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INFORMATION SHEET 17

OWNER-BUILDER EXEMPTIONS

WHAT IS THIS EXEMPTION ABOUT?

The exemption provides owner-builders or Do-It-Yourself builders (DIY) a regime where they can undertake restricted building work on their own homes, or use a friend or family member to either assist, or undertake the works on their behalf.

Council also provides an administrative process for notifying the public that an owner-builder has undertaken the building works, which is subject to the owner-builder exemption.

If an owner builder claims an exemption under the LBP scheme, the statutory declaration must be held on the Land Information Register so that future owners are made aware that the design or construction of the dwelling has been undertaken by an owner builder.

If an owner-builder holds a license for the restricted building work (RBW), they will not be considered for an exemption. The owner-builder exemption is specifically tailored to apply to a DIY; or for an exemption for RBW where the owner-builder proposes to carry out works that they are not licensed to carry out.

The owner-builder exemption will not cover works such as electrical, gas or plumbing and drainage unless the owner-builder holds appropriate licenses for this work.

WHAT IS AN OWNER-BUILDER?

You are an Owner-Builder if you:

- Have a relevant interest in the land or the building on which the Restricted Building Work is carried out (i.e. ownership), and are an individual (i.e. not a company).
- Live in or are going to live in the home (this includes a holiday home, or bach).
- Carry out the Restricted Building Work to your own home yourself, or with the help of your unpaid friends and family members, and
- Have not, under the Owner-Builder Exemption, carried out Restricted Building Work to any other home within the previous 3 years.

WHAT IS RESTRICTED BUILDING WORK (RBW)?

Restricted Building Work is work which is critical to the integrity of a building. It is work that relates to the structural soundness and weathertightness of a buildings and can only be carried out or supervised by tradespeople who are Licensed Building Practitioners (LBPs).

Practitioners who usually carry out RBW include:

- Designers and engineers
- Carpenters
- Foundation Specialists
- Roofers
- Brick and Block layers
- External Plasterers
- Plumbers and Gasfitters

The Building Act 2004 now requires that all Restricted Building Work that is undertaken is clearly identified. This means that there is now greater accountability for ensuring that the work is 'built right'. Owner-Builders are not exempt from this.

CAN AN OWNER-BUILDER BUILD THEIR OWN HOME OR DO WORK ON THEIR HOME THAT IS RESTRICTED BUILDING WORK?

Yes, but the Owner-Builder must meet all the statutory requirements. That means that the standard of the work must be to the same level as if it was carried out by a LBP.

If you are a suitably skilled owner-builder and meet the criteria of owner-builder, you can carry out restricted building work.

However if you have any doubts about your design or building knowledge and skill, we strongly advise you employ licensed building practitioners to do this building work. It is advisable that any owner considering this, checks their level of building knowledge against:

- the competencies required of a licensed building practitioner (see LBP licensing classes).
- the requirements of the Building Code compliance documents <https://www.building.govt.nz/building-code-compliance>

WHAT ABOUT WORK THAT DOES NOT NEED A BUILDING CONSENT, CAN AN OWNER-BUILDER DO THAT?

The MBIE website provides guidance to owners regarding what building work can be exempt from a building consent. It is the owner's responsibility to decide if the work requires a building consent.

Generally, you do not need a building consent if proposed building works are exempt under Schedule 1 of the Act. You do not need to be an LBP if a building consent is not required. This means that you can effectively carry out the works yourself. Despite this, the work must still meet the requirements of the Building Act 2004 and the Building Code.

Although a building consent may not be required, the project may still need to get approval from the Council planning department with regard to the Council District Plan. Check with the District Planner to see if a resource consent is needed.

WHAT DO YOU HAVE TO DO TO GET AN OWNER-BUILDER EXEMPTION, AND WHEN DO YOU GET ONE?

An application for building consent requires you to declare the LBPs engaged for the design and construction work. This is no different for an owner-builder. However, instead of getting certificates from your designers and contractors, you will have to provide Council with a statutory declaration detailing the RBW that you intend to undertake.

The statutory declaration form is available from WDC website.

<https://www.wairoadc.govt.nz/our-council/publications/forms>

This document requires a degree of building knowledge in order to fill it out correctly; it is also a legally binding declaration that must be witnessed by a person that is able to witness such documents, such as a Justice of the Peace, or a solicitor. The statutory declaration will be kept on the property file at Council, and it will be publicly available to any person who wants to look at the file. It is an offence under both the Crimes Act 1961 and s.369 of the Building Act 2004 to give false information in a statutory declaration, so all of the information contained in the statutory declaration must be true and correct to the best of your knowledge.

CAN AN OWNER-BUILDER DO THE DESIGN WORK?

Yes, but like a licensed building practitioner (LBP), an owner-builder doing the design work is responsible for ensuring that the designs and specifications are compliant with the Building Act 2004 and the Building Code. At the time of applying for building consent, you must supply Council with:

- The plans and specification of the house to the same level of detail and compliance as that required of a licensed designer, architect or engineer.

All other documentation required by Council in relation to the building consent application.

The Statutory Declaration (Form 2b from WDC website).

<https://www.wairoadc.govt.nz/our-council/publications/forms>

CAN AN OWNER-BUILDER DO THE CONSTRUCTION WORK?

Yes, but you must notify Council before the work commences by completing the statutory declaration Form 2b and lodging it either at the time of application, or prior to the construction work commencing if a building consent is not required.

An owner-builder doing the construction work is responsible for ensuring that the construction work is compliant with the approved plans and specifications, that is, that the construction work is compliant with the Building Act 2004 and NZ Building Code (Building Act 2004, Section 14C).

Even with a Statutory Declaration there are some areas of construction that an owner-builder cannot do unless they are licensed. These include: plumbing, gas-fitting, drain-laying, and electrical work. Suitable licensed people must carry out this specialised work.

CAN THE OWNER-BUILDER GET OTHERS TO HELP WITH THE DESIGN OR CONSTRUCTION WORK?

Yes, they can get others to help such as friends and family so long as they are not paid for this work. This is included in the requirements of owner-builder status and in the Statutory Declaration.

WHAT HAPPENS IF THE OWNER-BUILDER WANTS TO CHANGE THEIR MIND DURING THE PROJECT?

In any situation where the status changes, the owner must notify the Council of the changes using the Notice (Form 2C Notice of Owner-Builder form) form. Typical scenarios might be:

1. Stop using the exemption provision:
 - a. sometime during construction the owner-builder decides they don't want to do the construction work and that they want to employ a Licensed Building Practitioner to complete the job
2. Start using the exemption provision:
 - a. part way through the construction an owner may decide to terminate the employment of the Licensed Building Practitioner and intend to finish the job themselves as an owner-builder
 - b. part way through the job the owner-builder decides to employ a Licensed Building Practitioner to carry out particular parts of the construction

The form contains spaces for the name and details of a homeowner wanting to use the Owner-Builder Exemption after a building consent has been granted. It shows whether the homeowner wants to start using the exemption or has stopped using the exemption. This form needs to be given to the local council before the new Owner-Builder starts doing the construction Restricted Building Work.