

# Prescribed checklist

## About this checklist

A building contractor is required to provide you with this checklist and other prescribed information under the Building Act 2004 before you sign a contract for the building work if -

- a. you request this checklist and the prescribed disclosure information; or
- b. the building work is going to cost \$30,000 or more (including GST).

The building contractor is the person or company you have asked to do building work for you.

The building contractor may not be an actual builder. The building contractor could be a plumber, an electrician, or any other tradesperson who is doing some building work for you and whom you are dealing with directly.

If the building work is or includes the manufacture of a modular component, the building contractor will be the modular component manufacturer.

Steps (See notes below)	Completed (Tick when completed)
1. Become informed	<input type="checkbox"/>
2. Agree on project structure and management	<input type="checkbox"/>
3. Hire competent building contractors	<input type="checkbox"/>
4. Agree on price and payments	<input type="checkbox"/>
5. Have a written contract	<input type="checkbox"/>
6. Take control	<input type="checkbox"/>
7. Resolving disputes	<input type="checkbox"/>

## Notes

### Step 1 – Become informed

All building work must comply with the provisions of the Building Act 2004. You can find a copy of the Building Act 2004 on the New Zealand Legislation website: [www.legislation.govt.nz](http://www.legislation.govt.nz)

Building work is any work done in relation to the construction or alteration of a building. This includes any work done on your home or other structure, such as a garage, retaining walls, and fences. It includes the manufacture of a modular component. It also includes work like painting, decorating, and landscaping if it is part of the construction or alteration of a building.

However, if the only work you are getting done is redecorating and there is no construction or alteration work involved, it is not building work. If landscaping work does not include any structures (eg, pergolas or retaining walls), it is also not building work.

All building work requires a building consent unless it is exempt under the Building Act 2004.

Generally, only simple or low-risk work is exempt from the requirement to have a building consent. Certain gas and electrical work is also exempt. For more information, go to [www.building.govt.nz](http://www.building.govt.nz).

Building work that is significant or of higher risk (such as structural alterations) requires a building consent and must be carried out or supervised by a licensed building practitioner. For more information on these requirements, go to [www.building.govt.nz](http://www.building.govt.nz).

Modular components manufactured by a registered MCM still require a consent if they are designed by someone other than the registered MCM (for example, by an architect or a draftsman). If a modular component is designed and manufactured by a registered MCM who is certified to design and manufacture the component then building consent is not required. Building consent will be required for the installation of the modular component on the site. For more information on the modular component manufacturer scheme, go to [www.building.govt.nz](http://www.building.govt.nz).

## Step 2 – Agree on project structure and management

Building projects do not run themselves. Decide how you want to manage the building project.

A few different roles are needed on a building project. You need someone to -

- › manage timelines and costs:
- › manage subcontractors:
- › liaise with the local council:
- › make decisions about the design of the work.

You can do some of this yourself, but if you are not knowledgeable about the building work process, you should get help from an architect, an independent project manager, a building company, or a licensed building practitioner who is licensed to co-ordinate the building work involved.

You should be really clear about the scope and size of the project and get detailed plans up front.

Be clear with your building contractor about who is doing the building work and who is responsible for making design and change decisions during the project.

## Step 3 – Hire competent building contractors

Ensure that your building contractor has the skills and resources to carry out the project.

You should -

- › ask around about the building contractor and get references for other work that the building contractor has done:
- › find out if the building contractor is a licensed building practitioner or has other appropriate qualifications. For more information about licensed building practitioners, go to [www.building.govt.nz](http://www.building.govt.nz)
- › determine whether the building contractor has sufficient insurance to cover the work while it is being carried out:
- › ask about the building contractor's employees and what subcontractors the building contractor will use on the project:
- › if the building contractor is a company, look up its company records on the Companies Office's Internet site. If your search raises concerns, ask the building contractor to explain.
- › if the building work is or includes the manufacture of a modular component, look up the details of the modular component manufacturer on the register of modular component manufacturers.

## Step 4– Agree on price and payments

The contract should clearly state what payments are required and when. Where possible, a fixed price is preferable. The lowest price is not always the best price.

You should -

- › get detailed quotes (not estimates) for the building work:
- › when comparing quotes, ensure that the scope of the building work and the materials and fixtures that you are comparing are the same across quotes so that you are "comparing apples with apples":
- › make sure you have the funds to pay for the project before the work begins and that you understand the payment terms agreed with the building contractor:
- › think carefully before agreeing to pay more than the cost of the work that has been completed and the costs of any materials that have been supplied at the time you make the payment.

## Step 5 - Have a written contract

You should have a written contract. The contract should include items such as -

- › a description of the building work:
- › the start and completion dates for the building work:
- › how variations to the building work will be agreed:
- › the payment process, including dates or stages for payment and how payments will be invoiced, made and receipted:
- › the dispute resolution processes to be followed.

You should obtain legal advice to ensure that you understand your rights and obligations and that the contract complies with all legal requirements.

**Note:** The Building Act 2004 requires that there must be a written contract for residential building work with a value of \$30,000 or more (including GST), and the Building (Residential Consumer Rights and Remedies) Regulations 2014 prescribe matters that must be included in every contract for residential building work with a value of \$30,000 or more. You can find a copy of the Building Act 2004 and the Building (Residential Consumer Rights and Remedies) Regulations 2014 on the New Zealand Legislation website: [www.legislation.govt.nz](http://www.legislation.govt.nz).

## Step 6 - Take control

All residential building work is covered by implied warranties prescribed by the Building Act 2004 that address matters such as workmanship and building work being fit for purpose. For more information, go to [www.building.govt.nz](http://www.building.govt.nz).

You should -

- › make sure there is a clear line of communication with the building contractor through the site foreman, the project manager, or any other person who has authority to speak on behalf of the building contractor. (This person should be identified as the “key contact person” in the prescribed disclosure information that the building contractor has provided along with this checklist):
- › when you are making decisions along the way, be clear as to whether those decisions will affect your contract and costs. If you do decide to make a change, keep track of the effect of that change.

## Step 7 - Resolving disputes

It is in both your interests and the building contractor’s interests to keep the building project running smoothly and to deal with any disputes as they arise.

If you have concerns about the building project, raise them with the building contractor (or the key contact person) as soon as possible.

Raise your concerns in good faith and use the dispute resolution processes agreed to in your contract. For information on your options, go to [www.building.govt.nz](http://www.building.govt.nz)

If you have received an invoice that you have concerns about, clearly outline your concerns to the building contractor in writing.

If you fail to make a payment when it is due, the building contractor might start dispute resolution proceedings before you have a chance to explain why you have not paid. (Simply withholding payment when there is a dispute will often make the situation worse.)

## Further information

For more information, go to [www.building.govt.nz](http://www.building.govt.nz) or call the Ministry of Business, Innovation, and Employment on 0800 242 243.