
CMAWA e-News update June 2018

2018 Committee reaches a Milestone

Updates from the EO

Following countless attempts over the past years to address the constraints that the current Home Building Contracts Act 1991 poses on our Industry, the current Committee have achieved a milestone.

CMAWA representatives present at the recent meeting with Hon Minister Johnston MLC on 31st May was President, Frank Trichilo, Vice President Ugo De Laurentis and myself. The outcome of the meeting, proved extremely encouraging.

Minister Johnston was well versed with our concerns and the history behind the Associations attempt to address the constraints for our Industry. Whilst a review of the Act is a possibility, this is a long drawn out process which could take 2 years. In the interim and in support of our Industry, the Minister has offered to contact the Building Commissioner to request an Amendment to the Act be considered with prime focus on Section 10 of the Act, namely 'Deposits and Progress payments'.

As you are well aware the prescribed regulated amount payable for deposits under a home building contract is 6.5% under the current WA jurisdiction. The Minister's request will be placed on aligning our jurisdiction with that of Tasmania and Queensland where a 20% maximum deposit payment is allowed where more than 50% of the contracted services is to be carried out off-site. Whilst this does not address all the concerns the CMAWA have for the Industry, an increase in the allowed deposit payments will at least assist the Cabinets Makers enormously. Minister Johnston added that he cannot enforce the Building Commissioner in his dealings, but he is obliged to listen and consider all requests from the Minister.

Finally, this is a step in the right direction and we will await the outcome with optimism. I will keep you posted as and when news is forthcoming.

Best regards Sheila Payne, Executive Officer CMAWA

CMAWA Constitution

The CMAWA is now governed by the Associations Incorporation Act 2015 (New Act) which repealed the Associations Incorporation Act 1987 (Old Act)

The New Act requires each incorporated association in WA to review its existing rules and ascertain whether or not it addresses the requirements set out in Schedule 1 of the New Act before 1 July 2019.

Given that our existing rules does not deal with significant or important issues as laid down in the new ruling, our Legal Representative recommends we adopt the model rules to remain compliant with the Act.

The New Act provides for associations to adopt the model rules by way of a special resolution at a general meeting.

We are currently working through the Model Rules template to note any amendments that befit our Association. Once completed, we will notify all members on the date of our special general meeting for the proposed new rules can be voted on and passed.

The CMAWA must lodge the new rules/Constitution with the Department of Mines, Industry Regulation and Safety WA within one month of the general meeting.



Key Points to the Home Building Contracts Act 1991

- The Act regulates contracts between any person undertaking home building or associated work for a home owner where the value of the fixed price contract is between \$7500 and \$500,000
- The Act requires you and your client to enter into a written contract to avoid costly disputes and protect your rights and those of your client
- When disagreements can't be resolved, the Building Disputes Committee is available to achieve a quick and inexpensive solution.
- The Act doesn't apply for sub-contractors doing work for a builder who is in turn building a house for a client
- The Act includes the installation of fixtures in the house or elsewhere on the property and when you are dealing directly with the home-owner.
- The Contract must be in writing and contain all the terms, conditions and provisions of the agreement and must be signed/dated by both parties. Failure to do so can result in the client being able to terminate the contract at any time and a potential fine incurred against you.
- The Contract must be fair and "Rise and Fall" clauses that make the client responsible for increases in the cost of labour and materials are prohibited. You may be fined up to \$10,000 for including a "Rise and Fall" clause.
- Deposits are a maximum of 6.5% of the total cost of the work. This is the only payment you can demand before work commences. If you ask for a higher deposit, the client can terminate the Contract at any time before the work is completed and a penalty of up to \$10,000 may apply.
- Progress payments can only be claimed for work already completed or materials already supplied to the client, this is classed as a genuine progress payment. Penalties may apply of up to \$10,000 if you claim more than the value of work completed and the client can terminate the contract at any time.
- The Notice for the Homeowner document must be given to the client before the contract is signed. Failure to do so can result in a penalty of \$2000

CMAWA Committee 2018

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