



WHAT YOU NEED TO KNOW RESIDENTIAL BUILD CONTRACTS AND BUILDER LIQUIDATIONS

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Residential build contracts are an essential legal document that owners must complete when engaging in domestic building work valued over \$3,300, including GST, materials, and labour. These contracts outline specific agreements regarding the price and timeframe between the builder and owner. The Queensland Building and Construction Commission (QBCC) provides further details on these contracts and states that contractors must provide the owner with a copy of the QBCC Consumer Building Guide for work valued over \$20,000.



There are similar Guides in all other states and territories, however, the values of the work when they are required varies from the \$20,000 mentioned above in some states. Please check with the Department of Fair Trading or equivalent in your home state or territory.

Unfortunately, in recent times, the industry has witnessed the liquidation of major building companies such as Oracle Building Company Pty Ltd in August 2022 and Porter Davis Homes Group in March of this year. It is crucial to be prepared if you are in the process of building or planning to build in the future.

When selecting a builder, you must be diligent and be aware of your rights and obligations under the contract. As the conversation about the mounting pressure on the building industry intensifies, liquidation is not only a result of the long-term effects of COVID 19 but also a repercussion of trade shortages, supply chain disruptions, lack of foresight in planning for rising costs (including materials, wages, and allowances), and requests for variations to the build that result in significant costs and/or delays.

When a liquidator is appointed to an insolvent company, construction work stops, and their QBCC licence is cancelled. For residential buildings, the QBCC has a Home Warranty Scheme that may prioritise your coverage where your builder has liquidated.

Any claim for non-completion of work or defective works is capped at \$200,000. You can browse the Home Warranty Scheme to see how this applies to your circumstances.

If your builder goes into liquidation, you should contact the liquidator to make them aware of your build and advise them of the progress of your construction, any incomplete/defective works, and any money owed. You should also make your claim with the liquidator by lodging a proof of debt and/or claim with the QBCC and keep a record of all expenses incurred by you to substantiate any claim for your rectification works.

If you are looking for a new builder, it is crucial to choose carefully. You can use the following checklist:

- Obtain legal advice;
- See if the builder can assign your contract to another contractor for completion;
- Check if the builder is QBCC licenced (free licence search on the QBCC website);
- Check their reviews online;
- Conduct a Google search of the company;
- If concerned, complete a company search with ASIC to check if they are registered and for how long;
- Ensure that they can attend the worksite immediately and make it safe, including restricting trespassing.

It is always recommended to seek advice from a legal professional before signing your build contract.

If your builder is not in liquidation and you wish to switch builders, you must seek legal advice before terminating your contract. An agreement must be reached on assignment to or novation of the new builder before termination; otherwise, you risk breaching the contract.

It is essential to be aware of your rights and obligations under the residential build contract, particularly in light of recent liquidations of major building companies. Taking appropriate precautions and seeking expert advice can help mitigate the impact of these unfortunate events.

If you are in the process of building or are looking to build shortly, we highly recommend contacting our expert team at Greenhalgh Pickard Solicitors to review your build contract before signing.