

Everything you need to know about... ***Selling a Domestic Owner Built Property***

What obligations do owner builders have when selling?

If you are selling a property on which you constructed residential building works as an Owner Builder pursuant to an Owner Builder licence issued within the last 7 years, then you may be required to provide an Owner Builder Defects Report and the prescribed Home Indemnity (Warranty) Insurance for the benefit of the purchasers.

What works are defined as residential building works?

The Home Building Contracts Act 1991 (HBC Act) defines residential building work to be:

- the construction of a new dwelling.
- the extension or renovation of an existing dwelling.
- placing a dwelling on land.
- construction or carrying out of work associated with any of the above, including pergolas, fences, swimming pools, landscaping or similar work, in association with a dwelling.

What works are exempted from complying with the mandatory insurance requirements of the legislation?

Where minor works are being undertaken in isolation (ie - not in conjunction with the construction and/or extension or renovation of a dwelling), such as a pergola, fence, swimming pool, landscaping or similar work, then no Home Indemnity Insurance is required.

Does an Owner Builder need to obtain the Insurance?

The provisions of the HBC Act requires that a home indemnity insurance policy is issued prior to entering into a contract of sale, and that a Certificate of Insurance is supplied to the purchaser.

If an Owner Builder fails to take out the required indemnity insurance and/or provide the Certificate of Insurance to the purchaser before selling the property, they may be liable to prosecution and a maximum fine of \$ 10,000.

What restrictions apply to Owner Builders who wish to sell their home?

The legislation prohibits an Owner Builder from selling the dwelling within 3 years of obtaining their owner builder licence, unless written permission is obtained from the Department of Consumer & Employment Protection.

Who does the Insurance policy benefit?

This type of policy is for the benefit of the purchaser, where the owner builder dies, disappears or becomes insolvent.

In all other cases the owner builder is responsible for any defects within the mandatory 7 year period from licence issue date.

Owner Builder Edition

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CONSUMER ADVICE SHEET

Why is a Defects Inspection Report required and who can I get to do them?

As part of the Insurers underwriting process, they require a current (within 6 months of sale contract) Owner Builder Defects Report to identify the scope of the works and the existing conditions of the works. Any valid defects or incomplete works can be excluded from the policy cover.

Most insurers or intermediaries will have a list of preferred or accredited providers that undertake these reports and by using one of these preferred providers will in most cases qualify you for a discount on the standard premium.

Can an Owner Builder sell an incomplete project?

Some insurers will consider incomplete projects when assessing the application. The incomplete works are obviously excluded from the cover, but providing the scope of completed works is clearly noted in the Inspection Report, and there are no major structural defects, then the Insurance Certificate should be able to be issued.

What information should you provide your Solicitor or Conveyancer?

Owner Builders should disclose to their Solicitor, Conveyancer or Licensed Real Estate Agent (or to the prospective purchaser if it is a private sale), that the property contains work for which an Owner Builder Licence was obtained within the previous 7 years. An Owner Builder who fails to take out Home Indemnity Insurance and/or to provide the Certificate to the purchaser before selling the property is liable to prosecution and a maximum fine of \$10,000

Preferred Inspection List

Should you need an Inspector for the required Owner Builder Defects Reports, then you should contact the insurer or intermediary (Agent or Broker) to check if they have any Preferred or Accredited Inspectors in your area. By using an Accredited Inspector, you may be eligible for a discount on the Warranty Insurance premiums. Ask your Insurer for details.

NOTE: Building Industry Solutions have Preferred Inspectors in Western Australia refer to website for full details and information.

Other Consumer Advice Sheets in this series

- Construction & Public Liability Insurance
- Risk & Cost Reduction Strategies during construction

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