

FACT SHEET 8 - ELIGIBILITY AND UNDERWRITING

Information for Builders and Contractors

This Fact Sheet provides important information for Builders on the requirements for obtaining Eligibility for insurance with the Home Building Compensation Fund (HBCF).

On 1 July 2010 the NSW Self Insurance Corporation(SICorp) became the sole provider of insurance under the HBCF cover in NSW. The SICorp trades as the Home Building Compensation Fund (HBCF) and has contracted Insurance Agents to grant Eligibility, issue insurance policies and manage claims on its behalf.

What is Eligibility?

'Eligibility' is the term used to describe the entitlement that a builder has to apply for a Certificate of Insurance (project certificate) and the conditions under which the certificate may be granted.

Builder Eligibility conditions take account of the following major criteria:

- builder's capabilities;
- builder's history;
- builder's financial backing; and
- the ability to obtain restitution from or on behalf of the builder, or directors or related entities or third party-related indemnifiers should there be a claim.

All builder Eligibilities have an appropriate Eligibility Profile including:

- 'annual turnover limit'; and
- individual job type contract limits.

"Annual turnover limit" is the amount approved and available for purchasing Certificates of Insurance over a rolling 12 month period. The contract price/value of each Certificate of Insurance issued reduces the available turnover limit for a period of 12 months (from the date of issue of the Certificate) and is added back after this period.

It is essential that the annual turnover limit sought by a builder accurately represents the level of activity intended be undertaken.

The Eligibility Profile may also include relevant conditions:

- maintaining capital levels;
- maintaining specified security levels;
- utilising a Building Contract Review Program (BCRP) service provider;
- the frequency of financial reporting; and
- other requirements as may be appropriate from time to time.

How do I apply for Eligibility?

- Builders complete the Eligibility Application form or ask their insurance broker for assistance in completing the form. The Application for Eligibility form is available for download on the HBCF's website at www.hbcf.nsw.gov.au. The form can be completed electronically and save.
- The application form provides a checklist of all the information builders will need to provide with their application.
- The builder's insurance broker will submit the Eligibility application form to the Insurance Agent for assessment, unless the broker has the authority to undertake the assessment itself (Binding Intermediaries).
- The Insurance Agent uses the builder's financial statements to assess the financial viability of the applicant. Insurance Agents may make further enquiries to seek clarification.

How will my Application be assessed?

- In providing insurance cover to Builders, the HBCF takes on a risk that the builder is unable or unwilling to complete the construction of a dwelling or return and rectify defective work. To reduce this risk, an underwriting assessment must be carried out on the builder's application for Eligibility prior to purchase of the insurance.

Detailed information about how an Eligibility application is assessed by the Insurance Agents is available in the Underwriting Guidelines at www.hbcf.nsw.gov.au

- The Eligibility assessment process includes:
 1. Assessment of the financial performance of the Builder or Builder group:
 - Requested Turnover and Turnover Growth
 - Assessed Net Tangible Assets (ANTA)
 - Builder's Margins and Profitability
 - Working Capital
 - Overhead Expenses
 - Capital and Retained Earnings
 - Return on Assets
 - Creditor Days
 - Debtor Days
 2. Assessment of other factors such as:
 - Trading Structure
 - Continuous years trading in this structure - experience
 - Builder's licence history (including any adverse incidents)
 - Trade credit history
 - Previous insurance claim history with consideration of the builder's size and trading history
 - Directors/principals profile
 - Directors/principals experience
- The Insurance Agent will advise the broker of the outcome of the Eligibility assessment. The broker will then pass on the information, including the Insurance Agent's formal advice, to the builder.
- Where builders are assessed as a higher risk this may result in the Eligibility application being declined or special conditions included.
- Once the application has been assessed, approved builders are provided a Certificate of Eligibility

that summarises the Eligibility conditions placed upon a builder. These conditions are applied when assessing a Project Application. It will include:

- Annual turnover limits;
- Maximum individual construction value;
- Type of construction permitted; and
- Any specific limitations or conditions applied through the underwriting assessment process and conditions such as;
 - maintaining specified capital levels,
 - maintaining specified security levels,
 - utilising a BCRP service provider,
 - restrictions on concurrent projects, and
 - other requirements as may be appropriate from time to time.

Declinature, Cancellations, Suspensions and Modifications of Eligibility

- Some builders may have their Eligibility declined, cancelled, suspended or have restrictive modifications applied by Insurance Agents. The Insurance Agent will provide the builder with reasons for the decision and give 10 business days notice of any decision.

The Underwriting Guidelines include more information about the circumstances when this can occur, go to www.hbcf.nsw.gov.au

- Builders should be aware that Certificates of Insurance cannot be issued against a cancelled or suspended Eligibility.
- Eligibility will also be cancelled where a builder has entered into insolvency and builder's licence has been cancelled or suspended by NSW Fair Trading under the *Home Building Act 1989*.
- Where a licence has been surrendered or has expired for longer than three months (i.e. the licence is unable to be renewed or restored), the Insurance Agent is not required to give 10 days notice in such circumstances.

Eligibility Profile Changes Initiated by the Builder

Builders seeking to change their profile (e.g. from single dwelling to multi-unit development construction, increase the annual turnover limit etc.) need to complete a Builder Profile Change Application (BPC) and refer the application form through their broker to the Insurance Agent for assessment.

Profile changes can have negative financial consequences for a builder. Ramifications can include changes to working capital requirements, building cycles, available resources and management. Consequently, Insurance Agent underwriters will examine all factors that may affect future viability when they make their assessment.

Ongoing Review of Eligibility

Periodic and special reviews

'Eligibility' is generally subject to review. The frequency of the review is determined by the Insurance Agent on completion of the underwriting assessment, and by the HBCF through its periodic review requirements (which are explained in the [Underwriting Guidelines](#)). The Insurance Agent may undertake a special review if it appears a builder's circumstances have changed or a change to the Eligibility conditions has been requested.

For further information on the Eligibility review process please refer to Fact Sheet 10 – Periodic Eligibility Reviews and Fact Sheet 11 – Major Builder Reviews. The [Underwriting Guidelines](#) also contain a detailed explanation of the Eligibility review process.

Builders not subject to review

The HBCF has decided to not require certain small builders and contractors to comply with the Periodic Eligibility Review (PER) requirements and has created a new classification of Eligibility referred to as **Non-Reviewed Small Builders**.

As such, the HBCF will not conduct a full Periodic Eligibility Review where a builder:

- has a total business turnover (including group activity) of \$1.5 million or less [or \$500,000 if a specialist contractor]; and
- has Eligibility within the following limits:
 - New single dwelling - \$600,000 or less; and
 - Alterations and additions (i.e. structural work) - \$350,000 or less; and
 - Renovations (i.e. non-structural work) - \$100,000 or less, and
- has been contracting residential building work for over 12 months; and
- does not have an adverse trading history (e.g. previous insolvencies, past claims, outstanding NCAT orders etc.) - including key managers; and
- has not sought Eligibility to undertake the construction of new multi-dwelling projects (including duplexes, town houses etc.) or the construction of swimming pools.

The Insurance Agent will continue to undertake checks on licensing and credit defaults, at least once every three (3) years. If the Insurance Agent does identify emerging risk issues then an immediate Special Eligibility Review (SER) may be triggered.

Making a Complaint

If a builder is not satisfied with the way their Eligibility application or review has been assessed, they can, in the first instance, through their broker request a review by the Insurance Agent. If the matter is not resolved, the builder can then request that it be escalated to the Insurance Agent's Underwriting Committee and potentially to the HBCF's Underwriting Committee. For further information please refer to Fact Sheet 6 - Complaints and Dispute Resolution.

Further Information

Further information regarding Eligibility and the underwriting requirements for obtaining cover can be obtained from your broker or through the website of the HBCF at www.hbcf.nsw.gov.au.

This HBCF website is a valuable source of information for brokers and builders and is updated regularly. The website also contains the [Underwriting Guidelines](#) which have been prepared as a key reference source and guideline for builders, business advisors and insurance brokers in making application for insurance under the HBCF.

References in 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.).