



Notice to developers

New High-rise Residential 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 construction of multi-storey (high-rise) residential buildings over three storeys (as defined in the *Building Work Contractors Regulations*).

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 them as part of the development approval process.

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. Developers 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.

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

Developers who contract with builders for the construction of high-rise developments will no longer have recourse to building indemnity insurance to cover any costs of completing the construction in the event that the builder becomes insolvent, dies or disappears, or of repairing building defects that arise during the five year statutory warranty period.

Retention funds held by the developer may provide protection to the developer, and for a certain period to purchasers of units in the development, in lieu of the insurance.

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The information provided on this sheet is of a general nature only and should not be regarded as a substitute for professional advice and/or reference to the appropriate legislation



**Government
of South Australia**