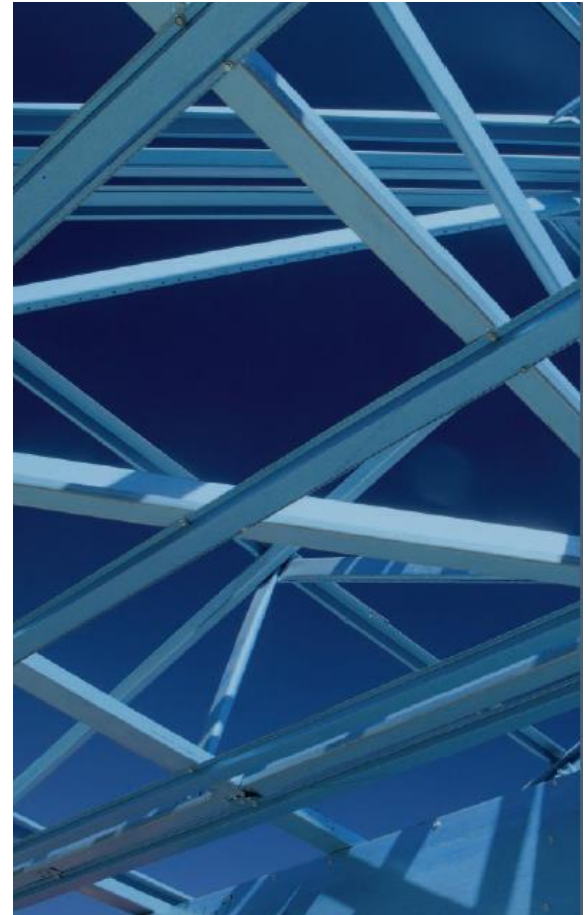


Licensing requirements and council contracts



Today's discussion

- Legal requirements
- Consequences for unlicensed contracting
- Compliance & enforcement
- Contracts & payments
- Disputes



Occupational licensing

- To provide consumer protection through licensing entry standards
- To help maintain industry standards
- To help licensed tradespersons distinguish themselves from unlicensed competition

Legal requirements

Building Work Contractors Act 1995

Plumbers, Gas Fitters and Electricians Act 1995

Sets out requirements for things such as:

- Builders / tradespeople to be licensed
- Work to be properly supervised (builders)
- Work to be performed by a registered person (PGE)
- Penalties for non-compliance
- CBS to maintain a licence register



Legal requirements



Understand the type of licence you need, and the specific categories relevant for you.

Your licence may be limited to conditions or restrictions.

- Any building work (without conditions)
- Or conditioned builders licences e.g. Bricklaying & Block Laying or Paving

Or

- Any plumbing work (unrestricted); or
- Irrigation (a restricted plumbing registration)

Legal requirements

E.g. Plumbing for a community park

What is plumbing work?

Yes	No
Irrigation (pipes +25mm)	Irrigation (pipes < 25mm)
Clearing blockages (pipes +50mm)	Clearing blockages (pipes < 50mm)

Advice we have given to councils –

Usually easier to engage someone who is licensed to do the lot, than get bogged down in these details.

Legal requirements

You must have a licence to contract for work.
(e.g. building work contractors licence;
plumbing contractors licence)

If it's on the Standard Conditions List you
need a licence for it.

e.g. Paving (brick paving, concrete paths, laying bitumen);
Concrete works (floors, paths, general concrete construction)

A licence is not required for council staff
(e.g. maintenance person)



Legal requirements

All work must:

- Be properly supervised
- Meet required building code and building standards.

All PGE work must be performed by a registered PGE person.



Legal requirements

Supervisors v's Contractors:

If you only have:

- supervisors registration - you cannot contract for work.
- contractors licence (building) – you need to engage someone to supervise or apply for your own supervisors registration.

If you are a registered PGE worker you can be approved as a building work supervisor to cover your own work. You don't need separate supervisors registration.

Legal requirements

If you don't have a supervisor

- Your licence may be suspended until you have one
- If you trade while suspended we could take court action
- The Commissioner can cancel, suspend or impose conditions on your licence (e.g. do a particular course or be re-tested).

CBS regularly suspends licensed builders that don't have a supervisor.

Legal requirements

Location of work



Licensing and supervision requirements are the same regardless of whether the work takes place:

- within a council building site
- outside the building
(e.g. paving along a roadway, stormwater pipes across a road)
- in front of private properties.

How to apply - supervisor

- Complete the application form (online or visit CBS).
- Provide required supporting information
 - Trade certificates, technical qualifications, evidence of experience and work history, may need to attend a technical interview
- Pay the fee
(currently: application fee \$194; pre-grant fee \$185)

See the factsheet “Building Work Supervisor – Guidelines for individuals”

How to vary– licence scope

- Apply online to vary an existing registration
- Pay the fee (currently \$150)

See the standard conditions list on the CBS website.

Unlicensed activity

If you operate without a licence, or outside the scope of your licence, CBS may take the following action:

- Warning letter
- Public warning (depending on consumer detriment)
- Seek a written assurance
- Expiation notice
- Court action



Compliance

We detect unlicensed activity through:

- Desktop monitoring (e.g. checking ads placed by tradies).
- Visiting businesses / licensed premises
- Reports/complaints from the public and other regulatory authorities

Be clear about your responsibilities under licensing laws.

Compliance and enforcement

Some examples from this financial year:

- Prosecution:
 - Unlicensed (licence had lapsed) and incomplete work. Fined \$7,300.
- Assurances (and publicly named):
 - Unlicensed builder (downpipe, stormwater drainage, retaining walls) advertising on Gumtree
 - Unlicensed builder (paving, fencing, retaining walls), consumer complaint about substandard work

Compliance and enforcement

Can you pick
the travelling
con man?



Examples continued

- Public warnings:
 - Unlicensed builder (also incomplete work)
 - Unlicensed business installing solar panels
- Travelling conmen
 - Paving in metro and regional areas
 - 3 were deported in Dec 2015

Protections for consumers

Majority of the *Building Work Contractors Act 1995* relates to domestic building work.

Consumer protection measures include:

- Building indemnity insurance (if the builder goes broke, dies or disappears)
- Written contract rules
- Limiting how much builders can ask for a deposit and progress payments.



Protections for other customers

- Licence criteria (financial criteria, fit & proper, check Police records)
- Supervisor requirements (technical qualifications and experience)
- Declarations with renewals (criminal convictions, bankruptcy, administration, etc)
- Licence can be cancelled (disciplinary action)
- Protections under related legislation (e.g. Certificate of Compliance, copy to the customer & the OTR)

Contracts and payments

We advise councils to follow best practice guidelines and any local government procurement guidelines.

E.g.

- Written contract
 - Clear description of work required
 - Price
 - Payment schedule
- Negotiate a 'small' deposit and only pay for work completed.



Disputes/problems



- CBS cannot conciliate disputes between business and local government.
- We encourage anyone to report unlicensed activity (including advertising for work, not just doing the work).

For more information:

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Government of South Australia

Attorney-General's Department