

Licensee application guidelines

Home building compensation
regulation

January 2018

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1. Introduction

- 1.1 The State Insurance Regulatory Authority (SIRA) is the NSW government organisation responsible for regulating insurance and alternative indemnity products (building cover contracts) under the *Home Building Act 1989* (the Act).
- 1.2 These guidelines have been developed to outline SIRA's expectations of applicants seeking a Home Building Compensation (HBC) licence, including their ability to meet the requirements of a licensee under the HBC Scheme.
- 1.3 This document should be read in conjunction with the Act, the Home Building Regulation 2014 (the Regulation) and the Insurance Guidelines issued by SIRA under section 103ED of the Act (collectively the HBC legislative framework).

2. Commencement

- 2.1 These guidelines apply to all applications made on or after 1 January 2018 under the HBC Scheme.

3. Defined terms

- 3.1 In these Guidelines, terms that are defined in the Act or the Regulation have the same meaning as they do in the Act or Regulation unless otherwise specified.

Term	Definition
Act	<i>Home Building Act 1989</i> (NSW)
AFSL	Australian Financial Services Licence issued by ASIC
APRA	The Australian Prudential Regulation Authority established by the <i>Australian Prudential Regulation Authority Act 1998</i> and any successor authority
ASIC	Australian Securities & Investments Commission
building cover contract	A contract of insurance under Part 6 of the Act or a contract or arrangement for the provision of cover by means of an alternative indemnity product
contractor	A person who is required by Part 6 of the Act to enter into a building cover contract
HBC	home building compensation
HBC provider	A licensed insurer or a licensed provider as defined under the Act
HBC legislative framework	Represented by the Act, Regulation and Insurance Guidelines

Term	Definition
independent directors	Means an independent director for the purpose of APRA's GPS 510 Governance
Insurance Guidelines	All Insurance Guidelines issued and currently published by SIRA under Division 4 of Part 6 of the Act.
PCA	Prescribed capital amount
Regulation	Home Building Regulation 2014
SIRA	State Insurance Regulatory Authority

4. Guideline-making powers

- 4.1 These guidelines specify the eligibility criteria and requirements for a licence under Part 6C of the Act.
- 4.2 SIRA has issued these HBC licensee application guidelines under sections 103ED(1) and 105F(6) of the Act.
- 4.3 Under section 103ED(4) of the Act, these guidelines adopt the provisions of the General Insurance Prudential Standards issued by APRA, in force from time to time, with modification if specified.

5. Licence application

Purpose

- 5.1 SIRA considers HBC licence applications and grants licences in accordance with the Act, the Regulation and these guidelines.
- 5.2 Prospective applicants are encouraged to contact SIRA as early as possible to discuss their intent to apply for a licence. SIRA will coordinate a pre-application meeting to discuss the application process, legislative and licensing requirements and SIRA's expectations of licensees.

Legislative requirements

- 5.3 Section 105F(2) of the Act states that SIRA may take into consideration the following matters in determining an application for a licence as a licensed insurer:
 - 5.3.1 the suitability of the applicant
 - 5.3.2 the paid-up share capital and reserves of the applicant
 - 5.3.3 the constitution of the applicant (if any)
 - 5.3.4 the re-insurance arrangements of the applicant
 - 5.3.5 the efficiency of the insurance scheme generally (including any alternative arrangements under Part 6B of the Act)
 - 5.3.6 any applicable Insurance Guidelines, and
 - 5.3.7 any other matters that SIRA thinks fit.

- 5.4 Section 105F(3) of the Act states that SIRA may take into consideration the following matters in determining an application for a licence as a licensed provider:
- 5.4.1 the suitability of the applicant
 - 5.4.2 the efficiency of the insurance scheme generally (including any alternative arrangements under Part 6B of the Act)
 - 5.4.3 any applicable Insurance Guidelines, and
 - 5.4.4 any other matters that SIRA thinks fit.

Qualifications

- 5.5 The application qualifications specified below represents the minimum requirements of applicants.

Insurer applicant

- 5.6 Section 105C of the 1989 Act states that an application for a licence as a licensed insurer may be made by any corporation that carries on insurance business within the meaning of the *Insurance Act 1973 (Commonwealth)* (1973 Act).
- 5.7 An application cannot be made unless that corporation is authorised to carry on the insurance business in accordance with the 1973 Act. Evidence of the authority is required by SIRA before a licence application can be made by the licensed insurer.

Provider applicant

- 5.8 The composition of the board of the applicant or board of the trustee of a fidelity fund must include a majority of independent directors.
- 5.9 The composition of the board of the applicant or board of the trustee of a fidelity fund must include a majority of directors who ordinarily reside in Australia.
- 5.10 The directors of the applicant or trustee of a fidelity fund must be 'fit and proper persons' (consistent with the meaning within APRA's CPS 520 'Fit and Proper').

Provider applicants other than fidelity funds

- 5.11 The applicant must be domiciled in Australia.
- 5.12 The majority ownership and control of the applicant must rest with Australian-based shareholders.
- 5.13 The applicant and/or its substantial shareholders must be financially sound.
- 5.14 The constitution must:
- 5.14.1 allow contributions on a project basis and not restrict builders from obtaining cover elsewhere
 - 5.14.2 include a requirement that the assets are vested in the Insurance Guarantee Fund or as directed by SIRA in the event of insolvency or cancellation of the licence.

Fidelity funds

- 5.15 Fidelity fund schemes must be structured as trusts.
- 5.16 The trustee of a fidelity fund scheme must be a corporate trustee who will act as the operator of the fidelity fund scheme.
- 5.17 The trustee of the fidelity fund must be domiciled in Australia.
- 5.18 Ownership and control of the trustee of a fidelity fund must be restricted to Australian-based shareholders (greater than 50 per cent).
- 5.19 The trustee and/or substantial shareholders of the trustee must be financially sound.
- 5.20 The trustee must be the applicant for the licence (section 105D(2) of the Act).
- 5.21 The constitution/trust deed must:
 - 5.21.1 allow contributions on a project basis and not restrict builders from obtaining cover elsewhere
 - 5.21.2 not allow builders to withdraw from the fidelity fund scheme once their relevant contribution has been received for a particular building cover contract unless the work has not proceeded
 - 5.21.3 not allow for any borrowings except with the prior approval of SIRA in compliance with the requirements of the Insurance Guidelines
 - 5.21.4 must include a requirement that the Trust's assets are vested in the Insurance Guarantee Fund or as directed by SIRA in the event of insolvency or cancellation of the licence.

Assessment process

- 5.22 When an application is received, it will be reviewed prior to assessment to ensure all required information is present.
- 5.23 SIRA will assess applications according to these Guidelines and requirements of the Act and the Regulation.
- 5.24 The application for approval for a HBC licence will remain valid until it is granted or refused by SIRA under section 105F(1) of the Act.

Additional information to support an application

- 5.25 SIRA will consider information from a variety of sources including data received from the applicant and from any on-site audits, interviews, inspections and any relevant external sources.
- 5.26 Additional information may be requested from the applicant during the assessment, and meetings may be held to discuss the application. SIRA will keep the applicant informed of the application progress.

After initial approval

- 5.27 If an applicant is granted a licence, SIRA will closely monitor the HBC provider's compliance with the HBC legislative framework and liaise regularly with the HBC provider regarding its performance.

If an application is refused

- 5.28 If SIRA makes a decision to refuse an application for a licence, SIRA will provide the applicant with notification in writing, detailing the reason(s) why the application was refused and details.
- 5.29 The applicant has the right to apply to the NSW Civil and Administrative Tribunal for an administrative review of SIRA's decision to refuse the application for a licence.

6. Required information to support a licence application

- 6.1 This section outlines the information required to support an application for a licence under Part 6C of the Act.

New licence applications must be accompanied with a written authority (see Appendix 1).

- 6.2 The applicant must have the capacity and commitment to operate the home building compensation business on a continuing basis with integrity, prudence and professional skill.
- 6.3 The applicant must have processes and systems that will ensure compliance with all laws, regulations, guidelines, rules and licence conditions applicable from the time that the licence is granted.
- 6.4 Where an applicant is required to demonstrate a capacity, capability or similar, they must provide sufficient evidence to support a reasonable conclusion by SIRA. Supporting material should be referenced in accordance with these requirements otherwise the application may not be accepted.
- 6.5 Failure to provide the information required may result in the application being refused.
- 6.6 Applicants may state in their application why provisions of the Insurance Guidelines should not apply to their application, however SIRA reserves the right to apply the Insurance Guidelines.
- 6.7 The following information must be provided with a HBC licence application.

Applicant information

Insurer applicant

- 6.8 An insurer applicant is required to submit:
 - 6.8.1 name of applicant (and trading name if applicable), Australian Business Number (ABN)
 - 6.8.2 registered office of applicant
 - 6.8.3 copy of the constitution of the applicant (if applicable)
 - 6.8.4 particulars of major shareholders
 - 6.8.5 directors and related companies of the applicant including:

- a) names and addresses
- b) other directorships held
- 6.8.6 contact person and their contact details
- 6.8.7 details of any home building licence or authority held by the applicant or related company in other Australian states or territories. Details should include the date the licence or authority was first granted and any outstanding claims and claims liability for each licence held
- 6.8.8 details of any cancellation, suspension or refusal of a home building licence or other insurance licence of the applicant or related company
- 6.8.9 copies of audited financial statements for the past three years for the applicant company, ultimate Australian holding company and if applicable, the overseas holding company
- 6.8.10 a letter authorising APRA and ASIC to release information pertaining to the applicant to SIRA and for SIRA to share information with APRA and ASIC
- 6.8.11 any other evidence to demonstrate satisfaction of the qualifications.

Provider applicant

- 6.9 A provider applicant is required to submit:
 - 6.9.1 name of applicant (and trading name if applicable), Australian Business Number (ABN) or Australian Registered Scheme Number (ARSN) if applicable
 - 6.9.2 registered office of applicant
 - 6.9.3 copy of the trust deed and/or constitution (if applicable)
 - 6.9.4 details (including sufficient information to demonstrate being 'fit and proper') and contact details of the directors
 - 6.9.5 details and contact information of the trustee
 - 6.9.6 contact person and their contact details
 - 6.9.7 details of auditors and actuaries
 - 6.9.8 details of any home building licence or authority held by the applicant or related trust in other Australian states or territories. Details should include the date the licence or authority was first granted and any outstanding claims or claims liability for each licence held
 - 6.9.9 details of any cancellation, suspension or refusal of a home building licence or other insurance licence of the applicant or related company
 - 6.9.10 copies of audited financial statements for the past three years for the applicant trust (if applicable), trustee and shareholders
 - 6.9.11 letter authorising ASIC to release information pertaining to the applicant to SIRA and for SIRA to share information with ASIC
 - 6.9.12 copy of the AFSL issued by ASIC (if the applicant is not required to obtain an AFSL then additional application requirements may apply)
 - 6.9.13 copy of the documents provided to ASIC for the purpose of applying for an AFSL
 - 6.9.14 copy of the compliance plan required under the AFSL

6.9.15 any other evidence to demonstrate satisfaction of the initial qualifications.

Product categories nomination

- 6.10 The applicant is to nominate the product categories that the applicant is applying to cover:
- 6.10.1 construction period cover, which provides a minimum of \$340,000 of cover for home owners against a loss due to non-completion and associated breaches of statutory warranty during the construction period
 - 6.10.2 warranty period cover, which provides a minimum of \$340,000 of cover for home owners against a loss after the work is complete for the duration of the statutory warranty period
 - 6.10.3 combined cover, which provides a minimum of \$340,000 of cover for both the construction and warranty periods
 - 6.10.4 additional products or extension of cover that provide for matters beyond the minimum requirements set out in the Act and regulations.
- 6.11 Applicants may apply to provide only one or some form(s) of HBC cover.

Provider applicant

- 6.12 SIRA must approve the use of an alternative indemnity product instead of an insurance contract under section 104A of the 1989 Act. The approval may be subject to additional conditions on licence if the application is approved.

Business case

- 6.13 The applicant is required to submit its business case when applying for a HBC licence.
- 6.14 The applicant's business case must establish capability to apply for a licence and demonstrate reasonable plausibility and viability of its proposal to establish and operate a home building licensing arrangement for its insurance or alternative indemnity cover business.
- 6.15 Information to be provided as part of the business case must include, although is not limited to, the following:
- 6.15.1 the proposed operating model for the delivery of improved home building outcomes for contractors and claimants
 - 6.15.2 anticipated outcomes to be delivered to builders and home owners
 - 6.15.3 an outline of proposed key resources including systems and infrastructure that will support the intended licensee's business of establishing eligibility throughout NSW, setting premiums/contributions, handling claims and holding adequate capital including all branch locations and any intended outsourcing arrangements
 - 6.15.4 a listing of 'responsible managers' being those individuals who are:
 - a) directly responsible for significant day-to-day decisions about the ongoing operation of the applicant
 - b) are of good fame and character, and
 - c) have the competence, experience and expertise required to operate the scheme and protect the interests of its members and consumers.
 - 6.15.5 analysis of the financial viability of establishing and maintaining its business if a licence was granted. The profit and loss projection to cover a

ten year period including actuarial projections of number of policies written, premiums written or contributions received (in the case of a licensed provider applicant), gross and net incurred claims, expenses incurred and a list of underlying assumptions.

- 6.15.6 financial arrangements for this class of business for a 10-year period including projected balance sheets (with outstanding claims liability and unearned premium noted as a minimum) and projected capital adequacy
- 6.15.7 any plans to raise additional capital proposed application and implementation timeframes.

Business plan

- 6.16 The applicant is required to submit a business plan prepared in accordance with the *HBC Business Plan Guidelines* with an accompanying risk management and control framework.
- 6.17 The risk management and control framework must be adequate and appropriate to monitor and limit risk exposures in relation to its business from the commencement of operations.

Eligibility model

- 6.18 The applicant is required to submit:
 - 6.18.1 an eligibility model prepared in accordance with the *HBC Eligibility Guidelines* including:
 - a) eligibility assessment criteria
 - b) application procedures
 - c) service standards
 - d) draft forms and publications
 - e) information to be made available on the website.
 - 6.18.2 details of senior staff member(s) who will be responsible for managing the HBC eligibility model, decision making and administration. These details include name, previous positions held, qualifications and experience
 - 6.18.3 the proposed organisational structure of the eligibility section and authority levels
 - 6.18.4 details of the planned professional development program for staff engaged in determining eligibility appropriate to their experience and skills and approved policy.

Claims management

- 6.19 The applicant is required to submit:
 - 6.19.1 a claims management model prepared in accordance with the *HBC Claims Handling Guidelines* including:
 - a) claims procedures
 - b) service standards
 - c) draft forms and publications
 - d) information to be made available on the website, and
 - e) claims settlement procedures and time frames with the service provider.
 - 6.19.2 a copy of the applicant's claims reserving policy

- 6.19.3 details of senior staff member(s) who will be responsible for HBC claims management and administration. These details include name, previous positions held, qualifications and experience.
- 6.19.4 proposed organisational structure of the claims management section including proposed number of claims per claims officer.
- 6.19.5 details of the proposed administrative facilities for secure private record-keeping and location
- 6.19.6 details of the planned professional development program for staff engaged in home building compensation activities for assessment, settlement and reserving appropriate to the type of claim, their experience and skills and approved reserving policy
- 6.19.7 details of how any third party provider will be managed to comply with the *HBC Claims Handling Guidelines* and the applicant's claims management model.

Market practices and premiums/contribution setting

- 6.20 The applicant is required to submit:
 - 6.20.1 premium/contribution filings to be submitted for the nominated product categories prepared in accordance with the *HBC Premium/Contribution Guidelines*
 - 6.20.2 copies of draft insurance contracts or alternative indemnity cover agreements, brochures to be provided to contractors and information to be published or distributed to promote the applicant's HBC business
 - 6.20.3 planned marketing and advertising plans to achieve market penetration and build market share.
 - 6.20.4 details of any proposed broker remuneration schedules
 - 6.20.5 details of senior staff member(s) who will be responsible for HBC premium/ contribution setting. These details include name, previous positions held, qualifications and experience.
 - 6.20.6 the proposed organisational structure of the premium/contribution section
 - 6.20.7 details of the planned professional development program for staff engaged in home building compensation activities for premium/contribution setting to ensure ongoing viability of the licensee.

Complaint handling and review processes

- 6.21 The applicant is required to submit:
 - 6.21.1 complaints management processes prepared in accordance with the *HBC Eligibility Guidelines, Claims Handling Guidelines* and *Premium/Contribution Guidelines*
 - 6.21.2 details of senior staff member(s) who will be responsible for HBC complaints handling and review processes. These details include name, previous positions held, qualifications and experience.
 - 6.21.3 the proposed organisational structure of the different complaints management sections
 - 6.21.4 an indication of the applicant's ability to use the information received from the complaint handling and review processes to continuously improve its eligibility model, claims management model and premium/contribution setting processes.

Prudential management

Insurer applicant

- 6.22 An insurer applicant is required to submit:
- 6.22.1 evidence of APRA's authority or, if in the process of applying for an authority to carry on an insurance business, advice on the status of an applicant's negotiations with APRA and copies of any correspondence to/from APRA regarding the application
 - 6.22.2 details of any other general insurance authorities held by related companies, if applicable
 - 6.22.3 copies of the last two calculated minimum capital requirement multiples, as required and defined by APRA
 - 6.22.4 copies of the last three audited annual returns lodged with APRA, together with auditor's certificates
 - 6.22.5 copies of the latest returns lodged with APRA, if these are for a period after the latest annual return lodged under the requirement above
 - 6.22.6 evidence of meeting SIRA's HBC Prudential Guidelines standards and requirements.

Provider applicant

- 6.23 A provider applicant is required to submit:
- 6.23.1 evidence and demonstration where applicable of meeting each of SIRA's *HBC Prudential Guidelines* standards and requirements including the provision of all information as required by the Guidelines including:
 - 6.23.2 a capital management plan
 - 6.23.3 a clear comprehensive Insurance Management Strategy framework (the equivalent of a Reinsurance Management Strategy required by APRA's *GPS 230 Reinsurance Management*) that:
 - a) is clearly documented and approved
 - b) takes into account the applicant's underwriting strategies and appetite for retained business risk
 - c) reflects the nature, scale and complexity of the business to be protected
 - 6.23.4 evidence to demonstrate that the trustee of a fidelity fund scheme/and or substantial shareholders of the trustee will be willing and able to contribute additional capital if required.

Other information

- 6.24 Completed and signed declaration (see Appendix 1).
- 6.25 Any other information that SIRA may consider relevant to the conduct and prudential management capability of the applicant.

7. Application assessment

7.1 This section describes the way SIRA will assess applications for a HBC licence.

Qualifications

Insurer applicant

7.2 SIRA will confirm with APRA that the insurer applicant has an authority to carry on the insurance business in accordance with the 1973 Act.

Provider applicant

7.3 SIRA will check that the qualification requirements have all been met.

7.4 SIRA will assess whether directors meet the 'fit and proper persons' test by reference to APRA's CPS 520 principles that the directors have the appropriate skills, experience and knowledge of the home building industry and have previously demonstrated their honesty and integrity.

7.5 For fidelity funds, SIRA will assess whether the trustee and/or substantial shareholders of the trustee are financially sound by reviewing the past three years of audited financial statements to be satisfied that the entity is:

7.5.1 adequately capitalised, without any undue reliance on external borrowings (i.e. is conservatively geared)

7.5.2 has a sound profit history

7.5.3 demonstrates strong liquidity, and

7.5.4 demonstrates positive cash flows.

Ability to meet the regulatory principles

7.6 SIRA will assess the applicant's ability to meet the regulatory principles of conduct, and prudential management as follows:

SIRA expectation

The applicant will demonstrate its ability to ensure that its home building compensation business is conducted efficiently, honestly and fairly.

Eligibility, claims and premiums or contributions information

7.7 SIRA will assess the applicant's ability to report certificates of cover, claims, premium/contribution and complaints data and information by validating test submissions received by the applicant's systems for acceptance.

7.8 The applicant must have information and accounting systems that are adequate for maintaining records and reporting to SIRA in the required manner from the commencement of operations.

Business plan

7.9 SIRA will assess the business plan against the requirements set out in section 5.1 and 5.2 of the *HBC Business Plan Guidelines*.

- 7.10 SIRA will also assess the risk management and control framework to ensure it is adequate and appropriate in a manner consistent with the requirements of APRA's *GPS 220 Risk management*.

Eligibility model

- 7.11 SIRA will assess the eligibility model and the proposed dispute resolution processes for:
- 7.11.1 compliance with requirements of the *HBC Eligibility Guidelines*.
 - 7.11.2 compliance and alignment with the legislative requirements of the Act and the Regulation.
- 7.12 SIRA will also assess whether there are appropriate resources planned to meet the eligibility principles by reviewing the processes, planned staffing arrangements, administrative arrangements and training and development programs.

Claims management

- 7.13 SIRA will assess the applicant's claims management models and the associated complaint handling and review processes for:
- 7.13.1 compliance with the requirements of the *HBC Claims Handling Guidelines*
 - 7.13.2 compliance and alignment with home building legislative requirements of the Act and the Regulation.
- 7.14 SIRA will also assess whether the applicant has sufficiently demonstrated its claims management capability and capacity to support a HBC business in NSW and comply with legislative requirements by reviewing the processes, planned staffing arrangements, administrative arrangements and training and development programs.

Premium/ contribution setting

- 7.15 SIRA will assess the applicant's premium or contribution filing, draft premium or contribution information and complaint and disputes process for:
- 7.15.1 compliance with the requirements of the *HBC Premium Guidelines*
 - 7.15.2 compliance and alignment with home building contribution legislative requirements of the Act and the Regulation.
- 7.16 SIRA will also assess whether there are appropriate resources planned to meet the premium/ contribution principles by reviewing the processes, planned staffing arrangements, administrative arrangements and training and development programs.

Premium compliance/audit program

- 7.17 SIRA will assess whether applicant's plans for a robust premium compliance/audit program. This program will be to ensure that contractors within their portfolio of insurance are compliant with the relevant NSW risk ratings assessed to them, as well as the legislation, guidelines and rulings as issued and maintained by SIRA.

Prudential management

SIRA expectation

The applicant must demonstrate its ability to maintain at all times financial viability, prudent claims reserving policies and sufficient financial resources to meet its liabilities under the Act or under building cover contracts issued under the Act

Business model

- 7.18 SIRA will assess the viability of the applicant's proposal to establish and operate a home building licensing arrangement for its insurance or alternative indemnity cover business.
- 7.19 The assessment will include, but is not limited to, a review of the:
- 7.19.1 policies and procedures developed in accordance with the Guidelines
 - 7.19.2 reasonableness of the business model and assumptions
 - 7.19.3 the link demonstrated between experience and assumptions
 - 7.19.4 ability to continue to meet prudential requirements in the event experience differs from the business model.

Prudential management

- 7.20 SIRA will assess the capital and reserves of the applicant and its prudential management plan and governance in accordance with the requirements of the *HBC Prudential Guidelines* and any relevant General Insurance Prudential Standard issued by APRA .

System efficiency

- 7.21 In accordance with section 105F of the Act, SIRA will consider the efficiency of the insurance scheme under the Act generally when determining an application for a HBC licence.

8. Licence approval considerations

Proposed licence conditions

- 8.1 Before SIRA proposes to grant a licence, SIRA will present to the applicant the conditions that that licence will be subject to. The conditions will comprise conditions imposed under statute, standard licence conditions and any specific licence conditions required to mitigate an applicant's risk identified from the licence application assessment process.

Approval requirements

- 8.2 Before SIRA's approval for a HBC licence, the applicant must provide:
- 8.2.1 security in accordance with SIRA's requirements (if applicable)
 - 8.2.2 evidence of its reinsurance policy (for licensed insurers only) or other forms of insurance (for licensed providers only)
 - 8.2.3 any other requirements as stipulated by SIRA.

Licence notification

- 8.3 SIRA will provide 14 days' notice of its proposal to grant a licence to all licence holders in accordance with section 105F(8) of the Act. The notification will be published on its website.

Licence fee

- 8.4 Before SIRA grants a licence, a licence fee of \$50,000 is payable by an insurer applicant and \$60,000 by a provider applicant.
- 8.5 The fee is GST exempt and non-refundable. SIRA will notify the terms of payment.

9. Lodgement

- 9.1 Applicants may lodge a HBC licence application with the Director – Insurer Performance by email: hbcproviders@sira.nsw.gov.au

10. Further information

- 10.1 For any questions regarding the licence application process, please call 13 10 50 or email: hbcproviders@sira.nsw.gov.au

11. Information sharing and protection of information

- 11.1 Information obtained by SIRA in the exercise of its functions under the Act and the *State Insurance and Care Governance Act 2015* may be disclosed where authorised in the Act and the Regulation. Unless specifically authorised under the Act or the Regulation, this information cannot be disclosed without the consent of the person from which it was obtained.
- 11.2 SIRA is authorised under the Act and Regulation to:
- 11.2.1 disclose information, including personal or health information, to specified persons or bodies for the purpose of assisting those persons or bodies exercise functions under the Act
 - 11.2.2 require a licence holder to disclose to SIRA data relating to home building cover contracts or arrangements, claims and other related matters
 - 11.2.3 maintain a register of particulars relating to home building compensation cover
 - 11.2.4 create comparative data to conduct research and assess the performance of the home building compensation scheme
 - 11.2.5 publish de-identified statistical, performance and research reports
 - 11.2.6 provide information to the responsible Minister or as directed by the Minister.

- 11.3 Unless specifically authorised in the Act or Regulation, personal information or health information provided to SIRA can only be handled in accordance with the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*.

Access to information

- 11.4 Although the *Government Information (Public Access) Act 2009* (GIPA) favours disclosure of government information when an access application is made, this is subject to an overriding public interest against disclosure if the disclosure of information could be reasonably expected to prejudice the business interests of any person or corporation.
- 11.5 GIPA provides a consultation mechanism for a person or corporation if an access application is made for information that concerns their business, commercial or financial interests. Any objection to disclosure received in the course of consultation must be taken into account when deciding whether there is an overriding public interest against disclosure.
- 11.6 If SIRA decides to make that information available following an objection, it must notify the person who lodged the objection of the decision. The decision to release over objection is also subject to a right of review by the Information Commissioner or by the NSW Civil and Administrative Tribunal. Information cannot be released while review rights are pending.

Appendix 1

Application for a home building compensation licence



State Insurance
Regulatory Authority

This application is hereby made under Part 6C Division 1 of the *Home Building Act 1989* for a licence as a licence holder.

1. Applicant information

Name of applicant

ABN

Website

Business address (physical address including unit, street number, street name, suburb, state, postcode)

Postal address (if different from business address)

2. Primary contact for correspondence

Name

Daytime contact number

Email address

Business address (physical address including unit, street number, street name, suburb, state, postcode)

Postal address (if different from business address)

3. Applicant declaration

By signing this form, I, [Name of officer]

of [Name of organisation]

- a) certify all information provided by the applicant to the State Insurance Regulatory Authority (SIRA) is true and correct
- b) acknowledge that penalties or imprisonment may apply for providing false, misleading or incomplete information
- c) provide authority to SIRA to seek details from other regulators and authorities about the suitability of the applicant/trustee and/or suitability of individual directors or responsible managers of the applicant/trustee.

Signature

Position

Date (dd/mm/yyyy)

4. Lodgement instructions

Attention:

Director - Insurer Performance

Workers and Home Building Compensation Regulation

State Insurance Regulatory Authority

Locked Bag 2906, Lisarow, NSW 2252

Email: hbcproviders@sira.nsw.gov.au

Appendix 2

Application checklist

This checklist is provided to assist in the application process. It is incumbent upon the applicant to check that all information required within the home building compensation *Licensee Application Guidelines* has been provided.

Qualifications

All qualification requirements have been met.

Application information

All applicant information has been compiled and attached.

Product categories

The application states which product(s) are nominated to be provided under licence.

Business case

The business case has been developed to establish capability and demonstrate reasonable plausibility and viability to establish and operate a home building licensing arrangement for its insurance or alternative indemnity cover business. All required information and analysis has been included to support the business case.

Business plan

The business plan has been developed and included.

Eligibility model

The eligibility model has been developed and included with supporting information.

Claims management

The claims management model has been developed and included with supporting information.

Market practice and premiums/contribution setting

A premium/contribution filing has been developed and included with supporting information.

Complaint handling and review processes

Complaints handling processes have been developed and included with supporting information.

Prudential management

Information has been attached to demonstrate how SIRA's prudential requirements have been met.

Other information

The declaration in the *Application for a home building compensation licence* has been signed and attached to the application.

Any other information that would support the application has been referenced and attached.

Disclaimer

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers.

However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website legislation.nsw.gov.au

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