

Are there penalties for infringing the owner builder restrictions?

Owner builders who construct **more** than two buildings in 10 years will be prosecuted and may be fined up to \$12,000 for individuals and \$60,000 for a corporate body.

Those who are in the business of building must be accredited as a building practitioner.

This is to protect consumers against 'speculative builders' who have no builder accreditation and insurance. Persons who provide false information when they sign the *Owner Builder Statement* (Form 34) will also be prosecuted and may be fined up to \$12,000.

What is a building surveyor?

Building surveyors make sure that building work is carried out in accordance with the *Building Act 2000*, the *Building Code of Australia* (BCA) and any other relevant standards.

Their role can include:

- determining if a Building Permit is required (only for minor alteration or minor repair);
- assessing documents for compliance with the Building Code of Australia;
- obtaining reports from Reporting Authorities where required;
- considering, granting and issuing a Certificate of Likely Compliance for building work;
- reviewing and consenting to variations to building work;
- receiving Start Work Notices and construction notification stage notices;
- undertaking inspections and issuing direction when determined necessary;
- issuing notices or orders for non-compliance of building work;
- considering, granting and issuing Occupancy Permits prior to occupation of building work;
- issuing a Certificate of Final Inspection of building work, and
- notifying Permit Authorities as and when required.

Building surveyors are:

- appointed by an owner or agent of the owner;
- accredited under the Building Act 2000, and
- only able to be changed with the consent of the Director of Building Control.



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Where can I get a copy of the Owner Builder Kit, forms and more information?

Call the Workplace Standards Tasmania Helpline:

on **1300 366 322** (within Tasmania)

or **(03) 6233 7657** (outside Tasmania).

Email wstinfo@justice.tas.gov.au

Go to the Workplace Standards Tasmania website:

www.wst.tas.gov.au/building

Contact your council's building or development department

Building Surveyors - look in the Yellow Pages or on the Workplace Standards Tasmania website (Register of Accredited Building Practitioners)

Building? Owner Builders Do You Know Your Responsibilities?



Department of Justice

WORKPLACE STANDARDS TASMANIA
BUILDING CONTROL BRANCH

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The Building Act 2000 introduced accreditation of building practitioners.

If you are not accredited it is an offence to carry out the work of a building practitioner (designer, builder or assessor) if the building work requires a building permit and costs over \$5,000. The only exception is owner builders. But there are still restrictions on owner builders and there are certain steps you must follow if you plan to become an owner builder.

Am I an owner builder?

To meet the legal definition of an owner builder, you must meet all of the following criteria:

1. You must *not be in the business of building*: a person accredited (licensed) as a builder is in the business of building and cannot also be an owner builder under the *Building Act 2000*.
2. You must be an *owner of the land* on which the building work is to be carried out. (An owner builder's name must normally be on the certificate of title, however ownership includes having signed a contract to buy land to develop it.)
3. You must *not have constructed more than two buildings* of any classification in the past 10 years. (This does not include Class 10 buildings.)
4. You must have read the *Owner Builder Kit* produced by Workplace Standards Tasmania and have signed the *Owner Builder Statement* – (Form 34). Each of the joint owners named on the title must sign the *Owner Builder Statement*.

What are the responsibilities of an owner builder?

- Owner builders have the same responsibilities as a builder in the business of building.

How do you obtain permission to be an owner builder?

These steps must be followed before you can build:

1. Read the *Owner Builder Kit* available from Workplace Standards Tasmania (reference number GB147). It explains the laws and obligations of owner builders in detail, and is available from the Workplace Standards website (www.wst.tas.gov.au/building) or by phoning the Workplace Standards Helpline on 1300 366 322.
2. Take the final plans of your proposed building work to a building surveyor and ask for the plans to be assessed for likely compliance with the Building Act. Building surveyors can be found in the Yellow Pages or there is an online register at www.wst.tas.gov.au/building.
3. All the owners on the Certificate of Title must sign the *Owner Builder Statement* (Form 34) and give that document to your building surveyor. This is a declaration that you are aware of your obligations and responsibilities as an owner builder, and you have read and understood the *Owner Builder Kit*. The *Owner Builder Statement* is available from your building surveyor.
4. The building surveyor will ask for a report on your eligibility to be an owner builder from the Director of Building Control. The Director's report will confirm your status to act as an owner builder. You must provide

specific information to the building surveyor, such as evidence of ownership of the land where the building will take place, before this report can be requested.

5. Your building surveyor will give you a copy of the Director's report and a *Certificate of Likely Compliance* if satisfied the proposed work is likely to comply with the Building Act.
6. You will then apply for a Building Permit from your council permit authority. You will need to supply a copy of:
 - the design documents;
 - the Certificate of Likely Compliance, and
 - the signed Owner Builder Statement.before a building permit can be issued.

Is there a Register of owner builders?

Yes, the Director of Building Control keeps a Register of owner builders. All owner builders must *notify their building surveyor* before they start any building work. This information will also be provided to the Director.

Is any owner builder work exempt from registration?

There is no requirement for owner builder pre-registration by the Director of Building Control if:

- the Owner Builder work (cost of labour and materials) is \$5,000 or less; or
- the Owner Builder work is on any Class 10 building or structure (e.g. on non-habitable buildings).

For work of this type an owner builder still needs to obtain a Certificate of Likely Compliance from a Building Surveyor and a building permit.

Who must sign the Owner Builder Statement?

Every owner of the land on which the owner builder project is to be constructed must be named and sign on the statement. If land is held by a husband and wife, for example as joint tenants listed on the Certificate of Title, then both must sign the statement, and *both persons are bound by the 'two in ten years' owner builder restriction*.

What insurance does an owner builder need?

Owner builders should have the appropriate workers compensation and public liability insurance and provide the names of the insurance providers, the policy number and the expiry date on the *Owner Builder Statement*. If these insurances are not applicable, then they should write 'not applicable' on the form and explain why.

If you intend to engage workers to assist you in the construction you will be required to hold workers compensation insurance unless the person you have engaged holds their own workers compensation insurance. Public liability insurance will almost certainly be necessary in all circumstances. Seek advice from an insurance agent or broker if you require advice on insurance.

What types of work can owner builders do?

Owner builders can do the following types of building work:

- New building work on any domestic building or commercial building; and
- Renovations, extensions, alterations and repairs to any class of buildings or structures.

A person may also construct "Class 10" buildings and structures such as garages, carports, sheds, swimming pools, isolated decks, pergolas, retaining walls and fences, without any of these being counted as part of the 'two buildings in ten years' restriction on owner builders

Owner builders cannot do any work for which an occupational licence is required. This means no electrical or plumbing work. A licensed asbestos removalist will be required for asbestos removal unless only very small quantities are being removed. Seek advice from Workplace Standards if you need to remove asbestos.

What are the owner builder restrictions on the number of buildings?

To be eligible to be an owner builder, the owner of land must *not have constructed more than two buildings of any classification* (except Class 10 buildings) in the past 10 years. This means an owner builder cannot, for example, build more than two single dwelling units. The owner builder restrictions only apply to new buildings or new building work constructed by an owner builder *after 1 July 2004*. For more details about this restriction, read the *Owner Builder Kit*.

Are there restrictions on the number of owner builder alterations?

An owner builder can carry out any number of alterations, extensions and additions to the **two** buildings for which they have been registered, on land they own in a 10 year period.

Are new alterations to existing buildings counted as owner builder projects?

Yes. An alteration or addition after 1 July 2004 to a building that existed *prior to that date* will activate that building as *one of two buildings* allowed in the 10 year owner builder period. The owner builder will be registered for that building.

Do owner builders have to do the work themselves?

No. They may choose either to carry out all the building work themselves, or act as the construction manager of their project by engaging tradespersons and sub contractors. Owner builders will however, have full responsibility for workplace health and safety, site security, site sanitation, environmental compliance, etc. because they are taking on the role of a builder.