

Home warranty insurance

BY MARK ADAMS

Home warranty insurance is also referred to as 'home indemnity,' 'builders warranty' or 'builders indemnity.' But the different names are not the most confusing aspect; there are substantial misconceptions in respect to this form of insurance, which we will aim to clarify.

What is covered, and when it is needed, varies from state to state. This is one of the principal reasons that you'll often receive incorrect advice or no clear advice at all. Many people take out the insurance at the last minute because, even though they are advised of the requirement, they do not fully understand what it is for.

Unfortunately you'll find that even professionals in this area still occasionally get the information wrong, due to differences in legislative requirements in each state. The information contained in this article provides an explanation of the requirements for each state, with the information sourced directly from the relevant authorities.

Let's start by looking at what it is for, and then we'll move onto the issue of when it is needed and how to go about obtaining it...

Firstly, it's important to avoid confusing home warranty insurance with construction insurance. Construction insurance covers contract works, such as the structure you are erecting and the building materials, against loss or damage, and also provides public liability cover during the actual project. This insurance is always essential and should be obtained before work starts.

Policy coverage

The Builders' Home Warranty Insurance covers loss or damage resulting from non-completion of the work, loss of deposit, or breach of statutory warranty if the property owner cannot recover compensation from the builder because of the following situations:

- death of the builder
- disappearance of the builder
- insolvency of the builder.

The Owner Builders' Home Warranty Insurance covers loss or damage resulting from a breach of statutory warranty implied under the Contract of Sale if the purchaser of the property cannot recover compensation from the owner builder because of:

- death of the owner builder
- disappearance of the owner builder
- insolvency of the owner builder.

Note that the policy only responds to claims where the property owner or purchaser is unable to recover from the builder or owner builder. There is a common misconception that a claim may be made against the policy without first pursuing recovery against the builder or owner builder. Where the builder or owner builder is available (and solvent) they remain entirely responsible.

When to insure

The owner builder must obtain the insurance, and provide a certificate to the buyer, before entering into a contract to sell the property. Failure to do so can result in a substantial fine. In addition they risk having the sale contract invalidated.

In order to avoid any dramas it is wise to advise your real estate agent and/or settlement agent of this requirement when you list your property for sale.

The cost of this insurance decreases the later you need it. For example, if selling a property just one year before the end of the required warranty period you will only be paying for one year's worth of warranty insurance. This will therefore be significantly cheaper than if you'd required the insurance earlier.



Project responsibility

Even in states that do not require the owner builder to provide this insurance, it is important to understand that the owner builder is still liable for any breach of statutory warranty. This is still the case *after* the warranty period expires.

For example, if you sell your house five years after building, and after another four years the new owners discover that a waterproofing problem is as a result of sub-standard work (i.e. not to code at the time of building), they can still pursue you for the repairs. Even if you used a contractor to do the waterproofing, you are still the first point of call, as the 'builder.'

Construction types

The following types of construction work require this insurance:

- construction of a new dwelling
- extension or renovation of a new dwelling
- placing of a pre-built dwelling onto land
- carrying out work associated with any of the above including pergolas, fencing, swimming pools, landscaping etc.

Policy requirements

NSW, Vic, Tas

Where the construction work is valued at over \$12,000 and the property is sold within 6 years from 'practical completion.'

'Practical completion' is when the structure is capable of being used for its intended purpose or when only finishing touches and/or error corrections remain to be done.

ACT, Qld, SA

Not required by owner builders, and they cannot actually obtain this type of insurance even if they want to.

NT

Home Building Certification Fund insurance must be obtained before building commences, and provides cover for a period of 10 years from obtaining the occupancy certificate. This was due to change in 2008 but does not seem to have been implemented yet.

WA

Where the construction work is valued at over \$20,000, and the property is sold within 7 years from obtaining the owner builder license.

Limit of cover

Home warranty insurance will cover a maximum of:

NSW: \$200,000 for policies taken out prior to 01/03/07, otherwise \$300,000

Tas: \$200,000

Vic: \$200,000

WA: \$100,000 or contract price if less than \$100,000

The owner will generally also pay an excess of \$500 when making a claim.

Contractors

In some states the contractors you engage to work on your project may need to provide warranty insurance to you in relation to their work. This does not change your requirement to obtain the insurance for the entire project in the situations already described in this article.

But it is important to know when to expect to be provided with this insurance.

Vic

Certain contractors are required to be registered with the Building Practitioners Board including concreters, bricklayers, carpenters, roof tilers and cabinet makers. These contractors must supply warranty insurance to the owner builder prior to commencement of work if their contracts exceed \$12,000.

NSW

All contractors are required to be licensed where their work exceeds \$200 in value. Licensed contractors must supply home warranty insurance to the owner builder where the value of the contract exceeds \$12,000, prior to commencement of work.

SA

Contractors are required to be licensed, and where their work exceeds \$12,000 must supply warranty insurance to the owner builder, prior to commencement of work.

WA, Tas, ACT, NT

Contractors are not required to provide warranty insurance when contracted by builders or owner builders.

Qld

Contractors who perform insurable work over \$3,300 (including GST) must take out home warranty insurance when working directly for consumers.

Remember you won't need home warranty insurance on the entire project unless you are arranging to sell the property within the stipulated time period. When you do need it, it is generally wise to speak to the same owner builder insurance specialist who arranged your construction and public liability insurance for you at the beginning of your project. This will allow you to get the right advice and the cover you need. ■

Mark Adams is an account manager with Trades Essentials. He has several years experience in the owner builder insurance market.

Trades Essentials are a specialist broker for Owner Builder Insurance Australia-wide and can be contacted on 1300 664 923 or mark@tradesessentials.com.au.

Alternatively for an obligation free quote go to www.tradesinsurance.com.au/ownerbuilder



Contact the following authorities in each state if you have further queries.

• ACT

Planning & Land Authority
02 6207 1923
www.actpla.act.gov.au

• NSW

Office of Fair Trading
13 32 20
www.fairtrading.nsw.gov.au

• NT

Building Practitioners Board
08 8999 8964
www.nt.gov.au/bpb

• Qld

Building Services Authority
1300 272 272
www.bsa.qld.gov.au

• SA

Office of Consumer and Business Affairs
08 8204 9777
www.ocba.sa.gov.au

• Tas

Workplace Standards Tasmania
03 6233 7657
www.wst.tas.gov.au

• Vic

Building Commission
1300 360 320
www.buildingcommission.com.au

• WA

Department of Consumer and Employment Protection
1300 304 054
www.docep.wa.gov.au