



Australian Capital Territory

Building (Residential Building Warranty) Amendment Act 2003

A2003-38

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Building (Residential Building Warranty) Amendment Act 2003

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An Act to amend the *Building Act 1972* and the *Building Regulations 1972*

*Notified under the Legislation Act 2001 on 8 September 2003
(see www.legislation.act.gov.au)*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Building (Residential Building Warranty) Amendment Act 2003*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Part 2 Building Act 1972

3 Act amended—pt 2

This part amends the *Building Act 1972*.

4 Definitions for pt 6 Section 59, new definition of *completion day*

insert

completion day, for residential building work—see section 59A.

5 Section 59, definition of *ground storey*

omit

6 Section 59, definition of *residential building*

substitute

residential building means a building, or a part of a building, intended mainly for private residential use if—

- (a) the building has no more than 3 storeys at any point, excluding any storey used exclusively for parking; or
- (b) for a part of a building—the part provides structural support, or is a structurally integral adjunct, to the building.

7 New section 59A

insert

59A Meaning of *completion day* for pt 6

- (1) For this part, the *completion day* for residential building work is the day the work is completed or the day the contract relating to the work ends, whichever is the later.

- (2) Without limiting subsection (1), the work is taken to have been completed no later than the day a certificate of occupancy (if any) is issued for the work.

8 Statutory warranties

Section 62 (3)

substitute

- (3) The warranties end at the end of the period prescribed under the regulations after the completion day for the work.

9 Residential building work insurance

Section 64 (1) (c)

substitute

- (c) if the builder is not the owner of the land where the work is to be carried out—it insures the owner and the owner's successors in title for the period beginning on the day when the certifier for the work receives a notification under section 37A (1) or (2) in relation to the builder and ending at the end of the period prescribed under the regulations after the completion day for the work.

10 New sections 64 (1A) and (1B)

insert

- (1A) However, if the owner is a developer, the insurance is taken to comply with subsection (1) (c), (f), (g) or (h) if it insures the owner's successors in title, even though it does not insure the owner.
- (1B) To remove any doubt, an insurance policy issued in relation to residential building work may exclude claims other than those in circumstances in which the builder is insolvent, dead or has disappeared.

11 Section 64 (9)

substitute

(9) In this section:

deposit, on residential building work, means an amount that was paid or payable by the owner to the builder, under the contract to carry out the work, before the beginning of the work.

developer, for residential building work, means a person for whom the work is done in a building or residential development where 4 or more of the existing or proposed dwellings are or will be owned by the person.

12 Section 64

renumber subsections when Act next republished under the Legislation Act

Part 3 Building Regulations 1972

13 Regulations amended—pt 3

This part amends the *Building Regulations 1972*.

14 Regulation 18

substitute

18 Cost of work—Act, s 61 (1) (c)

The Act, part 6 does not apply in relation to residential building work if the cost of the work is less than \$12 000.

15 Regulation 19

substitute

19 End of statutory warranties—Act, s 62 (3)

- (1) The prescribed period for the end of the warranties is—
 - (a) for residential building work in relation to a structural element—6 years; and
 - (b) for residential building work in relation to a non-structural element—2 years.

- (2) In this regulation—

non-structural element, of a building, means a component of the building that is not a structural element.

structural element, of a building, means—

- (a) an internal or external load-bearing component of the building that is essential to the stability of the building or any part of it;
or

- (b) any component (including weatherproofing) forming part of the external walls or roof of the building.

Examples for par (a)

a foundation, floor, wall, roof, column or beam

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Endnote

Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

[Presentation speech made in Assembly on 8 May 2003]

I certify that the above is a true copy of the Building (Residential Building Warranty) Amendment Bill 2003 which was passed by the Legislative Assembly on 26 August 2003.

Acting Clerk of the Legislative Assembly

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