

STATUTORY RULES 2025

S.R. No.

Building Act 1993

**Building (Statutory Insurance Scheme) Regulations
2025**

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

HARRIET SHING

Minister for Housing and Building

Clerk of the Executive Council

Part 1—Preliminary

Division 1—Introduction

1 Objectives

The objectives of these Regulations are to prescribe—

- (a) when domestic building work is taken to have started for the purposes of the statutory insurance scheme; and
- (b) circumstances in which the Authority must or must not provide assistance to a building owner under the statutory insurance scheme; and
- (c) circumstances in which a building owner is or is not entitled to assistance under the statutory insurance scheme for the purposes

of section 137K of the **Building Act 1993**;
and

- (d) the types of domestic building work covered and not covered by the statutory insurance scheme; and
- (e) the types of assistance available to a building owner under the statutory insurance scheme; and
- (f) terms of cover to which assistance under the statutory insurance scheme is subject; and
- (g) limitations and exclusions that apply in relation to assistance under the statutory insurance scheme; and
- (h) processes for making and managing claims under the statutory insurance scheme; and
- (i) when cover under the statutory insurance scheme ends; and
- (j) other matters relating to the statutory insurance scheme established under Part 9A of the **Building Act 1993**.

2 Authorising provisions

These Regulations are made under sections 137ZL, 261 and 262 of the **Building Act 1993**.

3 Commencement

These Regulations come into operation on 1 July 2026.

Division 2—Definitions and Interpretation

4 Definitions

- (1) In these Regulations—
accommodation, removal and storage costs
means the reasonable costs of—

- (a) accommodation in a place other than the building owner's home which are incurred by the building owner because of domestic building work being carried out on that home that is—
 - (i) incomplete due to delays; or
 - (ii) otherwise defective or non-compliant;
- (b) removal and storage of the building owner's possessions to the extent necessary to enable completion or rectification of the building work to be carried out;

applicable insurance premium has the same meaning as in section 137H of the **Building Act 1993**;

assistance has the same meaning as in section 137M of the **Building Act 1993**;

builder has the same meaning as in section 137H of the **Building Act 1993**;

building owner has the same meaning as in section 137H of the **Building Act 1993**;

building site has the same meaning as in the **Domestic Building Contracts Act 1995**;

common property has the same meaning as in the **Owners Corporations Act 2006**;

complaint notice means a notice required to be served under regulation 34;

completion date means—

- (a) the date of issue of the occupancy permit in relation to the building

(whether or not the occupancy permit is subsequently cancelled or varied); or

- (b) if an occupancy permit is not issued, the date of issue of a certificate of final inspection under section 38 of the Act in relation to the building work for the construction of the building; or
- (c) if neither an occupancy permit nor a certificate of final inspection is issued or required to be issued, the date of practical completion of the domestic building work; or
- (d) other than in the case of work carried out under a certificate of consent, if neither an occupancy permit nor a certificate of final inspection is issued or required in relation to the domestic building work and a date of practical completion cannot be ascertained, the date that is 6 months after the cover start date; or
- (e) in the case of domestic building work carried out under a certificate of consent, if neither an occupancy permit nor a certificate of final inspection is issued or required in relation to the domestic building work and a date of practical completion cannot be ascertained, the date that is 6 months after the date domestic building work started;

date of practical completion has the same meaning as in section 45(6) of the **Domestic Building Contracts Act 1995**;

defective has the same meaning as in section 137H of the **Building Act 1993**;

demolition includes the removal of waste arising from demolition;

domestic building contract has the same meaning as in section 137H of the **Building Act 1993**;

incomplete has the same meaning as in section 137H of the **Building Act 1993**;

insurable domestic building contract event means, in relation to an insurable domestic building contract, any of the following events—

- (a) the builder dies;
- (b) the builder—
 - (i) cannot be found after reasonable enquiries have been made to find the builder; or
 - (ii) in the case of a builder that is a body corporate—the builder is deregistered under the Corporations Act or otherwise ceases to exist;
- (c) the builder is not able to pay all the builder's debts as and when they become due and payable, other than a builder referred to in paragraphs (d) or (e);
- (d) in the case of a builder that is a natural person—the builder is an insolvent under administration;
- (e) in the case of a builder that is a body corporate—the builder is subject to external administration within the

meaning of section 5-5 of Schedule 2 to the Corporations Act;

- (f) the builder's registration is cancelled by the Authority;
- (g) the insurable domestic building contract ends in accordance with section 49W of the **Domestic Building Contracts Act 1995**;
- (h) the insurable domestic building contract is validly terminated by the building owner on the default of the builder;

liability amount, in relation to a building owner means the unpaid portion of the amount that would have been payable by the building owner under the insurable domestic building contract;

major defect means—

- (a) a structural defect; or
- (b) a waterproofing or weatherproofing defect;

non-compliant has the same meaning as in section 137H of the **Building Act 1993**;

notice of claim means a notice of claim for assistance referred to in regulation 31;

plan of subdivision has the same meaning as in the **Subdivision Act 1988**;

related roofed-building means a building that

- (a) is not a home; and
- (b) has a roof designed to be part of the building and impervious to water or wind; and

(c) is, or is proposed to be, on the site of a home or proposed home; and

(d) is used, or proposed to be used, for a purpose related to the use of a home or proposed home;

relevant person, in relation to domestic building work, means—

(a) in relation to work that is carried out by a builder—the builder; or

(b) in the case of work carried out under a certificate of consent—the person to whom the certificate is issued;

secure the building site means the taking of measures that may reasonably reduce the incidence of theft, vandalism or unauthorised access to the building site or damage to the domestic building work, including any or all of the following measures—

(a) the erection of fencing to restrict access to the building site;

(b) the installation of security cameras;

(c) changing locks to access points to the building site;

(d) the installation of coverings intended to protect the building or building materials from damage caused by weather.

speculative domestic building work has the same meaning as in section 137H of the **Building Act 1993**;

structural defect means—

- (a) domestic building work that does not comply with a performance requirement under Part B1 or H1 of the Building Code of Australia; or
- (b) a defect in a structural element of a building that is attributable to defective design, defective or faulty workmanship or defective materials (or any combination of these) and that—
 - (i) results in, or is likely to result in, the building or any part of the building being required by or under any Act or law to be closed or prohibited from being used; or
 - (ii) prevents, or is likely to prevent, the continued practical use of the building or any part of the building; or
 - (iii) results in, or is likely to result in—
 - (A) the destruction of the building or any part of building; or
 - (B) physical damage to the building or any part of the building; or
 - (iv) results in, or is likely to result in, a threat of imminent collapse that may reasonably be considered to cause—
 - (A) destruction of the building; or

- (B) physical damage to the building or any part of the building; or
- (c) if domestic building work is for a swimming pool—a defect in the domestic building work that allows water to escape through the shell of the swimming pool; or
- (d) a defect in domestic building work for a building or swimming pool that adversely affects the life, safety or health of persons who occupy or use the building or swimming pool;

structural element, in relation to a building, means—

- (a) any internal or external load-bearing component of the building that is essential to the stability of the building or any part of it, including foundations, floors, walls, roofs, columns and beams; or
- (b) any component that forms part of the external walls or roof of the building;

the Act means the **Building Act 1993**;

waterproofing or weatherproofing defect means—

- (a) domestic building work that is not compliant with any performance requirement in the Building Code of Australia relating to waterproofing, waterproofing systems, weatherproofing, wet areas and like requirements, including areas internal or external to the building and that adversely affects, or is

likely to adversely affect, the life, safety or health of persons who occupy or use the building; or

- (b) damage caused to a building as a consequence of domestic building work that is not compliant with any performance requirement in the Building Code of Australia relating to waterproofing, waterproofing systems, weatherproofing, wet areas and like requirements, including areas internal or external to the building.

5 Meaning of insurable value

For the purposes of these Regulations the method for calculating the *insurable value* of domestic building work is to add together—

- (a) the reasonable cost to the Authority of having the domestic building work carried out by a builder; and
- (b) the reasonable cost of all building and other material required for the domestic building work to be carried out.

6 When is domestic building work taken to have started?

For the purposes of the statutory insurance scheme, domestic building work (other than the removal of vegetation) is taken to have started on the day on which tools or building materials are first used to carry out the work.

7 Meaning of *reasonable access to a building site*

In these regulations—

reasonable access to a building site does not include—

- (a) access at a time other than a time agreed between the building owner and the relevant person, or the Authority; and
- (b) access before the relevant person, or the Authority, has given the building owner 48 hours' notice of their intention to enter the building site to carry out work.

Part 2—Domestic building work to which the statutory insurance scheme does not apply

8 Domestic building work to which the statutory insurance scheme does not apply

- (1) For the purpose of section 137J(e) of the Act, the following domestic building work is prescribed—
 - (a) domestic building work that is carried out or intended to be carried out under a cost plus contract;
 - (b) except for a Class 1a building within the meaning of the Building Code of Australia, domestic building work that is carried out or intended to be carried out on a building with a rise in storeys of more than three;
 - (c) domestic building work that is carried out or intended to be carried out on or for a building or swimming pool that—
 - (i) is on the site of a home or a proposed home; and

- (ii) is used, or intended to be used, primarily for a purpose that is not related to the use of the home or proposed home;
- (d) domestic building work that is carried out or intended to be carried out on or for a Class 1b, 3, 4, 5, 6, 7b, 8 or 9 building within the meaning of the Building Code of Australia;
- (e) domestic building work that is carried out or intended to be carried out on or for a Class 7a building within the meaning of the Building Code of Australia unless the building is used, or is intended to be used, with a Class 2 building within the meaning of the Building Code of Australia;
- (f) domestic building work for a structure that is not fixed to land;
- (g) domestic building work that is landscaping, paving, retaining structures, driveways or fencing, unless the domestic building work—
 - (i) is integral to the construction of a building; or
 - (ii) requires the issue of a building permit under the Act; or
 - (iii) could result in water penetration of or within a building; or
 - (iv) could adversely affect the health or safety of the building occupants or members of the public; or
 - (v) could adversely affect the structural adequacy of a building; or
 - (vi) if carried out under, or intended to be carried out under, an insurable

domestic building contract, is not completed at the time of an insurable domestic building contract event.

(2) In this Regulation—

cost plus contract has the same meaning as it has in the **Domestic Building Contracts Act 1995**;

Part 3—Assistance under the statutory insurance scheme

Division 1—Types of assistance available— incomplete work

9 Type of assistance available—incomplete domestic building work

(1) The following assistance is available under the statutory insurance scheme for loss arising out of or in connection with domestic building work that is incomplete—

(a) in the circumstances specified in subregulation (2)(a), the amount of the insurable deposit paid that has not otherwise been refunded to the building owner by the time the Authority makes a decision about the building owner's claim for assistance.

(b) subject to subregulation (3), in the circumstances specified in subregulation (2)(b)—

(i) an amount that is equal to the amount of the reasonable cost to complete the incomplete domestic building work, less—

- (A) an amount that is equal to the building owner's liability amount; and
 - (B) if the building owner has made a payment to the builder before the payment became due under the insurable domestic building contract—an amount that is equal to the reasonable cost of completing the work for which the payment was made; or
- (ii) both of the following—
- (A) the reasonable cost of demolition of all of the incomplete domestic building work;
 - (B) an amount equivalent to the amount the building owner had paid under the insurable domestic building contract when the claim was made;
- (c) in the circumstances specified in subregulation (2)(c)—an amount that is equal to the amount of the reasonable cost to complete the incomplete building work;
- (d) in the circumstances specified in subregulation (2)(b) and (d)—an amount equivalent to the accommodation, removal and storage costs that have been reasonably incurred by the building owner;
- (e) in the circumstances specified in subregulation (2)(b) or (c)—an amount that is equal to the amount reasonably required to secure the building site.
- (2) The following circumstances are specified—

- (a) the domestic building work—
 - (i) has not started; and
 - (ii) an insurable domestic building contract event has occurred;
- (b) the domestic building work, other than domestic building work on common property—
 - (i) has started; and
 - (ii) an insurable domestic building contract event has occurred;
- (c) in the case of domestic building work on common property—
 - (i) the domestic building work has started; and
 - (ii) an insurable domestic building contract event has occurred; and
 - (iii) at least half of the lots that are homes in the plan of subdivision were occupied at the time at which—
 - (A) the insurable domestic building contract was entered into; and
 - (B) the insurable domestic building contract event occurred;
- (d) the domestic building work is for—
 - (i) a home occupied by the building owner; or
 - (ii) a home that is intended to be occupied by the building owner; or
 - (iii) a home not suitable for occupation because the work is incomplete.

- (3) The Authority must not provide assistance of the kind referred to in subregulation (1)(b)(ii) unless the Authority is satisfied that the insurable value of completing the domestic building work and carrying out rectification of non-compliant or defective domestic building work exceeds the sum of—
- (a) the reasonable cost of the demolition of all the incomplete domestic building work; and
 - (b) an amount equivalent to the amount the building owner had paid under the insurable domestic building contract when the claim was made.

(4) In this regulation—

contract price has the same meaning as in the **Domestic Building Contracts Act 1995**.

insurable deposit means an amount paid by a building owner under an insurable domestic building contract—

- (a) before the domestic building work to be carried out under the contract starts; and
- (b) that complies with section 11 of the **Domestic Building Contracts Act 1995**;

10 Type of assistance available—domestic building work prohibited by law

- (1) The type of assistance available for loss arising out of or in connection with domestic building work in the circumstances specified in subregulation (2) is—

- (a) an amount that is equal to the reasonable cost of the demolition of all of the incomplete domestic building work; and
 - (b) an amount equivalent to the amount the building owner had paid under the insurable domestic building contract at the time the claim is made in relation to the domestic building work that is demolished.
- (2) The following circumstances are specified—
- (a) the domestic building work, or the carrying out of that work, is prohibited by law;
 - (b) the building owner was not involved, whether directly or indirectly, in the contravention of that law.

Division 2—Types of assistance available—defective or non-compliant domestic building work

11 Types of assistance available—defective or non-compliant domestic building work

- (1) The following types of assistance are available for loss arising out of or in connection with defective or non-compliant domestic building work—
- (a) an amount equivalent to the reasonable cost of the rectification of—
 - (i) defective or non-compliant domestic building work; and
 - (ii) damage caused in the carrying out of, or as a result of, defective or non-compliant domestic building work;

- (b) in the circumstances specified in subregulation (2)—an amount equivalent to the accommodation, removal and storage costs that have been reasonably incurred by the building owner—
 - (i) while the rectification specified in subregulation (1)(a) is carried out; and
 - (ii) as a result of the home not being suitable for occupation.
- (2) The following circumstances are specified for subregulation (1)(b)—
 - (a) the defective or non-compliant domestic building work is in relation to a home—
 - (i) that is either—
 - (A) occupied by the building owner; or
 - (B) if the home is unoccupied, intended to be occupied by the building owner; and
 - (ii) that is not suitable for occupation while rectification specified in subregulation (1)(a) is carried out.

12 When cover for defective or non-compliant domestic building work ends

- (1) Cover under the statutory insurance scheme ends—
 - (a) for a major defect, 6 years after the completion date for the domestic building work; or
 - (b) for defective or non-compliant domestic building work other than a major defect, 2 years after the completion date for the domestic building work.

(2) In this regulation—

cover start date means the date on which cover under the statutory insurance scheme starts under section 137S of the Act.

Part 4—General provisions about entitlement to assistance

Division 1—Limitations on assistance for defective or non-compliant domestic building work

13 Limitation on assistance—incomplete domestic building work—reasonable cost to complete domestic building work

The assistance referred to in regulation 9(1)(b)(i) is limited to 30% of the contract price.

14 Limitation on assistance—defective or non-compliant domestic building work on common property—apportionment of assistance between owners

(1) This regulation applies if—

- (a) defective or non-compliant domestic building work is carried out in or on a building on land affected by an owners corporation that includes—
 - (i) one or more lots that are homes; and
 - (ii) one or more lots that are used for a purpose other than a home, or that are used for a purpose not related to the use of a home; and
- (b) the assistance in relation to the defective or non-compliant domestic building work includes rectification of the common property.

(2) A limitation on assistance available for loss arising out of or in connection with defective or non-compliant domestic building work is that the reasonable cost of rectification referred to in regulation 14(1)(a) for the common property must be calculated using the formula—

$$C \times \frac{R}{A}$$

where—

C is the total cost of the rectification work required for the common property;

R is the sum of the lot entitlements of the lots in the building that are used for homes or lots appurtenant to homes;

A is the sum of the lot entitlements for all lots in the building.

15 Limitation on assistance—defective or non-compliant domestic building work—each home in relation to common property

A limitation on assistance available for loss arising out of or in connection with defective or non-compliant domestic building work in relation to common property on land affected by an owners corporation is that the assistance is to be apportioned to each home on the plan of subdivision in a manner proportionate to the lot entitlement for each home and any lot appurtenant to the home on the plan of subdivision.

16 Limitation on assistance—defective or non-compliant work—certain cosmetic differences

(1) A limitation on assistance available for loss arising out of or in connection with defective or non-compliant domestic building work is that assistance

is not available merely because of a minor cosmetic difference between that work and the plans and specifications included in the domestic building contract for that work.

- (2) For the purposes of this regulation, the Authority—
 - (a) may determine circumstances in which there is a minor cosmetic difference between the defective or non-compliant domestic building work and the plans and specifications included in a domestic building contract, and
 - (b) must publish the circumstances specified in subregulation (2)(a) on the Authority’s website.

17 Limitation on assistance for defective or non-compliant domestic building work

A limitation on assistance available for loss arising out of or in connection with defective or non-compliant domestic building work is that the assistance must be reduced by the building owner's liability amount.

Division 2—General limitations on assistance

18 Limitation on assistance for a home

Assistance under the statutory insurance scheme in relation to particular domestic building work is limited to a total of \$400,000 for all claims related to that work.

19 Limitation on assistance for swimming pool

Assistance in relation to domestic building work that relates to a swimming pool is limited to a total of \$100,000.

20 Limitation on assistance to secure building site

Assistance in relation to domestic building work that relates to securing a building site is limited to a total of \$5,000.

21 Limitation on assistance for accommodation, removal and storage costs

Assistance in relation to domestic building work that relates to accommodation, removal and storage costs is limited to a total of \$10,000.

Division 3—Reasonable costs

22 Application

This Division applies if a building owner is entitled to assistance for the reasonable costs under Part 3 of—

- (a) completion of domestic building work;
- (b) demolition of domestic building work;
- (c) the rectification of defective or non-compliant domestic building work.

23 Uniform appearance

- (1) Subject to subregulation (2), the reasonable costs the building owner is entitled to claim include the cost of using materials that, as far as reasonably possible, match materials already used for the domestic building work, or a building adjoining the domestic building work, to create a uniform appearance.
- (2) If materials are used that do not match materials already used for the domestic building work or a building adjoining the domestic building work, the reasonable costs the building owner is entitled to claim do not include the cost of replacing

undamaged parts of the domestic building work or adjoining building to create a uniform appearance.

24 Costs for certificates

- (1) For the purposes of this Division, reasonable costs include the costs of—
 - (a) obtaining a certificate in relation to the domestic building work; and
 - (b) any inspections of the domestic building work required to obtain the certificate.
- (2) In this regulation—

certificate means a certificate, permit or application for acceptance required under any of the following Acts—

- (a) **Building Act 1993**;
- (b) **Electricity Safety Act 1998**;
- (c) **Gas Safety Act 1997**—

other than a certificate for or in relation to work carried out in the whole, or in part, by the relevant person who carried out the domestic building work for which the building owner is entitled to claim assistance.

25 Input tax credits and GST

- (1) For the purposes of this Division, reasonable costs—
 - (a) must be reduced by the amount of any input tax credits the Authority is satisfied the building owner is entitled to claim in relation to the domestic building work for which the reasonable costs are claimed; and

- (b) may not include any GST payable for a supply made, or that may be made, by the building owner.
- (2) The Authority may have regard to any matter the Authority considers relevant in deciding whether or not the domestic building work for which the reasonable costs are claimed will relate to a taxable supply or an input taxed supply, including—
- (a) whether the building owner is registered for GST; and
 - (b) the enterprise carried on by the building owner; and
 - (c) the way in which the building owner is likely to deal with the domestic building work.
- (3) In this regulation—
- GST*** means the tax payable under the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;
- enterprise*** has the same meaning as in section 9-20 of the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;
- input tax credit*** has the same meaning as in section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;
- input taxed supply*** means a supply that is input taxed under the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;

registered for GST means registered under the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;

taxable supply has the same meaning as in section 9-5 of the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth.

Part 5—Exclusions from assistance

26 Persons not entitled to assistance in certain circumstances

For the purposes of section 137L(g) of the Act, a building owner is not entitled to assistance in the following circumstances—

- (a) the building owner has failed to comply with a written request by the Authority or a person acting on behalf of the Authority to provide information to assist the Authority or person acting on behalf of the Authority to assess a claim, within a reasonable time of being requested to provide information;
- (b) the building owner has failed to comply with a written request by the Authority or a person acting on behalf of the Authority to give the Authority or person acting on behalf of the Authority reasonable access to a building site for the purpose of—
 - (i) assessing the claim; or
 - (ii) in circumstances where the refusal is unreasonable—providing assistance in the form of carrying out domestic building work
- (c) the building owner does or attempts to do, or causes or attempts to cause, any of the

following (without the Authority's written approval to do so) if doing so is not reasonably necessary to mitigate the building owner's loss—

- i) completion of domestic building work;
 - ii) demolition of domestic building work;
 - iii) rectification of defective or non-compliant domestic building work;
- (d) the building owner has refused to allow another person reasonable access to the building site.

27 Limitations in relation to assistance

Assistance is not available if the domestic building work is incomplete, defective or non-compliant because of—

- (a) war (whether declared or not); or
- (b) a nuclear event; or
- (c) civil unrest; or
- (d) terrorism; or
- (e) an act of God or nature, including—
 - (i) earthquake;
 - (ii) flood;
 - (iii) erosion;
 - (iv) landslides or landslips;
- (f) a failure of—
 - (i) any person (other than the person who carried out the domestic building work) to reasonably maintain the domestic building work; or
 - (ii) the building owner to carry out work in accordance with a reasonable written instruction given by the Authority to the building owner; or
 - (iii) the building owner to maintain appropriate protection against pest infestation or exposure to natural timbers.

28 Exclusions in relation to assistance

Assistance is not available in relation to loss arising from or in connection with any of the following—

- (a) in the case of incomplete domestic building work— domestic building work that is prohibited by law;
- (b) in the case of defective or non-compliant domestic building work under an insurable domestic building contract if—
 - (i) the completion date for work has not passed; or
 - (ii) an insurable domestic building contract event has not occurred;
- (c) defective or non-compliant domestic building work—
 - (i) that is carried out on land purchased by the building owner; and
 - (ii) that the building owner knew or ought reasonably to have known was defective or non-compliant before the building owner entered the contract of sale to purchase the land; or
- (d) domestic building work carried out in relation to—
 - (i) features or accessories associated with, but not essential to, the functioning of a swimming pool; or

Example
A swimming pool slide, a diving board or swimming pool housings.

 - (ii) the surfacing of an area outside of a swimming pool; or
 - (iii) steps for a swimming pool that are not fixtures; or

- (e) in the case of domestic building work in relation to a related roofed-building — defective or non-compliant domestic building work that relates to the slab of that related roofed-building, if the work in relation to the slab was carried out before the domestic building work that is the subject of a claim was carried out;
- (f) defective or non-compliant domestic building work if the designs, plans or specifications for that work—
 - (i) do not comply with the Act and regulations made under the Act or the Building Code of Australia; or
 - (ii) were not prepared by an architect (within the meaning of section 3(1) of the **Architects Act 1991**), an endorsed building engineer, a building practitioner registered in a class within the category of building designer or the builder who carried out the domestic building work; or
- (g) asbestos contamination or removal;
- (h) failure by the building owner to maintain appropriate protection against pest infestation or exposure to natural timbers;
- (i) malfunction in any mechanical or electrical equipment or appliance if the Authority is satisfied the malfunction is not caused in whole or part by the workmanship of or installation by the relevant person;
- (j) for loss of rent or other income;
- (k) loss of value;
- (l) loss of opportunity;

- (m) inconvenience or distress;
- (n) fair wear and tear;
- (o) the action of vermin, termites or moths or other insects;
- (p) accidental damage that is not caused by—
 - (i) the relevant person; or
 - (ii) in the case of a relevant person who is a builder—any person engaged by the builder carrying out the domestic building work in connection with carrying out the work;
- (q) for loss arising from a failure, within 28 days after receiving a notice under regulation 47, to enter into a domestic building contract to complete or rectify the domestic building work that is the subject of the notice; or
- (r) for loss arising from or in connection with incomplete, defective or non-compliant domestic building work that is the subject of a report of a kind referred to in section 137B(2)(a) of the Act; or
- (s) delays caused by the relevant person other than to the extent that the assistance is the rectification of building work.

Example

Liquidated damages, penalties or fines.

29 Exclusions in relation to assistance—general

Assistance is not available in relation any of the following—

- (a) if a policy for contract works insurance or public liability insurance applies to the domestic building work, and that policy

covers the same loss that is covered under the statutory insurance scheme;

- (b) if assistance to rectify defective or non-compliant domestic building work has been provided previously by the Authority and the Authority is satisfied that the defective or non-compliant domestic building work has been rectified;
- (c) the domestic building work that is the subject of the claim is not used for domestic purposes;
- (d) if the loss arose before the domestic building work that is the subject of a claim was carried out.

Part 6—Claims for assistance

Division 1—Claim for assistance

30 Time for making a claim

For the purposes of section 137ZB of the Act, the prescribed times are the following—

- (a) in the case of a claim for assistance for loss arising out of or in connection with domestic building work that is incomplete, within 12 months after the date of an insurable domestic building contract event;
- (b) in the case of a claim for assistance for loss arising out of or in connection with defective or non-compliant domestic building work, within 12 months after the building owner first becomes aware, or ought reasonably to have become aware, of the defective or non-compliant domestic building work;

- (c) in the case of a claim for assistance for loss arising out of or in connection with the circumstances specified in regulation 12(2), within 28 days after the accommodation, removal and storage costs being claimed have been incurred.

31 Notice of claim

For the purposes of section 137ZA(1) of the Act, a notice of a claim for assistance must—

- (a) be in the form approved by the Authority and published on its Internet site; and
- (b) include the following information
 - (i) the name, address and contact details of the building owner making the claim;
 - (ii) the address of the building site that relates to the claim;
 - (iii) a copy of any complaint notice given to the relevant person;
 - (iv) a description of the defective, non-compliant or incomplete domestic building work;
 - (v) the date the building owner first became aware of the incomplete, defective or non-compliant domestic building work (as the case may be);

- (vi) if available, a copy of the insurable domestic building contract for the domestic building work that is the subject of the complaint notice, including any variations to the contract (as the case may be);
- (vii) if a copy of the insurable domestic building contract is not available, any written evidence of the existence of a contract for the carrying out of the domestic building work and any variations to the contract;
- (viii) evidence of the insurable domestic building contract event (as the case may be);
- (ix) details of any payments made in relation to the domestic building work;
- (x) a copy of any plans or specifications for the domestic building work;
- (xi) any other information reasonably required by the Authority to decide the claim.

32 Effect of claim on related defects and non-compliant domestic building work

A building owner who gives a notice of claim to the Authority in relation to defective or non-compliant domestic building work is taken to have given notice to the Authority of every defect or non-compliant domestic building work to which the defective or non-compliant work in the notice of the claim directly or indirectly relates, whether or not the Authority provides assistance in relation to the defective or non-compliant work that is the subject of the notice of the claim.

Example

A notice of claim that refers to defective domestic building work in the form of cracked plaster in a building may be taken to be notice of slab heave from a defective slab under the building if the slab heave caused the cracked plaster.

33 A building owner may withdraw a claim

If a building owner gives a notice of claim to the Authority, the building owner may withdraw the claim at any time before a decision is made by the Authority in relation to the claim.

Division 2—Complaint notice

34 Complaint notice to the relevant person

- (1) Subject to subregulation (2), a building owner who makes a claim for assistance must serve a complaint notice on the relevant person on or before the day on which the building owner makes a claim to the Authority for assistance.
- (2) For the purposes of subregulation (1), a building owner who is required to serve a complaint notice may request the Authority to serve the complaint

notice to the relevant person on the building owner's behalf.

- (3) If the Authority receives a request under subregulation (2), the Authority must serve the complaint notice on the relevant person on behalf of the building owner making the claim within 7 days after the building owner makes the request to the Authority.
- (4) A complaint notice served under this regulation must be served within the time for making a claim under section 137ZB of the Act.
- (5) Despite subsection (1), a building owner who makes a claim for assistance is not required to serve a complaint notice on a relevant person under this regulation if—
 - (a) an insurable domestic building event has occurred; or
 - (b) the defective, non-compliant or incomplete domestic building work to which the claim relates presents a risk to the health or safety of the occupants of the building or members of the public; or
 - (c) the Authority has exempted the building owner from the requirement to serve a complaint notice on the builder or owner-builder.

35 Form of complaint notice to the relevant person

A complaint notice under regulation 34(1) must—

- (a) be in a form approved by the Authority and published on its Internet site; and
- (b) be in writing; and
- (c) include the following information—

- (i) the name and contact details of the building owner;
- (ii) the address of the building site the subject of the claim;
- (iii) a description of the defective, non-compliant or incomplete domestic building work;
- (iv) the date the building owner first became aware of the incomplete, defective or non-compliant domestic building work (as the case may be);
- (v) any supporting information, including photographs, inspection reports or any other evidence to enable the relevant person to understand the nature of the defective, non-compliant or incomplete domestic building work;
- (vi) a statement requiring the relevant person to respond to the notice within 28 days after the date the notice is served;
- (vii) a declaration by the building owner that—
 - (A) the defective, non-compliant or incomplete domestic building work described in paragraph (c)(iii) was not caused or contributed to by any action of the building owner or the occupants of the building, and

- (B) the information in the complaint notice is true and correct.

36 Exemption of requirement to serve complaint notice

- (1) A building owner, in writing, may request the Authority to exempt the building owner from the requirement to serve a complaint notice under regulation 34(1).
- (2) A written request under subregulation (1) must specify the reason for the request.
- (3) On a request under subregulation (1), the Authority, in writing, may exempt a building owner from the requirement to serve a complaint notice under regulation 34(1) if the Authority is satisfied that—
 - (a) the relationship between the building owner and the relevant person has broken down; or
 - (b) a risk exists to the health and safety of the building owner or the relevant person if contact between the building owner and the builder (or relevant person) is made; or
 - (c) the service of the complaint notice is not appropriate in the circumstances.
- (4) The Authority, in writing, may exempt a building owner from the requirement to serve a complaint notice under regulation 34(1) without a request being made under subregulation (1) if the Authority is satisfied that the service of the complaint notice is not appropriate in the circumstances.

37 Relevant person to respond to complaint notice

- (1) A relevant person, within 28 days after a complaint notice is served on the relevant person, must respond in writing to the building owner.
- (2) A response under subregulation (1) must include—
 - (a) a statement by the relevant person as to whether or not the relevant person agrees that—
 - (i) the domestic building work is defective, non-compliant or incomplete; and
 - (ii) the defect, non-compliant or incomplete domestic building work is a result of the relevant person carrying out the domestic building work, including any act or omission of any person engaged by the relevant person carrying out the domestic building work; and
 - (b) if the relevant person does not agree with a statement in subregulation (a), a statement outlining the relevant person's reasons for not agreeing with that statement.
- (3) If the relevant person agrees to a statement in subregulation (2), proposed actions to be taken by the relevant person to rectify or complete the defective, non-compliant or incomplete domestic building work including a period within which the proposed actions will be carried out .

38 Authority not to consider claim until after period to respond to complaint notice

- (1) If a complaint notice has been served on a relevant person, the Authority must not consider a claim for assistance to which the complaint notice relates until after the period referred to in regulation 37 ends.
- (2) Despite subregulation (1), the Authority may consider a claim before the end of the period referred to in regulation 37 if the Authority reasonably believes there is a danger to life or property in relation to the building site to which the claim relates.

39 Failure of relevant person to respond to notice of claim

If a relevant person fails to respond to a complaint notice in accordance with regulation 37, the Authority may assess the claim made by the building owner in relation to the domestic building work the subject of the complaint notice.

40 Insurable domestic building contract event after complaint notice

If there is an insurable domestic building contract event after a complaint notice is served on the builder who is a party to that contract but before a response to that notice has been received from the builder in accordance with regulation 37, the Authority may assess the claim made by the building owner.

41 Relevant person does not agree to rectify or complete work

- (1) This regulation applies if a relevant person to whom a complaint notice is given—

- (a) responds to the notice in accordance with regulation 37; and
 - (b) does not agree to—
 - (i) rectify defective or non-compliant domestic building work; or
 - (ii) complete incomplete domestic building work.
- (2) The Authority may proceed with assessing and deciding the claim.

42 Inadequate response by relevant person

- (1) This regulation applies if—
- (a) a relevant person is given a complaint notice; and
 - (b) the person responds to the complaint notice in accordance with regulation 37; and
 - (c) the person—
 - (i) seeks payment from the building owner for the person to—
 - (A) rectify defective or non-compliant domestic building work; or
 - (B) complete incomplete domestic building work; or
 - (ii) does not provide sufficient detail about what the person intends to do in relation to the work.
- (2) The Authority may proceed with assessing and deciding the claim if the Authority is satisfied that—
- (a) the relevant person has not provided a statement in accordance with regulation 37(2)(a); or

- (b) the person does not intend to rectify or complete the work within a reasonable period.

43 Delay caused by relevant person

- (1) This regulation applies if—
 - (a) a relevant person is given a complaint notice; and
 - (b) the person responds to the complaint notice in accordance with regulation 37; and
 - (c) the person agrees to—
 - (i) rectify defective or non-compliant domestic building work; or
 - (ii) complete incomplete domestic building work; and
 - (d) the person does not do so.
- (2) The Authority may proceed with assessing and deciding the claim if the Authority is satisfied that the relevant person has had a reasonable period to rectify or complete the work.

Division 3—Decisions on claims for assistance

44 Process for managing claims

- (1) Before deciding a claim for assistance, the Authority must consider whether or not to issue a rectification order to the relevant person in relation to the domestic building work that is the subject of the claim.
- (2) If the Authority issues a rectification order, the Authority must not decide the claim before the expiry of the period within which the order must be complied with.

- (3) Despite subregulation (2), the Authority may decide the claim if an insurable domestic building contract event occurs during that period.

45 Assistance not payable to building owner until demolition complete

In managing a claim under the statutory insurance scheme, the Authority must not provide any assistance in the circumstances described in regulation 9(1)(b)(ii) or 10 unless—

- (a) the domestic building work is demolished; and
- (b) the building owner has incurred the cost of the demolition.

46 Managing claims for assistance

- (1) In managing a claim under the statutory insurance scheme, the Authority may decide parts of the claim separately.
- (2) In managing a claim under the statutory insurance scheme, the Authority may reject a claim if the Authority reasonably believes that the building owner has committed an offence against section 246 of the Act in relation to the claim.

47 Notice of decision in relation to claim for assistance

- (1) The Authority, as soon as practicable after deciding a claim, must give written notice of the decision to—
 - (a) the building owner; and
 - (b) the relevant person.
- (2) The notice must include the reasons for the decision.

48 Priority of payment on claim in relation to a home and common property

- (1) This regulation applies if the Authority accepts a claim for assistance in relation to domestic building work that relates to—
 - (a) common property; and
 - (b) one or more homes in the same plan of subdivision.
- (2) The Authority must provide assistance in the following order of priority—
 - (a) first—in relation to building work that relates to the common property;
 - (b) second—in relation to building work that relates to one or more of the homes if the work is reasonably required as a consequence of the building work that relates to the common property;
 - (c) third—in relation to building work that relates to one or more of the homes.

49 Payment of claim

- (1) If the Authority accepts a claim for assistance, it must provide assistance in one or more of the following ways—
 - (a) by paying all or part of the amount to the person with whom the building owner or the Authority has entered into a contract for the carrying out of work in connection with the claim;
 - (b) by paying all or part of the amount to the building owner;
 - (c) in the case of a claim made by an owners corporation—subject to the consent of the owners of lots that are homes, by paying all or part of the amount to the lot owners

specified in the statement referred to in subregulation (2).

- (2) The owners corporation must provide the Authority with a statement signed by or on behalf of the owners corporation consenting to the Authority paying the amount to the lot owners.

Division 4—Prescribed period for review

50 Prescribed period for review

For the purposes of section 137ZC of the Act the prescribed period is 9 weeks after—

- (a) the last day for the relevant person to respond in accordance with regulation 37 to a notice; or
- (b) the day on which the claim for assistance is made.

Part 7—General provisions

51 Insurance information statement

- (1) For the purposes of section 137M(2) of the Act, the following are prescribed terms of cover—
 - (a) a building owner and a relevant party are each under a duty to act in good faith in relation to claims under this Part; and
 - (b) assistance in the form of payment of amounts is inclusive of any tax payable on the amount; and
 - (c) if a notice of cover has been issued, the Authority may issue an insurance information statement to an interested person if the interested person makes an application

to the Authority for an insurance information statement relating to the domestic building work that is the subject of the notice.

- (2) An application for an insurance information statement must be—
- (i) in a form approved by the Authority; and
 - (ii) accompanied by a fee of 3 fee units.
- (3) In this regulation—

interested person, in relation to land, means—

- (a) an owner of the land; or
- (b) a prospective purchaser of the land; or
- (c) the agent of a person referred to in paragraph (a) or (b);

insurance information statement means a written statement about—

- (a) whether or not the statutory insurance scheme applies to specified domestic building work; and
- (b) if the statutory insurance scheme applies, the maximum amount of the cover available under the scheme in relation to the work, having regard to any assistance previously provided;

prospective purchaser of land includes a person who the Authority is satisfied is investigating the purchase of the land.

52 Name of statutory insurance scheme

For the purpose of section 137ZF of the Act, the following name is prescribed—

First Resort Home Warranty Scheme.

53 Prescribed expressions in relation to statutory insurance scheme

For the purposes of section 137ZG(1) and (2) of the Act, the following expressions are prescribed—

- (a) statutory insurance scheme;
- (b) First Resort Home Warranty Scheme.

54 Prescribed information on notice of cover

For the purposes of section 137T(2) of the Act, the following information is prescribed—

- (a) in the case of domestic building work to be carried out under an insurable domestic building contract, or speculative domestic building work—
 - (i) a description of the domestic building work;
 - (ii) the name and registration number of the builder who is carrying out, or who is to carry out, the work;
 - (iii) the address (including the lot on any plan of subdivision) of the site where the domestic building work is being or is proposed to be carried out;
 - (iv) the building owner's name;
 - (v) an amount representing the Authority's assessment of the insurable value of the domestic building work;

- (vi) the applicable insurance premium paid for the work;
- (vii) information about when cover under the statutory insurance scheme starts;
- (viii) information about the period within which any claim under the statutory insurance scheme must be made;

(b) in the case of domestic building work to be carried out under a certificate of consent for a home for which the owner has entered into a contract of sale—

- (i) a description of the domestic building work;
- (ii) the name of the person who is carrying out, or who is to carry out, the work;
- (iii) the address (including the lot on any plan of subdivision) of the site where the domestic building work is being or is proposed to be carried out;
- (iv) the name of the purchaser of the home;
- (v) an amount representing the Authority's assessment of the insurable value of the domestic building work;

- (vi) the applicable insurance premium paid for the domestic building work;
- (vii) information about when cover under the statutory insurance scheme starts;
- (viii) information about the period within which any claim under the statutory insurance scheme must be made.

55 Partial refunds of insurance premiums

For the purpose of section 137Z of the Act, the prescribed method is to subtract the insurance premium paid for the domestic building work that is the subject of a variation from the insurance premium paid for the domestic building work

Example

If the domestic building work to be carried out is reduced and the insurance premium for that work is \$800, the amount of \$800 is subtracted from the insurance premium paid.