



Reference
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20 May 2008

The Secretary
Senate Select Committee on Housing Affordability in Australia
PO Box 6100
Parliament House
CANBERRA ACT 2600

Att: Mr Geoff Dawson

Dear Mr Dawson

Thank you for your letters of 1 April and 28 March 2008 inviting the Commissioner for Consumer Affairs and the Premier of South Australia respectively to lodge a written submission to the Senate's Inquiry into Home Warranty Insurance in Australia.

In South Australia, the provisions relating to home building indemnity insurance are contained within the *Building Work Contractors Act 1995* (the BWC Act) (SA). This Act falls under my portfolio as the Minister for Consumer Affairs.

South Australia will not be making a formal submission to the Senate on this occasion however, I would like to make the following general comments. These comments are based on observations made by the Office of Consumer and Business Affairs (OCBA) on particular issues relating to building indemnity insurance.

Under the BWC Act, a building indemnity insurance policy is required to be taken out by a building work contractor for domestic building work contracts where the cost of the building work is \$12,000 or over and requires council approval.

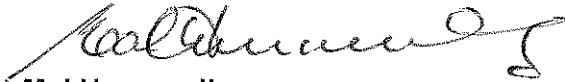
A number of statutory warranties are also implied in every domestic building work contract. The full list of warranties is set out in section 32 of the BWC Act. The warranties protect consumers for up to five years from the completion of the work and are available to both the original purchaser of the house and all subsequent purchasers.

Under the BWC Act the consumer can make a claim on the insurance policy only if the building work contractor has breached one of the statutory warranties and is either dead, has disappeared or is insolvent.

If the builder breaches any of the warranties under section 32 and the builder is not dead, has not disappeared or is not insolvent, then consumers must seek compensation from the building work contractor.

The Office of Consumer and Business Affairs will be monitoring the progress of the Senate's Inquiry. Any reports that may come out of the Inquiry should be sent to the Commissioner for Consumer Affairs.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mal Hemmerling', with a stylized flourish at the end.

Mal Hemmerling
Commissioner for Consumer Affairs