

Home Building Amendment Act NSW 2014 Delayed

Fair Trading NSW has confirmed that the 1 December 2014 commencement date for the NSW Home Building Amendment Act 2014 has been delayed to 2015.

The amendments will commence in two stages:

Stage 1:

It is anticipated that the critical change surrounding statutory warranties will commence mid-January 2015. The critical change to the warranties will be a shift from “structural defect” (which is the current position) to a warranty which will only cover a [building defect](#) which is a “major defect”.

If the defect is categorised as a “major defect” it will enjoy a 6 year warranty otherwise any defect which is not a major defect and/or a non-major item will only have a warranty for 2 years. The new definition of “major defect” will be more restrictive than the current definition of a “structural defect”. The new amendments will have retrospective effect.

Stage 1 will also have other amendments commencing mid January 2015 and they are as follows:

1. For the first time, statutory warranties will be implied into subcontracts entered into by the principal contractor who undertakes residential building work. These changes will allow an owners corporation to enforce warranties as a successor in title against subcontractors.
2. If a defect arises due to an owners defective design or specification the builder will not be held liable for that defect.
3. Within 6 months the owner must notify the builder and

the subcontractor of a defect. If the owner fails to do so such a failure may result in the reduction of any damages.

4. Owners must not unreasonably refuse access to a builder who wishes to rectify the defect.
5. Courts will be required to give priority to rectification orders as opposed to monetary orders.

Stage 2:

This stage will involve the provisions that relate to re-drafting of contracts. The contracts will have to comply with the amending legislation hence these will be dealt with in the second quarter of 2015.

For NSW strata legal or levy collection advice please contact us [here](#) or call 02 9562 1266, we're happy to assist.