



# Update

Construction & Infrastructure

July 2010

## New Penalties for Contraventions of Building Act 1993 (Victoria) and Home Owners' Warranty Changes

From 16 July 2010, significantly increased maximum penalties apply to persons found guilty of building and plumbing offences following prosecution under the *Building Act* 1993 (Victoria).

In his remarks to the Legislative Assembly upon the first reading of the Building Amendment Bill, the responsible Minister described the increases as aimed "to improve the operation of the building sector by increasing compliance with building and occupancy permits".

Under the *Building Amendment Act* 2010, the penalty for carrying out building works without a permit or in contravention of a permit has increased fivefold to 500 penalty units for an individual or 2,500 for a body corporate. A penalty unit is currently set at \$119.45, meaning a total maximum penalty for this contravention of \$59,725 for individuals and \$298,625 for companies.

The penalties for occupying a building or part of a building before a required occupancy permit has been issued for the building or that part of the building have also increased, to 120 penalty units for an individual (\$14,334) or 600 penalty units (\$71,670) for a company.

Generally speaking, increases of between 20% and 2400% on the previously applying penalties are to be found, with common increases being 500% and 1200%.

Despite the responsible Minister suggesting that the focus is on compliance with building permits and occupancy permits, it is fair to say that the vast majority of *Building Act* provisions specifying a penalty in respect of building work and many key penalties in respect of plumbing work have been increased by virtue of these recent changes.

For example, a building practitioner (other than a domestic builder) must not carry out work as a building practitioner unless covered by required insurance. Similarly a builder must not carry out or manage or arrange the carrying out of domestic building work under a major domestic building contract unless the builder is covered by the required insurance. With the new amendments, the penalties for contravention of these requirements are 500 penalty units for individuals and 2,500 penalty units for companies, apiece.

By way of further example, carrying out building works where protection works are required but before the protection works are agreed or otherwise determined now attracts penalties of 500 penalty units for individuals and 2,500 penalty units for companies.

Also pursuant to the *Building Amendment Act* 2010, from 16 July 2010 the Victorian Managed Insurance Authority formally became a "designated insurer" for the purposes of home owners' warranty insurance required under the *Building Act*.

This change implements the Victorian Government's announcement in March 2010 that it would take over the provision of domestic building insurance, after the withdrawal from the Victorian market of the then largest remaining home owners' warranty insurer, Vero.

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