

February 1, 2021

Dear Vendor/Builder:

Registrar's Advisory – Transitional and Other Matters as of February 1, 2021

On February 1, 2021, the Home Construction Regulatory Authority (HCRA) assumed responsibility for new home builder and vendor licensing in Ontario. Tarion continues in its mandate to deliver Ontario's new home warranty and protection program, backstopping the statutory warranty coverage provided to purchasers of new homes under the Ontario New Home Warranties Plan Act (ONHWPA). Effective February 1, 2021, several new regulatory changes came into force which impact requirements on builders. The major changes are described in summary form below and new purchase agreement attachments are described in Appendix A and key transition provisions are referenced in Appendix B.

Transitional Matters as at February 1, 2021

The following summarizes transitional provisions and transitional matters regarding licensing, home enrolments and regulatory obligations for homes purchased prior to February 1, 2021 and those purchased on or after February 1, 2021.

Active Tarion Registrations prior to February 1, 2021 have become HCRA licences

- Vendor and builder registrations with Tarion that exist on January 31, 2021 continue as licences with the HCRA.
- These licences are subject to expiry and renewal provisions including under the *New Home Construction Licensing Act, 2017*. Please contact the HCRA for information about licensing after January 31, 2021.

Homes Enrolled or Approved prior to February 1, 2021 continue to be enrolled or approved

- A home that is enrolled in the warranty plan with Tarion prior to February 1, 2021 continues to be enrolled.
- A home that is associated with a registration approved prior to February 1, 2021 that is not yet enrolled (e.g., a home that is approved in a Terms & Conditions letter that is not yet enrolled) is deemed to be "qualified for enrolment" (QFE), which means the home can be sold. Such homes must obtain Enrolment Confirmation from Tarion under the new process prior to commencing construction.

- A home that is deemed to be qualified for enrolment continues to be subject to any terms and conditions that were in force prior to February 1, 2021, including those in Terms & Conditions letters, the Vendor Agreements and the Builder Agreements in place as at January 31, 2021.
- All information, documents or other items that a registrant provided to Tarion prior to February 1, 2021 may continue to be used by Tarion in administering the Plan.

Special Note regarding Enrolments for Contract Homes

- Homes associated with a licence/registration for Contract Home construction prior to February 1, 2021 must still be enrolled upon the terms and conditions outlined in the registration approved prior to February 1, 2021 including payment of applicable enrolment fees.

Vendor and Builder Agreements prior to February 1, 2021

- The terms of previously signed Vendor Agreements and Builder Agreements continue to be enforceable in respect of homes associated with registration that existed at February 1, 2021.
- After February 1, 2021, when submitting a new application for QFE and/or Enrolment, the vendor and builder will be subject to certain terms and conditions including those set out in new updated versions of the Vendor Agreement and the Builder Agreement, which will apply to the homes proposed in the new application.

Security and Guarantees prior to February 1, 2021

- Security held by Tarion prior to February 1, 2021 in respect of a vendor's warranty obligations continue to be held by Tarion to secure the vendor's obligations.
- Third-party guarantees and indemnities for a vendor's warranty obligations continue to be in force.
- After February 1, 2021, when submitting a new application for QFE and/or Enrolment, the vendor and builder may be required to provide additional security or new third-party guarantees in relation to new proposed homes to be sold and or built.

Any invoices or other debts to Tarion that existed prior to February 1, 2021 are not erased. Vendors and builders remain subject to their obligations and indemnities to Tarion.

Applications for Renewal or Registration Submitted to Tarion prior to February 1, 2021

- Applications for renewal or registration that Tarion was not able to assess prior to February 1, 2021 have been forwarded to the HCRA for assessment.
- Incomplete applications in BuilderLink that have not been submitted to Tarion must be restarted with the HCRA.

Licence Appeal Tribunal and Builder Arbitration Forum proceedings commenced prior to February 1, 2021

- Licence Appeal Tribunal proceedings commenced by a homeowner who has appealed a warranty decision by Tarion continue as an appeal proceeding responded to by Tarion.
- Licence Appeal Tribunal proceedings commenced by an applicant, vendor or builder who has appealed a Notice of Proposal (NOP) issued by Tarion to refuse or revoke a registration continue as an appeal proceeding responded to by the HCRA.
- Builder Arbitration Forum proceedings continue as an appeal proceeding responded to by Tarion.

Licensing and homes enrolled after February 1, 2021

New applications & licence renewals must be submitted to HCRA

- On February 1, Tarion registrations were automatically transitioned to an HCRA licence.
- Tarion registrations that expired before February 1, 2021 cannot be renewed by Tarion and anyone in this position who wishes to carry on selling or building needs to contact the HCRA.
- Vendors and builder must first be licensed by the HCRA before applying for QFE or enrolling homes with Tarion.

Licence display requirements

- The obligation to display an HCRA licence begins when the HCRA has delivered it to the licensee. The HCRA requires licensed vendor/builders to prominently display the licence:
 - at the licensee's principal business address;
 - on the licensee's website, if any; and
 - at any premises where the licensee conducts business with the public.
- Builders will receive a digital copy of their HCRA licence when they renew with the HCRA. Until a builder renews their licence with HCRA, they should display their existing Tarion registration certificate.
- In advance of their licence renewal with HCRA, vendor/builders should remove the Tarion Registered Builder logos from their materials, signage and advertising. In addition, vendors/builders should remove references to being a registered builder with Tarion and replace with wording about being licenced by the HCRA.

New Addenda Forms for all New Home sales after January 31, 2021.

- New Addenda forms were approved as part of the recent changes to Regulation 165/08. Any purchase agreement signed on or after February 1, 2021 must use the [new October 7, 2020 forms](#).

New Vendor and Builder Agreements

- When submitting a new application for approval to build and sell new homes, the vendor and builder will need to sign updated versions of the Vendor Agreement and the Builder Agreement, which will apply to new homes going forward.

Warranty Information Sheets must be attached to all purchase agreements

- All purchase agreements signed on or after February 1, 2021 are required to have a [Warranty Information Sheet](#) attached to provide clear and helpful warranty information at the time of sale, including information about pre-delivery inspections. There are six versions of the information sheet based on the type of home: freehold, condominium, contract, residential condominium conversion, vacant land condominiums, and homes on parcels of tied land.

Provision of the Homeowner Information Package

- The Homeowner Information Package (HIP) is being retired effective February 1, 2021. It is being replaced with an online resource called the [Learning Hub](#) which contains interactive modules, each intended to provide an overview of a specific part of the new home buying journey and the relevant warranty information. For purchase agreements signed prior to February 1, 2021 which are governed by the previous requirement for vendors to provide the HIP, vendors can fulfill their obligation via the following:
 - 1) Vendors who already have a copy of the HIP (a printed version or a previously downloaded PDF) can provide it to purchasers
 - 2) Vendors who do not have a copy of the HIP (either physical or digital) can:
 - provide purchasers with a link to the Learning Hub; or
 - provide their existing link to the HIP (if it's already embedded in other materials) which will be automatically re-directed to the Learning Hub.
- If vendors wish to provide a physical document to purchasers (whether the purchase agreement is signed before or after February 1), the HIP is not available but rather they can print off the relevant [Warranty Information Sheet](#) or a copy of the appropriate Warranty Coverage Brochure ([Freehold/Contract](#) or [Condominium](#)) and provide it to their purchasers.
- For vendors who may have already provided a link to the HIP to your purchasers, this link will be automatically redirected to the Learning Hub effective February 1, 2021.



For any inquiries, please contact the Underwriting Department:

- 416-229-3844 ext. 3001 or toll free at 1-877-982-7466 ext. 3001
- underwriting@tarion.com

Signed,

“Peter Balasubramanian”

Peter Balasubramanian
Registrar

APPENDIX A

AGREEMENTS OF PURCHASE AND SALE REQUIREMENTS – EFFECTIVE FEBRUARY 1, 2021

There are four possible attachments to Agreements of Purchase and Sale (APS) signed on or after February 1, 2021.

1) Updated Addendum

To coincide with the launch of the Home Construction Regulatory Authority (HCRA), Tarion has updated the addendum. **Every new Purchase Agreement signed on, or after, February 1** must have a new version (dated Oct 7, 2020) attached.

There are no substantive changes, but the new addendums do include small changes to reflect the new regulator, such as the Tarion Registration number being replaced by a HCRA Licence number. The new Addenda are available in PDF format on [Tarion's website](#), and in Word format on BuilderLink, or upon request.

2) Warranty Information Sheet¹

The Warranty Information Sheet is a concise overview of a home buyer's statutory warranty coverage and includes information about the new home warranty (provided to them by their builder and backed by Tarion), the Pre-Delivery Inspection, deposit protection and is available in six versions: freehold, condominium, contract homes, residential condominium conversion, vacant land condominium and new home with a parcel of tied land. The information sheets are available as PDFs on [Tarion's website](#) and in Word format on BuilderLink.

Effective February 1, 2021, Builders are required to attach the appropriate version of the Warranty Information Sheet to every purchase agreement or construction contract with an owner at the time the document is signed. This can be achieved by printing a hard copy and physically attaching it to the purchase agreement or construction contract or by including a PDF of the Warranty Information Sheet along with the purchase agreement or construction contract if being sent digitally.

3) Ontario Residential Condominium Buyers Guide²

As of January 1, 2021, Ontario's Residential Condominium Buyers' Guide (the Condo Guide) must be provided to buyers of residential pre-construction or new condo units by the declarant (developer) when buyers are purchasing from the developer or person acting on behalf of or for the benefit of the developer. The Condo Guide equips prospective buyers of residential pre-construction or new residential condo units with information on condo

¹ More details are available in Registrar Bulletin 05 and in section 3.9 of the new 2021 Vendor and Builder Agreements.

² Section 72 (1) of the Condominium Act, 1998 sets out the requirement.

ownership and the condo purchase process. Purchasers of resale residential condo units may also wish to review the Condo Guide.

Under section 73⁽²⁾ of the Condo Act, buyers have a 10-day cooling off period in which they may rescind their agreement of purchase and sale. This 10-day period begins on the later of the date on which buyers receive the agreement of purchase and sale, disclosure documents and the Condo Guide.

Regulations have not been made to specify the manner of delivering or receiving the Condo Guide. Developers may wish to use the same processes and manners in which they currently provide the disclosure statement to provide the Condo Guide. The Condo Guide is available in its most updated form on the [CAO's website](#).

4) Condo Information Sheet³

Effective January 1, 2020, all pre-construction APS must have a [Condo Information Sheet](#) attached, as part of the APS. This condo information sheet must be completed and placed at the front of the agreement of purchase and sale, and purchasers must sign the document to acknowledge having received and read the document. This document is necessary for new condominium projects going forward where the project has conditions that may result in its cancellation.

³ More details are available on the HCRA's Directive on the [Condominium Information Sheet](#)

APPENDIX B

TRANSITIONAL PROVISIONS

Registration

New Home Construction Licensing Act, 2017

Transition - vendors

86 On the day this section comes into force, a person who was registered as a vendor under the *Ontario New Home Warranties Plan Act* immediately before this section came into force is deemed to be licensed as a vendor under this Act.

Transition - builders

86.1 On the day this section comes into force, a person who was registered as a builder under the *Ontario New Home Warranties Plan Act* immediately before this section came into force is deemed to be licensed as a builder under this Act.

Homes

General, O. Reg. 627/20 (under ONHWPA)

Transition, enrolment

20. (1) A home that was enrolled in the Plan immediately before the day this section came into force continues to be enrolled in the Plan.

(2) The following rules apply in connection with a home referred to subsection (1):

1. If there is a vendor of the home, the vendor is deemed, on the day this section comes into force, to have received the confirmation referred to in subclause 10.1 (e) (ii) of the Act and to have provided a copy of the confirmation in accordance with clause 10.1 (f) of the Act.⁴

2. If there is a builder of the home, the builder is deemed, on the day this section comes into force, to have received the confirmation referred to in clause 10.2 (3) (f) of the Act and to have provided a copy of the confirmation in accordance with clause 10.2 (3) (g) of the Act.⁵

⁴ ONHWPA, s. 10.1 A vendor shall not sell or offer to sell a home unless the vendor,
(e) has received confirmation from the Registrar that the home,
(ii) has been enrolled in the Plan, if construction of the home has commenced; and
(f) has provided the registrar appointed under section 35 of the *New Home Construction Licensing Act, 2017* with a copy of the confirmation described in clause (e).

⁵ ONHWPA, s. 10.3(3) Subject to the prescribed requirements or restrictions, if any, a builder shall not enter into a contract with an owner of land for the construction of a home on the land unless the builder,
(f) has received confirmation from the Registrar that the home has been enrolled in the Plan; and

Transition, qualification for enrolment

21. (1) The Registrar is deemed to have determined that a home is qualified for enrolment in the Plan for the purposes of the Act if, immediately before the day this section came into force, the home was associated with a registration under the Act but was not enrolled in the Plan.

(2) On the day this section comes into force, the vendor of a home referred to in subsection (1) is deemed to have, in respect of the home, received the confirmation referred to in subclause 10.1 (e) (i) of the Act and to have provided a copy of the confirmation in accordance with clause 10.1 (f) of the Act.

Terms and Conditions

Transitional Matters, O. Reg. 630/20 (under NHCLA)

Terms and Conditions

2. (1) Every term and condition that was attached to a registration under the *Ontario New Home Warranties Plan Act* immediately before the day this section comes into force and that relates to licensing is deemed to be a condition for the purposes of section 39⁶ of the *New Home Construction Licensing Act, 2017* in respect of the licence that was previously the registration, before the operation of subsection 86 or 86.1 of the Act.

(2) For clarity, a term or condition to which subsection (1) applies may also be deemed to be a condition for the purposes of clause 10.3 (5) (b)⁷ of the *Ontario New Home Warranties Plan Act*.

General, O. Reg. 627/20 (under ONHWPA)

16. (1) Every term and condition that was attached to a registration immediately before the day this section came into force and that relates to the maintenance, management and administration of the guarantee fund, enrolment of homes and the administration of warranties and protections, including financial and other assurances provided to the Corporation, is deemed to be a condition for the purposes of clause 10.3 (5) (b) of the Act for every home to which section 21 of this Regulation applies that is associated with the registration.

(g) has provided the registrar appointed under section 35 of the *New Home Construction Licensing Act, 2017* with a copy of the confirmation described in clause (f).

⁶ NHCLA, s. 39 A licence is subject to the conditions,
(a) to which the applicant or licensee consents;
(b) that the registrar applies under subsection 40 (3), (4) or (6);
(c) that the Tribunal orders; or
(d) that are prescribed.

⁷ ONHWPA, s. 10.3(5) Any conditions prescribed under clause 23 (1) (b.4) must be satisfied,
(b) in order for a home to continue to qualify for enrolment in the Plan.

(2) If an agreement entered into between the Corporation and a vendor or builder before the day this section comes into force includes a term or condition referred to in subsection (1), the agreement is continued as necessary to give effect to the condition.

(3) For clarity, a term or condition to which subsection (1) applies may also be deemed to be a condition for the purposes of section 39 of the *New Home Construction Licensing Act, 2017*.

Agreements

General, O. Reg. 627/20 (under ONHWPA)

Transition, agreements

17. If an agreement entered into between the Corporation and a vendor or builder before the day this section comes into force includes a provision that relates to the maintenance, management and administration of the guarantee fund, enrolment of homes and the administration of warranties and protections, including financial and other assurances to the Corporation, the agreement is continued as necessary to give effect to that provision.

Transition, guarantee or indemnity

19. Any guarantee or indemnity provided to the Corporation in respect of a registration before the day this section came into force, whether provided by a registrant or by another person, shall be continued as a valid guarantee or indemnity in favour of the Corporation for the indemnified or guaranteed obligations and all related agreements continue in force.

Security

General, O. Reg. 627/20 (under ONHWPA)

Transition, security

18. Any security that a registrant, whether by way of cash, letter of credit, performance bond, deposit trust agreement or otherwise, provided to the Corporation in respect of a registration before the day this section came into force shall be continued as a valid security held by the Corporation for the secured obligations and any related agreements continue in force.

Applications

New Home Construction Licensing Act, 2017

Transition - applications

86.2 On the day this section comes into force, an application for registration or renewal of registration as a vendor or builder within the meaning of the *Ontario New Home Warranties Plan Act* that has not been disposed of under that Act before the day this section came into force is deemed to be an application for a licence or renewal of a licence, as the case may be, as a vendor or as a builder, as the case may be, under this Act.

NOP Appeals

New Home Construction Licensing Act, 2017

Transition - proceedings

86.3 On the day this section comes into force, a prescribed proceeding that the Corporation within the meaning of the *Ontario New Home Warranties Plan Act* had commenced as of the day before this section came into force is continued as a proceeding of the regulatory authority under this Act.

Transitional Matters, O. Reg. 630/20 (under NHCLA)

Proceedings

4. The following proceedings are prescribed for the purpose of section 86.3 of the Act:

1. A proceeding under Part III of the *Provincial Offences Act* with respect to an offence related to a registration under the *Ontario New Home Warranties Plan Act*.
2. A proceeding before the Tribunal with respect to a registration under the *Ontario New Home Warranties Plan Act*.

Tribunal orders, reports

5. (1) If the Tribunal has made an order with respect to a registration under the *Ontario New Home Warranties Plan Act* and the order is in effect on the day this section comes into force, the order is deemed to be an order of the Tribunal made under the *New Home Construction Licensing Act, 2017* with respect to the licence that was previously the registration before the operation of subsection 86 or 86.1 of the Act.

(2) If an order to which subsection (1) applies contained, or was accompanied by, a report, the report is continued with respect to the order.

Information

General, O. Reg. 627/20 (under ONHWPA)

Transition, information, etc.

22. All information, documents or things that were provided to the Corporation under the Act in respect of an application for registration or renewal of registration before the day this section came into force may continue to be used by the Corporation to fulfil its objects under the Act.