

ADVISORY NOTICE

BUILDING

05/18

re-issue 16/02

Advisory Notices are issued to assist in the interpretation of the Development Act 1993

September 2018

ADMINISTRATION:

Building indemnity insurance

This Advisory Notice provides information about the requirements for building indemnity insurance for domestic building work and the responsibilities of relevant authorities and building owners to ensure compliance.

BACKGROUND

Division 3 of Part 5 of the *Building Work Contractors Act 1995* requires a policy of building indemnity insurance for all domestic building work valued at \$12,000 or more that requires development approval under the *Development Act 1993*.

Domestic building work is defined under the *Building Work Contractors Act 1995* and includes constructing, erecting, underpinning, altering, repairing, improving, adding to or demolishing a house and the excavating or filling a site in relation to that house or any other work as prescribed by regulation (*Building Work Contractors Regulations 2011*).

Building indemnity insurance is not required for contracts that are:

- for domestic buildings over 3 storeys containing 2 or more dwellings (Regulation 5(9)(a));
- solely for demolition work (Regulation 5(8)); or
- for the South Australian Housing Trust (Regulation 5(9)(b)).

Regulation 21(2) of the *Development Regulations 2008* under the *Development Act 1993* requires the owner of land on which domestic building work is to be performed to ensure that a copy of a certificate of insurance in relation to that work is lodged with the relevant authority (council or private certifier).

Building work must not commence unless or until a copy of a certificate of insurance in relation to that work has been lodged in accordance with Regulation 21(2).

DISCUSSION

Building work contractor responsibilities

A building work contractor must not perform building work unless a policy of insurance has been obtained and, where required, must provide the building owner with a certificate that evidences the taking out of that policy of insurance.

Owner responsibilities

It is the building owner's responsibility to ensure that the insurance certificate is provided to the relevant authority either:

ADVISORY NOTICE

- a) At the time an application for building rules consent is lodged; or
- b) On or before the giving of notice of commencement of the building work under Regulation 74

The insurance certificate must be provided at the time an application for building rules consent is lodged if a domestic building work contract for that building work has been entered into prior to the lodging of building rules consent.

In any other case, an insurance certificate must be provided on or before the giving of notice of commencement of the building work under Regulation 74.

Owner builders

An owner builder is required to obtain and lodge all certificates from contractors carrying out any building work valued at \$12,000 or more that requires development approval.

Exemptions under the *Building Work Contractors Act 1995*

A building work contractor who is seeking to build their own home or perform work on their own home to a value of \$12,000 or more and that requires development approval can apply for an exemption from obtaining insurance.

An application for exemption can be made to the Commissioner for Consumer Affairs. Details on the application requirements and process are available by contacting Consumer and Business Services on 131 882 or at CBSEnquiries@sa.gov.au. Notices of exemption are published in the South Australian Government Gazette and can be lodged with relevant authority in place of insurance certificates.

Responsibilities of the relevant authority

Where a certificate must be provided at the time of application, councils and private certifiers cannot issue building rules consent unless the application is accompanied by a copy of the insurance certificate (or a copy of the gazetted exemption) for that building project.

Further information

Department of Planning, Transport and Infrastructure
50 Flinders Street
GPO Box 1815
ADELAIDE SA 5001
www.sa.gov.au

**Building Policy
Development Division**
Telephone: 1800 PLANNING

KNET: 12806611