

Building Act 1993**DOMESTIC BUILDING INSURANCE MINISTERIAL ORDER**

I, Matthew Guy, Minister for Planning, make the following Order:

PART 1 – INTRODUCTORY**1. Purposes of this Order**

- (1) This Order specifies variations to the insurance that a builder is required to be covered by in order to carry out or manage or arrange the carrying out of domestic building work under a domestic building contract of a specified kind.
- (2) This Order specifies variations to the insurance that a person who constructs a building and to whom section 137B of the **Building Act 1993** applies is required to be covered by before entering into a contract to sell that building.

2. Authorising provisions

This Order is made under sections 135, 137A and 137D of the **Building Act 1993**.

3. Commencement

This Order takes effect on 1 July 2014.

4. Application

This Order is supplementary to, and operates in conjunction with, the Order issued under the same authorising provisions as this Order and published in Special Government Gazette S98 on 23 May 2003, and which took effect on 1 July 2003.

The variations set out in Part 2 of this Order are to be taken to form part of the specified provisions of the Order published on 23 May 2003. References to numbered clauses in Part 2 of this Order are references to clauses bearing those numbers in that Order.

PART 2 – VARIATIONS TO MINISTERIAL ORDER

5. In clause 6, for '\$12 000' substitute '\$16 000'.

6. For sub-clause 8(3), substitute:

'(3) The policy may provide that the indemnity referred to in sub-clause (1) or (2) only applies if:

- a) the builder dies, becomes insolvent or disappears; or
- b) the policy was issued after Part 3 of the **Building Legislation Amendment Act 2014** has commenced operation and then, in accordance with section 137A(5) of the **Building Act 1993** and subject to sections 137A(6) and (7) of that Act, the Authority has certified that:
 - i) a rectification order relating to the domestic building work has not been complied with and the domestic building contract has been completed or terminated; or
 - ii) the registration of the builder under Part 10 of the **Building Act 1993** has been wholly suspended or cancelled or suspended to the extent that the builder cannot lawfully complete or rectify the domestic building work; or
 - iii) if the builder is a natural person, the builder is permanently incapacitated to the extent that the builder is unable to complete or rectify the domestic building work within 30 days (or if another period has been prescribed for this purpose, that period) and arrangements have not been made within 30 days (or if another time has been prescribed for this purpose, that time) for a builder qualified to carry out the completion or rectification of the domestic building work to act on behalf of the builder to complete or rectify the domestic building work; or

- iv) if the builder is a body corporate, the director of the body corporate who is a registered building practitioner under Part 10 of the **Building Act 1993** is permanently incapacitated to the extent that the builder is unable to complete or rectify the domestic building work within 30 days (or if another time has been prescribed for this purpose, that time) and arrangements have not been made within 30 days (or if another time has been prescribed for this purpose, that time) for a builder qualified to carry out the completion or rectification of the domestic building work to act on behalf of the builder to complete or rectify the domestic building work.'
- 7. For sub-clause 9(3), substitute:
 - '(3) The policy may provide that the indemnity referred to in sub-clause (1) or (2) only applies if:
 - a) the builder dies, becomes insolvent or disappears; or
 - b) the policy was issued after Part 3 of the **Building Legislation Amendment Act 2014** has commenced operation and then, in accordance with section 137A(5) of the **Building Act 1993** and subject to sections 137A(6) and (7) of that Act, the Authority has certified that:
 - i) a rectification order relating to the domestic building work has not been complied with and the domestic building contract has been completed or terminated; or
 - ii) the registration of the builder under Part 10 of the **Building Act 1993** has been wholly suspended or cancelled or suspended to the extent that the builder cannot lawfully complete or rectify the domestic building work; or
 - iii) if the builder is a natural person, the builder is permanently incapacitated to the extent that the builder is unable to complete or rectify the domestic building work within 30 days (or if another period has been prescribed for this purpose, that period) and arrangements have not been made within 30 days (or if another period has been prescribed for this purpose, that period) for a builder qualified to carry out the completion or rectification of the domestic building work to act on behalf of the builder to complete or rectify the domestic building work; or
 - iv) if the builder is a body corporate, the director of the body corporate who is a registered building practitioner under Part 10 of the **Building Act 1993** is permanently incapacitated to the extent that the builder is unable to complete or rectify the domestic building work within 30 days (or if another time has been prescribed for this purpose, that time) and arrangements have not been made within 30 days (or if another time has been prescribed for this purpose, that time) for a builder qualified to carry out the completion or rectification of the domestic building work to act on behalf of the builder to complete or rectify the domestic building work.'
- 8. In clause 18(c), for '\$12 000' substitute '\$16 000'.
- 9. For sub-clause 20(2), substitute:
 - '(2) The policy may provide that the indemnity referred to in sub-clause (1) only applies if:
 - a) the owner builder dies, becomes insolvent or disappears; or

- b) the policy was issued after Part 3 of the **Building Legislation Amendment Act 2014** has commenced operation and then, in accordance with section 137B(5B) of the **Building Act 1993** and subject to section 137B(5C) of that Act, the Authority has certified that:
 - i) if the owner builder is a registered domestic builder, the registration of the owner builder under Part 10 of the **Building Act 1993** has been wholly suspended or cancelled or suspended to the extent that the owner builder cannot lawfully complete or rectify the domestic building work; or
 - ii) if the owner builder is a natural person and is a registered building practitioner, the owner builder is permanently incapacitated to the extent that the owner builder is unable to complete or rectify the domestic building work within 30 days (or if another time has been prescribed for this purpose, that time) and arrangements have not been made within 30 days (or if another time has been prescribed for this purpose, that time) for a builder qualified to carry out the completion or rectification of the domestic building work to act on behalf of the owner builder to complete or rectify the domestic building work; or
 - iii) if the owner builder is a body corporate and is a registered building practitioner, the director of the body corporate who is a registered building practitioner under Part 10 of the **Building Act 1993** is permanently incapacitated to the extent that the owner builder is unable to complete or rectify the domestic building work within 30 days (or if another time has been prescribed for this purpose, that time) and arrangements have not been made within 30 days (or if another time has been prescribed for this purpose, that time) for a builder qualified to carry out the completion or rectification of the domestic building work to act on behalf of the owner builder to complete or rectify the domestic building work.'
10. For sub-clause 21(2), substitute:
- '(2) The policy may provide that the indemnity referred to in sub-clause (1) only applies if:
 - a) the owner builder dies, becomes insolvent or disappears; or
 - b) the policy was issued after Part 3 of the **Building Legislation Amendment Act 2014** has commenced operation and then, in accordance with section 137B(5B) of the **Building Act 1993** and subject to section 137B(5C) of that Act, the Authority has certified that:
 - i) if the owner builder is a registered domestic builder, the registration of the owner builder under Part 10 of the **Building Act 1993** has been wholly suspended or cancelled or suspended to the extent that the owner builder cannot lawfully complete or rectify the domestic building work; or
 - ii) if the owner builder is a natural person and is a registered building practitioner, the owner builder is permanently incapacitated to the extent that the owner builder is unable to complete or rectify the domestic building work within 30 days (or if another time has been prescribed for this purpose, that time) and arrangements have not been made within 30 days (or if another time has been prescribed for this purpose, that time) for a builder qualified to carry out the completion or rectification of the domestic building work to act on behalf of the owner builder to complete or rectify the domestic building work; or

- iii) if the owner builder is a body corporate and is a registered building practitioner, the director of the body corporate who is a registered building practitioner under Part 10 of the **Building Act 1993** is permanently incapacitated to the extent that the owner builder is unable to complete or rectify the domestic building work within 30 days (or if another time has been prescribed for this purpose, that time) and arrangements have not been made within 30 days (or if another time has been prescribed for this purpose, that time) for a builder qualified to carry out the completion or rectification of the domestic building work to act on behalf of the owner builder to complete or rectify the domestic building work.'
- 11. Provided that Part 3 of the **Building Legislation Amendment Act 2014** has commenced operation, in the heading to clause 32 and in clause 32, for 'Building Practitioners Board' substitute 'Authority'.
- 12. In clause 35, for '\$200 000' substitute '\$300 000'.
- 13. In Schedule 1:
 - (1) insert the following definition: ' '**Authority**' means the Victorian Building Authority established by section 193 of the **Building Act 1993**;' ;
 - (2) provided that Part 3 of the **Building Legislation Amendment Act 2014** has commenced operation, delete the definition of '**Building Practitioners Board**'; and
 - (3) in the definition of '**insurable domestic building contract**', for '\$12 000' substitute '\$16 000'.

Dated 28 May 2014

MATTHEW GUY MLC
Minister for Planning