

## NEW SOUTH WALES

	<b>HWI Mark 1</b>	<b>HWI Mark 2</b>	<b>HWI Mark 3</b>	<b>HWI Mark 4</b>
<b>Date of Issue of Policy</b>	1 May 1997 to 30 June 2002	1 July 2002 to 30 December 2003	31 December 2003 to present (NB HBR2 commenced 1/09/04)	25 October 2011 and 1 February 2012 to present
<b>Pre-conditions for claim</b>	None	Insolvency, death or disappearance of builder (s.99(1) HBA)	Three storeys or less (not including carpark) (r74 HBR1 & 2) and insolvency, death or disappearance of builder (s.99(1) HBA)	Three storeys or less (not including carpark) (r74 HBR1 & 2) and insolvency, death or disappearance of builder (s.99(1) HBA)
<b>Minimum statutory insurance cover</b>	Not less than \$200,000 for each dwelling (s.102(3) HBA)	Not less than \$200,000 for each dwelling (s.102(3) HBA)	Not less than \$200,000 for each dwelling (s.102(3) HBA). From 1 March 2007 - \$300,000 (r.60(1) HBR2)	From 1 February 2012 – Not less than \$340,000 for each dwelling (r.60 HBR2)
<b>Requirement for insurance</b>	Residential building work worth more than \$5,000 (s.92(3) HBA)	Residential building work worth more than \$12,000 (r.57AA HBR1)	Residential building work worth more than \$12,000 (r.70 HBR2)	From 1 February 2012 - Residential building work worth more than \$20,000 (r.70 HBR2)
<b>Period for notification</b>	If claim made w/in 6 mths of date of awareness, insurer may not reduce it's liability due to delay in notification (r.53(1)(a) HBR1)	If claim made w/in 6 mths of date of awareness, insurer may not reduce it's liability due to delay in notification (r.53(1)(a) HBR1)	If claim made w/in 6 mths of awareness, insurer may not reduce it's liability due to delay in notification (r.63(1)(a) HBR2)	If claim made w/in 6 mths of awareness, insurer may not reduce it's liability due to delay in notification (r.63(1)(a) HBR2)
	Coverage provided if loss notified w/in period of insurance or if loss apparent during last 6 mths of period and notified w/in 6 mths of loss becoming apparent (s.103BA HBA commenced on 19 May 2009 but retrospective)			From 25 October 2011 – Introduction of requirement of written notification, delayed claim and extended claim period

Current as at 1 February 2012. The above information is not, and is not intended to be, legal advice. It is a summary of various legislation as applicable to building defects disputes and in particular Part 5 of the Home Building Regulation. It should not be treated as a comprehensive review of applicable legislation as it applies to building defects disputes

HWI = Home Warranty Insurance; HBA = Home Building Act; HBR1 = Home Building Regulation 1997; HBR2 = Home Building Regulation 2004 (commenced 1 September 2004) (NB Reg 88 of HBR2 states that any act, matter or thing that, immediately before the repeal of HBR1, had effect under HBR1 continues to have effect under HBR2)

<b>Status of claim if no response by insurer</b>	Deemed refused after 60 days (r.54 HBR1)	Deemed refused after 45 days (r.54 HBR1)	Deemed refused after 45 days (r.64(1) HBR2)	Deemed refused after 45 days (r.64(1) HBR2)
<b>Insurance appeals</b>	Appeals against a decision of an insurer must be made not later than 30 days after written notice of decision is given (r.55 HBR1)	Appeals against a decision of an insurer must be made not later than 45 days after written notice of decision is given (r.55 HBR1)	Appeals against a decision of an insurer must be made not later than 45 days after written notice of decision is given (r.65 HBR2)	Appeals against a decision of an insurer must be made not later than 45 days after written notice of decision is given (r.65 HBR2)
<b>Assumed acceptance</b>	From 1 September 2005, insurer assumed to have accepted liability for an insurance claim if no response within 90 days or such further time as agreed by the parties (r.62A(1) HBR2)			
<b>Excess per claim</b>	Not exceeding \$500 (s.102(6) HBA)	Not exceeding \$500 (s.102(6) HBA)	Not exceeding \$500 (s.102(6) HBA)	From 1 February 2012 - Not exceeding \$250 (s.102(6) HBA & r.18 HBR2)
<b>Extensions / renovations of existing dwellings</b>	HWI required	HWI required	HWI required (even if more than three storeys) (NB r.69 HBR2)	HWI required (even if more than three storeys) (NB r.69 HBR2)
<b>Losses indemnified</b>	Includes losses arising from: i) breach of statutory warranty; ii) faulty design (if design provided by builder); iii) cost of alternative accommodation, removal & storage; iv) loss of deposit or progress payment due to breach of statutory warranty; and v) any legal or other reasonable costs incurred seeking to recover compensation for the loss or damage or in taking action to rectify the loss or damage (NB v) only available since 1 July 2002) (r.43 HBR1 & r.56 HBR2)			
<b>Limitations on liability</b>	Limitations on liability may include inter alia: i) loss or damage reasonably expected from fair wear and tear of building work or failure to maintain the building work; ii) claims in relation to structural elements in the non-residential part of a building that supports or gives access to the residential part, unless a defect adversely affecting the structure; iii) damage arising from failure to take reasonable and timely action to minimize damage; and iv) claims arising from faulty design provided by a beneficiary (r.45 HBR1 & r.58(1) HBR2)			
<b>Reduction of liability</b>	An insurer may reduce its liability due to a failure to take action to enforce a statutory warranty if that failure prejudiced the insurer's interests (r.58A HBR2 – commenced on 19 May 2009 but retrospective)			
<b>Amount of cover</b>	The minimum amount of cover may be reduced by not more than an amount calculated by dividing the amount of any claim paid by the insurer in relation to common property by the number of dwellings in the building (r.46 HBR1 & r.59 HBR2)			

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	HBR2)			
<b>Access</b>	A beneficiary must give access to the relevant property to a builder for the purpose of inspection, rectification or completion of work (r.57 HBR1 & r.68 HBR2)			
<b>Insurance requirements</b>	Insured for risk of non-recovery of compensation from builder for breach of statutory warranty. From 1 July 2002, add risk of being unable to have builder rectify breach (s.99(1)(b) HBA). On 1 April 2009 and 19 May 2009 amended s.99 HBA such that suspension of licence under s.42A HBA constitutes insolvency of builder			
<b>Period of insurance</b> (r.48 HBR1 & 61 HBR2 define 'completion'; r.57AC HBR1 & r.71 HBR2 define 'structural defect' (from 1 July 2002))				s.3B HBA defines 'completion' (r.61 HBR2 repealed)
All defects	7 yrs from completion (r.50(1)(b) HBR1)			
Non structural defects		2 years from completion (s.103B(2) HBA)	2 years from completion (s.103B(2) HBA)	2 years from completion (s.103B(2) HBA)
Structural defects		6 years from completion (s.103B(2) HBA)	6 years from completion (s.103B(2) HBA)	6 years from completion (s.103B(2) HBA)
				Claim must be made within 10 years of completion (s.103BC HBA)

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