

Limitations on the issue of building permits

This fact sheet explains changes to Part 3 of the *Building Act 1993* (the Act), which commence on 1 July 2018. These changes affect the issuing of a building permit.

THE CHANGES

The changes introduce additional limitations on the issuing of building permits and assist in providing a clear allocation of responsibility and control over any building project. This will enable the VBA (and building surveyors) to better perform compliance and enforcement activities.

Section 24A has been amended to specify further limitations on the issuing of a building permit and section 24B specifies who may be named as the builder on a building permit.

WHAT THE CHANGES MEAN

Further limitations on the issue of building permits

Section 24A(1) imposes additional compliance requirements that a building surveyor must be satisfied with prior to issuing a building permit. These include:

- Building work to be carried out by a builder who is specified under section 24B for that work; and
- The builder is named in the building permit; and
- In the case of building work under a major domestic building contract:
 - where the cost of work exceeds \$16,000,¹ the name of the builder in the contract must be the same builder named in the certificate of insurance; and

- the major domestic building contract was entered into by a person entitled to do so.²

Who can be named as the builder?

New section 24B specifies who can be named as the builder on a building permit. This is summarised below, and is dependent on the total cost of the building work and whether the work is under a major domestic building contract.

The total cost of building work is inclusive of labour and materials, as prescribed in Part 12, Division 2, Subdivision 4 of the Act.

The following persons can be named as the builder on a building permit.

Any building work with a total cost of \$10,000³ or less:

- Building practitioner
- Owner of the building/land
- Registered architect.

Non-domestic building work with a total cost of more than \$10,000:³

- Registered building practitioner
- Owner of the building/land
- Insured architect.⁴

Domestic building work under a major domestic building contract:

- Builder who entered into the contract and whose registration authorises the carrying out of the work.

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¹ Specified in section 24A(3) of the *Building Act 1993*.

² Persons entitled to enter into a major domestic building contract are specified in section 29 of the *Domestic Building Contracts Act 1995*.

³ Prescribed by regulation 36B of the *Building Regulations 2018*.

⁴ Registered under the *Architects Act 1991*.

Domestic building work not under a major domestic building contract, with a total cost of more than \$10,000³ but not more than \$16,000:⁵

- Owner of the building/land.

Domestic building work not under a major domestic building contract, with a total cost of more than \$16,000:⁵

- Owner of the building/land per section 25B of the Act.

Regulation 36A states that the relevant building surveyor may be satisfied⁶ that the name of the person named on a contract is the same as the person on a certificate of insurance by examining:

- an extract of the major domestic building contract showing the names of the parties to the contract in relation to the proposed building work; and
- a copy of the certificate of insurance from an insurer providing the required insurance in relation to the proposed building work.

To coincide with regulation 36A, the additional information that may accompany an application for a building permit has been amended to allow requisition of:

- evidence that the building work is to be carried out by a builder who is specified under section 24B of the Act for that work;
- an extract of the major domestic building contract (if applicable), showing the names of the parties to the contract in relation to the proposed building work to be carried out under the major domestic building contract; and

- a copy of the certificate of insurance (if applicable) from an insurer, providing the required insurance in relation to the proposed building work.⁷

It must also be noted that where a building permit names an appropriately registered company as the builder, the building permit must also specify the name of a natural person on whom directions, notices and orders under the Act can be served.

Want to know more?

Frequently Asked Questions related to this Fact Sheet are available from vba.vic.gov.au/reforms

If you have a technical enquiry, please email technicalenquiry@vba.vic.gov.au or phone 1300 815 127.

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⁵ As per Section 25B of the *Building Act 1993*.

⁶ For the purposes of section 24A(1)(c) of the Act.

⁷ Regulation 29(f), (fa) and (fb) of the *Building Regulations 2018*.