

Local Government (House Builders' Liability Further Amendment) Bill

NOTES ON CLAUSES

Clause 1 is a clause in the usual form containing provisions relating to the short title and commencement of the Act.

Clause 2 amends section 918A of the Principal Act as follows:

Paragraph (a) provides for the "contract price" to be increased from \$40 000 to \$48 000 and for "site value" to replace "unimproved capital value" as the method of valuation of land used as a basis for determining the contract price.

Paragraph (b) makes it clear that a builder's obligations in respect of the construction of a dwelling-house do not extend to the construction of wading bathing and swimming pools which may be appurtenant to the dwelling-house.

Paragraph (c) provides that a contract for construction includes a contract to complete the construction of a dwelling-house or to sell a partially completed dwelling-house.

Paragraph (d) extends the definition of defects and major defects to include upward movement of the soil beneath the dwelling-house.

Clause 3 amends clause 918c of the Principal Act as follows:

Paragraph (a) extends the builder's liability for subsidence or settlement of the foundations of a dwelling-house to upward movement of the soil beneath the dwelling-house.

Paragraph (b) extends the period for notification of a defect under sub-section 2 (a) to fifteen months.

Paragraph (c) provides that the builder is not to be liable for damage caused by a person other than the builder or his agents.

Clause 4 amends section 918D of the Principal Act to extend the period for notification of a defect under paragraph (a) of that section.

Clause 5 amends section 918K of the Principal Act as follows:

Paragraph (a) increases the liability for loss or damage where the builder fails to complete construction because of bankruptcy.

Paragraph (b) extends the period of notification of a defect under sub-section (1) (c) to fifteen months and removes the requirement to notify the approved guarantor in respect of the defect.

Paragraph (c) makes it clear that the defective workmanship claimed against must be a result of the work of the builder and removes the requirement to notify the approved guarantor in respect of the defect.

Paragraph (d) makes it clear that where a person has claimed loss or damage as a result of bankruptcy by a builder, he may also claim in respect of defects.

Paragraph (e) specifies the period in which claims can be made under this section with respect to loss or damage resulting from the bankruptcy of the builder or walk-away by the builder.

Paragraph (f) repeals paragraph (a) of sub-section (5) so making the approved guarantor liable for the whole amount of any claim allowed.

Clause 6 amends clause 918L in relation to contracts to sell dwelling-houses. The amendments are similar to those contained in clause 5.

Clause 7 inserts two new clauses into the Principal Act. New section 918LA sets out a procedure for dealing with a situation where the builder wishes to rectify a defect and the owner may be unreasonably refusing to allow him to do so. New section 918LB sets out a procedure for dealing with a situation where a claimant refuses to advise the approved guarantor of either his acceptance or rejection of an offer by the approved guarantor.

Clauses 8 and 9 amend sections 918M and 918N (respectively) of the Principal Act in relation to the liability of approved insurers in a similar way as sections 918K and 918L have been amended in relation to the liability of approved guarantors.