

11 November 2020

To Whom it May Concern

Progress Payment Schedules

The law governing contracts for home building work in Western Australia, whether that is a new build or extending or renovating a house is the *Home Building Contracts Act 1991*. Apart from provisions concerning deposits and ensuring that progress payments are a genuine reflection of work performed or materials supplied, there are no prescribed stages or percentages that must be charged as detailed below.

1. Compliance Requirements- Deposits

- 1.1. If undertaking home building work or associated work, a deposit cannot exceed 6.5% of the total amount payable under the contract.
- 1.2. The only exception to this requirement is where cabinetry work is being undertaken in which case, the maximum allowance deposit is 20% where the value of off-site cabinetry work is more than 50% of the total contract price.

2. Compliance Requirements - Progress Payment

- 2.1. It is a legal requirement that progress payments, once the works have commenced, must represent a 'genuine payment' for work already performed or materials or services already supplied. As such, payment claims and schedules must be for works completed to the required stage or for materials that have been supplied.
- 2.2. Keeping this legal requirement in mind, the parties may determine the appropriate amounts for specific completed stages of the works which will depend on the particular nature of the project.

3. Industry Accepted Schedules

- 3.1. It is a misnomer that there are industry wide accepted progress payment schedules in Western Australia that a builder must use. There are no prescribed amounts that must be charged for specific stages of a build, subject to the specific deposit requirements and legal rules concerning genuine progress payment stages in WA being followed.
- 3.2. There is often confusion, particularly by lenders operating in other jurisdictions such as Victoria or the Northern Territory where there are set progress payment percentages for specific stages.
- 3.3. It is important to note however that not only does the legislation in WA not mandate or prescribe what those set percentages should be, construction methods in WA are very different to Victoria and Northern Territory.
- 3.4. As such, it is not reasonable to attempt to transfer one set of legal requirements in one state to another when it comes to the percentages that can be charged.

Should further assistance or information be required, Master Builders would be pleased to provide further guidance or clarification around the legal framework in Western Australian and the practical variables which impact a build and therefore the payment schedules which are used.

Yours sincerely



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