

Insurance obligations for residential building work



State Insurance
Regulatory Authority

Residential building work over \$20,000 must be insured

You must take out insurance under the home building compensation scheme if:

- you are a principal contractor for residential building work (e.g. building, trade or specialist work involved in constructing, altering or renovating a dwelling) and
- the price for the work is over \$20,000 (inclusive of GST).

Note:

- a) If the price is not known or the work is not being done under contract (e.g. because you are doing work on land you own), you must take out insurance if the reasonable market cost of the labour and materials involved will exceed \$20,000 (inclusive of GST).
- b) If a project will be done under more than one contract, then the amount will be the total of all the contracts.
- c) Certain types of projects are automatically exempt from home building compensation insurance, such as the construction of some multi-storey buildings. See our [website](#) for more information.

Only the principal contractor can satisfy insurance obligations under the Home Building Act 1989

Generally, you will be a 'principal contractor' if you are contracting to:

- a homeowner
- a developer
- an owner-builder permit holder, in relation to residential building work covered by the permit or
- you are doing residential building work on land that you own as a licensed contractor (other than under an owner-builder permit).

You cannot satisfy your insurance obligations by asking your employees, subcontractors or other people performing work for you to take out insurance. Insurance taken out by an employee or subcontractor does not cover the principal contractor. You must take out the insurance yourself in the same name as you contracted the work (e.g. if the work is contracted in the name of a corporation then the insurance must also be taken out in that corporation's name). You must take out the insurance before requesting or accepting any money (including a deposit) or doing any residential building work under the contract.

If you fail to insure your work as a principal contractor, you may be liable to a penalties of up to a maximum of \$110,000 in the case of a corporation and \$22,000 in any other case. If you are convicted of a second or subsequent offence, you may be liable to a penalty up to a maximum of \$55,000 or imprisonment for a term not exceeding 12 months, or both.

You can buy insurance from insurers or providers licensed by State Insurance Regulatory Authority. The list of approved licence holders is available on our [website](#).

If you do not insure the work as the principal contractor, this may:

- affect your ability to enforce the contract or recover money from your customer;

- affect whether the project meets some requirements under planning laws and may affect the commencement or certification of the project; or
- mean that a current or future homeowner may be unable to claim on the insurance scheme in the event that you cannot complete the project or honour your statutory warranty obligations due to insolvency, death, disappearance or if your licence is suspended for failing to comply with a money order of the NSW Civil and Administrative Tribunal or a Court.

Employees and subcontractors are exempt from insurance under section 98 of the Home Building Act 1989

You do not need to take out insurance under the home building compensation scheme if you are carrying out work for someone who must take out home building insurance, as set out above. For instance, generally you do not need to take out insurance if:

- You are doing the work as an **employee** employed by a licensed contractor.
- You are doing the work as a **subcontractor**, working for a licensed contractor.

The principal contractor is responsible to take out the insurance.

Information for property owners:

You do not need to take out insurance under the home building compensation scheme, if you are a homeowner, developer, or an owner-builder. In general terms:

- You are a **homeowner** if you own an existing or proposed dwelling to which residential building work will be done.
- You are a **developer** if the work is to be done on 4 or more existing or proposed dwellings on the land that you own.
- You are an **owner-builder** if you hold an 'owner-builder permit' to do residential building work on land that you own.

The principal contractor is responsible to take out the insurance. You can check if your principal contractor has taken out insurance by searching on the public register published on our [website](#).

Note:

- a) If you are a homeowner or purchasing a new or renovated home, it is important to check whether work on the property was insured. If it was not insured you may be unable to claim on the insurance scheme.
- b) If you are a developer, you will have some obligations to ensure buyers of your properties receive the certificate of insurance, taken out by your principal contractor, and information about the insurance scheme (see our [website](#) for more information).
- c) If you are an owner-builder, you must place a consumer warning in the contract for sale, if you decide to sell the property within 7 years and 6 months of the date of issue of your owner-builder permit.

Example scenarios

Example 1

A company that holds a contractor licence for electrical wiring work enters into contract with a homeowner for a price of \$35,000 including GST to re-wire a duplex and install downlights and fans in both dwellings. The company employs a qualified supervisor certificate holder for electrical wiring work as its nominated supervisor. The nominated supervisor performs the work under that contract.

The nominated supervisor for the company does not take out insurance, because they are an employee of the company. It is responsibility of the company which entered into the contract with the homeowner to take out insurance in that company's name as a principal contractor.

Example 2

A licensed builder contracts with a homeowner to build a house. During construction, the builder subcontracts elements of the work to other businesses or individuals who hold licences to do relevant trade or specialist work such as a concreter, electrician, plumber and gasfitter etc.

The licensed builder is the 'principal contractor' for the work and is responsible for insuring the whole project. None of the subcontractors need to take out insurance for their work, regardless of the value of their contracts.

Example 3

An owner-builder permit holder enters into a contract with a:

- licensed carpenter for the frame, timber stairs, windows, doors, pergola, skylights and awnings and decking in the house,
- licensed bricklayer for the brick work,
- licensed kitchen, bathroom and laundry renovator for built-in cabinetry, fixed appliances, wall and floor tiling, splashback, and plumbing and gasfitting,
- a licensed electrician for the electrical wiring work, and
- a painter to do internal painting in the house

The owner-builder supplies all the material and does balance of work not done by other contractors.

- The contract price for carpentry work is \$39,000 including GST
- The contract price for laying the bricks is \$19,000 including GST
- The contract price kitchen, bathroom and laundry work is \$40,000 including GST
- The contract price for the electrical wiring work is \$21,000 including GST.
- The contract price for internal painting is \$10,100 including GST

In this scenario:

- The carpenter, the kitchen, bathroom and laundry renovator and the electrician must each take out insurance for their contracts with the owner-builder. This is because:
 - they are each taken to be a 'principal contractor'; and
 - the price of each of their contracts is more than \$20,000 including GST.
- The bricklayer does not need to take out insurance. This is because their contract price is less than \$20,000 including GST.
- The painter does not need to take out insurance and does not need to hold a contractor licence. This is because a contract to do only internal painting work is not 'residential building work' under the Home Building Act.

The owner-builder cannot take out insurance under the home building compensation scheme for the work they do themselves or any work done by their contractors. However, if the owner-builder decides to sell the home within 7 years and 6 months of the date of issue of their owner-builder permit, they must place a consumer warning in the contract for sale.

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