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Product Fact Sheet – Home (Builders) Warranty Insurance

References on this fact sheet to builders and building work include and apply to trade contractors and other building contractors (e.g. electrical contractors, plumbers, carpenters, swimming pool builders etc.) and to trade and other residential building work (e.g. electrical wiring, plumbing, carpentry, swimming pool construction/installation etc.).

This product fact sheet relates covers builders warranty insurance in NSW only. Each state and territory has its own system for managing builders warranty.

In NSW there are two different types of builders warranty insurance – builder warranty for builders and builders warranty for owner-builders.

In 1997, the NSW state government disbanded the then Building Services Corporation Scheme which protected consumers in the event the builder went broke or failed to complete work. They set up a new scheme and appointed 7 insurance companies to handle the policies. Over time, most of the insurers pulled out of writing this product as it was unprofitable.

In 2010, the NSW state government took the risk away from insurers and set up a scheme under their existing business – The Self Insurance Corporation. (SICorp)This is a statutory corporation constituted by the *NSW Self Insurance Corporation Act 2004* and is a part of NSW treasury. The Corporation was established in 2005 and manages the NSW Government's insurance arrangements for most classes of risk through an outsourced model.

Sicorp now underwrites builders warranty policies through two agents – QBE and Calliden. There is a close working relationship between SICorp and NSW Fair Trading which, under the *Home Building Act 1989*, is responsible for administering the operation of the home warranty insurance scheme. This relationship provides a link between the building dispute resolution and home warranty insurance processes and facilitates the delivery of services by both organisations to homeowners and builders.

About Home Warranty Insurance

The home warranty insurance scheme sits at the end of a comprehensive consumer protection regime for homeowners undertaking residential building projects in NSW where the contract price exceeds $20,000.

Where a builder is unable to honour their commitments under a contract due to insolvency, death or disappearance home warranty insurance provides a safety net for homeowners including subsequent purchasers. Similarly, where a builder is unwilling to honour such commitments and their licence is suspended for failing to comply with a money (compensation) order in favour of the homeowner made by a Court or the Consumer, Trader and Tenancy Tribunal, home warranty insurance provides protection to the homeowner.

How does a Builder obtain Home Warranty insurance?

Each builder must become “eligible” for Home Warranty Insurance. To apply for eligibility, the builder must complete and application form and supply a copy of their two most recent years financial statements, together with a statement of personal assets and liabilities, proof of ownership of property, references from architects, engineers etc and copies of their building licence.

Depending upon the size of the builder, and the nature of the work they will be doing, each builder is provided with a “profile” – ie allowing them to do single dwellings, or multi-units or high rise developments etc. They are granted a maximum limit per job and an annual limit for all jobs signed in any given 12 month period.

Eligibility is granted for periods ranging from one year for large builders to 3 years for small builders. Prior to eligibility expiring, the builder must reapply if they intend to do more work in the future.

A builder can apply for higher limits during their eligibility or a change of profile if they want to do different work.

Once a builder is eligible, they can then purchase a Builders Warranty certificate for each job they undertake.

As brokers, we must not issue a certificate to a builder unless they have paid the premium. Brokers are personally liable for the premium if they release the certificate and the builder fails to pay.

Owner Builders Home Warranty Insurance.

Where an owner-builder decides to sell a property, within six years of the completion of owner-builder work having been carried out on the property, the *Home Building Act 1989* requires that home warranty insurance cover be taken out by the owner-builder and a Certificate of Insurance be attached to the contract for sale of the property. The requirement applies to owner-builder work where the reasonable market cost of the labour and materials involved exceeds $20,000.

NSW Fair Trading has advised that the requirement for an owner-builder to obtain home warranty insurance cover only applies to the owner-builder who did the work under an owner-builder permit. The requirement does not apply to a subsequent purchaser or successor in title, including an administrator, receiver or an estate.

For home warranty insurance purposes, owner-builder work is taken to have been completed on the **earlier** of the date of issue of an Occupation Certificate for the work or the date 18 months after the issue of an owner-builder permit for the work unless the work is practically complete earlier than this, that is, the date the on which work is reasonably capable of being used for its intended purpose other than for minor defects or omissions.

The home warranty insurance policy for owner-builder work provides cover to the purchaser of the property (and subsequent successors in title) where the purchaser or successor in title is unable to have any defective owner-builder work (not apparent at the time of purchase) rectified because of the death, disappearance or insolvency of the owner-builder.

The owner builder is not covered by the policy.

NB: Where, as part of the owner-builder project, the owner-builder contracts work (over $20,000) to a licensed builder or trade contractor that licensed contractor must obtain home warranty insurance cover for the work. In this case the owner-builder is covered by the home warranty insurance policy for residential building work.