

Fact Sheet

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Insurance claims and building repairs – When is a written contract needed?

A new law regulating residential building work contracts started in January 2017. It is called the *Residential Building Work Contracts and Disputes Resolution Act 2016* – or the “Contracts Act” for short. It applies where owners intend to sign a contract with a builder for building work, or they have entered such a contract.

- CBOS have been asked by building industry associations to clarify whether the Contracts Act applies to building work repairs, arising from a claim by a home owner on their insurance policy.

Does the Contracts Act apply to repair work arranged by an insurer?

No, it does not apply, because there is no building contract for that repair work signed by the owner.

- Where the insurer is arranging repairs to settle an owner’s claim, and it hires the builder, that agreement is not a “residential building work contract”. Instead it is satisfying the obligations of the insurance policy, to have the owner’s premises repaired by the insurance company.
 - The insured home owner is the beneficiary of the repair work but they are not a party to that repair arrangement.
- As the Contracts Act does not apply, the insurer and builder can make their own agreement to get repairs done and deliver what the owner is entitled to under their insurance policy.

Does the Contracts Act apply where an owner arranges repair work and pays the builder?

Yes, if the insurer honours an insurance policy by just giving the owner a lump sum of money, the owner will have to enter a written building work contract if repairs will cost them \$20,000 or more.

- In this situation the insurer just pays up and it is not involved in hiring a builder to get the building fixed. The owner will have to find their own builder for the required repairs and pay them out of the settlement money given by the insurer.

The Contracts Act applies to any contract for building work between the owner and a builder for work of \$20,000 or more. Residential building work covers activities needed to place the owner's premises in the same condition before the event causing the damage occurred. It includes these:

- Demolition, site clearance, debris removal or cleaning, as preparation work
- Repairs or rectification of the damaged premises
- Replacement of damaged fixtures and fittings
- Painting and decoration, carpeting.

Are government fees or levies payable for repair work over \$20,000?

Yes, there are two separate government charges payable for building and related work: -

1. The Building Administration Fee; and
2. The Industry Training Levy.

- They apply to building, construction and demolition work and associated plumbing work. Repairs are included within the meaning of building work.
- The threshold for both charges, is that the work to be done will cost \$20,000 or more.
- Both charges must be paid by the person who is to perform the work. That means builders, including owner-builders, and construction contractors.
- An Information Guide about the **Building Administration Fee and the Industry Training Levy** is available at www.cbos.tas.gov.au

More information about the Contracts Act

As a reminder, these requirements of the Contracts Act apply to a residential building work contract between an owner and a builder, where work costs \$20,000 or more:

- A written contract must be signed by both parties
- The contract must contain certain key clauses
- Before signing the contract, the builder must give the owner a copy of a Government publication called the **Residential Building Work Consumer Guide**. It has details about the Act's requirements. The Guide is available at www.cbos.tas.gov.au

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