



construction industry reform

Overview

The Territory construction industry is a critical building block of our community and is a key indicator of the activity levels and health of the Territory economy.

The industry employs more than 6000 people across a range of areas from civil construction and earthworks, residential and commercial building, housing renovation and maintenance. Industry participants include major international and national construction companies, significant locally established and owned construction companies and self employed contractors.

A common feature of all participants is that they work in a particularly difficult environment providing the necessary infrastructure including houses, workplaces, schools, hospitals, roads, railways and wharves that the community needs.

A healthy and growing economy and community in the Territory needs a healthy, growing and world-class construction industry. The construction industry in the Territory has achieved many great things but it has also suffered from fluctuations in the economic cycle, skill shortages, significant building company failures and in some cases poor quality and safety standards.

Earlier this year, the Northern Territory Government established a Construction Industry Reference Group (CIRG) to provide advice to Government on the implementation of a range of construction industry reforms and initiatives.

The CIRG is oversighted by a Cabinet sub-committee made up of the Treasurer, the Minister for Business and Industry, the Minister for Justice and the Minister for Lands and Planning (chair).

Issues under consideration by CIRG include:

- Residential builders' registration
- Home warranty insurance
- General regulatory building reforms
- Contractor payments
- Portable long service leave arrangements
- Occupational health and safety
- A long-term construction industry strategy

Members of the CIRG are from a range of industry organisations and backgrounds and include unions and employer organisations, large and small construction companies, design and certifying professionals and regional representatives. The CIRG is assisted and advised by a number of NT Public Sector agencies. The agencies include the Department of Infrastructure, Planning and Environment; Department of Employment, Education and Training; Department of Justice; Department of Business, Industry and Resource Development and the Office of the Commissioner for Public Employment.

The CIRG has met regularly throughout the year and has established special working groups to consider the details of particular issues of concern.

The CIRG has also met with the Cabinet sub-committee and Minister Burns, the Convenor, has attended all CIRG meetings as well as meeting with individual CIRG members.

Government has decided to introduce into the October 2004 sittings of the Legislative Assembly the first phase of a package of reforms to build and develop the Territory construction industry.

The legislation has been the subject of consultation with CIRG and is generally supported by the construction industry. Like any major reform, there are different views on aspects of the reform package, particularly on issues like timing and implementation.

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The legislative package includes

- *The Building Act Amendment Bill,*
- *Construction Contracts (Security of Payments) Bill,* and
- *Long Service Leave and Benefits (Construction Workers) Bill.*

Work on other elements of the package is ongoing and will be introduced over time through legislation, regulations or codes of practice after consideration and consultation with the CIRG.

The CIRG and its three working groups will continue to meet regularly as a peak industry forum and to provide advice to Government on issues and industry developments throughout the implementation stage of the package.

The Government congratulates and thanks the CIRG members and other participants for their efforts and advice to date and looks forward to working with them to continue building a better and stronger Territory construction industry.





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Fact Sheet No 1:

About the new construction contracts legislation

New legislation covering construction contracts will reduce payment delays for contractors and provide avenues for contractors to resolve payment disputes.

The *Construction Contracts (Security of Payments) Act*, expected to be passed in December 2004 and commenced by 1 July 2005, will promote good payment practices in the building and construction industry.

The legislation applies to:

- Most construction contracts entered into after the commencement of the legislation
- Related contracts for professional services associated with construction projects such as architects, engineers, quantity surveyors and surveyors
- Related contracts for the supply of goods and materials to construction sites.

Mining work such as drilling and shaft and pit construction is excluded.

How and why the legislation was developed

- Payments in the Territory construction industry have been protected to a limited extent by the *Workmen's Liens Act*, which is based on an 1893 South Australian statute.
- In August 2002 the government circulated a discussion paper on the issue to professional bodies, industry, individuals and companies. Many submissions were received and a reference group for various construction issues was established comprising representatives from industry and government departments. The reference group has considered the legislation.

Main elements of the legislation

- The legislation provides an effective and swift dispute resolution process with qualified experts registered to adjudicate disputes. The process will be simple, cheap and readily accessible.
- Under the legislation, contractual provisions that delay or stop the movement of funds down the contracting chain are prohibited.
- Where there is no written contract, the legislation prescribes fair and reasonable payment terms.





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Fact Sheet No 2:

About residential builders' registration and home warranty insurance

Changes to the *Building Act* will require all principal residential contractors working in building areas in the Northern Territory to be registered. Most residential building works will require home warranty insurance.

The changes will:

- Increase consumer protection
- Recognise residential builders as professionals and ensure professional development
- Allow residential builders to work interstate through mutual recognition of licensing

The *Building Act* will be amended in 2004 and the changes will start in 2006. The regulations, determinations and procedures will be developed throughout 2005. The changes will be monitored to ensure consumer protection and workability is achieved.

Residential builders' registration

- There will be a new category of building practitioner called building contractor. A contractor will need to be registered to carry out prescribed residential building works.
- Sub-contractors will not need to be registered. They will be supervised by the principal residential contractor.
- Contractors doing extensions valued at less than \$12 000 and trade contractors doing renovations of any value to existing buildings, such as re-roofing and bathroom refurbishing, will not need to be registered.
- The Building Practitioners Board will be expanded with industry membership to handle the registration of building contractors and all other building practitioners.
- Existing builders who show they are competent will be registered. If their ongoing performance is satisfactory, they will qualify for re-registration. All registrations for building practitioners will be for two years. Re-registration will be subject to past performance and continuing professional development.
- New entrants will need to be competent and have the required qualifications and experience. This will also apply to anyone in the future whose registration has lapsed.
- Prior accreditation, such as Contractor Accreditation Ltd (CAL) accreditation, will be recognised.
- Owner-builders will not need to register. Instead, they will need to complete a short course and obtain an owner-builder certificate.
- Owner-builders will be restricted to building on one parcel of land in a six-year period. To inform future purchasers, the building certification will note that the works have been carried out under the owner-builder provisions.

Home warranty insurance

- Home warranty insurance protects house buyers from financial loss if the contractor dies, disappears or becomes insolvent. It also covers owners and future owners for non-compliance with building regulations, for example structural defects, for houses and units in buildings up to three storeys for six years after completion.
- Both components of home warranty insurance will be mandatory for houses and extensions worth more than \$12 000. Renovations that do not need a registered builder will not need insurance.
- Unit developments will not need to have the non-completion component. The non-compliance component will be required for buildings up to and including three storeys. This will make the Northern Territory consistent with other jurisdictions.
- Owner-builders will need non-compliance insurance in case the property is sold within six years. Government authorities will not be required to take out non-completion or non-compliance insurance as governments will always exist to make good any defects.

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- The insurance policy will be part of the official record in the building file held by Government.
- The existing Home Building Certification Fund will be wound up when the new insurance scheme starts.

Other issues

- All registrations for Building Practitioners will be for a two year term. Currently there are persons and firms registered as building certifiers, certifying plumbers and certifying engineers with no time limit. A registered building certifier can rely on certification by a registered engineer or plumber when issuing a building permit. Under the new provisions re-registration will be subject to past performance and continuing professional development.
- For residential building works that require non-completion insurance there must be a contract between the parties which includes a declaration that the builder has secured home warranty insurance, a declaration that the house-buyer has secured appropriate finance, a statement of the work stages to which the progress payments will be linked and the amount of each progress payment, the location and description of building works to be undertaken, the proposed building permit number which identifies the compulsory building permit inspection stages, a dispute management process between the parties, and the deposit limit.
- Evidence of a project-specific home warranty insurance policy and a building contract will be required before a building permit can be issued.
- Inspections will be compulsory at the stages of pre-slab, pouring of the slab, wall framing or reinforcing of block walls, roof frame and wet areas. There will be a final inspection before an occupancy permit is issued. The building certifier will be responsible for inspecting and certifying.
- Remote building areas will be exempt from compulsory home warranty insurance and compulsory inspections. Home warranty insurance may be provided by agreement between the builder and the client.
- The principal residential building contractor will need to sign a legally binding declaration on completion of the building project that the work complies with the building permit.

At a glance

Residential Building Work	New Requirements
New houses and extensions to existing houses valued at more than \$12 000	Registered builder Home warranty insurance (non-completion and non-compliance) Contract Compulsory inspections
New units or extensions to existing units valued at more than \$12 000 in buildings of three storeys or less	Registered builder Home warranty insurance (non-compliance only) Compulsory inspections
New units or extensions to existing units valued at more than \$12 000 in buildings of more than 3 storeys	Registered builder Compulsory inspections
New house and extensions to existing house valued at more than \$12 000 that are built by the owner	Owner-builder certificate Home warranty insurance (non-compliance only) Compulsory inspections
Remote building areas such as Borroloola	Registered builder (Home warranty insurance and inspections not compulsory)
Renovations, such as re-roofing and refurbishing bathrooms, of any value and other building works below \$12 000	No requirement for builder to be registered or home warranty insurance



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Fact Sheet No 3:

About portable long service leave

A portable long service leave scheme for the NT building and construction industry will start in early 2005.

Key features

- Long service leave coverage will be consistent with interstate arrangements. The NT Government will seek to be party to the reciprocal arrangements agreement between all other States and the Australian Capital Territory.
- Benefits will be consistent with current building and construction industry and NT long service leave standards.
- The scheme will be funded through an actuarially determined levy on all building and construction projects over a certain cost level.
- The portable long service leave scheme will be administered and managed through a contract with an established scheme administrator with some local staff involvement.
- Employers will provide a register of workers employed in the building and construction industry and the scheme will maintain the register.
- Arrangements will be developed to prevent double counting of service and duplication of entitlements. Recognition and transfer of prior NT service will be conditional upon receipt of appropriate funding and approval by the scheme.
- The scheme will be statute based, subject to tripartite governance arrangements of industry, employee and independent representatives appointed by the Minister for Employment, Education and Training.
- The levy rate will be finalised before the legislation comes into effect.