



INFORMATION SHEET

Workplace Services

Current at: 18 July 2018
HIA Ref No: NFSCON1256A

Cost of Insurance in Contracts

Amendments to the *Home Building Act 1989* ('the Act') in January 2018 have resulted in some changes being required to NSW HIA residential building contracts.

What are the changes?

It is now a requirement that the cost of insurance under Part 6 or Part 6B of the Act, which is home building compensation cover (previously known as insurance under the Home Building Compensation Fund or Warranty Insurance) is included in the contract. The Act does not define what the cost of insurance includes, however, the State Insurance Regulatory Authority ('SIRA') provides that disclosure should be of the total amount of money that you had to pay for the cover, which may include brokerage, fees, and taxes.

As a result of this new requirement, the consumer checklist (found in HIA contracts and marked Attachment A) has been updated, which now includes an item 12A whereby the consumer should check off that any contract they enter into includes this cost; and NSW Fair Trading has updated the Consumer Building Guide (June 2018).

When do they apply to contracts?

From 1 July 2018 all contracts that require home building compensation must show the cost of the cover in the contract.

HIA has updated its suite of contracts (revised consumer checklist and an item in the warranty insurance schedule to insert the cost of insurance) to meet this new legislative requirement. Unfortunately, the updated consumer guide was not available at the time that HIA contracts went to print (it is however included in HIA Contracts Online). It will be included in the next print run before the end of the year.

Fair Trading has announced that it would take an educational approach for the next six months to the above changes and will not take any enforcement action if contracts do not include the above changes.

Updating existing contracts

If you have a stock of HIA contracts, they can be amended to meet the requirements by:

- inserting the cost of insurance somewhere within the contract, such as in the Warranty Insurance schedule (e.g. Schedule 6 of the New Dwellings and Renovations and Additions Contract, Schedule 7 of the Cost Plus Contract, Schedule 3 of the Small Work over \$20,000 contract) or adding it as special condition. Example wording to add to schedule or special condition:

"Cost of insurance under Part 6 of the Home Building Act 1989 (or alternative indemnity product under Part 6B of the Home Building Act 1989) is \$_____"

- providing the updated checklist which is provided over the page
- providing a copy of the June 2018 Consumer Building Guide which can be downloaded from Fair Trading's website: <https://www.fairtrading.nsw.gov.au/trades-and-businesses/construction-and-trade-essentials/consumer-building-guide>

For more information and assistance contact HIA Workplace Services on 1300 650 620

ATTACHMENT A

1. Checklist

- 1 Have you checked that contractor holds a current contractor licence? Yes No
- 2 Does the licence cover the type of work included in the contract? Yes No
- 3 Is the name and number on the contractor's licence the same as on the contract? Yes No
- 4 Is the work to be undertaken covered in the contract, drawings or specification? Yes No
- 5 Does the contract clearly state a contract price or contain a warning that the contract price is not known? Yes No
- 6 If the contract price may be varied, is there a warning and an explanation about how it may be varied? Yes No
- 7 Are you aware of the cooling-off provisions relating to the contract? Yes No
- 8 Is the deposit within the legal limit of 10%? Yes No
- 9 Does the contract include details of the progress payments payable under the contract? Yes No
- 10 Do you understand the procedure to make a variation to the contract? Yes No
- 11 Are you aware of who is to obtain any council or other approval for the work? Yes No
- 12 Do you understand that you are not required to pay the contractor a deposit or any progress payments until the contractor has given you a certificate of insurance under Part 6 or Part 6B of the Home Building Act 1989 (except where the work is of a kind that does not require insurance)? Yes No
- 12A Does the contract include either of the following: Yes No
(a) the cost of the insurance under Part 6 of the Home Building Act 1989,
(b) the cost of the alternative indemnity product under Part 6B of the Home Building Act 1989?
- 13 Has the contractor given you a copy of the Consumer Building Guide, which provides key information about your rights and responsibilities under NSW's home building laws and where to get more information? Yes No
- 14 Does the contract include a statement about the circumstances in which the contract may be terminated? Yes No

2. Signatures

Do not sign the contract unless you have read and understand the clauses as well as the notes and explanations contained in the contract and this document.

If you have answered "no" to any question in the checklist, you may not be ready to sign the contract.

Both the contractor and the owner should retain an identical signed copy of the contract including the drawings, specifications and other attached documents. Make sure that you initial all attached documents and any amendments or deletions to the contract.

3. Signed copy of contract

Under the *Home Building Act 1989* a signed copy of the contract must be given to the owner within 5 working days after the contract is entered into.

4. Insurance under Part 6 or Part 6B of the Home Building Act 1989

The contractor must provide you with a certificate of insurance under Part 6 or Part 6B the Home Building Act 1989 before the contractor commences work and before the contractor can request or receive any payment.

5. Acknowledgement of owners

I/We have been given a copy of the Consumer Building Guide and I/we have read and understand it.

I/We have completed the checklist and answered "Yes" to all items on it.

Note. Where the owner is a company or partnership or the contract is to be signed by an authorised agent of the owner, the capacity of the person signing the contract, eg director, must be inserted.

Signature

Name [print]

Capacity [print]

Signature

Name [print]

Capacity [print]