



Notice to councils

New Building Indemnity Insurance Requirements

From 1 September 2002, builders will no longer be required to take out policies of building indemnity insurance to cover the following types of work:

- The construction of **multi-storey residential buildings** over three storeys (as defined in the *Building Work Contractors Regulations*);
- Domestic building work performed under a contract with the **South Australian Housing Trust**.

What has changed?

Generally, builders are required under the *Building Work Contractors Act 1995* to take out a policy of building indemnity insurance to cover domestic building projects where the work costs over \$12,000 and requires council approval. Builders are prohibited from commencing building work until the insurance is in place and councils will require the certificate of insurance to be lodged with the council as part of the development approval process. (*Development Regulations 1993 reg 21*).

However, from 1 September 2002, the insurance requirements will no longer apply to contracts for the construction of multi-storey residential buildings over three storeys and containing two or more separate units, or dwellings. "Storey" is defined in accordance with the Building Code of Australia, except that a space containing only car parking is not considered to be a storey. Councils should take careful note of what is considered to be a "multi-storey residential building" for the purposes of the exemption:

- a building over three storeys; and
- containing 2 or more separate dwellings, or units.
- "storey" does not include a space that contains only-
 - a lift shaft, stairway or meter room; or
 - a bathroom, shower room, laundry, water closet, or other sanitary compartment; or
 - accommodation intended only for vehicles; or
 - a combination of any of the facilities referred to above.
- "storey" does not include a mezzanine.

Also, from 1 September 2002, builders are no longer required to take out a policy of building indemnity insurance to cover domestic building work performed under a contract with the South Australian Housing Trust.

These exemptions only apply to work performed under domestic building work contracts entered into on or after 1 September 2002.

Are there any other exemptions?

The only changes to the requirements for building indemnity insurance are the exemptions set out above relating to the construction of multi-storey residential buildings and building for the SA Housing Trust. **No other blanket exemptions have been made.** Builders are still required to take out building indemnity insurance where building for a developer or a company or on land owned by the builder.

The only case in which a particular builder may not be required to take out insurance in respect of such projects is where the builder has been granted a **Ministerial exemption relating specifically to that project.**

In that case, the builder will have personally applied to the Minister for an exemption and the builder will have received a Certificate of Exemption evidencing the exemption, which will have been lodged with the relevant council in lieu of a Certificate of Insurance.

There have been submissions to the Minister for Consumer Affairs proposing that other types of building work be wholly exempted from the requirement for building indemnity insurance. However, as at the date of this notice, no other blanket exemptions have been made under the *Building Work Contractors Act*. Councils will be advised if and when any further such exemptions are made.

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**Government
of South Australia**