

QUEENSLAND HOME WARRANTY SCHEME PRODUCT DISCLOSURE



OCTOBER 2021

The Queensland Home Warranty Scheme Product Disclosure is a summary of applicable cover, for contracts signed on or after 28 October 2016.

The full terms of cover are provided in the *Queensland Building and Construction Commission Act 1991*, Part 5 and the *Queensland Building and Construction Commission Regulation 2018*, Schedule 6.

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Who we are

We are the Queensland Building and Construction Commission (QBCC), a statutory authority established under the *Queensland Building and Construction Commission Act 1991*.

We are the regulator of the building industry in Queensland, and have been in existence since the 1970's (under various different names).

What we do

As regulator of the building industry, we have an integrated "one stop shop" model, which incorporates the following functions:

- We issue licences to licensed contractors, who have appropriate qualifications and the necessary financial resources to operate a business in the construction industry.
- We provide a free dispute resolution service to try to resolve disputes between owners and licensed contractors.
- We administer a home warranty scheme to provide insurance cover for homes in Queensland.

The Home Warranty Scheme

Under the Queensland Home Warranty Scheme (Scheme) licensed contractors must collect premiums on behalf of the consumer and pay the premium to QBCC in relation to specified residential work they carry out.

The Scheme is not-for-profit and is self-funded through the payment of premiums.

What we cover

The Scheme covers consumers for loss suffered if a contractor (or an individual where fraud or certain representations are made) fails to complete a contract for residential work or fails to rectify defective work. The terms of cover, however, contain certain limitations and restrictions.

Assistance is also provided in specific circumstances for loss associated with incomplete work which has been damaged by fire or storm, vandalism or theft.

Non-completion

What is a non-completion claim

A non-completion claim arises when a licensed contractor fails to complete the work he/she was contracted to do.

The Scheme will pay for loss arising from his/her failure to complete the work.

Requirements

The contract must be a fixed price contract (i.e. it must be clear from the contract how much the work will cost).

The contract with the licensed contractor must have ended in one of the following ways:

- You terminate the contract with the licensed contractor based on his/her default.
- The licensed contractor has died.
- The licensed contractor is a company and no longer exists (e.g. deregistered).
- The licensed contractor is bankrupt and his/her licence has been cancelled.

Other considerations

Any potential approval amount by QBCC will be reduced if you pay for work which has not yet been carried out.

Also, your claim approval will be reduced if the value of the work exceeds the contract price by more than 30% (e.g. where the contract price is \$200,000 but the actual value of the work is \$270,000. The claim will be reduced by \$70,000).

Time limits

The contract must end within two years of the day work starts. You must make your claim with the QBCC within three months after the date the contract ends.

Extent of cover

If works have commenced (i.e. physically started on site) the QBCC will pay the difference between the funds you still hold under your contract and the actual cost to complete the home.

If no works have commenced, the QBCC will refund to you the deposit you paid the licensed contractor.

There is also provision for rectification of incomplete work which is damaged by fire and storm, or which is damaged as a consequence of vandalism to, or theft from, the incomplete works. However, in order to be eligible for this cover, the non-completion claim must be accepted by QBCC, and your claim for this cover must be made within 14 days of the event. Also the damage must have happened as a consequence of the work being incomplete.

Further, in relation to vandalism and theft, QBCC will only pay for loss in excess of \$2,500, and you must report it to the police.

If your claim for non-completion is approved by QBCC, then you may claim for accommodation expenses. In general, you can claim for accommodation expenses incurred by you from the date you lodged your claim until seven days after your non-completion claim is approved. You must claim these accommodation expenses within 28 days of your non-completion claim being approved.

There is no entitlement for completion of incomplete works for the following:

- Construction Management or Cost-Plus contracts - where these types of contracts have been used there is no entitlement to make a claim for completion of incomplete works. There is cover for defects that become evident during construction, or post completion.

Defects

We provide cover for rectification of defects in residential work.

What is a defect

There are two types of defect: the first type is a structural defect. This includes movement in the footings of the building, or non-compliance with certain parts of the building code, or any defect that makes the residence unsafe or uninhabitable. Other examples include a leaking pool, or water penetration into a residence (e.g. from a leaking shower or leaking roof).

The second type is a non-structural defect. This is a defect which is cosmetic in nature or is not categorised as a structural defect.

Requirements

Before lodging your claim with QBCC, you must notify the licensed contractor about the defects, giving him/her a reasonable opportunity to rectify.

We will assess your claim, and will decide whether to formally request the licensed contractor to rectify the work.

Time limits

Structural defects are covered for six years six months from the date of payment of the premium, and you must lodge the claim within three months of noticing the defect.

Non-structural defects are covered if the consumer becomes aware, or ought reasonably to have become aware, of the defect within six months after the day the work is completed. You must lodge the claim within seven months of the completion date.

Extent of cover

The Scheme provides cover for a residence and some other buildings on the same site (e.g. a shed).

A residence is a building which is fixed to land and in which a person lives. It includes a single detached dwelling, a duplex, a unit in a multi-storey building which is not more than three storeys and a manufactured home.

A residence does not include a boat, caravan, car, tent, trailer, train, or a temporary building such as a demountable.

We will pay to rectify defects in the residence or other building on the site. We will also pay to rectify defects to either of these buildings which involve any of the following:

- Anything attached to these buildings which requires building or plumbing approval.
- Anything attached to these buildings and which is not supported by anything else (e.g. awning or handrail).
- Anything attached to these buildings that is used for water supply, sewerage, drainage or stormwater.
- A verandah or deck attached to these buildings.
- Stairs or a ramp providing access to these buildings.
- Work to support these buildings (e.g. replacing stumps).

We will also pay to rectify defects in the erection, construction or installation of a swimming pool.

The following work is not covered for defects:

- Fire alarm system, scaffolding, curtains, blinds, internal shutters, carpets, floating floors, vinyl, earthmoving and excavating, laying asphalt or bitumen, insulation, insect screens.
- Electrical appliances.
- Cubbyhouse, doghouse, shade sail, phone or data cables, water meter, water tank not used for primary water supply.
- Construction of a slab which does not include construction of a building on top of it.
- Any other work associated with the primary construction of the residence.

If your claim for defects is accepted, you may claim accommodation expenses incurred by you while the rectification work is carried out. You can claim this if your home is uninhabitable because the work is defective or will become uninhabitable while the rectification work is carried out.

Exclusions

If the defect is not significant and the work complies with the building code but not with the plans or specifications, then we will pay you for the loss in value of the work (e.g. where the ceiling height is 2.9m but the plans say it should be 3m).

There is no claim for defects if:

- You unreasonably refuse to allow the licensed contractor (who carried out the defective work) to come back and fix it.
- Under your contract with the licensed contractor, he/she still has an obligation to complete the work.
- In relation to a pool, there is no cover for defects in relation to:
 - non-structural defects
 - surfacing outside the coping of the pool
 - all work associated with the pool (e.g. paving, slides, diving boards)
 - steps that are not fixed.
- In relation to a shed: if the construction of the slab is performed under a separate contract, then there is no cover for damage to the shed caused by the slab.
- There is no cover for damage to the residence or shed that is not directly caused by the work.

When cover comes into force

The licensed contractor will pay, on your behalf, the relevant premium. Of course, the price of the premium will be factored into the contract, so effectively the licensed contractor collects the premium from you and pays it to QBCC.

The premium must be paid prior to work commencing, and within 10 days of signing the contract. Once the premium is paid, we will issue a notice of cover for the work. Cover under the Scheme commences as soon as the licensed contractor pays the premium, the contract is signed, or works commence (whichever is earliest).

Providing your licensed contractor has already paid the standard premium in relation to the work, you may increase the standard cover (i.e. \$200,000) to \$300,000 by paying an additional premium to increase cover to \$300,000. In order to obtain this extra cover, you must pay the additional premium within 30 days of the contract date, or before the work commences (whichever is earlier).

Time limits

In relation to a claim for non-completion, the contract must end within two years from the day works commence, and you must lodge the claim within three months of the day the contract ends.

Structural defects are covered for six years six months from the date of payment of the premium, and you must lodge the claim within three months of noticing the defect.

Non-structural defects are covered are if the consumer becomes aware, or ought reasonably to have become aware, of the defect within for six months after the day the work is completed. You must lodge the claim within seven months of the completion date.

Exclusions and limitations

As with any policy of insurance, there are some matters that are excluded from cover, and there are some limitations on the extent of cover provided under the Scheme.

Exclusions

The following **building work** is not covered under the Scheme:

- backpacker's accommodation, boarding house, caravan park, guest house, holiday accommodation, hostel, hotel, lodging house or motel
- prisons or reformatories
- hospitals
- an orphanage or children's home
- a retirement village
- an educational institution
- accommodation for persons with disabilities
- commercial or industrial premises
- owner-builder work
- loading, unloading or transporting a building
- loading, unloading, transporting or off-site prefabrication of the whole of a building
- a multiple dwelling of more than 3 storeys
- construction of a carport or shed for a duplex or multiple dwelling over 3 storeys
- work involving offices or shops
- work for a carpark, unless it is for a building containing two or more units.
- a pool that is not used for residential purposes
- construction or installation of something that is not fixed – e.g. a portable spa.

The following **people** are not covered under the home warranty scheme:

- A licensed contractor who builds a residence for himself on his land.
- A developer who engages a licensed contractor to construct three or more residences.
- However, a subsequent purchaser of either of the above residences can claim (e.g. If a developer builds a block of six units, the developer is not covered for completion or defects. But the subsequent purchaser of a unit is covered for defects in their unit.)
- A person who is an associate of a licensed contractor cannot claim, for example, the spouse or child of the licensed contractor or executive officer of a licensed contractor that is a company.

The following **defects** are not covered under the Scheme – i.e. defects:

- caused by defective design. However, you may be covered if the design was prepared by an appropriately qualified person, for example, an engineer, architect or building designer
- caused by deterioration through fair wear and tear
- caused by your failure to undertake maintenance, inspections and treatment of the property
- caused by aircraft pressure waves
- caused by earthquake, erosion, flood, landslip
- caused by accidental damage
- caused by a defective product
- caused by the act or omission of anyone other than the licensed contractor (or the licensed contractor's subcontractor or invitee)
- caused by a terrorist act
- in electronic data
- in electrical appliances
- which are covered by another policy of insurance.

The following **actions** will prevent you from being eligible for a claim under the Scheme:

- If you release or indemnify the responsible contractor from liability for his/her work.
- If you refuse to allow access to the QBCC to assess your claim.
- If you were aware, or ought reasonably to have been aware of the defect before the works were completed.
- If you were aware, or ought reasonably to have been aware of the defect before you purchased the property.
- If you demolish the work or rectify the defect without the prior written approval of QBCC.

Limitations

The following limitations apply to all claims:

- As far as reasonably possible, we will try to match materials when completing or rectifying work, but we will not pay to replace adjoining work to achieve this.
- We will provide certification for the rectification or completion work carried out under the scheme, but we will not pay the cost of obtaining certificates in relation to the work carried out by the original licensed contractor.
- We cover certain work (e.g. the construction of a residence) for both defects and completion claims. However, in relation to other work associated with the construction of the residence (e.g. fencing, driveways) we only cover this for completion – not for defects.

Maximum entitlement

In general terms, the maximum amount payable under the Scheme is as follows:

- Prior to practical completion:
 - For non-completion, defects, vandalism and theft:
 - \$300,000 if optional additional cover is in place
 - \$200,000 for standard cover
 - both of these amounts include alternative accommodation and storage costs.
 - For fire or storm:
 - \$300,000 if optional additional cover is in place
 - \$200,000 for standard cover

Note: this is subject to the non-completion claim being accepted by QBCC.

Note: prior to practical completion, the cover available in relation to the construction of a duplex is limited. A duplex is a single building which contains two separate living units.

The maximum entitlement available for a duplex with standard cover is as follows:

- Pre-completion:
 - \$100,000 for each unit (for non-completion, defects pre-completion, vandalism and theft)
 - \$100,000 for each unit (for fire or storm damage)
- Post-completion:
 - \$200,000 for each unit (for defects post completion)

If optional additional cover is taken out, the maximum entitlement for a duplex is increased:

- Pre-completion:
 - \$150,000 for each unit (for non-completion, defects pre-completion, vandalism and theft)
 - \$150,000 for each unit (for fire or storm damage)
- Post-completion:
 - \$300,000 for each unit (for defects post completion)

Note: prior to practical completion, no assistance is provided to a person who enters into one or more contracts, in force at the same time, to construct three or more living units. Assistance is available to a subsequent purchaser of a unit.

- After practical completion – for defects only:
 - If optional additional cover is in place: \$300,000.
 - If standard cover is in place: \$200,000.
 - Both of the above amounts include alternative accommodation and storage costs.

There are specific limitations in relation to common property for multi-unit properties – if you need details on this please contact QBCC. In essence: each unit has its own maximum entitlement and all unit owners will contribute equally towards the cost of rectification of common property work.

Cover under the Scheme includes accommodation costs as follows:

- \$10,000 if you have taken out the optional additional cover.
- \$5,000 if you have standard cover.
- You are entitled to accommodation costs if we accept your claim for non-completion or defects, and if your home is not habitable.

How to lodge a claim

If you want to claim an entitlement under the Scheme, you must lodge a written notice of your claim with QBCC. This notice must include all documents relevant to your claim (e.g. contract, plans).

We may ask for further information as required.

In relation to a claim for defects you must first notify the responsible contractor of the defects, and must give them a reasonable opportunity to rectify. However, you don't need to do this if the contractor has died, the company no longer exists, or the licensed contractor is insolvent and his/her licence has been cancelled.

Once your claim has been lodged the QBCC will decide whether to direct the licensed contractor to rectify or complete the work. A direction is a formal notice given by QBCC to the licensed contractor requiring him/her to rectify/complete the work.

There is a form on our website which you can fill out to lodge your claim.

Note: you are required to act in good faith in relation to a claim for assistance under the Scheme. This means that you must disclose any matter to us that you know which is relevant to us making a decision on your claim. If you don't act in good faith, we may recover from you the moneys we have paid out in relation to your claim.

Need more information?

Visit qbcc.qld.gov.au or call us on 139 333.

