

For Builders



HBC Builder Insurance Fact Sheet

This information will help builders understand what **Home Building Compensation (HBC) insurance** is, when they need it, why they need it, and how to get it.

What is HBC insurance?

HBC insurance provides protection for homeowners who are having residential building work done in NSW and for subsequent purchasers of their property. Builders must take out HBC insurance to cover homeowners.

For each HBC insurance policy there is a once-only cost. There are no annual fees and the insurance lasts for a limited time (see limits below). HBC insurance transfers to new homeowners when they buy a home with current HBC insurance. Please refer to HBC insurance limits below.

Why do I need HBC Insurance?

It is compulsory under NSW law for builders to take out HBC insurance for residential building projects in NSW that cost more than \$20,000.

How is HBCF Insurance different?

HBC insurance is not like other types of insurance. HBC insurance is 'last resort' insurance. This means that the homeowner will need to first pursue the builder to fix the problems or finish the job before they can claim on their insurance. This often includes the homeowner taking the builder to court and getting a ruling in their favour. A 'trigger event' must occur to activate the insurance, where the builder either:

- dies
- disappears
- becomes insolvent (goes bankrupt or comes under external administration)
- fails to comply with an NCAT or court order in favour of the homeowner by the due date and has their licence suspended.

What are HBC Insurance limits?

Insurance payment limits

The maximum amount that the HBC Fund (HBCF) will pay on any single HBC insurance policy is \$340,000 or, if a policy is issued before 1 February 2012, the maximum cover is \$300,000. Under that limit, we can only pay a maximum of 20% of the building contract price (as varied) for any part of a claim relating to non-completion of the building work. There are some additional limits on the amount we can pay the claimant in the event of a claim (these limits are clearly defined in the Policy of Insurance).



Insurance time limits

NSW legislation (*Home Building Act 1989*) sets insurance periods and a claim is only valid if made within them or under certain other conditions in exceptional circumstances.

Incomplete work

- within twelve months of the date the work stopped or failed to start.

Completed work

- within six years of the date of completion for major defects
- within two years of the date of completion for other defects.

Note: The Policy of Insurance has definitions of major and other defects.

There are also some extensions where a homeowner:

- only becomes aware of defects in the last six months of the insurance period; or
- lodges a proper loss notification with us and then diligently pursues the builder (through the tribunal/court etc).

How do I get HBC insurance?

Before you can purchase HBC insurance, you need a Certificate of Eligibility (COE). Once you have obtained a COE, then you can purchase HBC Insurance for a building project up to the limits set out in the COE. Your broker will guide you through the Eligibility Application process to help you obtain your COE).

What is Eligibility?

Eligibility is the term we use to describe the approval to obtain HBC insurance for specific projects and under what conditions. We assess eligibility on your ability to cope with the work you plan to do, the viability and financial situation of your business, and your building history. Please refer to the *HBCF Eligibility Fact Sheet* or *HBCF Eligibility Manual* for more information on Eligibility applications and requirements.

How much does the HBC insurance premium cost?

The icare website features a HBCF Premium Calculator: www.icare.nsw.gov.au/builders-and-homeowners/builders-and-distributors/premiums/premium-calculator

We may provide efficient and experienced building entities, with a solid history, up to a 30% discount on their premium. Unproven building entities may have to pay up to 30% over the standard premium, until they can demonstrate their ability to successfully complete projects. Our approach does not favour major builders nor make it more difficult for small builders to receive this discount. For our full list of loading and discount factors, please check our website: www.icare.nsw.gov.au/builders-and-homeowners/builders-and-distributors/premiums/premium-rates



What happens if I don't take out HBC insurance?

There are strong legal consequences for failing to buy HBC insurance when it is required.

If you forget to get HBC insurance, you can apply for insurance after you have started the project. If you apply for insurance after you have commenced building work, you may be asked to provide additional information about the project before we can issue a Certificate of Insurance (and we may not always agree to do so).

You may be prosecuted under NSW law if you don't get HBC insurance before accepting any contract payment and before starting residential building work. You may also be unable to claim money from the homeowner under the building contract.

■ Note: icare HBCF has no appetite for retrospective cover for multi-unit alterations and renovations contracts.

What if a project costing \$20,000 or less becomes more expensive?

Where variations increase the contract price to an amount over \$20,000 during construction, or where you not aware of the value of the project at the time the contract is entered, you need to apply for a Certificate of Insurance as soon as you become aware that the project price is likely to exceed \$20,000. You must not request or receive any (further) payment under the contract until we issue a new Certificate of Insurance.

Disclaimer

Please note that this document cannot be relied upon for any purpose other than the determination of icare compliance with eligibility requirements in accordance with the Home Building Act 1989 and associated regulations. Beyond that purpose, the intention of this document is to provide general guidance in plain language and there are a variety of documents, guidelines, legislation, and other information to which should be referred to rather than relying on this document. icare HBCF will not accept any liability arising from reliance upon or use of this document.