

## Part B: Other countries

### 1.0 Canada

#### 1.1 Overview

There is no federal government legislation governing builder's home warranty insurance in Canada. Warranty jurisdiction is carried on through the ten Provincial Governments in Canada. There are a range of different schemes throughout the Provinces involving both government and non-government bodies. Overall there is an awareness of the issues and problems in the new home construction industry, and steps have been taken to provide for warranty insurance in some form to assist consumers.

#### 1.2 Provincial Schemes

There are currently three provinces that have mandatory warranty legislation in Canada as follows:

- Ontario [www.newhome.on.ca](http://www.newhome.on.ca)
- Quebec [www.rbq.gouv.qc/plan-de-garantie/anglais/index-an.html](http://www.rbq.gouv.qc/plan-de-garantie/anglais/index-an.html)
- British Columbia [www.hpo.bc.ca](http://www.hpo.bc.ca)

The Ontario scheme was developed in 1976 by the Ontario Home Builders Association and is run as a private nonprofit corporation; the Ontario New Home Warranty Program (ONHWP). Its role is to administer the Ontario Home Warranty Plan Act. The ONHWP is also the sole providers of the warranty insurance cover for the province.

In Quebec the Regie Du Batiment Du Quebec administers the legislation and another agency of government, La Garantie Des Batiments, is the sole provider of warranty insurance.

The British Columbia Home Protection Office (HPO) is a provincial crown corporation formed as a response to the Barrett Commission report on the quality of condominium construction. The corporation provides the licensing controls with private insurers handling the mandatory warranty insurance.

Warranty coverage in the rest of Canada is voluntary. Nevertheless, the federal government housing agency — the Canada Mortgage and Housing Corporation (CMHC), that carries on a mortgage insurance function — requires that buyers who have high ratio mortgage financing (90 per cent or higher), must use a builder that belongs to an approved third party warranty scheme.

The Provinces of Alberta, Saskatchewan, Manitoba and the Atlantic Provinces (Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island) all have industry based non-profit insurance programs. Each of these programs is independent and provides differing coverage from each other. Further details are available on their Websites as follows:

- Alberta NHWP [www.anhwp.com](http://www.anhwp.com)
- Saskatchewan NHWP [www.nhwp.org](http://www.nhwp.org)
- Manitoba NHWP [www.mbnhwp.com](http://www.mbnhwp.com)
- Atlantic HWP covers the Atlantic Provinces [www.ahwp.org](http://www.ahwp.org)

The above four industry sponsored non-profit warranty programs belong to the Canadian Home Warranty Council (CHWC), which is a council of the Canadian Home Builders Association. In addition, the Ontario New Home Warranty Program and one of the industry sponsored Quebec Programs belong to the CHWC.

There are also two 'for-profit' insurance based warranty companies operating in Western Canada (British Columbia, Alberta, Saskatchewan and Manitoba) as follows:

- National Home Warranty Programs [www.nationalhomewarranty.com](http://www.nationalhomewarranty.com)
- Residential Warranty Company of Canada [www.reswar.com](http://www.reswar.com)

In addition, the Residential Warranty Company of Canada operates in the Atlantic Provinces.

Canada

Table 1.1: Building code warranties in selected provinces in Canada

	<b>Ontario</b>	<b>British Columbia</b>	<b>Quebec</b>	<b>Saskatchewan</b>	<b>Alberta</b>	<b>Manitoba</b>
Warranty legislation	Yes, mandatory (1976)	Yes, mandatory (1999)	Yes, mandatory (1998)	No, voluntary industry based program	No, voluntary industry based program	No, voluntary industry based program
Licensing of builders	Yes, mandatory (1976)	Yes, Mandatory (1999)	Yes, mandatory	Yes, voluntary	Yes, voluntary	Yes, voluntary
Controlling body	Yes, Ontario New Home Warranty Program (ONHWP) Non-Government	Yes, Homeowners Protection Office (HPO) Crown corporation	Yes, Regie du batiment du Quebec Government Agency	Yes, Voluntary New Home Warranty Program (NHWP)	Yes, The Alberta New Home Warranty Program	Yes, New Home Warranty Program of Manitoba
Warranty period	1 yr — work & material  2 yrs — water seepage, defects in materials & work  7 yrs — major structural defects	2 yrs — work & materials  5 yrs — water penetration  10 yrs — major structural defects	6 mths — poor workmanship  1 yr — existing but not apparent defects  3 yrs — hidden defects  5 yrs — faulty design, construction or production & unfavourable nature of ground	5 yrs — major structural, with 5 year option	1 yr — materials & workmanship protection from deposit placement to 5 yrs — with 5 yr option for structural integrity coverage	1 yr — workmanship & materials  5 yrs — major structural defects
Enforcement	Fines up to \$100,000	Non registration	Non registration	N/A	N/A	N/A

Table 1.2: Building warranty insurance in selected provinces in Canada

	<b>Ontario</b>	<b>British Columbia</b>	<b>Quebec</b>	<b>Saskatchewan</b>	<b>Alberta</b>	<b>Manitoba</b>
Warranty insurance providers	Private sector (monopoly) Ontario New Home Warranty Program (ONHWP)	Private sector, authorised by HPO office	Private sector	Private sector	Private sector	Private sector
Consumer assistance agency	Yes	Yes	Yes	Yes	Yes	Yes
Maximum claim	\$20,000 deposit protection \$100,000 warranty protection For condominiums common elements covered at \$50,000 per unit to a maximum of \$2.5 million	\$200,000 home \$100,000 units with a maximum of \$2.5 million for common property	\$5,000 relocation, moving & storage of property \$200,000 per housing unit For units \$100,000 per unit up to maximum of \$2 million	\$10,000 deposit \$50,000 warranty Multi units up to \$2 million	\$60,000 deposit protection \$30,000 completion costs if required Maximum of \$60,000 Condo max \$1.5 million	\$50,000 workmanship & materials \$25,000 deposit coverage \$50,000 major structural defects \$3,000 relocation expenses in case of repairs Condominium \$2 million

Table 1.2: Building warranty insurance in selected provinces in Canada (continued)

	<b>Ontario</b>	<b>British Columbia</b>	<b>Quebec</b>	<b>Saskatchewan</b>	<b>Alberta</b>	<b>Manitoba</b>
Compulsory insurance before construction commences?	Yes	Yes	Yes	No	Deposit with registered builder member results in automatic deposit protection.  Builder performance protection coverage takes over at possession	Deposit coverage
Insurance covers failure to meet building standards?	Yes	Yes	Yes	Yes	Yes	Yes
Insurance cover applies to subsidence?	Subject to full evaluation	Yes, if under foundations	Yes	Yes	Refer policy	No, for soil subsidence of land around building or along utility lines & sewer & water trenches, including subsidence or heaving beneath footings or piles of home

Table 1.2: Building warranty insurance in selected provinces in Canada (continued)

	<b>Ontario</b>	<b>British Columbia</b>	<b>Quebec</b>	<b>Saskatchewan</b>	<b>Alberta</b>	<b>Manitoba</b>
Insurance Covers the following	Protection against delays not notified Deposit protection 1 yr — construction defects 2 yr — water penetration, electrical, plumbing, systems, exterior cladding 7 yr — against structural	2 yrs — defect workmanship and materials 5 yrs — water penetration and systems 10 yrs — major structural	6 mths — poor workmanship 1 yr — existing but not apparent defects 3 yrs — hidden defects 5 yrs — faulty design, construction and unfavourable nature of ground	Deposit coverage 1 yr — workmanship and materials 4 yrs — major structural defects Relocation expense in case of repairs	1 yr — materials & workmanship Protection from deposit loss 5 yrs — Structural Integrity Coverage Relocation expense in case of repairs Contractual completion and lien protection	1 yr — workmanship and materials 5 yrs — major structural defects
Time limit on lodgment of claim	1 yr 2 yrs 7 yrs — major structural defects	2 yrs 5 yrs 10 yrs	6 mths — poor workmanship 1 yr — existing but not apparent defects 3 yrs — hidden defects 5 yrs — faulty design, construction and unfavourable nature of ground	1 yr — defect workmanship 2 yrs — water penetration 5 yrs — major structural	1 yr — materials and workmanship protection 5 yrs — structural integrity coverage	1 yr — workmanship and materials 5 yr — major structural defects
Excess to be paid by owners?	Nil	Nil	Nil	Nil	Refer insurance policy	Refer insurance policy

Table 1.2: Building warranty insurance in selected provinces in Canada (continued)

	<b>Ontario</b>	<b>British Columbia</b>	<b>Quebec</b>	<b>Saskatchewan</b>	<b>Alberta</b>	<b>Manitoba</b>
Buildings allowed under scheme	Freehold homes Condominium units but not renovations	New dwellings Multi-unit developments Apartments Mixed use commercial Building envelop renovators post 2000	Detached, semi-detached and row type single family dwellings Multi-family buildings	New dwellings Multi-unit developments Apartments	New homes Approved condominium projects	Single family dwellings Condominium apartments and townhouses Semi-detached and duplexes Senior citizen projects First Nation's housing Non-profits Conversions from commercial to residential
Builders required to meet minimal financial criteria	Yes	Yes — set by insurer	Yes	Yes	Yes	Yes
Dispute resolution	Detailed process involving ONHWP (inspection and conciliation) Appeal through License Appeal Tribunal (LAT)	Mandatory mediation at request of Owner If unsuccessful courts	Plan manager may recommend solution, or mediation (cost shared by parties), or arbitration by body authorised by regie du batiment du Quebec	Binding Conciliation managed by NHWP	Mediation Conciliation Binding Arbitration	Mediation Binding Conciliation

## 2.0 United States of America

### 2.1 Overview

There is no federal legislation covering home warranty insurance and it is left up to the individual states to implement various controls. Overall there has been a reluctance to apply mandatory controls, with New Jersey and Louisiana the exceptions. There are implied warranties for completion of a habitable dwelling and correction of defects by builders. The states have also generally provided a statute of limitations of around 10 years on claims for compensation for major structural faults.

There are associations such as the National Association of Home Builders (NAHB) providing advice to builders, but they are not involved in registering their members or providing warranty cover. Building Warranty Insurance, however, is freely available through various private insurance companies such as Quality Builders Warranty Corporation (QBW).

### 2.2 New Jersey Home Warranty Legislation

The New Home Warranty and Builders' Registration Act was enacted in 1977 to provide a broad scope for the warranty of a new home and standards for construction and quality of the structural elements and components of a new home.

Basically, the law requires a builder to register with the State of New Jersey before starting construction of any new home and before offering a warranty on any new home bought and sold in the State.

The law and regulations provide limited ten-year warranty coverage against defects of materials, workmanship and systems in a new home. The law requires a builder to warrant each new home and to provide warranty follow-up services: the builder is the warrantor of the home. In the event the builder does not make repairs on claims for which the builder has been found responsible, then the State New Home Warranty Security Fund covers the cost of these repairs.

The law and regulations also provide a process through which the builder and the homeowner can resolve disputes over corrections of such defects. If a builder is found negligent and/or does not participate in the prescribed dispute settlement process, the builder's registration can be suspended or revoked, thus preventing the builder from building new homes in New Jersey.

#### *2.2.1 Who must register*

All builders of owner-occupied new homes, including single family, town house, duplex (two-family), cooperative, condominium, factory-built and modular residences are required to register with the New Home Warranty insurance Program.

#### *2.2.2 Warranty coverage*

The liability of a builder under a warranty is limited by law to the purchase price of the home in the first good faith sale or the fair market value of the home on its completion date, if there is no good faith sale.

During the first year of a new home's warranty, warranty coverage extends to defective systems, workmanship, materials, plumbing, electrical and mechanical systems, appliances, fixtures and equipment and major structural defects.

From the commencement date of the warranty up to two (2) years from that date, the mechanical, electrical and plumbing systems and major structural defects are covered. The builder is responsible for warranty coverage during the first two (2) years.

During the third through tenth years of coverage, only major structural defects are covered.

### *2.2.3 Warranty Security Plans*

A registered builder is also required by law to enrol in a warranty insurance plan. A builder may participate in the State Plan offered by the New Home Warranty Program or one of the private warranty plans approved by the New Home Warranty Program.

### *2.2.4 Private Warranty Plans*

Basically, these plans must offer the same warranty coverage as is required by law. Performance standards that are specified in the New Home Warranty and Builders' Registration Act regulations apply for all approved plans. The New Home Warranty Program can provide builders with a current list of approved private warranty plans.

### *2.2.5 State Warranty Plan*

The State Warranty Plan is open to all registered builders. Any builder not participating in an approved private warranty plan is automatically enrolled in the State Plan.

### *2.2.6 Cost*

The rate for each new home enrolled is based upon a builder's warranty enrolment and dispute settlement records. New builders or average performers pay around \$3.19 per \$1,000. For builders with ten (10) years/no claims, it drops to below \$2 per \$1,000. Poor performing builders pay a premium.

## **2.3 New Home Warranty Act — Louisiana**

### *2.3.1 Purpose*

The legislature finds a need to promote commerce in Louisiana by providing clear, concise and mandatory warranties for the purchasers and occupants of new homes in the state and by providing for the use of home owner's insurance as additional protection for the public against defects in the construction of new homes.

### *2.3.2 Warranties*

Every builder warrants to the owner:

- One year following the warranty commencement date, the home will be free from any defect due to non-compliance with the building standards.
- Two years following the warranty commencement date, the plumbing, electrical, heating, cooling and ventilating systems exclusive of any appliance, fixture and

equipment will be free from any defect due to non-compliance with the building standards.

- Ten years following the warranty commencement date, the home will be free from major structural defects due to non-compliance with the building standards.

### *2.3.3 Required notice*

Before undertaking any repair him or herself or instituting any action for breach of warranty, the owner shall give the builder written notice, by registered or certified mail, advising any defects and giving the builder a reasonable opportunity to comply with the provisions of the law.

### *2.3.4 Insurance*

All or part of the builder's obligation under any warranty required in this Act shall be insured by the builder for the benefit of the purchaser through an insurance company authorised to transact business in Louisiana.

### *2.3.5 Transfer of warranty and insurance*

Any warranty imposed under the provisions of this Law and any insurance benefit shall automatically transfer without charge, to a subsequent owner who will acquire title to the home. Any transfer of the home shall not extend the duration of any warranty or insurance coverage.

### *2.3.6 Violations: limitations*

- If a builder violates the provisions by failing to perform as required by the warranties provided, any affected owner shall have a cause of action against the builder for actual damages, including attorney fees and court costs, arising out of the violation. The damages with respect to a single defect shall not exceed the reasonable cost of repair or replacement necessary to cure the defect in the home and shall not exceed the original purchase price of the home.
- The parties may provide for the arbitration of any claim in dispute.

## **2.4 Private Insurer USA (example of features)**

### *2.4.1 Quality Builders Warranty Corporation (QBW)*

The company commenced in 1985 and is backed by Liberty Insurance with a License to operate in each state.

The scheme is approved and accepted by:

- Federal Housing Authority/Housing and Urban Development (FHA/HUD).
- Veteran Administration (VA).
- Farmer Home Administration.

#### 2.4.2 Coverage

**Year one** — Builder warrants meeting QBW’s warranty standards for workmanship and materials. If the builder is unable to comply with these standards QBW will meet the warranty requirements.

**Year two** — Warranted against defects in wiring, piping and ductwork, home systems and structural defects as defined by the warranty.

**Year three to ten** — Should a major structural defect occur QBW would either replace or repair the structure to restore its integrity.

The warranty is transferable on sale of the house.

#### 2.4.3 Registration of Builders

QBW screens builders for technical knowledge, craftsmanship and financial stability before registration under the scheme.

#### 2.4.4 Complaint Handling

Complaints are handled in a very structured manner:

- **Step one** — Buyer must provide builder with written notice of defects and attempt to resolve the matter at that point.
- **Step two** — If unsuccessful, QBW will review the complaint and if necessary appoint an investigator.
- **Step three** — If still unresolved QBW will arrange a mandatory arbitration that is binding in States where permissible.

United States of America

Table 2.1: Building code warranties in New Jersey and Louisiana

	<b>New Jersey</b>	<b>Louisiana</b>
Warranty legislation	Yes, mandatory New Home Warranty and Builders’ Registration Act	Yes, mandatory New Home Warranty Act
Licensing of builders	Yes, mandatory	No
Controlling body	State New Home Warranty Security Fund	Not available
Warranty period	1 yr — materials & workmanship 2 yrs — systems 10 yrs — major structural	1 yr — materials & workmanship 2 yrs — systems 10 yrs — major structural
Enforcement	Deregistration of builders	N/A

Table 2.2: Building warranty insurance in New Jersey and Louisiana

	<b>New Jersey</b>	<b>Louisiana</b>	<b>Example Of Insurers Builders Warranty Insurance</b>	<b>Example Of Insurers Home Builders Warranty</b>
Warranty insurance providers	State & nominated private insurers	Private sector approved to operate in the State	Private (Quality Building Warranty Insurance (QBW) corporation)	Private (Home Builders Warranty Insurance)
Consumer assistance agency	Provided by Agency	Yes	N/A	N/A
Maximum claim	First sale price of property	As per policy	As per policy	As per policy
Compulsory insurance before construction commences?	Yes	Yes	Yes	Yes
Insurance covers failure to meet building standards?	Yes	Yes	Yes	Yes
Insurance cover applies to subsidence?	Yes, if under the foundations	As per insurance policy	As per policy	As per policy
Insurance Covers the following	1 yr — free from any defects due to non compliance with building standards  2 yrs — plumbing, electrical, heating/cooling, ventilation, appliances, fixtures and equipment  10 yrs — major structural	1 yr — free from any defects due to non compliance with building standards  2 yrs — plumbing, electrical, heating/cooling, ventilation, appliances, fixtures and equipment  10yrs — major structural	1 yr — workmanship and materials  2 yr — defects wiring, piping, duct work and systems.10yr. major structural	
Time limit on lodgment of claim	Must be within the 1 yr, 2 yrs or 10 yr warranty periods	Within warranty periods	Within warranty period	Within warranty period
Excess to be paid by owners?	No	As per insurance policy	N/A	N/A

Table 2.2: Building warranty insurance in New Jersey and Louisiana (continued)

	<b>New Jersey</b>	<b>Louisiana</b>	<b>Example Of Insurers Builders Warranty Insurance</b>	<b>Example Of Insurers Home Builders Warranty</b>
Buildings allowed under scheme	All new residential, homes, units, etc.  Excludes properties for rental purposes	New structure designed and used for residential use	New homes	New homes
Builders required to meet minimal financial criteria	Not by the state Scheme	As per insurance policy	Yes	Yes
Dispute resolution	State uses a low cost adjudication, which they call Arbitration  Insurers use inspectors before Arbitration	Arbitration Court processes for damages	Investigation by QBW Arbitration  Binding if State Law allows	Binding Arbitration

## 3.0 United Kingdom

### 3.1 Overview

In 1985 the Building Act was passed creating a milestone in the operation of building controls, which hitherto had been the prerogative of local authorities. The Building Act was one of a series of measures put forward by Michael Heseltine — Minister for the Environment, to transfer both central and local government functions to the private sector.

The Act, which sought to regulate certain building practices through inspection activities, allowed private organisations and individuals to be registered as ‘approved inspectors’.

Currently there are thirteen (13) corporate and twenty (20) individual ‘approved inspectors’.

There is no legislation making new home warranties compulsory, and no statutory builder registration procedures. However, the non-statutory ‘Buildmark’ insurance scheme run by the National House and Building Council (NHBC), which is a private association, covers about 90 per cent of new homes built for sale.

The two major providers of building warranty inspection and insurance for new homes and residential developments are the NHBC and Zurich Municipal insurance. The Federation for Master Builders also provides a scheme, but it is used mainly for alterations and additions rather than new builds.

### 3.2 Providers

#### 3.2.1 National House Building Council (NHBC)

Established over 60 years ago, the NHBC is a non-government setter and inspector of building standards for the new homes industry in the United Kingdom. In 1985, NHBC became an ‘approved inspector’ under the Building Act and in 1997 the license was derestricted to cover any developments in the United Kingdom.

The NHBC also provide a regulatory system which works by:

#### *Registering house builders*

Over 18,000 house builders who construct approximately 85 per cent of the new homes built each year in the United Kingdom are registered with NHBC. Builders who apply for registration are put through a technical and financial vetting system and approximately 10 per cent of applications are rejected as a result. Failure to comply with NHBC Rules or Standards can lead to investigation and ultimately deletion from the Register.

#### *Setting standards and inspecting during construction*

NHBC set construction standards in addition to those covered by the building legislation and carry out inspections at key stages during construction.

#### *Providing homebuyer protection*

NHBC provides a range of warranty and insurance services that house builders can pass on to homebuyers such as the ten-year Buildmark Warranty Insurance cover. NHBC also offer a range of warranty and insurance services for conversions, community housing and self build projects.

### 3.2.2 *Buildmark Warranty Insurance*

The Buildmark Cover is a ten-year warranty and insurance policy divided into three main sections.

#### 1. Before the property is completed.

If the builder does not start or complete the home due to insolvency or fraud, Buildmark will either reimburse the owner with the money they have paid the builder and which they cannot recover, or pay for the property to be finished in accordance with the building standards. There is a financial limit of £10,000 or 10 per cent of the purchase price (whichever is the greater) to this section of the cover.

#### 2. The first two years

During the first two (2) years after the legal completion of the first sale of the home, Buildmark covers owners against any physical damage to the home caused by a defect that results from the builder's failure to meet NHBC Standards.

Under this part of Buildmark, the builder is responsible for any repairs necessary. The homeowner should report any faults in writing. If the builder fails to rectify the problems, NHBC offers a free Resolution Service that aims to resolve disputes between the builder and the homeowner. Under the Resolution Service, NHBC can also help arrange the remedial work needed to put things right if the builder fails to do so. Subject to conditions, NHBC insures the builder's obligations in this section.

#### 3. Years three to ten

For the next eight years, Buildmark provides direct insurance cover to the owner for the full cost, if it is more than £500 (at April 1999 prices indexed) of putting right any physical damage to the home caused by a structural defect in the following parts of the building:

- Foundations
- Load-bearing walls
- Non load-bearing partition walls
- Wet-applied wall plaster
- External wall rendering and external vertical tile hanging
- Load-bearing parts of the roof
- Tile and slate coverings to pitched rooves
- Ceilings
- Load bearing parts of the floors
- Floor decking and screeds where these fail to support normal loads
- Retaining walls necessary for the structural stability of the home or its garage or other permanent outbuilding

- Multiple glazing panes to external windows and doors (in converted properties they must be newly installed at the time of conversion)
- Below-ground drainage for which the builder is responsible
- Defective chimneys and flues causing a danger to the health and safety of occupants
- Cover against the cost of cleaning up contamination of the land on which the home is built, if a local authority or the environment agency takes action under environmental law

If the builder chooses NHBC Building Control Services Limited to undertake building control, the owner will have additional insurance cover for breaches of specified Building Regulations which cause a danger to the physical health and safety of the occupants of the home.

#### *3.2.2.1 New buildings*

Once the builder is registered with NHBC, they need to register each new project with Buildmark. The cost is dependent on the builder's premium rating and the estimated selling price of the home.

#### *3.2.3 Zurich Municipal Insurance*

Zurich is the second major provider of building warranty insurance and it has a similar Scheme to NHBC except the major structural warranty period for new builds can be extended to fifteen (15) years.

#### *3.2.4 MasterBond Warranty Insurance Scheme (mainly alterations and additions)*

The Federation of Master Builders in 1981 launched its Warranty Scheme to give the public further confidence in choosing members for building work.

MasterBond offers a client a two-year insurance plan to cover defective workmanship and materials of all builders registered with the Federation of Master Builders and ancillary tradesman. Where major structural work is involved the scheme is extended to a maximum of ten (10) years.

Although membership of the Warranty Scheme is voluntary, to be admitted to the scheme a builder must have been in business for at least three years and be able to provide client references and financial information.

For this extra assurance, customers pay a one and a half per cent premium on the total cost of work that is, £75.00 on a £5,000 job. This covers them for all agreed defects whether due to faulty workmanship or materials for the first two (2) years. It also covers structural defects for a further eight (8) years.

The cover remains valid even if the builder has gone bankrupt or ceased trading through insolvency or if a sole proprietor has died.

The scheme has an arbitration service, which provides independent arbitration to members and their clients in the event of a dispute. Should the builder refuse to correct agreed defective work, the scheme would then appoint another builder to make good the work.

United Kingdom

Table 3.1: Building code warranties for United Kingdom

	<b>United Kingdom</b>
Warranty legislation	No
Licensing of builders	No
Controlling body	Local government and approved inspectors such as NHBC Building Control Services
Warranty period	No statutory period
Warranty Enforcement	Civil Courts

Table 3.2: Building warranty insurance for United Kingdom

	<b>United Kingdom</b>	<b>Buildmark Warranty Insurance(NHBC Scheme)</b>	<b>Zurich Warranty Insurance</b>	<b>Masterbond Warranty Insurance (for renovations and alterations)</b>
Warranty insurance providers	Private	Private (NHBC)	Private	Private
Consumer assistance agency	Yes	N/A	N/A	N/A
Maximum claim	N/A	£500,000 per house or £1 million per building	As per policy	As per policy
Compulsory insurance before construction commences?	No	Yes	Yes	Yes
Insurance covers failure to meet building standards?	Depending on insurance policy	Yes	Yes	Yes
Insurance cover applies to subsidence?	Depending on insurance policy	No	N/A	N/A
Insurance Covers the following	Depending on insurance policy	Non completion due to insolvency or fraud  2 yrs — defect and materials  3 yrs — 10 yrs major structural faults	As per insurance policy but similar to NHBC	2 yrs — faulty workmanship and materials  10 yrs — major structural
Time limit on lodgment of claim	Depending on insurance policy	2 yrs  10 yrs	3 yrs  10 yrs  15 yrs	As per policy
Buildings allowed under scheme	Depending on insurance policy	Residential developments and approved renovations	As per policy	As per policy
Builders required to meet minimal financial criteria	Depending on insurance policy	Yes	Yes	Yes
Dispute resolution	Depending on insurance policy	Mediation Civil Courts	Mediation Arbitration Civil Courts	Conciliation and Arbitration service  If unsuccessful, covered by insurer

## 4.0 Germany

### 4.1 Overview

There is no Federal legislation in Germany regulating building warranty insurance. The sixteen State Governments have similar building standards legislation that is administered by the local authorities. The local authorities provide the planning approval and monitoring process. However, disputes between the owners and the builders are usually dealt with directly or through the courts where the matter is of sufficient importance.

In the area of building warranties German consumers have a rather weak position. The risk is reduced by regulations (*Verdingungsordnung fuer Bauleistungen*) that allow the consumer to pay for the building works only according to their progress. Insurance policies covering all kinds of risks can be taken out either by the builder or by the consumer, but the premiums are very high.

Another means to obtain enhanced security is for the consumer to request a bond from the builder, usually by means of a bank guarantee. There is no national guarantee fund or similar institution.

## Germany

Table 4.1: Building code warranties for Germany

	<b>Germany</b>
Warranty legislation	No Act of Parliament
Licensing of builders	Yes, Federal regulation on Trades and Crafts, 1998 ( <i>Handwerksordnung</i> )
Controlling body	Yes, Chambers of Trade ( <i>Handwerkskammer</i> )
Warranty period	2 yrs (longer in case of gross negligence/ premeditation or if agreed on by the parties)
Enforcement	N/A

Table 4.2: Building warranty insurance for Germany

	<b>Germany</b>
Warranty insurance providers	Private, but with very high premiums
Consumer assistance agency	Yes, Federal Department of Consumer Protection, Food and Agriculture ( <i>Bundesministerium für Verbraucherschutz, Ernährung und Landwirtschaft</i> ); State Consumer Protection Agencies ( <i>Verbraucherschutzzentralen</i> )
Maximum claim	No, will depend on insurance policy
Compulsory insurance before construction commences?	No
Insurance covers failure to meet building standards?	Refer insurance policy
Insurance cover applies to subsidence?	Refer insurance policy
Time limit on lodgment of claim	Refer insurance policy
Buildings allowed under scheme	Refer insurance policy
Builders required to meet minimal financial criteria	Refer insurance policy
Dispute resolution	Mediation — if agreed on by both parties Civil Courts