

Queensland Building and Construction Commission Act 1991

(Qld)

Schedule 1B

Part 3, Divisions 1-3

Part 3 Warranties

Division 1 Incorporation of warranties

19 Implied warranties

- (1) The warranties mentioned in division 2 are part of every regulated contract.
- (2) A warranty mentioned in a section of division 3 is part of each regulated contract that is a contract of the type to which the section applies.

Division 2 Implied warranties for all contracts

20 Suitability of materials

- (1) The building contractor warrants that all materials to be supplied for use in the subject work—
 - (a) will be good and, having regard to the relevant criteria, suitable for the purpose for which they are used; and
 - (b) unless otherwise stated in the contract, will be new.
- (2) Subsection (1) applies to the building contractor for materials only if the materials are supplied by the responsible person for the contract.
- (3) Despite subsection (2), if the contract is being administered by an architect engaged by the building owner, subsection (1) does not apply to the building owner for materials if the responsible person is subject to the direction of the architect for supplying the materials.
- (4) Also, despite subsection (2), subsection (1) does not apply to the building contractor for materials if—
 - (a) the building owner is responsible for nominating the materials for use in the subject work; and
 - (b) either—
 - (i) there are no reasonable grounds for not using the materials; or
 - (ii) if there are reasonable grounds for not using the materials—the building owner insists on the

materials being used despite written advice to the contrary given to the building owner by the building contractor.

- (5) A building owner is responsible for nominating materials for use in the subject work only if—
- (a) the building owner nominates the materials specifically; and
 - (b) the nomination is made without any recommendation, representation, suggestion or other approach being made to the building owner by the building contractor—
 - (i) supporting, or approving, the use of the materials; or
 - (ii) criticising, or disapproving the use of, other materials that could be considered to be appropriate for use for the purpose for which the materials nominated by the building owner are to be used.
- (6) In this section—
- relevant criteria**, for materials, means—
- (a) generally accepted practices or standards applied in the building industry for the materials; or
 - (b) specifications, instructions or recommendations of manufacturers or suppliers of the materials.
- responsible person**, for a regulated contract, means—
- (a) if the contract is a contract for carrying out the subject work—the building contractor; or
 - (b) if the contract is a contract for managing the carrying out of the subject work—the person responsible for carrying out the work.

21 Compliance with legal requirements

The building contractor warrants the subject work will be carried out in accordance with all relevant laws and legal requirements, including, for example, the *Building Act 1975*.

22 Standard of work and exercise of care and skill

The building contractor warrants the subject work will be carried out—

- (a) in an appropriate and skilful way; and
- (b) with reasonable care and skill.

Division 3 Implied warranties for particular contracts

23 Adherence to plans and specifications

- (1) This section applies to a regulated contract if plans and specifications form part of the contract.
- (2) The building contractor warrants the subject work will be carried out in accordance with the plans and specifications.

24 Suitability of premises for occupation

- (1) This section applies to a regulated contract if the subject work—
 - (a) consists of the erection or construction of a detached dwelling to a stage suitable for occupation; or
 - (b) is work intended to renovate, alter, extend, improve or repair a home to a stage suitable for occupation.
- (2) The building contractor warrants the detached dwelling or home will be suitable for occupation when the work is finished.

25 Carrying out work with reasonable diligence

The building contractor warrants the subject work will be carried out with reasonable diligence.

26 Calculation of provisional sums and prime cost items

- (1) This section applies to a regulated contract providing for a provisional sum or prime cost item.
- (2) The building contractor warrants the provisional sum or prime cost item has been calculated with reasonable care and skill, having regard to all the information reasonably available when the contract is entered into (including information about the nature and location of the building site).