

BSA CONSUMER GUIDE SUPPLEMENT:

COST PLUS CONTRACTS

When the price you pay is: the builder's actual costs + a percentage

Cost plus contracts are easily identified because they do not state a total price for the work to be done. Instead, the amount you have to pay is the actual cost incurred by the builder plus a percentage of that cost. This means that you will not know the full cost of your project until it is completed.

These types of contracts are *prohibited* by legislation unless they meet certain strict criteria. An example of when a cost plus contract may be permitted is when the cost of a substantial part of the work cannot reasonably be calculated without some of the work actually being carried out.

THE CONTRACT

A cost plus contract does not provide consumers with the same legal protection afforded by a fixed price contract. For example, a cost plus contract does not have to state the date the work is to be finished. Nor does a cost plus contract have to state the number of days required to complete the work once it is started.

Warning !
The BSA recommends that you do not enter cost plus contracts. It is very important to obtain legal advice if you do plan to enter such a contract.

The builder is, however, under an obligation to carry out the work with reasonable diligence (this has to do with carrying out the work in a prompt and efficient manner). This is a statutory warranty provided under the *Domestic Building Contracts Act 2000*.

You should check that the contract provides for a fair and reasonable estimate of the total amount that the builder is likely to receive under the contract.

Cost plus contracts which do not satisfy the above requirements cannot be enforced. However, you need to be aware that even if the contract cannot be enforced, you will still be liable for paying a reasonable amount for any work done, unless that would be unfair to you.