

COVID-19 Temporary Supplement to RB No. 04

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What This Supplement Is About

The Government of Ontario's Emergency Order that suspended certain statutory limitation periods (including warranty submission timelines, requests for conciliation and builder repair periods) under the *Ontario New Home Warranties Plan Act* was in place until September 11, 2020. As the COVID-19 restrictions have been gradually eased and more businesses are resuming operations, Tarion carefully considered the ongoing impacts of delaying repairs on both homeowners and builders and determined that it should exercise its discretion to restart inspections and reinstate timelines.

This supplement to Registrar Bulletin No. 04 describes temporary changes to how and when Tarion will determine chargeability in situations where builder repair periods and conciliations were impacted by the Emergency Order that suspended certain statutory limitations periods.

When Do the Changes Apply?

The chargeability rules and guidelines in this supplement apply only to conciliations conducted by Tarion where:

1. the initial and/or pre-conciliation builder repair period was suspended due to the Emergency Order that suspended certain statutory limitation periods;
2. the conciliation was cancelled and rescheduled by Tarion due to the Emergency Order that suspended certain statutory limitation periods; or
3. the statutory warranty form on which the conciliation is based was submitted by the homeowner between March 16, 2020 and September 11, 2020.

Conciliations not impacted by the Emergency Order will be subject to the usual Registrar Bulletin No. 04 rules and guidelines without reference to this supplement.

Chargeable Conciliation – Revised Definition

For the situations mentioned above, a conciliation is chargeable if Tarion determines **at the claim inspection** that:

- one or more items assessed as warranted in the Warranty Assessment Report has not been resolved by the builder; and
- there is no exception to chargeability as outlined in Registrar Bulletin No. 04.

Chargeability Determined at Claim Inspection

The conciliation and claim inspection process will proceed normally, as set out in Registrar Bulletin No. 01:

- Tarion will conduct a conciliation (virtually or in person);
- Tarion will issue a Warranty Assessment Report setting out whether items conciliated by Tarion are covered under the warranty;

- the builder, as always, will have 30 days from the date of the Warranty Assessment Report to resolve the warranted items (the “Post-Conciliation Repair Period”); and
- if the homeowner advises Tarion that items have not been resolved, Tarion will conduct a claim inspection (virtually or in person) to determine whether the warranted items have been resolved by the builder.

However, Tarion will not determine at the conciliation whether the conciliation is chargeable. The builder will have the opportunity to resolve warranted items during the Post-Conciliation Repair Period.

If items are resolved during the Post-Conciliation Repair Period and there is no claim inspection by Tarion, the conciliation will not be chargeable.

If a claim inspection is necessary, chargeability will be determined by Tarion at the claim inspection. Tarion will advise the builder of the chargeability determination when the Claim Inspection Report is issued.

Exceptions to Chargeability

The exceptions to chargeability set out in Registrar Bulletin No. 04 may apply during the period between the conciliation and the claim inspection.

For example, if the claim inspection was necessary because the homeowner did not accept a reasonable cash offer made by the builder during the Post-Conciliation Repair Period, then the *Reasonable Cash Settlement Refused* exception to chargeability may apply.

Extraordinary Circumstances

The rules and guidelines in Registrar Bulletin No. 04 regarding extraordinary circumstances continue to apply.

Challenging and Reversing a Chargeable Conciliation

The rules and guidelines in Registrar Bulletin No. 04 regarding challenging and reversing a chargeable conciliation continue to apply.

To appeal a warranty assessment through the Builder Arbitration Forum (BAF), a Request to Arbitrate must be delivered to Tarion within 28 days of the Warranty Assessment Report date. To appeal a chargeability determination through the BAF, a Request to Arbitrate must be delivered to Tarion within 28 days of the Claim Inspection Report date. The other rules and guidelines in Registrar Bulletin No. 08 and the BAF Procedural Rules continue to apply.