

Building Work Contractors Act 1995

Building Work Contractors

Building Indemnity Insurance – Requirements & Applying for Exemption

Why is insurance required?

Building Indemnity Insurance (BII) provides protection for consumers in the event that their builder dies, disappears or becomes insolvent before completing their residential building work or within the five year warranty period after completion of the work. The insurer will pay for the additional cost of completing any outstanding work or cover the cost of warranty repairs. Statutory warranties for domestic building work transfer to new owners upon sale of a property, as do any existing policies of BII for the remainder of the warranty period.

When is insurance required?

BII is required for domestic building work costing \$12,000 or more and work that requires approval under the *Development Act 1993* (commonly referred to as “council approval”). The work may be for a customer under a domestic building work contract or on the builder’s own behalf. It is **not** required for residential buildings over three storeys containing two or more dwellings, contracts for the SA Housing Trust or contracts solely for demolition work.

Requirements for “owner builders”

Genuine owner builders (who are not building work contractors) do not need BII to build their own home but any trade contractors who perform work for them valued at \$12,000 or more will need BII. Licensed building work contractors looking to build their own home to live in are captured by BII requirements. This applies regardless of the scope of the licence that the builder holds; for example, a licensed painting contractor requires BII to build their own home.

Licensed builders can apply for exemption from BII requirements. In general, exemptions are only granted in exceptional circumstances and/or where imposing the BII requirement would not meet its aims. Commonly, this is where a builder is looking to build their own home to reside in for at least 5 years.

How to apply

You will need to provide all of the information and supporting documents listed on the next page for consideration.

Once you have all the relevant information, please visit the following link to complete your application:

<https://forms.sa.gov.au/#/form/5d71d669ad9c7b1f3c782e9b>



What you need to provide

1. Your name, address and builder's licence number.
2. Information as to the purpose for the building work (eg building your own home to live in or building a home for another person or to sell).
3. A description of the building work (eg a single storey detached house, a 3 room extension to an existing house etc).
4. Advice as to whether the applicant has previously "owner built" their own home/s. If so, please also provide details of which year/s the applicant built and sold these homes.
5. A copy of the Certificate of Title including names of all property owners, dated within last 6 months.
6. Each owner must give their written consent to the exemption request - the attached Certificate of Owner's Consent must be completed by all owners.
7. An undertaking that you will advise the Commissioner for Consumer Affairs in writing prior to selling the property if the need arose within the 5-year statutory warranty period and agreeing to any requirement that the Minister or delegate may deem appropriate at that time; for example:
 - a. Providing evidence that an adequate policy of building indemnity insurance is in force to cover the balance of the five-year period from the date of completion of the building work the subject of this exemption;
 - b. Providing evidence of an independent expert inspection of the building work the subject of this exemption;
 - c. Making an independent expert report available to prospective purchasers of the property; or
 - d. Giving prospective purchasers of the property notice of the absence of a policy of building indemnity insurance.
8. Details of who will be supervising the building work.
9. An undertaking that all other builders contracting to you for work that is \$12,000 or more will get their own building indemnity insurance.
10. Any further supporting information you may wish to supply.

For more information

Email	Website	Phone
occupational@sa.gov.au	www.cbs.sa.gov.au	(08) 8204 8501

Certificate of Owner's Consent

A certificate evidencing the owner's informed consent to an application by their building work contractor from the requirement to take out a policy of building indemnity insurance with respect to domestic building work.

Name of Owner: _____

Address of site for proposed building work: _____

Name of Builder: _____

Description of proposed building work: _____

By law, builders must take out Building Indemnity Insurance on all house and extension projects costing over \$12,000 and for which council approval is required. This insurance protects you against non-completion of the building work and/or failure to fix work if the builder dies, disappears or is declared bankrupt within five years.

Your builder has asked you to sign this certificate because the builder intends to apply to the Attorney-General (or his/her delegate) for an exemption from the requirement to have building indemnity insurance in relation to the work the builder has contracted to perform for you. The Attorney-General (or his/her delegate) will only consider granting such an exemption if he/she is satisfied that the builder has explained to you the effect of the exemption and you have consented to the builder applying for the exemption.

If your builder is granted an exemption, the builder will not be required to take out a policy of insurance covering the work that the builder has contracted to perform for you. This means that if the builder becomes insolvent, dies or disappears, you will not be able to claim on a policy of building indemnity insurance for the cost of completing the building work or fixing the work.

By signing this certificate in the presence of an independent witness you are acknowledging that you understand that if the builder is granted an exemption, you will not be able to claim on a policy of building indemnity insurance for the cost of completing the building work or fixing the work if the builder becomes insolvent, dies or disappears.

You should be aware that, even if you agree to your builder applying for an exemption from the requirement to take out building indemnity insurance, this does not guarantee that the exemption will be granted.

I/We _____

(state the names in block letters of all the owners who signed the relevant building contract)

hereby certify that I/we understand that if our builder is granted an exemption from the requirement to take out a policy of building indemnity insurance with respect to the work that the builder has contracted to perform for me/us, I/we will not be able to claim on a policy of building indemnity insurance for the cost of completing the building work or fixing the work if the builder becomes insolvent, dies or disappears.

Signed: _____ Date: _____

(this certificate is required to be signed by all the owners who signed the relevant building contract)

Print name and contact details: _____

In the presence of the following witness (who is not a party to the relevant building contract):

Name, Address & Occupation Details: _____

Signed: _____ Date: _____