

## 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.

This satisfies Council's obligations in respect of maintaining records under the Building Act.

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)
- Live in or are going to live in the home (includes a bach or holiday home)
- Carry out 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

You are an owner-builder if you either own (themselves or jointly with another person) or have a beneficial legal interest in the land and/or house the building work is being done on. A legal interest includes being a beneficiary of a trust, shareholder of a company, co-owner of Maori land, or having possession of a long-term lease.

To meet the criteria, you must also genuinely intend to occupy (or already occupy) the house and not be building (or altering) it only to sell it or rent it to someone else. However, occupation does not need be permanent or exclusive, it is sufficient for you to reside on an intermittent basis such as a holiday home. Intention can be difficult to prove, however this element is important to ensure that only genuine owner-builders are able to claim the exemption.

If you wish to undertake RBW on a subsequent property, you may only do so once three years has passed since the completion of the RBW on the previous property.

This is to ensure that unlicensed builders cannot avoid registration, and undertake RBW by using the exemption scheme.

An owner-builder can do RBW on the *same* property as often as they like (e.g. gradually doing alterations to a home periodically over a number of years). However, they can only do restricted

building work on a *subsequent property* after three years has passed since the completion of RBW the previous property.

### What is restricted building work?

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

Practitioners who usually carry out RBW include:

- Designers and engineers
- Carpenters
- Foundation specialists
- Roofers
- Brick and block layers
- External plasterers

The RBW regime identifies all of the LBP who are accountable for each part of the work. It also helps to provide assurance to the owner that the building has been built to a satisfactory standard.

### Can an owner-builder design and build their home when restricted building work is involved?

Yes, but the owner-builder must meet all statutory requirements; for example, the standard of the building 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 may be able to carry out RBW. However, if you have any doubts about whether you are suitably skilled or qualified to carry out the design or construction works, Council strongly advises that you only engage LBP to do this work.

If you are considering undertaking the works yourself, you will need to meet a certain level of building knowledge. You can check and compare your skills by referring to the following documents:

- competencies required of a LBP at <http://www.business.govt.nz/lbp>
- requirements of the Building Code Compliance Documents at: <http://www.building.govt.nz/#building-code>

### What about work that does not need 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.

You should always discuss your project with Council's building officers before undertaking any building works – even if you think that the proposed works are exempt in accordance with Schedule 1 of the Act. If you have any doubts, please refer to our guidance on exempt building work.

## How do I apply for an owner-builder exemption?

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 our website or you can download a copy from: <http://www.building.govt.nz/assets/Uploads/projects-and-consents/restricted-building-work/form-02b-owner-builder-statutory-declaration.doc>

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 you are then responsible for ensuring that the designs and specifications comply with the requirements of the Building Act 2004 and the Building Code.

The design works as part of RBW relate to building elements that are critical to the integrity of the building, so Council advises that you should engage a LBP to design undertake the design work unless you are technically competent to do so.

At the time of applying for building consent, if you are seeking the exemption, you must supply Council with

- plans and specifications of the house to the same level of detail and compliance as that required of a licensed designer, registered architect or chartered professional engineer
- any other documentation required by the Council in relation to the building consent application (refer to the residential lodgement checklist for details required)
- a statutory declaration (refer to our website for this document)

If using a designer, you must supply the Council with

- plans and specifications of the house to the same level of detail and compliance as that required of a licensed designer, registered architect or chartered professional engineer
- any other documentation required by the Council in relation to the building consent application (refer to the residential lodgement checklist for details required)
- a certificate of design work, which is issued by the designer

## Can an owner-builder do the construction work?

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

You will be responsible for ensuring that the work complies with the approved plans and specifications. You must ensure that the construction work complies with the Building Act and

Building Code (Building Act 2004, section14C), and the approved plans demonstrate that the design is code compliant.

An owner-builder carrying out construction work is responsible for ensuring that the work is compliant with the approved plans and specifications, this confirms that the construction work is compliant with the Building Act and Building Code (Building Act 2004, section14C).

### **Can an owner-builder do all construction work under the building consent?**

An owner-builder cannot carry out all aspects of construction unless they are licensed to do the work; suitably qualified people must carry out this specialised work.

This work includes:

- plumbing
- gas-fitting
- drain-laying; and
- electrical work

### **Can an owner-builder get others to help with the design or construction work?**

You may have friends and family undertake the building works on your behalf, as long as they are not paid for doing so.

If you are paying someone to do the work, they must be suitably licensed and they must submit the relevant paperwork to Council on completion of the work.

### **Can an owner-builder build other houses using this provision of the Act?**

No, the owner-builder exemption only allows the owner to carry out RBW if they have not carried out restricted building work in relation to a different household unit within the previous three years. This element is the key to ensuring unlicensed builders do not use the exemption as a loophole to get around the Licensed Building Practitioner scheme.

### **What if an owner-builder changes their mind during the project?**

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

In any situation where the status has changed you must notify the Council of the changes using the owner-builder exemption form.