



New South Wales

Home Building Amendment (Claims) Regulation 2008

under the

Home Building Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Home Building Act 1989*.

VIRGINIA JUDGE, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to limit the period within which a claim may be made under a home warranty insurance policy.

The Regulation will prevent a claim in respect of defective building work from being made more than 6 months after the beneficiary first becomes aware, or ought reasonably to have become aware, of the defective work or more than 6 months after the end of the period of insurance (whichever is the earlier). In the case of a claim arising from non-completion of work, the Regulation will prevent a claim from being made more than 12 months after work ceased or should have commenced.

This Regulation is made under the *Home Building Act 1989*, including sections 103C and 140 (the general regulation-making power).

2008 No 599

Clause 1 Home Building Amendment (Claims) Regulation 2008

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Home Building Act 1989

1 Name of Regulation

This Regulation is the *Home Building Amendment (Claims) Regulation 2008*.

2 Amendment of Home Building Regulation 2004

The *Home Building Regulation 2004* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 2)

Clause 63A

Insert after clause 63:

63A Period within which insurance claim must be made

- (1) A claim under a contract of insurance must be made no later than 6 months after the beneficiary first becomes aware, or ought reasonably to have become aware, of the fact or circumstance under which the claim arises or no later than 6 months after the end of the period of cover, whichever is the earlier.
- (2) Despite subclause (1), if the claim is a claim for loss arising from non-completion of work, the claim must be made:
 - (a) in the case of a claim arising from a failure to commence the work—no later than 12 months after the contract date or the date provided in the contract for commencement of work, whichever is the later, or
 - (b) in any other case—no later than 12 months after the date work ceased.
- (3) A claim cannot be made later than as permitted by this clause.
- (4) This clause applies only to a claim made after the commencement of this clause and extends to a claim made after that commencement in respect of a loss arising before that commencement.
- (5) In this clause:
period of cover means the period for which the contract of insurance provides insurance cover as required by section 103B of the Act.