



VIC

Residential Construction Warranty Insurance



Important Notices

The policy is made up of this policy wording, any endorsements and the certificate of insurance. You should read those documents together, to tell you what we cover, what we exclude, what we pay to settle claims and other important information.

Please note that you have obligations under the policy with which you must comply, otherwise we may not have to pay your claim(s).

Renewal

The policy will not be renewed and is not of a kind that it is usual to renew.

Duty of Disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of insurance and, if so, on what terms.

You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.

Your duty however does not require disclosure of any matter:

- ▼ that diminishes the risk to be undertaken by the insurer;
- ▼ that is of common knowledge;
- ▼ that your insurer knows or, in the ordinary course of its business, ought to know;
- ▼ as to which compliance with your duty is waived by the insurer.

Non-disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim or may cancel the contract.

If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

Limitation or Exclusion of Rights Against Third Parties

You must not limit or exclude your rights against a party from whom you might otherwise be able to recover in respect of loss or damage. If you do, our liability to you is reduced to the extent that we can no longer recover from that other party as a result of the limitation or exclusion by you.

Interested Parties

The cover provided by this policy does not extend to an interest in the residential building that is not your interest. We will not be liable under this policy to anybody except you.

Privacy Statement

The Privacy Act 1988 (Cth) (as amended) now applies and requires us to inform you that:

Purpose of Collection

We collect personal information (*this is information or an opinion about an individual whose identity is apparent or can reasonably be ascertained and which relates to a natural living person*) from or about you for the purposes of:

- ▼ providing insurance services to you;
- ▼ evaluating the project application by the builder;
- ▼ evaluating any request for amendment to any insurance provided;
- ▼ issuing, administering and managing the insurance provided following acceptance of a project application; and
- ▼ investigating and, if covered, managing claims made in relation to any insurance you have with us or other companies within the Promina group.

The personal information collected can be used or disclosed by us for a secondary purpose related to those purposes listed above, but only if you would reasonably expect us to use or disclose the information for this secondary purpose.

However for sensitive information, the secondary purpose must be directly related to the purposes listed above.

The personal information collected can be used or disclosed by us as required by any relevant home building insurance legislation.

Disclosure

When necessary and in connection with the purposes listed above, we may disclose your personal information to, and/or receive some personal information from:

- ▼ other companies within the Promina group;
- ▼ your insurance intermediary or our agent;
- ▼ Government bodies, loss assessors, claims investigators, reinsurers;
- ▼ other insurance companies, mailing houses, claims reference providers, legal and other professional advisers;
- ▼ other service providers, hospitals, medical and health professionals.

Consequences if Information is not Provided

If you do not provide us with the information we need we will be unable to administer your policy or manage any claim under your policy.

Access

You can request access to the personal information we hold about you by contacting us at Vero Insurance Limited, 465 Victoria Avenue, Chatswood, NSW 2067.

In some circumstances we may not agree to allow you access to some or all of the personal information we hold such as when it is unlawful to give it to you. In such cases we will give you reasons for our decision.

Privacy Statement issued

Vero Insurance Limited, 465 Victoria Avenue, Chatswood, NSW 2067.

Other Offers

We would like to use your personal information to keep you up to date with the range of other products and services available from us or other members of the Promina group. We may give your personal information to our agent or your broker to enable us to send you this information. Please contact us if you do not want us to do this.

Goods and Services Tax

This policy has a provision concerning GST on premium and claims.

1. Definitions

In the **policy**:

You/your means the person described in the **project application** as the owner of the building or land in respect of which the **work** is or was being carried out together with any successor in title to that person and any other person who becomes entitled to the benefit of any of the **statutory warranties**.

We/our/us means Vero Insurance Limited
ABN 48 005 297 807.

Act means the Building Act 1993.

Builder is the builder described in the **project application** provided the builder is a builder under the **Order**.

Certificate of insurance means the certificate referred to in clause 4.

Commencement day has the same meaning as it does under the **Order**.

Completion date has the same meaning as it does under the **Order**.

Contract means any **insurable domestic building contract** between you and the **builder** pursuant to which the **work** is being, or is about to be, carried out.

Defective has the same meaning as it does under the **Order**.

Developer has the same meaning as it does under the **Order**.

Disappearance (and its corresponding forms) has the same meaning it has under the **Order**.

Domestic building work has the same meaning as it does under the **Order**.

Dwelling means the home described under the **project application**.

Home has the same meaning as it does under the **Order**.

Insolvent (and its corresponding forms) has the same meaning as it does under the **Order**.

Insurable domestic building contract has the same meaning as it does under the **Order**.

Made in respect of a claim, includes notifying an insurer of a circumstance which may give rise to a claim.

Non-structural defect means a defect that is not a **structural defect**.

Order means the **Order** made under sections 135, 137A and 137D of the **Act** made by the Minister for Planning and as gazetted on 23 May 2003 entitled 'Domestic Building Insurance Ministerial Order'.

Policy means this policy wording, any endorsements and the **certificate of insurance**.

Project application means the application form completed by you or the **builder** applying for this insurance.

Statutory warranty means a warranty implied into the **contract** by section 8 of the Domestic Building Contracts Act 1995.

Structural defect has the same meaning as it does under the **Order**.

Trade practices provision has the same meaning as it does under the **Order**, namely sections 52, 53, 55A or 74 of the Trade Practices Act 1974 (Cth) or sections 9, 11 or 12 of the Fair Trading Act 1999 (Vic).

Tribunal has the same meaning as it does under the **Order**, namely the Victorian Civil and Administrative Tribunal established by the Victorian Civil and Administrative Tribunal Act 1998.

Work means the **domestic building work** which is carried out or to be carried out by the **builder** to the **dwelling** under the **contract**.

A reference to any legislation is a reference to the legislation as amended from time to time.

2. The Policy

This policy is subject to the law of Victoria. The law of Victoria includes Commonwealth Legislation such as Insurance Contracts Act 1984. Any rights to refuse to pay a claim are subject to section 54 of that Act.

The **policy** is intended to comply with the requirements set out under the **Order** and any term of the policy which conflicts with, or is inconsistent with, that **Order** shall be read and be enforceable as if it complies with the **Order**.

3. What's Covered

3.1 When We Will Pay

Subject to the terms of this **policy**, including the exclusions, we will cover you if the **builder** becomes **insolvent**, dies or **disappears** and you suffer:

- (a) loss or damage resulting from non-completion of the **work**;
- (b) loss or damage resulting from **defective work**;
- (c) loss or damage arising from a breach of a **statutory warranty**;
- (d) loss or damage resulting from the failure of the **builder** to maintain a standard or quality of work specified under the **contract**;
- (e) loss or damage resulting from conduct of the builder in connection with the **contract** which contravenes a **trade practices provision**;
- (f) alternative accommodation, removal and storage costs reasonably and necessarily incurred as a result of an event referred to in clause 3.1(a) to (e) inclusive; and
- (g) the loss of a deposit (or any part of the deposit) or progress payment under the contract.

The cover we give in clauses 3.1(a) to (g) inclusive extends to the acts or omissions of a person contracted by the **builder** to perform the **work**.

3.2 What We Will Pay

We will either make good or pay the amount of that loss or damage (at our option), subject to the following limitations:

- (a) Subject to clauses 3.2(b) to (h) inclusive, you must bear at your own risk:
 - (i) an excess of not more than \$1,000 in respect of a claim **made** after 5 years after the **completion date**;

- (ii) an excess of not more than \$750 in respect of a claim first **made** between 3 and 5 years after the **completion date**;
 - (iii) an excess of not more than \$500 in respect of a claim **made** between 12 months and 3 years after the **completion date**; or
 - (iv) a claim under \$500 **made** between 3 and 12 months after the **completion date**.
- (b) For the purposes of clause 3.2(a):
- (i) a claim of \$500 or more may relate to more than one defect if the amount claimed for any one or more defects is less than \$500;
 - (ii) the date when a claim is made is the earlier of:
 - the date when you first notify us of a circumstance that may give rise to a claim; and
 - the date a claim is made; and
 - (iii) an excess may be applied only once in relation to:
 - any claim comprising more than one defect; or
 - two or more claims that relate to the same defect.
- (c) Clause 3.2(a) does not reduce our liability in respect of loss or damage arising between:
- (i) the date of the **contract** or the date of issue of the building permit for the **work**, whichever is the earlier; and
 - (ii) the date that is 3 months after the **completion date**.
- (d) Clause 3.2(a) does not reduce our liability in respect of loss or damage relating to non-completion of the **work**;
- (e) We will not pay more than \$200,000 under the aggregate for all claims made under this policy in respect of any one **dwelling**, including your reasonable legal costs and expenses associated with a successful claim against us;
- (f) If the **work** is carried out on land in a plan of subdivision containing common property, any claim paid by us relating to the common property is applied pro rata to all such residences, and reduces your remaining available cover accordingly;

- (g) If the claim is in respect of loss or damage resulting from non-completion of the **work**, we will not pay more than 20% of the contract price (including any agreed variation to the contract price) for the **work**;
- (h) If the claim is in respect of loss or damage resulting from conduct of the **builder** in connection with the **contract** which contravenes a **trade practices provision**, we will only pay the costs of rectifying the **work**;
- (i) We will only pay alternative accommodation, removal and storage costs reasonably and necessarily incurred for up to 60 days (excluding any period or periods of delay attributable to us).

3.3 What We Exclude

- (a) We will not pay if:
 - (i) you are the **builder**;
 - (ii) you are a related body corporate (within the meaning of section 50 of the Corporations Act 2001) of the **builder**; or
 - (iii) you and the **builder** have a common director or shareholder although both you and the **builder** are not public companies.
- (b) If you are also a **developer** for the **work**, we will not pay for any loss or damage which is the result of non-completion of the **work**.
- (c) We will not pay for loss or damage relating to **work** that is landscaping, paving, retaining structures, driveways or fencing, except for such work which:
 - (i) is integral to the construction of a building;
 - (ii) requires the issue of a building permit under the **Act**;
 - (iii) could result in water penetration of or within a building if not completed;
 - (iv) could adversely affect health or safety if not completed;
 - (v) could adversely affect the structural adequacy of a building if not completed; or
 - (vi) is not completed and the **builder** has died, become **insolvent** or **disappeared**.

- (d) We will not pay for any part of a deposit or payment that exceeds the amount specified for such a deposit or payment in section 11 of the Domestic Building Contracts Act 1995 (Vic);
- (e) We will not pay for any part of a progress payment that exceeds the amount specified for such a payment in section 40 of the Domestic Building Contracts Act 1995;
- (f) We will not pay any damages, penalties or fines for delay on the part of the **builder** (including liquidated damages for delay) except to the extent that such amounts represent the increase in rectification costs caused by the effluxion of time;
- (g) We will not pay for loss or damage that could reasonably be expected to result from fair wear and tear of the **work**, or from your failure to maintain the **work**;
- (h) If the **builder** becomes **insolvent**, dies or **disappears** before the **builder** commences the **work** (other than the removal of vegetation) that requires the use of any tools or building materials, we will only pay you any money paid in relation to the **contract** (subject also to the limitations in clauses 3.3(b) and (c)) and your reasonable costs and expenses incurred in relation to the **contract**.
- (i) We will not pay you for loss or damage incurred as a result of:
 - (i) war;
 - (ii) a nuclear event;
 - (iii) civil unrest;
 - (iv) risks normally insured under a policy for public liability and/or contracts works;
 - (v) asbestos contamination or removal;
 - (vi) act of God or nature;
 - (vii) a failure by you to maintain appropriate protection against pest infestation or exposure to natural timbers;
 - (viii) consequential loss or damage not otherwise covered by the **Order**; or
 - (ix) malfunction in any mechanical or electrical equipment or appliance where we can prove that such malfunction is not attributable to the workmanship of, or installation by, the **builder**.

The cover provided by this policy does not extend to an interest in the home that is not your interest. We will not be liable under this policy to anybody except you.

4. When Cover Becomes Effective

- (a) Upon issue of this **policy**, we will provide a **certificate of insurance** evidencing that insurance for the **work** has been issued which complies with the **Order**. The **certificate of insurance** shall be in the form prescribed by the **Order**;
- (b) We will also provide a **certificate of insurance** if you or the **builder** request one at any time after the **policy** has issued;
- (c) Even though you or another person who applies for this insurance may be required to pay the premium (and associated statutory charges) when lodging a **project application**, we may refuse to accept the **project application**. The **work** is not covered until we have provided to you or another person a **certificate of insurance** evidencing insurance for the **work**.

5. How Long We Cover You For

- (a) This **policy** provides cover in relation to **non-structural defects** in respect of loss or damage occurring during the period commencing on the **commencement day** and ending not earlier than 2 years after the earlier of:
 - (i) the **completion date** of the **contract**; and
 - (ii) the date of termination of the **contract**.
- (b) Subject to clause 5(a), the policy provides cover in respect of all other loss or damage occurring during the period commencing on the **commencement day** and ending not earlier than 6 years after the earlier of:
 - (i) the **completion date** of the **contract**; and
 - (ii) the date of termination of the **contract**.

6. When You Must Make a Claim

- (a) We may refuse to accept a claim if it is made later than 180 days after you first become aware, or might reasonably have been expected to become aware, of the death, **disappearance** or **insolvency** of the **builder**;
- (b) If you notify us in writing within 180 days of first becoming aware, or of when you might reasonably have been expected to have become aware, of the death, disappearance or insolvency, of the **builder** then we will not rely on any delay by you in notifying us of the claim to reduce our liability to you for the claim pursuant to section 54 of the Insurance Contracts Act 1984.

7. When We May Not Avoid The Policy or Refuse to Pay a Claim

In accordance with clause 28 of the **Order**, we may not avoid the policy or refuse to make or reduce any payment under the policy on the grounds that:

- (a) the builder:
 - (i) breached any duty of the utmost good faith;
 - (ii) failed to comply with any duty of disclosure;
 - (iii) made representations to us;
 - (iv) failed to comply with a provision or requirement of the **policy**; or
 - (v) prejudiced our interests;or
- (b) the premium (and associated statutory charges) or any instalment of the premium (and associated statutory charges) has not been paid by any person.

We are entitled to recover from the **builder** any claim paid by us in the circumstances referred to in clauses 7(a) and (b).

If you fail to carry out your obligations under the **policy**, we may reduce our liability to you only to the extent that your failure prejudiced our interests.

8. Refusal of Cover

We will notify the Building Practitioners Board, at the times and in the manner agreed with the Board, in the event that:

- (a) a **builder** is refused insurance, ceases to be eligible to renew or procure insurance or, in respect of **domestic building work** performed prior to the commencement of the **Order**, fails to purchase or maintain required insurance; or
- (b) any claim under a policy of required insurance is settled or paid by agreement or otherwise.

9. Making a Claim

- (a) You should notify us of any facts or circumstances which may give rise to a claim as soon as you become aware of them to ensure that you comply with the requirements set out in clause 6 ('When You Must Make a Claim');
- (b) If you submit a claim to us in writing, we will make a decision regarding our liability to you within 90 days. If we do not make a decision regarding our liability to you within 90 days then, unless we receive an extension of time from the Tribunal, we will be deemed to have accepted liability for your claim;
- (c) If you notify us of a defect, we will consider you to have given us notice of every other defect to which the defect notified is directly or indirectly related, whether or not your claim in respect of the defect that was actually notified is settled;
- (d) If you wish to dispute our decision regarding your claim, you may appeal to the **Tribunal**. If we are given notice of proceedings before the **Tribunal**, we will accept findings made by the **Tribunal** with respect to:
 - (i) whether an event referred to in clause 3.1 (a) to (e) inclusive ('When We Will Pay') has occurred; and
 - (ii) if such an event, or events, has occurred, the amount of loss or damage suffered by you as a result.

10. Subrogation

If we pay a claim, we are entitled to be subrogated to your rights against any party in relation to the claim to the extent of the amount paid by us.

You must not limit or exclude your rights against any such party. If you do, our liability to you is reduced to the extent that we can no longer recover from that other party as a result of the limitation or exclusion by you.

11. Other Terms

Upon making a claim, you must:

- (a) comply with any reasonable direction by us in relation to the completion or rectification of the **work**;
- (b) not undertake or cause to be undertaken any rectification work without notifying us, unless those works are reasonably necessary to prevent or minimise any further loss or damage; and
- (c) provide us, or any builder nominated or approved by us, with reasonable access to the relevant building site for the purpose of inspection, rectification and completion of the **work**. You may refuse to provide access to a particular builder if you have reasonable grounds for doing so (such as loss of confidence in the builder).

You must take all reasonable precautions to avoid or minimise any loss or damage covered by this **policy**.

You must give us any assistance, information or documents which we request.

You must not make any admissions, offer, promise or payment in connection with any claim.

If you fail to carry out your obligations under the **policy**, we may reduce our liability to you only to the extent that your failure prejudiced our interests.

12. Goods and Services Tax

In addition to the **policy** premium, we will charge an amount on account of GST.

Despite the other provisions of this insurance (including provisions in the wordings, any schedules and any endorsement), our liability to you will be calculated taking into account any input tax credit to which you are entitled for any acquisition which is relevant to your claim, or to which you would have been entitled were you to have made a relevant acquisition.

If your sum insured or policy limit is not sufficient to cover your loss, we will only pay GST (less any relevant input tax credit) that relates to our proportion of your loss. We will pay that GST amount in addition to your sum insured or policy limit.

'GST', 'input tax credit', 'acquisition' and 'supply' have the meaning given under the A New Tax System (Goods and Services Tax) Act 1999.

NOTES

NOTES

Vero Insurance Limited contact details:

If your property is in New South Wales or ACT:

Vero Warranty

Locked Bag 9000

Chatswood NSW 2067

**If your property is in Victoria, South Australia,
Western Australia or Tasmania:**

Vero Warranty

PO Box 294

Collins Street West

Melbourne VIC 8007

Insured by:

Vero Insurance Limited

ABN 48 005 297 807

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Effective date: 01/09/05

