



# Home Building Amendment (Indemnity) Regulation 2002

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 AQUILINA, M.P.,  
Minister for Fair Trading

## Explanatory note

Under section 103I of the *Home Building Act 1989* (*the Act*), the State must indemnify, in certain circumstances, a person:

- (a) who is entitled to recover an amount under a contract of insurance entered into under Part 6 of the Act, and
- (b) who is covered by a policy that was issued by the insolvent insurer HIH Casualty and General Insurance Limited or FAI General Insurance Company,

if a certificate of insurance evidencing the policy was issued on or before 20 June 2001, or on or before 15 March 2001 in the case of an owner-builder insurance (the *relevant date*). The object of this Regulation is to enable persons who are not entitled to be indemnified because no certificates of insurance were ever issued in relation to their contracts of insurance to nevertheless be indemnified if they demonstrate that the insolvent insurer accepted the risk of loss before the relevant date. For example, a person may be entitled to indemnity despite the fact that no certificate of insurance was issued if the person can show that the insurer debited, before the relevant date, the bank account of the insured builder for the premium payable on the contract of insurance.

This Regulation is made under sections 103I and 140 (the general regulation making power) of the Act.

## **2002 No 585**

Clause 1 Home Building Amendment (Indemnity) Regulation 2002

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# **Home Building Amendment (Indemnity) Regulation 2002**

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### **1 Name of Regulation**

This Regulation is the *Home Building Amendment (Indemnity) Regulation 2002*.

### **2 Amendment of Home Building Regulation 1997**

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

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## Schedule 1 Amendment

(Clause 2)

### Clause 56A

Insert after clause 56:

#### 56A Evidence of acceptance of risk

Pursuant to section 103I (2) (f) of the Act, the indemnity provided under section 103I of the Act applies in connection with any matter covered by an insolvent insurer's policy issued by HHH Casualty and General Insurance Limited or FAI General Insurance Company Limited despite the fact that no certificate of insurance evidencing the insolvent insurer's policy was issued if the person claiming to be a beneficiary demonstrates to the satisfaction of the Guarantee Corporation that the insolvent insurer accepted the risk on or before:

- (a) 15 March 2001 in the case where an owner-builder entered into a contract of insurance in order to comply with the requirements of section 95 of the Act, or
- (b) 20 June 2001 in the following cases:
  - (i) where section 92 (1) (a) or 96 (1) of the Act required a person to ensure a contract of insurance was in force to enable the person to do residential building work,
  - (ii) where section 93 (1) (a) of the Act required a person to ensure a contract of insurance was in force to enable the person to supply a kit home.