

Ref: FTMIN18/346

## Statement of Regulatory Intent

### ***Home Building Act 1989***

- section 7(2)(f1) – requirement that contracts contain the cost of home building compensation cover; and***
- section 7AA – requirement to give a copy of the ‘Consumer Building Guide’ before entering into contracts***

This statement sets out the enforcement approach that NSW Fair Trading will take from 1 July 2018, to:

- compliance with section 7(2)(f1) of the *Home Building Act 1989* (the Act); and
- contractors supplying the correct version of the Consumer Building Guide.

### **Residential building contracts must contain certain information**

Section 7 of the Act applies to contracts for the performance of residential building work that exceeds the value of \$20,000. From 1 July 2018, such contracts must state the ‘cost’ of acquiring home building compensation cover. The ‘cost’ is the amount of money that a contractor must pay to obtain the insurance (including any applicable brokerage, fees or taxes). This type of insurance was formerly known as ‘home warranty insurance’.

### **Contractors must give their customers a copy of the Consumer Building Guide.**

Section 7AA of the Act provides that licenced contractors **must** give the other party to the contract, certain information in an approved form **before** entering into a contract. The Consumer Building Guide is the approved document that contractors must give their customers. From June 2018, a new version of the Consumer Building Guide has been approved, and it is the version that must be used for any new contracts in order to comply with section 7AA of the Act (**Note:** contractors are not required to give the Consumer Building Guide when entering into subcontracting arrangements, contracting with a developer, or contracting for work under \$5,000).

### **Transition arrangements will apply from 1 July 2018 to 31 December 2018**

Fair Trading appreciates that many businesses in the building and construction industry are not ready for the commencement of the requirement to state the cost of home building compensation cover, or to give out the new June 2018 version of the Consumer Building Guide. To help industry adapt to the new requirement, Fair Trading will take an educational approach to compliance for a transitional period of 6 months.

During this period Fair Trading will not penalise contractors who fail to properly disclose the cost of cover in relevant contracts to do residential building work, or who fail to provide the correct version of the Consumer Building Guide, provided that their contracts are otherwise compliant with the requirements of the Act. However, Fair Trading expects contractors to take appropriate steps to ensure that their customers are aware of the cost of the cover (e.g. confirm via written and oral communication).

## **The transitional arrangement does not affect contractors' obligations to insure their work**

Building contractors **must** acquire home building compensation insurance and **must** give the other party to the contract a certificate of insurance **before** doing any residential building work that must be insured, and **before** they demand or receive a payment under a contract to do such work. Fair Trading will continue to enforce these obligations during the transition period.

### **More information**

More information about the contract requirements for residential building work, including free template contracts which comply with new requirements, and copies of the latest version of the Consumer Building Guide, are available on the Fair Trading website ([www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)).



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