

Passed by both Houses



New South Wales

Home Building Amendment (Statutory Warranties) Bill 2006

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2006*



New South Wales

Home Building Amendment (Statutory Warranties) Bill 2006

Act No , 2006

An Act to amend the *Home Building Act 1989* with respect to proceedings to enforce statutory warranties with respect to residential building work; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Home Building Amendment (Statutory Warranties) Act 2006*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Home Building Act 1989 No 147

The *Home Building Act 1989* is amended as set out in Schedule 1.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] Section 18D Extension of statutory warranties

Omit “, except for work and materials in respect of which the person’s predecessor has enforced the warranty”.

[2] Section 18D (2)

Insert at the end of section 18D:

- (2) Subsection (1) does not give a successor in title any right to enforce a statutory warranty in proceedings in relation to a deficiency in work or materials if the warranty has already been enforced in relation to that particular deficiency by the person’s predecessor in title.

[3] Section 18E Proceedings for breach of warranties

Insert at the end of the section:

- (2) The fact that a person entitled to the benefit of a statutory warranty specified in paragraph (a), (b), (c), (e) or (f) of section 18B has enforced the warranty in proceedings in relation to a particular deficiency in the work does not prevent the person from enforcing the same warranty in subsequent proceedings for a deficiency of a different kind in the work if:
 - (a) the deficiency the subject of the subsequent proceedings was in existence when the work to which the warranty relates was completed, and
 - (b) the person did not know, and could not reasonably be expected to have known, of the existence of the deficiency at the conclusion of the earlier proceedings, and
 - (c) the subsequent proceedings are brought within the period referred to in subsection (1).

[4] Schedule 4 Savings and transitional provisions

Insert at the end of clause 2 (1):

Home Building Amendment (Statutory Warranties) Act 2006

[5] Schedule 4, Part 13

Insert after Part 12:

**Part 13 Provisions consequent on Home Building
Amendment (Statutory Warranties) Act
2006**

78 Proceedings for breach of statutory warranties

- (1) In this clause:
amending Act means the *Home Building Amendment (Statutory Warranties) Act 2006*.
- (2) Part 2C, as amended by the amending Act, extends to a breach of warranty that occurred before the commencement of this clause.
- (3) Part 2C, as amended by the amending Act, applies to and in respect of proceedings to enforce a statutory warranty that are commenced after the commencement of this clause and that are subsequent to earlier proceedings to enforce the same warranty that were finally disposed of before that commencement.
- (4) Part 2C, as amended by the amending Act, applies to or in respect of subsequent proceedings to enforce a statutory warranty that were commenced before the commencement of this clause and that have not been heard.