



Fact Sheet – Definitions of ‘Builder’ and ‘Building Work’

The Scheme

The *Federal Safety Commissioner Act 2022* (the Act) establishes the Work Health and Safety Accreditation Scheme (the Scheme) to improve work, health and safety (WHS) in the building and construction industry.

Subject to certain exemptions, only ‘builders’ who are accredited under the Scheme can enter into contracts for building work that is funded directly or indirectly by the Commonwealth or a corporate Commonwealth entity.

Definition of a ‘Builder’

The Act defines a builder, in relation to ‘building work’, as ‘a person who carries out any of the building work’.

Generally, builders engaged to perform building work under a head contract will require accreditation. Subcontractors engaged in building work are not required to be accredited.

A project or contract manager, or developer who carries out ‘building work’ will be required to obtain accreditation in order to undertake projects covered by the Scheme.

However, where a project manager, contract manager or developer is engaging a builder to carry out building work, the manager or developer will not require accreditation. However, they will be required to ensure that an accredited builder is engaged to carry out the ‘building work’.

Definition of ‘Building Work’

Building work for Scheme purposes means any of the following:

- construction
- alteration
- extension
- restoration
- repair
- demolition, or
- dismantling

of any buildings, structures or works that form, or are to form, part of land, whether or not they are permanent. Any of these activities carried out on railways (not including rolling stock) and docks is also building work.

Building work also means the installation in any building, structure or works of fittings forming, or to form, part of land including:

- heating
- lighting
- air-conditioning
- ventilation
- power supply
- drainage
- sanitation
- water supply
- fire protection
- security, and
- communications systems

Finally, building work means any operation that is part of, to prepare, or to render complete, any of the building activities listed above, including, for example:

site clearance, earth-moving, excavation, tunnelling, boring, laying of foundations, the erection, maintenance or dismantling of scaffolding, prefabrication of made-to-order components to form part of any building, structure or works either at the main site or a an auxiliary or holding site, site restoration, landscaping and the provision of roadways and other access works.

What is not included as ‘Building Work’?

The Act and *Federal Safety Commissioner (Accreditation Scheme) Rules 2023* include provisions that exclude certain types of building work from the Scheme. These works may be undertaken by an unaccredited builder. They include the following:

Building work undertaken as part of a project and under a contract that is below the Scheme thresholds

Building work that is carried out under a contract which has a value of less than \$4 million (GST inclusive); and forms part of a project that is directly funded by the Commonwealth or a corporate Commonwealth entity is not captured by the Scheme,

In addition, for projects that are indirectly funded by the Commonwealth or a corporate Commonwealth entity, building work that forms part of the project will not be captured under the Scheme where the building work is carried out under a contract with a value of at least \$4 million and either:

- the value of the Australian Government contribution to the project is at least \$6 million (GST inclusive) and represents at least 50% of the total funding; or
- the value of the Australian Government contribution to the project is at least \$10 million (GST inclusive).

More information on the application of the financial thresholds and when an accredited builder must be engaged is available in the fact sheets ‘**Applying the Scheme to Indirectly funded building work**’ and ‘**Applying the Scheme to Directly funded building work**’.

Single-dwelling house construction

Building work does not include any work that is part of a project for the construction, repair or restoration of a ‘single-dwelling house’ or any building, structure or work associated with a ‘single-dwelling house’ (irrespective of the number of single dwelling houses to be constructed, repaired or restored). You also do not need to be accredited if your building work involves the alteration or extension of a dwelling provided it remains a ‘single-dwelling house’ after the alteration or extension.

For the purposes of the Scheme the definition of a ‘single dwelling house’ is taken from the National Construction Code and is a Class 1a building being:

- a detached house; or
- one of a group of two or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, town house or villa unit.

Transportation or supply of goods

Building work does not include the transportation or supply of goods, to be used in building work, directly to building sites (including any resources platform) where that work is being or may be performed.

Prefabrication

Building work does not include the prefabrication of made-to-order components to form part of any building, structure or works, that is carried out at a place that is not:

- the site where the construction, alteration, extension, restoration, repair of, or the installation of fittings in, the building, structure or works occurs or is to occur; or
- a site that is separate from the main site and is either merely auxiliary to the main site or merely a holding site for components of the building, structure or works.

Subcontractors and accreditation

Subcontractors who carry out building work under a contract with a builder do not require accreditation for work covered by the Scheme.

Joint venture requirements

In joint venture arrangements only the person/s conducting ‘building work’ (that is, the builder) will require Scheme accreditation.

However, provisions for joint venture arrangements which permit both accredited and unaccredited builders to undertake Australian Government funded building work may apply. For further information refer to the fact sheet ‘**Joint Venture Arrangements**’.

For further information:

- Visit the FSC website at www.fsc.gov.au
- Contact the FSC Assist Line on **1800 652 500**
- Contact the OFSC via email at ofsc@dewr.gov.au

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