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BUILDING AMENDMENT ACT 2013—BUILDING CONTRACTORS RESPONSIBILITIES

The Building Amendment Act 2013 (“the Amendment Act”) and the Building Regulations 2014 (“Regulations”) have introduced significant client protection measures to the Building Act 2004 which came into effect from 1 January 2015. The changes apply to residential building work carried out by a building contractor who is contracted to a client homeowner where the price of work is \$30,000.00 or more (inclusive of GST).

The main consumer protection measures and can be summarised as follows:

Pre & Post Contract Disclosures:

The Amendment Act now makes it mandatory for a building contractor to provide clients with a disclosure statement in the prescribed form. The information covered must include the contractors business, skill and qualification of persons involved in the building work, the relevant insurance policies held by the contractor and the guarantees and/or warranties provided in relation to the building work.

Failure to provide a disclosure statement exposes the building contractor to a fine not exceeding \$2,000.00 and a building contractor who knowingly provides false information or neglects to provide material information in a disclosure statement is liable for a fine up to \$20,000.00.

The Amendment Act also makes it mandatory for a building contractor to provide a check list should a client request it. The checklist is intended to inform the client of matters and/or risks the client should consider or attend to prior to entering into a contract.

On completion of the building work (regardless of the value) the building contractor is required to provide disclosure information in the prescribed form. This information must include the process and materials needed for ongoing maintenance of the building work, copies of insurance policies, Guarantees and/or warranties held by the contractor in relation to the building work.

Failure to provide a post completion disclosure statement exposes the building contractor to a fine not exceeding \$2,000.00

Mandatory Written Building Contracts:

The Amendment Act now requires all building contracts where work is \$30,000.00 or more to

be in writing, dated and comply with the minimum content prescribed in the Amendment Act and Regulations. Where there is no written contract or the contract doesn't comply with the Act default clauses are included in the contract. Failure to provide a written contract exposes the building contractor to a fine not exceeding \$2,000.00.

Implied Warranties:

The Amendment Act provides for implied warranties which applies to both oral and written contracts such as the building work needs to be carried out with reasonable care and skill, in accordance with plans and specifications, it must comply with any relevant consents and the materials supplied must be suitable for the purpose. A breach of the implied warranties must be remedied in a reasonable time. If a contractor refuses to do so the client can have the breach remedied by a third party and recover costs or cancel the contract (if work is not completed). If the breach cannot be remedied or is substantial in nature the client can seek damages for a reduction in value.

Not a Party to the Contract - Not a Problem:

One of the most significant changes in the Amendment Act is that it now allows the benefit of the implied warranties to be passed onto and enforced by subsequent homeowners despite the new owners not being a party to the residential building contract.

12 Month Defects Liability Period

The 12 month liability period is implied into every residential building contract. The contractor must within a reasonable time from receiving notice remedy any defect in any work carried out within the last 12 months (only applies to work carried out on or after 1 January 2015).

20 MINUTE FREE

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