



Review of Western Australia's home building contract laws

Terms of Reference

Background

The WA Government is committed to ensuring that all Western Australians have access to effective protections when building or renovating a home. This is consistent with its pledge to create strong and fair communities, no matter where you live or who you build with.

Recent events involving the well-publicised experiences of both homeowners and builders has called attention to the need for a more modern and accessible regulatory framework, and greater powers for regulators to intervene earlier.

The WA Government has already announced new powers for the building regulators, the Building Services Board and the Building Commissioner, to manage troubled building contractors and protect consumers. Laws will be introduced into Parliament in due course.

It is timely that a broader review is undertaken of Western Australia's home building contract laws and related legislation to ensure these settings are achieving the right balance, remain fit for purpose, and identify opportunities for longer term improvements or reforms.

Building or renovating a home is one of the biggest investments a person may make in their lifetime. The laws governing home building contracts and dispute resolution must be clear and certain, reflect best-practice and appropriately balance each party's rights and obligations throughout the building process.

The review will provide the opportunity for these important issues to be considered and for industry, consumers, and other stakeholders to have their say on any improvements.

Terms of reference

The review is to consider:

- the *Home Building Contracts Act 1991* (WA) (HBC Act) (except Part 3A); and
- the dispute resolution/complaint process in Parts 2 and 3 of the *Building Services (Complaint Resolution and Administration) Act 2011* (WA) (BSCRA Act).

Government, building industry and other stakeholders, and consumers will be consulted on the key issues listed in the enclosed overleaf.

Review process

The review will be conducted by Building and Energy Division (Building and Energy) with the support of the Parliamentary Secretary to the Minister for Commerce, the Hon Dan Caddy MLC.

Surveys and stakeholder workshops will be used to inform a Green Paper released for broad public comment and consideration.

Feedback on the Green Paper will inform the recommendations made in a final report to the Minister.

The review is to be completed in 12 months from the date of commencement (unless otherwise agreed by the Minister).

Key focus areas

- Improving consumer knowledge and awareness of the HBC Act and dispute processes under the BSCRA Act.
- Cooling off periods for the signing of home building contracts.
- Clarifying or improving the ability to pass on price escalations during the term of a home building contract.
- Rights to termination and extensions of time in home building work contracts.
- Time periods and requirements to lodge a complaint/dispute with the Building Commissioner under the BSCRA Act.
- Measures to improve the availability of mediation and conciliation in the resolution of complaints /disputes by the Building Commissioner under the BSCRA Act.
- Powers and jurisdictional limits of the Building Commissioner and State Administrative Tribunal, including the availability of orders and the suitability of review rights in all cases.
- Suitability of other contractual dispute resolution mechanisms, such as the permissibility of arbitration clauses in home building contracts.
- Powers of the Building Commissioner to issue public warnings and intervene where there is a high and sustained frequency of complaints/disputes.
- Rights to claim progress payments and consideration of defined stages, including partial stages.
- Any other important matters or administrative improvements within the terms of reference.

Further information

Further information about the existing home building contract laws in WA can be found on the [Building and Energy website](#).

Copies of the [HBC Act](#) and the [BSCRA Act](#) (and their associated supporting regulations) are available on the [Parliamentary Counsel's Office](#) website.

Updates on the review when available will be provided on Building and Energy's website or, alternatively, interested parties can sign up for Building and Energy's [newsletters](#).

