

Article Information

Author: Karyn Reardon

Service: Construction Litigation, Projects & Construction, Property & Development, Property Development, Property Transactions

Sector: Infrastructure, Real Estate

Head Contractor Exemption -Uncertainty Resolved???

Our [March](#) and [April](#) Insights tracked the most recent evolution of Queensland's building licencing legislation, including whether more civil contractors and developers would require building licences under legislation passed during 2020 (2020 Act).

The 2020 Act quashed the (so called) *Head Contractor Exemption*, which permits 'building work' by unlicensed entities provided a licensed contractor carries out the relevant 'building work'. The relevant part of the 2020 Act was (initially) scheduled to commence on 24 July 2021, and then pushed back to 24 July 2022.

On **10 June 2022**, the *Building and Other Legislation Amendment Act 2022 (2022 Act)* commenced.

The 2022 Act **preserves** the *Head Contractor Exemption*.

Before passing the 2022 Act, Parliament explained:

Consultation showed reliance on the exemption in commercial contracting, such as in development agreements and contracts that involve a minor element of building work. If the exemption was to be repealed, consultation showed there would likely be higher costs to businesses to undertake this ancillary work.[\[1\]](#)

However, the 2022 Act anticipates subsequent regulations, which are not directly made by Parliament. The anticipated regulations will identify specific building trades that will not be permitted to rely on the *Head Contractor Exemption*.

In response to this potential (back door) removal of the *Head Contractor Exemption*, the Urban Development Institute of Australia observed:

... the proposed reinstatement of the exemption ... is effectively the same as repealing the exemption ... [and] raises significant uncertainty for the industry. Removal of the exemption in any uncertain way can significantly and detrimentally impact the commercial and retail (including hospitality) development sectors.
[\[2\]](#)

Concerns about the ongoing uncertainty as to availability of the *Head Contractor Exemption* have been echoed by other stakeholders including Queensland Law Society,[\[3\]](#) Property Council,[\[4\]](#) and Master Electricians Australia.[\[5\]](#)

Minister de Brenni has assured Parliament that his department "will continue to consult comprehensively with industry before developing any proposed regulations."[\[6\]](#)

This article has been written for general educational purposes only, and is not to be taken as legal advice.

[\[1\]](#) Queensland, Parliamentary Debates, Legislative Assembly, 24 May 2022, 1272 (Mick de Brenni).

[\[2\]](#) Transport and Resources Committee, 'Building and Other Legislation Amendment Bill' (Report No. 18, May 2022) 18.

[\[3\]](#) Transport and Resources Committee (n 2) 18, 20-21.

[\[4\]](#) Transport and Resources Committee (n 2) 18-19.

[\[5\]](#) Transport and Resources Committee (n 2) 19-20.

[\[6\]](#) Queensland, Parliamentary Debates, Legislative Assembly, 24 May 2022, 1273 (Mick de Brenni).