



Victoria Government Gazette

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Domestic Building Contracts Act 1995

DIRECTOR OF CONSUMER AFFAIRS VICTORIA

Approved Form

The following form is approved by the Director of Consumer Affairs Victoria for the purposes of section 29A of the **Domestic Building Contracts Act 1995**. This form applies to all contracts entered into from 1 September 2016.

Dated 4 August 2016

SIMON COHEN

Director of Consumer Affairs Victoria

DOMESTIC BUILDING CONSUMER GUIDE

Mandatory contract information statement for consumers

Your builder must give you a copy of this guide before you sign a major domestic building contract. A major domestic building contract is required for most building projects to build, renovate or extend a home, such as a house or unit, where the cost of the work is over \$5,000.

Reading this guide will help you to know your rights and responsibilities and understand the roles and responsibilities of your builder and building surveyor.

Learn more about the topics in this guide, and domestic building contracts and work generally, at consumer.vic.gov.au/buildingguide

Before your building project starts

You will usually need to appoint building practitioners when you build, renovate or extend a house or unit, or do other building work. Other work includes work such as landscaping, fencing or building a swimming pool, driveway or a garage. You may need a builder to complete the building work, and if you need a building permit you will need a building surveyor.

The Victorian Building Authority (VBA) registers building practitioners. If you are concerned about the conduct of a building practitioner you should contact the VBA.

You can check the registration and disciplinary history of a building practitioner via the links at consumer.vic.gov.au/buildingguide

Your builder must also take out Domestic Building Insurance (DBI) for your project, if the building work costs more than \$16,000. This covers defective or incomplete work for up to six years if your builder dies, disappears or becomes insolvent. You can also claim on DBI with the Victorian Managed Insurance Authority if your builder fails to comply with a final order from the Victorian Civil and Administrative Tribunal or a court.

Check when you may make a claim via the links at consumer.vic.gov.au/buildingguide

Appointing your builder

You appoint your builder by signing a major domestic building contract.

Your contract must be in writing and include details such as:

- the contract price
- the deposit and progress payments required by law for completed stages of work
- a description of the building work to be carried out
- the plans and specifications, and
- advice on the five-day cooling-off period.

SPECIAL

The contract price should be a fixed amount. Cost-plus contracts, for example where your builder charges you by the hour, are only allowed for projects over \$500,000, or for renovation projects in limited circumstances.

Make sure you have enough time to thoroughly read the contract. You should also consider obtaining independent legal advice before you sign the contract, even though this means you no longer have the five-day cooling-off period to change your mind.

If you are asked to sign a pre-construction contract (for example, a contract for design or specification work or obtaining permits) that is for more than \$5,000, it will be a major domestic building contract.

Your contract will also include a checklist, which sets out the matters you must consider before signing the contract. You must complete and sign the contract checklist.

You can make a variation to a contract after it has been signed by using a variation notice (for example, to change the plans and specifications). You and your builder must agree in writing to the changes and put the details, including the new price and completion date, in the contract before the work is carried out.

Find more information about the contract, the checklist and contract variations via consumer.vic.gov.au/buildingguide

Appointing a building surveyor

Some building projects require a building permit. A building permit is written approval from a building surveyor that your plans and specifications comply with the building regulations. It allows your builder to start your building project.

If your building work requires a building permit, you must engage a building surveyor before you apply for the permit. There are penalties for you and your builder if a building permit is not obtained.

You can only engage one building surveyor, but you may choose either a private building surveyor or a municipal building surveyor. Your builder may recommend a building surveyor, but cannot appoint a private building surveyor for you.

You can choose a building surveyor via the links at consumer.vic.gov.au/buildingguide

If you want to engage a municipal building surveyor, contact your local council.

During your building project

Role of your builder

Your builder is responsible for completing your building project to the standard required by the building regulations and your plans and specifications. The builder may undertake the work or engage and manage tradespeople to do the work.

Your builder must also provide you with a copy of the DBI policy and a certificate of insurance for your building project, before you pay your deposit. If you are concerned about the validity of the certificate, you should check with the insurer.

Role of the building surveyor

A building surveyor is responsible for checking that your building project meets the minimum standards of the building regulations. They will independently:

- assess your plans and issue the building permit
- require protection work to be undertaken so your building work does not damage your neighbour's property
- conduct the mandatory building inspections personally or have a building inspector conduct the inspections at the mandatory notification stages of your building project, and
- issue the occupancy permit or certificate of final inspection on completion of the building work.

Your building surveyor may issue directions and orders to the builder to fix building work or to stop work. They can also give you building notices and orders about the building work, if necessary.

The mandatory inspection stages for a house are:

- completion of excavations before placing the footings
- before pouring the concrete footings or slab
- completion of the framework, and
- completion of all of the building work.

You can ask your building surveyor to carry out additional inspections, for example, pre-plaster inspections and wet area inspections. Your building surveyor may charge more for additional inspections.

Find more information about building surveyors at consumer.vic.gov.au/buildingguide

Your role

You are responsible for checking the progress of your building project, talking to your builder about any issues or concerns you may have and paying your builder for completed work. You have the right to reasonable access to your building site at any time during construction, to check on the progress.

Make sure you:

- choose a building surveyor, if required
- provide the builder with the items you agreed to supply as soon as possible (for example, materials such as tiles, or a service such as a tiler to work on the flooring)
- put the details and costs of any changes in writing – you and your builder must sign off on the changes before the builder starts the work, and
- only make stage payments when the building work for each stage is – do not make payments in advance.

Check everything in your contract has been delivered and is in working order before you make the final payment.

Find details at consumer.vic.gov.au/buildingguide

Tips and traps

Beware of:

- an extremely low quote compared to other builders – this may indicate a risk that the quality of the job may be compromised, that the builder may not fully understand what is required or may not be properly registered or insured
- sales pitches that put pressure on you to sign the contract quickly to avoid a price increase, and
- a builder who recommends that you get an owner builder permit while they organise all the building work.

If things go wrong

Statutory warranties and guarantees

The workmanship and quality of your building project is protected by specific statutory building warranties and general consumer guarantees.

Statutory building warranties make sure that your builder uses good workmanship and delivers everything in your contract. You can take legal action for a breach of the statutory building warranties at any time, up to 10 years after the date the occupancy permit or certificate of final inspection was issued.

You are also protected by the Australian Consumer Law (ACL). The ACL provides statutory guarantees that goods and services supplied in trade or commerce, such as building work, meet certain standards. For example, building work must be carried out with due care and skill, be fit for purpose and be delivered in a reasonable time.

Disputes

Many disputes can be avoided when there is good communication between you and your builder. If a dispute does arise, you should first try to sort it out with your builder.

If you cannot resolve the dispute, the Victorian government provides a free and independent dispute resolution service. You can find more details of this service, and lodge a dispute, via the links at consumer.vic.gov.au/buildingguide

Domestic Building Contracts Act 1995
 DIRECTOR OF CONSUMER AFFAIRS VICTORIA
 Approved Form

The following form is approved by the Director of Consumer Affairs Victoria for the purposes of section 31(1)(r) of the **Domestic Building Contracts Act 1995**. This form replaces all previous versions of this form. It applies to all contracts entered into from 1 September 2016.

Dated 4 August 2016

SIMON COHEN
 Director of Consumer Affairs Victoria

DIRECTOR OF CONSUMER AFFAIRS VICTORIA
APPROVED DOMESTIC BUILDING CONTRACTS CHECKLIST

Section 31(1)(r) of the Domestic Building Contracts Act 1995

This checklist must be included in major domestic building contracts entered into from 1 September 2016 in substantially the same form or to the same effect as follows.

Before signing this legally binding contract, check this list:

If the cost of the building work is more than \$16,000, has an insurance policy or certificate of currency for domestic building insurance covering your project been issued and provided to you? (Note: If not, the contract is conditional upon you receiving either an insurance policy or a certificate of currency for domestic building insurance.)	Yes		No	
If this contract is conditional upon you receiving written approval for finance, have you obtained such approval?	Yes		No	
Have you appointed a private building surveyor or has a municipal building surveyor been engaged? (Note: If not, you will need to choose and engage a building surveyor before your building work starts so that a building permit can be issued for your building work.)	Yes		No	

If you answer 'NO' to any of the following questions that apply to your building project, you are not ready to sign the contract:*

Have you had this contract long enough to read and understand it?	Yes		No	
Have you been provided with evidence that the builder named in this contract is registered with the Victorian Building Authority?	Yes		No	
Are the price and progress payments clearly stated?	Yes		No	
Do you understand how the price is calculated and may be varied?	Yes		No	
Has the builder assessed the suitability of the site for the proposed works? If tests are necessary, have they been carried out?	Yes		No	
If a deposit is payable, is it within the legal limit? The maximum under the Domestic Building Contracts Act 1995 is:	Yes		No	

1. 10% if the price is less than \$20,000, or
2. 5% if the price is \$20,000 or more.

Is the work shown and described clearly in the contract, plans and specifications and any other relevant documents (such as engineering computations or soil report)?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Are your special requirements or standards of finish included in the plans and specifications?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Are the commencement date and completion date clearly stated or capable of being worked out?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Do you understand the procedure for extensions of time?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Are any 'provisional sums' or 'prime cost items' clearly stated in the schedules and understood by you?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Do you understand the procedure for variations of plans and specifications?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Do you understand the circumstances in which you can end the contract?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Did your builder give you a copy of the Domestic Building Consumer Guide?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If yes, insert the date on which you were given a copy of this guide dd/mm/yyyy	<input type="text"/>			
Have you read the Domestic Building Consumer Guide and the related information at consumer.vic.gov.au/buildingguide ?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

This checklist does not form part of the contract.

I/we have read and completed this checklist:

Signature/s	<input style="width: 100%; height: 40px;" type="text"/>
Date dd/mm/yyyy	<input style="width: 100%; height: 40px;" type="text"/>

* **Note:** Not all of these questions will apply to a domestic building contract that covers a limited scope of work, for example, a contract that is limited to the preparation of building plans and specifications.

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