



Registered building contractor obligations

A guide to registration obligations and the compliance audit program

The Building Commissioner is responsible for monitoring and reviewing the operation of the building services Acts and administering the Building Services Board (Board) that governs the registration of building surveyors in Western Australia. The building services Acts set out the obligations that registered service providers must adhere to are:

- *Building Services (Registration) Act 2011*
- *Building Services (Complaint Resolution and Administration) Act 2011*

1. General registration obligations

Written notice must be given to the Board within seven days of any of the following occurring:

- You change your address.
- There is a change in your eligibility.
- You are suffering financial difficulty.
- You have been charged with a serious offence.
- You are convicted of an offence against the law of the Commonwealth or another jurisdiction in connection with the provision of a building service.
- You no longer have an eligible nominated supervisor.
- A new company director is appointed.

If your registration is amended, suspended or cancelled you must return your registration certificate to the Board no later than 14 days after you are notified.

2. Permits and standards

- Building permit - you must obtain a building permit when required and comply with the plans and specifications included in the certificate of design compliance and any conditions specified in the permit.
- Notice of cessation - you should submit a notice of cessation to the relevant permit authority if you cease to be contracted to do the work and provide the owner of the property with a copy.

- Building standards - you must ensure that all building work complies with each applicable building standard.
- Notice of completion - you must give notice of the completion of the building work to the permit authority on the approved form.
- Work affecting other land - you must ensure the work does not adversely affect land beyond the boundaries unless the owner of the other land has consented. You should also familiarise yourself with all your obligations relating to affecting other land.

3. Home building contracts

The [HBC Act](#) regulates contracts between anyone undertaking home building or associated work for a home owner where the value of the fixed price contract is between \$7,500 and \$500,000. Limited provisions apply to cost plus contracts. The following requirements apply:

- Notice for the home owner - you must provide the owner with a copy of the 'Notice for the Home Owner'.
- Home building work contract - contracts must be in writing, contain all the terms, conditions and provisions of the agreement, show the date and be signed by both parties.
- Deposits and progress payments - deposits must not exceed 6.5 per cent of the total cost of the work and progress payments must only be for work actually performed or materials already supplied.
- Contract variations - variations must be in writing, show the date and be signed by both parties. You must give a copy to the home owner before the variation work commences.
- Price rises - 'Rise and fall' clauses are prohibited under the *Home Building Contracts Act 1991* (the HBC Act).
- Home indemnity insurance - all residential building work above \$20,000 must be covered by home indemnity insurance.

- Workmanship defects - you are liable to make good any defects in home building work where notified in writing within four months of practical completion.

4. Construction Contracts

The Building and Construction Industry (Security of Payment) Act 2021 (the SOP Act) applies to the majority of contracts entered into for 'construction work' or the supply of related goods and services in WA after August 1 2022.

The following requirements apply:

- You must ensure that all construction contracts you enter into valued over \$20,000 (including GST) are in writing and contain mandatory contract information.
- After 1 February 2023 – If you withhold retention money under a construction contract and the total contract value is over \$1,000,000 (including GST), you will be required to hold the retained money in a retention trust account.
- From 1 February 2024 – If you withhold retention money under a construction contract and the total contract value is over \$20,000 (including GST), you will be required to hold the retained money in a retention trust account.
- You must respond to payment claims made under the SOP Act in the manner and timeframe required by the SOP Act.

5. Signage requirements

You must ensure your sign is located in a prominent position on the site, be able to be read by members of the public from outside the site, is of reasonable dimensions and written in clearly legible letters and numerals. It must contain the name, registration number and contact telephone number of the contractor and the name and registration number of the nominated supervisor of the contractor.

6. Advertising rules

Any advertising must contain your registration number.

7. Audit program

Compliance inspections

A compliance inspection ensures that:

- applicable building standards are being met;
- the registration system works as it is intended; and
- the building industry remains vibrant by ensuring consumer confidence and trust remains high.

An audit inspection by a Building and Energy officer will verify that the building contractor is compliant with the building services Acts.

Written notice of an audit will be issued to the registered building contractor to allow adequate time to prepare documents for the audit.

During the audit, the registered building contractor will have the opportunity to discuss any compliance related matters with the officer.

Building and Energy officers are bound by the Department of Mines, Industry Regulation and Safety's Code of Conduct. Any information obtained during the audit will remain confidential unless the Board or Building and Energy is required to disclose the information by law.

Audit inspections will include a technical building work currently under construction and may include an inspection of how the building contractor is meeting statutory obligations. This part of the inspection will be undertaken at the building contractor's office of and take in to account a number of completed building projects.

All works to be audited will be selected by the compliance officer. Generally, an audit takes between two and four weeks depending on the size and nature of the building business.

Building and Energy may also conduct compliance inspections to monitor how building contractors are meeting other statutory obligations, such as the obligations imposed by the SOP Act, which will involve a review of relevant records, documents and procedures.

What happens after an audit is completed

Building and Energy acknowledges compliance efforts and will support registered building contractors and practitioners who are endeavouring to comply with their requirements.

Findings highlighted in individual registered contractor, and general inspection reports, is aimed at assisting building contractors and the industry with delivering good outcomes. It is common for Building and Energy staff to contact contractors through this process.

When necessary, actions taken for non-compliance may include prosecutions seeking the imposition of penalties, the use of a public warning to protect consumers from serious non-compliance and the commencement of disciplinary action.

General inspections

Building and Energy's audit program also includes general inspections of building work to monitor how building services are being carried out and how building standards are being applied. Findings arising from general inspections are reviewed, with the information used to inform audit priorities and produce reports for industry.

8. Further information

Further information regarding responsibilities and obligations for builders are located on the department's website at: www.dmirswa.gov.au

Copies of the building services Acts are available on the Parliamentary Counsel's Office website at: www.legislation.wa.gov.au

Disclaimer – The information contained in this fact sheet is provided as general information and a guide only. It should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations, you should obtain independent legal advice.

Building and Energy | Department of Mines, Industry Regulation and Safety
1300 489 099

8.30am – 4.30pm
Level 1 Mason Bird Building
303 Sevenoaks Street (entrance Grose Avenue)
Cannington Western Australia 6107
M: Locked Bag 100, East Perth WA 6892
W: www.dmirswa.gov.au/building-and-energy
E: be.info@dmirswa.gov.au

Regional Offices

Goldfields/Esperance	(08) 9021 9494
Great Southern	(08) 9842 8366
Kimberley	(08) 9191 8400
Mid-West	(08) 9920 9800
North-West	(08) 9185 0900
South-West	(08) 9722 2888

National Relay Service: 13 36 77

Translating and Interpreting Service (TIS): 13 14 50

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