



New South Wales

Home Building Amendment (Insurance) Regulation 2001

under the

Home Building Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Home Building Act 1989*.

JOHN WATKINS, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Home Building Regulation 1997* so as:

- (a) to fix the amount of insurance cover required in relation to work in relation to existing residential flat buildings, and
- (b) to provide that developers who are required to comply with certain obligations in relation to insurance are exempt from other insurance requirements, and
- (c) to clarify the information required to be provided in a form.

This Regulation is made under the *Home Building Act 1989* (as amended by the *Home Building Amendment Act 2000* and the *Home Building Legislation Amendment Act 2001*) including sections 97 (1A), 102 (3) and 140 (the general regulation-making power).

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Clause 1 Home Building Amendment (Insurance) Regulation 2001

**Home Building Amendment (Insurance)
Regulation 2001**

1 Name of Regulation

This Regulation is the *Home Building Amendment (Insurance) Regulation 2001*.

2 Commencement

This Regulation commences on 30 November 2001.

3 Amendment of Home Building Regulation 1997

The *Home Building Regulation 1997* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 57AA

Insert after clause 57A:

57AA General requirements for insurance

- (1) This clause applies to work on the common property of an existing single residential flat building where the value of the work is more than \$5,000.
- (2) For the purposes of section 102 (3) of the Act:
 - (a) if the amount obtained by dividing the value of the work by the number of dwellings in the building does not exceed \$5,000—the contract of insurance must provide for cover of no less than a total of \$200,000, or
 - (b) if the amount obtained by dividing the value of the work by the number of dwellings in the building exceeds \$5,000—the contract of insurance must provide cover of no less than \$200,000 in relation to each dwelling in the building.
- (3) In this clause:

dwelling includes any garage or storage area that is included in the same title as a dwelling.

residential flat building means any building containing 2 or more strata or company title home units (including any associated structures and improvements).

[2] Clause 66

Omit the clause. Insert instead:

66 Exemption from certificate requirement where work not commenced

- (1) A developer is exempt from the requirements of section 96A of the Act if:

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Schedule 1 Amendments

- (a) work under a contract for the carrying out of residential building work entered into by the developer has not commenced when a contract of sale is entered into for the sale of the land on which the residential building work is to be done, and
 - (b) the contract of sale contains provisions:
 - (i) informing the purchaser of the land under the contract that the exemption applies, and
 - (ii) informing the purchaser that the Act requires residential building work (whether or not done under a contract) to be insured, and
 - (iii) requiring the developer or any assignee of the developer's rights under the contract to provide a certificate of insurance in respect of any residential building work (as required by section 96A (1) of the Act) to the purchaser within 14 days after the contract of insurance in respect of that work is made, and
 - (iv) enabling the purchaser to rescind if the developer or any assignee of the developer fails to provide the certificate of insurance within that period of 14 days.
- (2) In any contract of sale entered into before the commencement of this clause, a reference to section 96 (2) or 96 (2A) of the Act is taken to be a reference to section 96A of the Act.

[3] Clause 66A

Insert after clause 66:

66A Exemptions from insurance requirements

For the purposes of section 97 (1A) (a) of the Act, a developer who is required to comply with section 96A of the Act is prescribed as a person entitled to apply for an exemption under section 97 (1A) of the Act.

[4] Schedule 1 Forms

Omit "section 92/96*" from Form 1. Insert instead "sections 92 and 96".

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Amendments

Schedule 1

[5] Schedule 1, Form 1

Omit “CONTRACT WORK/WORK BY DEVELOPERS AND OTHERS*”.

Insert instead “RESIDENTIAL BUILDING WORK BY CONTRACTORS”.

[6] Schedule 1, Form 1

Omit “/developer*” wherever occurring.