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NSW Changes to the Home Building Act

From 15 January 2015 and the 1st March 2015, a number of changes to NSW Home Building laws will come into effect.

A summary of the Key Changes are listed below:

Statutory Warranties (from 15 January 2015)

- **A clearer definition of a 'defect':** The changes clarify that the 6 year warranty period applies to 'major defects'. This replaces the definition of a 'structural defect'. General defects (that are not 'major defects') will continue to be covered by the 2 year warranty period.
- **Builders have a new defence:** Builders will be able to defend a breach of a statutory warranty if the claim arises from reasonable reliance by the builder on written instructions provided by a person who is a relevant professional (for example an architect) acting for the homeowner.

Licensing (from 15 January 2015)

- **When do I need a license?** All residential building work over \$5,000 must be carried out by a licensed tradesperson, this has been increased from \$1,000.
- **Renewal or restoration of a license:** A new processing fee of \$47 for the renewal or restoration of a supervisor or tradesperson certificate has been introduced.
- **Don't let your license lapse** as new limitations apply to your ability to continue to carry out works under those circumstances.
- **Changes to license categories:** A number of changes have been made to the description of the works that can be carried out under certain licenses.
- **Changes to licensing decisions:** Fair Trading may consider past behavior and involvement in insolvent businesses when making a decision to grant or renew a license.
- **Notification requirements - bankruptcy or insolvency:** Fair Trading must be notified in the event of bankruptcy or insolvency of a business. A failure to do so may result in individuals involved in the business being subject to penalties.

Home Warranty Insurance (from 15 January 2015)

- **Change of Name:** Home Warranty Insurance will now be known as insurance under the ***Home Building Compensation Fund***

Owner-builders (from 15 January 2015)

- The changes introduce a number of **limitations on Owner Builder work**, including to the type of works that can be carried out and the number of permits that can be issued.
- **Owner Builder Permits:** An owner-builder permit is required for home building work over \$10,000, up from \$5,000.

Contracts (from 1 March 2015)

- **New Threshold:** The threshold has been raised for the more detailed contract requirements from \$5,000 to \$20,000. Home building work under \$20,000 still needs a written 'minor works' contract.
- **Increased Cap:** A cap on deposits for work over \$20,000 has been increased from 5% to 10%. Builders will only be able to request a maximum of 10% for a deposit for all projects, regardless of the value.
- **Payments:** Contracts over \$20,000 need a **progress payment schedule** (only authorised payments are allowed) and a **termination clause**.
- **Building Guide:** The **mandatory consumer building guide**, to be provided to consumers before entering a contract, has been streamlined to provide essential information on both parties' rights and responsibilities.

