

**STAGE 2**  
**OUTLINE OF POSSIBLE CONTENT OF**  
**REGULATIONS AND RELATED MATTERS FOR THE**  
**BUILDING AMENDMENT (RESIDENTIAL BUILDING CONSUMER PROTECTION) BILL 2011**

**Introduction**

The Building Amendment (Residential Building Consumer Protection) Bill 2011 provides for consumer guarantees, residential building cover and dispute resolution. Negotiations with prospective providers of residential building cover are currently happening and the regulations will be somewhat dependent on the outcome.

Nevertheless, this outline of what could be in future regulations is provided.

**Consumer Guarantees**

The Bill specifies six consumer guarantees and allows further ones to be made by regulation. No further consumer guarantees are proposed at this stage.

The period for consumer guarantees is proposed to be the same as for residential building cover (6 years for structural and 2 years for non-structural building works).

**Residential Building Cover**

Residential building cover is to be mandatory and taken out by the builder as a pre-condition for a building permit. It can be offered through approved insurance or an approved fidelity fund.

It is to be last resort in that claims can only be made when the builder is unable to complete the work due to death, insolvency/bankruptcy, disappearance and loss of registration under certain circumstances. The provider of the cover will be able to seek recovery of the cost of claims from the assets of the former builder.

Cover is to be required for residential building works that need a registered builder - new house or flats up to and including 3 storeys plus underground and under-croft car-parking or extensions costing more than \$12,000 to an existing house or flat.

Cover is proposed for non-completion of houses except those built by owner-builders, developers and Government. The cover is only for additional costs directly related to changing from the original builder to the new builder. Claims will be capped, possibly

at 20% of the contract price up to a maximum claim of \$200,000 (that is for a contract price of \$1million or more).

Cover is also proposed (under the same cap) for non-compliance and other defects for a prescribed period for houses and flats up to and including 3 storeys plus underground or under-croft car-parking except those owned by Government. The prescribed period is proposed to be 6 years for structural and 2 years for non-structural building works. Maximum payment would be \$200,000 less any payment made under non-completion.

Eligibility of builders for cover and premiums will be a matter for the provider of residential building cover.

Unlike the current Home Building Certification Fund, cover will not be required for residential building work that does not require a registered builder such as renovations and domestic sheds.

### **Dispute Resolution Process**

The Commissioner for Residential Building Disputes is proposed to be the same person as the Commissioner of Consumer Affairs.

Information on obligations and industry practice will be readily available and the consumer and the builder will be encouraged in the first instance to resolve their differences through mediation and conciliation.

The prerequisites for an application under the statutory consumer guarantee dispute provisions are that the dispute relates to work that has residential building cover and that the contract for the work has been terminated or completed.

Expanding the scope of statutory consumer guarantee dispute provisions will be the subject of review after a period of operation.