

# Master Build Guarantee v Building Act warranties

## Master Build Guarantee

A Master Build Guarantee is a 10-year guarantee that protects a homeowner when renovating or building a home. It protects the owner for a 10-year period.

While the property is being built the 'Non-Completion Cover' protects the owner if the builder is unable to complete the building working and the deposit is lost; the owner has to pay more than the original contract price to get the work finished; and the cost of any remedial work.

After the build is completed the 'Materials and Workmanship' cover protects the property owner if there is a problem with the expected standard of the work carried out by the builder or with the materials that have been used in the building work.

The maximum cover for all claims throughout the life of the Guarantee is the value of the building contract up to a maximum of \$1,000,000.

### Process

A Master Build Guarantee will only apply to work carried out by a registered master builder. It is not automatic and must be applied for by both the property owner and the master builder and sent to Master Build Services. Application must be submitted to Master Build Services before building work commences and is not valid until the property owner and the builder have received acceptance confirmation.

To ensure on-going cover once the building project is completed both the property owner and the builder must sign a Notice of Practical Completion form to Master Build Services.

A Master Build Guarantee, once accepted and approved by Master Build Services can be transferred multiple times within its 10-year limit but only remains in force for the original 10 years. All transfers need Master Build Services approval and are dependent on the new owner having filled out and signed a Request of Transfer form supported by a full property

inspection report. Master Build Services will not be responsible for any defects in the property that could have reasonably been expected to be discovered during the inspection.

The Request for Transfer form must be sent to Master Build Services by the new owner within 90 days of settlement and must be accompanied by the building inspection report and a copy of the sale and purchase agreement. Once application has been made, Master Build Services will advise the new owner if the Transfer Application has been accepted or declined.

## Building Act warranties

All residential building work is covered by 'implied warranties'. These warranties apply for up to 10 years regardless of whether there is a written contract or what the contract terms are and regardless of the cost of the building project.

The 'implied warranties' are automatic and cover almost all aspect of building work from compliance with the Building Code to good workmanship. A breach of these warranties is a breach of contract.

There is no cap to the limit of a claim under the Building Act warranties only that the loss must be provable in law.

### Process

To activate a claim under 'implied warranties', the property owner is expected to resolve the issues through the negotiation process that should be set out in the building contract. If the contract builder does not fix the breach the property owner may engage another tradesman to repair the work. Any disputes that the property owner may have with the builder in regard to defects or workmanship require court action to be taken to prove loss or damage.

Subsequent owners of a property can bring proceedings for a breach of any of the 'implied warranties' notwithstanding that they were not a party to the contract in which the warranties were implied.

## Enforcement

Master Build Guarantees and Building Act Warranties are two totally different products.

Master Build Guarantees are formed by way of performance contract between the property owner/ the builder/and Master Build Services. They are enforceable through the Contracts Act under contract performance with Master Build Services.

Building Act Warranties are 'implied' under law. They are enforceable under the Building Act by legal process.

## Red flags

When purchasing a property that is being advertised/ marketed with a 'Master Build Guarantee' it is the purchaser's responsibility to ensure that they take the steps necessary to complete the Request for Transfer form within 90 days of settlement and make application to Master Build Services for the transfer approval.