



New South Wales

# Home Building Amendment (Cladding) Regulation 2018

under the

Home Building Act 1989

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

MATTHEW KEAN, MP  
Minister for Innovation and Better Regulation

## Explanatory note

The object of this Regulation is to ensure that if the external cladding of a building causes or is likely to cause a threat to the safety of any occupants of the building if a fire occurs in the building, that defect is regarded as a major defect in residential building work and the extended warranty period under the *Home Building Act 1989* applies.

At present, the extended warranty period applies to defects in a major element of the building. As a result of this Regulation, it will no longer be necessary to establish that the cladding concerned is a major element of the building.

This Regulation applies only if the warranty period has not yet commenced or the period in which proceedings could be taken for a breach of the warranty has not already expired.

This Regulation is made under the *Home Building Act 1989*, including sections 18E and 140 (the general regulation-making power).

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### 1 Name of Regulation

This Regulation is the *Home Building Amendment (Cladding) Regulation 2018*.

### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

### 3 Amendment of Home Building Regulation 2014

Insert before clause 70:

#### 69A Major defect in building—external cladding

- (1) For the purposes of paragraph (b) of the definition of *major defect* in section 18E (4) of the Act, if the external cladding of a building causes or is likely to cause a threat to the safety of any occupants of the building if a fire occurs in the building, that defect is prescribed as a major defect.
- (2) This clause applies in respect of a breach of statutory warranty in the following circumstances only:
  - (a) if the warranty period for the breach starts on or after the commencement of this clause,
  - (b) if the warranty period for the breach started before the commencement of this clause and the period in which proceedings could be commenced for the breach of statutory warranty had not already expired before the commencement of this clause.