

PERILS OF WORK WITH NO PERMIT

New Property

By KIM LOVEGROVE

A CLIENT of mine recently expressed his confusion over how the law defines "building works".

It is illegal to carry out building work without a building permit and the Building Control Commission has successfully prosecuted people for this. So how does the law define "building work"?

Section 3 of the Building Act 1993 defines it to mean "work for or in connection with the construction, demolition or removal of a building". The act also defines "construct" to mean: "build, rebuild, repair, alter, enlarge, extend, place or relocate the building". The definition is indeed extensive and multi-faceted.

In effect, ostensibly minor renovations (for example, installations of new windows, internal walls, internal fit-out, kitchen and bathroom alterations), will, in most instances, be caught by the act. Yet, according to my industry intelligence, some builders remain oblivious to this fact.

The penalty for carrying out building work without a building permit is severe - up to \$10,000 for individuals and up to \$50,000 for corporations. The practitioner can also be reported to the Building Practitioners Board for further action.

The downside of carrying out illegal building work doesn't merely end with statutory penalties. Unless a building permit is issued, it is unlikely that an occupancy permit could ever be issued. Without an occupancy permit the builder is unable to get the benefit of the 10-year liability cap against law suits.

Furthermore, if the work proved to be defective, the builder's insurer could refuse indemnity on the grounds of illegal building work.

Therefore, before carrying out any building work, irrespective of whether it is major or minor, property owners and builders alike should pay heed to the requirements of the Building Act 1993.

Consider whether you are about to carry out building work as defined by the act. If so, a building permit will be required from a registered building surveyor. The builder will also have to be registered. The appointed surveyor will subsequently inspect the work as it is constructed. Upon completion, if the building is fit for occupation, the building surveyor will then issue an occupancy permit.

If the owner occupies the premises before the occupancy permit is issued, an offence will have been committed and the fines can be just as hefty as those under the building-permits law.

By building contracts lawyer Kim Lovegrove.