

Off-plan contract changes help buyer

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People who buy properties off the plan will have greater protection from developers who wish to make last-minute changes to homes such as switching the light fittings or reducing precious floor space.

Property lawyers say new legislation about unfair contract terms could leave some developers exposed to contract terminations if they neglect to review their purchase agreements.

Common clauses in off-the-plan contracts allow developers to alter the size of the dwelling by up to 5 per cent or change inclusions and fittings without the purchaser's consent.

"Contracts usually include conditions that favour developers, sometimes for good reason," Roger Cornforth, of Holman Webb Lawyers, said.

"Some clauses that don't give purchasers the right to rescind could be deemed unfair under the new legislation."

The new laws, which come into effect today, prohibit contract terms that if enacted would create detriment to one party without the opportunity for negotiation. Developer groups have criticised the new law because it bundles standard form contracts, such as those for gym memberships and mobile phones, with those for property purchases.

"When an airline is selling a ticket on a 747 it doesn't have to build or buy the plane on the strength of the that sale," the chief executive of the Urban Taskforce, Aaron Gadiel, said.

"But when we sign an off-the-plan contract we are starting work on the strength of those contracts."

Under the law only a court can determine whether a term in a standard form contract is unfair. "Our fear is that in the medium term some people might try and walk away from off-the-plan contracts on spurious legal points," Mr Gadiel said.