

# Disputes over Practical Completion: A Comprehensive Guide for Homeowners Under the HIA Contract

Building a dream home is a significant milestone for homeowners. However, disputes with builders regarding practical completion can quickly turn a dream project into a nightmare. Under the [Housing Industry Association \(HIA\) building contract](#), Clause 21 outlines the Practical Completion stage of the construction process. Many homeowners who receive a Notice of Practical Completion from their builder are unsure of the meaning and implications of the notice. This comprehensive guide is designed to provide homeowners with a clear understanding of the Practical Completion stage and their legal rights under the HIA Contract. It will cover what Practical Completion means, the duration of the Practical Completion stage, what happens during this stage, and the differences between Practical Completion and Final Completion. Homeowners can use this guide to navigate disputes with their builder, understand their contractual obligations and rights, and seek legal advice to ensure a successful outcome.

## Understanding Practical Completion Under the HIA Contract

[Practical Completion](#) is a significant milestone in any construction project, indicating that the work has been completed to the point where it can be used for its intended purpose. Practical Completion is the stage when the work is complete, except for any minor defects or omissions that do not prevent the work from being used for its intended purpose. The date for Practical Completion is usually set out in the contract. It is essential for homeowners to understand the concept of Practical Completion, as it triggers several critical stages in the construction process, such as the payment of retention funds, obtaining insurance coverage, and the issuance of the Occupation Certificate.

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## Clause 21. Practical Completion

*Refer to the definition of practical completion in Clause 1.*

- 21.1 The **builder** must give the **owner** a **notice of practical completion** at least **5 working days** prior to **practical completion** being reached.
- 21.2 The **notice of practical completion** is to:
- state the **builder's** assessment of the **date of practical completion**;
  - state the date and time for the **owner** to meet the **builder** on the **site** to carry out an inspection of the **building works**; and
  - have attached the **builder's** final progress claim.
- 21.3 The **owner** must meet the **builder** on the **site** for the inspection at the date and time stated by the **builder** in the **notice of practical completion** or at a date and time otherwise agreed with the **builder** and either:
- pay the amount of the final progress claim; or
  - if the **owner** believes that the **building works** have not reached **practical completion** give the **builder** a written notice detailing anything to be done to reach **practical completion**.
- 21.4 If the **owner** pays the amount of the final progress claim under sub-clause 21.3(a) the **date of practical completion** stated in the **notice of practical completion** is deemed to be the **date of practical completion**.
- 21.5 If the **owner** gives the **builder** a notice under sub-clause 21.3(b) of work to be completed:
- the **builder** must carry out any work required for **practical completion** and give the **owner** a further **notice of practical completion**;
  - if the **builder** does not agree that there is any further work to be carried out to reach **practical completion** the **builder**:
    - must give the **owner** written notice rejecting the **owner's** notice. In this case, such a notice will also serve as notice of the matters in dispute for the purposes of Clause 35;
    - is not obliged to carry out any further work on the **site** while the dispute remains unresolved.
- 21.6 If the **owner** does not pay the amount of the final progress claim under sub-clause 21.3(a) or give the **builder** a notice under sub-clause 21.3(b);
- the amount of the final progress claim is deemed to be a debt due and owing from the **owner** to the **builder**;
  - the **date of practical completion** stated in the **notice of practical completion** is deemed to be the **date of practical completion**; and
  - the **owner** acknowledges the **building works** have reached **practical completion**.
- 21.7 On the **owner** paying the final progress claim, the **builder** must give the keys, certificates, warranty documentation and other documents pertaining to the **building works** to the **owner**.

*The owner is responsible to insure the building works from the date of practical completion. See Clause 38.7*

*For dispute resolution refer to Clause 35.*

## Disputes Over Practical Completion

Disputes over practical completion often arise between homeowners and builders, and can result in significant delays and added costs to the project. Below are some of the common issues in dispute between homeowners and builders regarding practical completion under a residential building contract in NSW:

1. [Defects in the Completed Work](#) - Homeowners may find defects in the completed work,

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which the builder may be required to rectify before practical completion can be achieved.

2. [Delays in Completing the Work](#) - If the project is running late, the homeowner may argue that practical completion cannot be achieved until the work is completed within the agreed timeframe.
3. **Disagreements over what constitutes Practical Completion** - There may be disputes over what work needs to be completed before practical completion can be achieved, particularly if there is ambiguity in the contract.
4. **Disputes over the Quality of the Work** - The homeowner may be dissatisfied with the quality of the completed work, which may need to be rectified before practical completion can be achieved.
5. **Failure to Comply with Contract Specifications** - If the builder has not met the contract specifications, the homeowner may argue that practical completion has not been achieved.
6. **Non-Payment of Progress Payments** - If the builder has not been paid for completed work, they may argue that practical completion has not been achieved until payment is received.
7. **Breach of Statutory Warranties** - If there has been a breach of statutory warranties, the homeowner may argue that practical completion cannot be achieved until the breach is rectified.
8. **Disagreements over Variations to the Contract** - If there are disagreements over variations to the contract, practical completion may be delayed until these disputes are resolved.
9. **Disagreements over the Interpretation of the Contract** - Disagreements over the interpretation of the contract can also result in delays to practical completion.
10. **Failure to Obtain the Occupation Certificate** - The homeowner may argue that practical completion cannot be achieved until the builder obtains the Occupation Certificate.

It is important for homeowners to understand their legal rights and obligations regarding practical completion disputes. Seeking legal advice from a construction lawyer can help homeowners understand their options and negotiate a resolution with their builder.

## Conclusion

In conclusion, disputes over practical completion can be a stressful and overwhelming experience for homeowners who have invested a significant amount of time, effort, and money into building their dream home. It is essential to understand your legal rights and options to protect your investment and ensure that your builder meets their contractual obligations. As we have discussed, the HIA contract provides homeowners with protections and remedies in the event of a dispute over practical completion. It is crucial to seek professional legal advice as soon as possible to ensure that you are adequately protected and to maximise your chances of achieving a successful

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outcome.

As a solicitor and construction lawyer with over a decade of experience, I have represented homeowners, builders, and contractors in disputes over practical completion under residential building contracts. If you are experiencing issues with practical completion or have concerns about your [HIA contract](#), please do not hesitate to contact me for legal advice and representation.

Remember that understanding practical completion under the HIA contract and the common issues in dispute can help you identify potential problems early and avoid costly mistakes. By being proactive and seeking legal advice as soon as possible, you can protect your investment and ensure that your dream home becomes a reality.

So, if you are a homeowner who has received a Notice of Practical Completion under Clause 21 from your builder, and you have concerns about defects, delays, or disputes over practical completion, please contact me today for a consultation. With my experience and expertise in construction law, I can help you navigate the complexities of the HIA contract and protect your legal rights.

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