

## Building Practice Note BP-13: Specification of builders on a building permit

This Practice Note provides guidance on compliance with sections 24A and 24B of the Building Act 1993 (the Act), relating to the specification of builders on a building permit, and on section 25A of the Act, relating to notification of ending of the engagement of a builder.

The context below provides guidance on:

- Building permit requirements
- Section 24A – Further limitations checklist
- Section 24B – Specification of builder checklist
- Change of Builder – Notice of ending of engagement of builder and suspension of building permit

### Abbreviations & Definitions

The abbreviations and definitions set out below are for guidance only. They are not intended to vary those set out in the Building Act 1993 (the Act), or the Building Regulations 2018 (the Regulations).

- **Act** – Building Act 1993
- **RBS** – Relevant Building Surveyor
- **Regulations** – Building Regulations 2018

### Building permit requirements

The RBS must not issue a building permit unless they are satisfied that it complies with the Act and Regulations. Section 24A and 24B of the Act imposes further limitations on the issue of building permits and who can be specified as the builder.

### Section 24A – Further limitations checklist

The RBS must not issue a building permit unless they are satisfied that the following requirements of section 24A are met:

- the building work is 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 carried out under a major domestic building contract, if the cost of the building work exceeds \$16,000:
  - if the builder is not a member of a partnership, the name of the builder in the contract is identical to the name of the builder in a certificate of insurance; or
  - if the builder is a member of a partnership, the name of the builder and the name of the partnership in the contract is identical to the name of the builder and the name of the partnership in a certificate of insurance; and

- the major domestic building contract was entered into by a person entitled to do so under section 29 of the *Domestic Building Contracts Act 1995*; and
- in the case of a builder who is a body corporate, the building permit specifies the name of a natural person on whom directions, notices and orders under the Act directed to the body corporate can be served.

### Further considerations

The Regulations specify in regulation 36A that the RBS may be satisfied that the name of the builder in the contract and the name of a partnership in the contract are identical with the names of the builder and a partnership in the 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.

If the builder is carrying out domestic building work under a major domestic building contract, the form for application for a building permit (Form 1 in Schedule 4 of the Regulations) requires the applicant to attach 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, where applicable (that is, where the cost of the building work exceeds \$16,000).

### Section 24B – Specification of builder checklist

The RBS must only issue a building permit where the building work is to be carried out by a builder who is specified under section 24B of the Act. Depending on the type and cost of the building work, the builder must be:

#### Any type of building work with a cost of \$10,000 or less

- A building practitioner (unregistered or registered); or
- The owner of the building or land in or on which the building work is to be carried out; or
- An architect who is registered under the *Architects Act 1991*; or
- An endorsed building engineer.

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

- A registered building practitioner other than a provisionally registered building practitioner; or
- A provisionally registered building practitioner if their registration authorises the carrying out of all the building work under the proposed permit; or
- The owner of the building or land in or on which the building work is to be carried out; or
- An architect who is registered under the *Architects Act 1991*; or
- An endorsed building engineer

### Domestic building work under a major domestic building contract

- The builder who entered into that contract; and
- Registered, other than provisionally registered, under Part 11 of the Act, and their registration must authorise the carrying out of the work.

### Domestic building work not under a major domestic building contract where the cost of work is more than \$10,000 but not more than \$16,000

- The owner of the building or land in or on which the building work is to be carried out.

### Domestic building work not under a major domestic building contract where the cost of the work is more than \$16,000:

- An owner issued with an owner-builder certificate of consent for the work; or
- An owner who is a registered building practitioner, other than a provisionally registered building practitioner, whose registration authorises the carrying out of the work; or
- An owner who is an architect registered under the Architects Act 1991; or
- The Director of Housing carrying out the work as owner; or
- An owner carrying out the work in accordance with an emergency order, a building notice or a building order.



For section 24B, the cost of building work is the cost of work estimated under Subdivision 4 of Division 2 of Part 12 of the Act. This is the cost of work estimated by the relevant building surveyor to determine the amount of levy to be paid.

### Change of builder – Notice of ending of engagement of builder and suspension of building permit

#### Building practitioner, endorsed building engineer or architect

Section 25A of the Act sets out the procedure for the ending engagement of a builder who is a building practitioner, an endorsed building engineer or a registered architect. If the engagement ends before completion of the building work, the builder or owner may give notice of the ending of the engagement to the RBS pursuant to section 25A of the Act. The building permit is suspended on the day the RBS receives the first notice from the builder or owner or any later day specified in the notice.

The RBS should confirm with the owner and builder that the notice has been received and the day on which the building permit is suspended.

Section 25AB of the Act sets out the procedure for the owner to notify the RBS of subsequent engagement of a new builder if a building permit has previously been issued. On being notified, the RBS may change the builder named on the building permit if the RBS is satisfied that the new builder complies with section 24A and 24B of the Act.

#### Owner-builder

Section 25AE(1)(d) states that a building permit is suspended when an owner-builder ceases to own the land.

Section 25AA of the Act sets out the procedure for a change of owner-builder. If a person becomes the owner of the land and the owner intends to complete the remaining building work as an owner-builder, the owner may notify the RBS and give a notice containing:

- A request that the new owner be named as the builder on the building permit;

- A copy of a certificate of consent if required by section 25B of the Act;
- The name and address of the new owner and any person issued with a certificate of consent if that person is not the new owner;
- Any information or documents requested by the RBS to decide whether the new owner may be named as the builder on the building permit.



Pursuant to section 25AD of the Act, the RBS must give written notice to the VBA and council within 5 business days if the builder ceases to be engaged to carry out the building work and/or the RBS changes the builder named on the building permit. The notice must contain the information set out in regulation 47A of the Regulations.

## Related Documents

- Architects Act 1991
- Building Act 1993
- Building Regulations 2018
- Domestic Building Contracts Act 1995

## Contact Us

If you have a technical query, please email [technicalenquiry@vba.vic.gov.au](mailto:technicalenquiry@vba.vic.gov.au) or call 1300 815 127

### Victorian Building Authority

Good Shed North  
733 Bourke Street  
Docklands VIC 3008

[www.vba.vic.gov.au](http://www.vba.vic.gov.au)

## Version

Version 3.0, published (December 2021) supersedes Building Practice Note CT-01 Cooling Tower System issued June 2021.

## Copyright

© December 2021 Victorian Building Authority (VBA).

This Practice Note has been prepared and published by the VBA for general educational and information purposes only. This publication must not be copied, reproduced, published, adapted, or communicated by any person without the VBA's prior written consent or as permitted by the Copyright Act 1968 (Cth). The VBA makes no warranties or representations whatsoever about the accuracy, reliability, suitability, completeness or authenticity of any information or material contained in this resource. Any use or loss or damage any person may suffer arising out of or in connection with the access or use of this resource (including any third-party material included in this resource).