.

PROTECTING NEIGHBOURS - WORK AFFECTING OTHER LAND

The Building Act provides some safeguards for adjoining owners from building work that may affect their land. A builder must get the neighbour's consent for work that encroaches onto the neighbour's land, adversely affects the bearing capacity or site drainage of the neighbour's land, or adversely affects jointly owned walls, fences or retaining walls. Consent is also required to remove a dividing fence or access a neighbour's land for construction purposes. Where a neighbour does not give consent the builder can seek a court order.

MORE INFORMATION

Information about the new building legislation and copies of forms and publications can be found on the Building Commission website www.buildingcommission.wa.gov.au

END OF ADVISORY

Media Contact:

Mike Winchester

t: 9476 1335 m: 0409 118 982

e: mike.winchester@commerce.wa.gov.au