



# Victoria Government Gazette

No. S 30 Tuesday 31 May 1994  
By Authority L. V. North, Government Printer Melbourne

**SPECIAL**

## BUILDING PRACTITIONERS INSURANCE MINISTERIAL ORDER

I, Robert Maclellan, Minister for Planning, pursuant to Section 135 of the **Building Act 1993** hereby make the following order requiring building practitioners in the classes specified below to be covered by liability insurance of the kinds and amounts specified below in respect of each category of building practitioner.

TABLE 1—TYPES OF INSURANCE REQUIRED FOR SPECIFIED CLASSES  
OF BUILDING PRACTITIONER

Column 1	Column 2
Class of building practitioner	Kind of insurance
(i) Municipal Building Surveyor	A professional liability policy which a Council has taken out and maintained pursuant to the provisions of section 76A of the <b>Local Government Act 1989 (Vic)</b> and which specifies or refers to Municipal Building Surveyors as persons to whom the insurance cover provided by the policy extends.
(ii) Municipal Building Inspector	A professional liability policy which a Council has taken out and maintained pursuant to the provisions of section 76A of the <b>Local Government Act 1989 (Vic)</b> and which specifies or refers to Municipal Building Inspectors as persons to whom the insurance cover provided by the policy extends.
(iii) Private Building Surveyor	A professional indemnity insurance policy of the kind specified hereunder
(iv) Private Building Inspector	A professional indemnity insurance policy of the kind specified hereunder

For professional indemnity insurance policies for Classes (iii) and (iv), the liability cover for any one claim and in the minimum aggregate limit of liability cover for any one insurance period shall be \$1,000,000.

Such policies shall also include, in addition to the limit of indemnity, the costs and expenses incurred with the consent of the Insurer of defending or settling the claim. In respect of any one claim, the policy conditions may limit this sum to \$100,000 or 20% of the limit of indemnity, whichever is the greater.

The policies of applicable insurance for Classes (iii) and (iv) shall not (unless specifically authorised otherwise by the Minister) include any provision which requires that the Building Practitioner shall bear an excess at his/her own risk in any amount in respect of any one claim or occurrence exceeding:

- (i) In respect of a Building Practitioner acting as a sole practitioner: \$5,000.00.
- (ii) In respect of a Building Practitioner acting as a firm or company: \$5,000.00 per professional principal or director, up to a limit of \$40,000.00.

The Building Practitioner may apply in writing to the Minister for permission to bear a self-insured excess greater than the specified amounts.

In deciding whether to authorise or reject such an application, the Minister may request any such further documentation or financial evidence as is deemed necessary in order to reach a decision.

Specification of Kind of Professional Indemnity Insurance Policy for Classes (iii) and (iv)

Professional indemnity insurance policies by which Building Practitioners in Classes (iii) and (iv) are required to be covered shall

- (a) contain the following extensions:

Automatic Re-instatement (one only);

Trade Practices Act/Fair Trading Act Cover;

A run-off provision which automatically operates to continue cover available should the Building Practitioner cease to be registered as a Building Practitioner. Such provision must not contain any requirement for the Building Practitioner, at the time of cessation of registration, to request such cover nor pay any additional premium for the provision of such cover. The provision must not contain any term which limits the continuity of the run-off cover to a period of less than ten years from the date when the Building Practitioner ceases to be registered as a Building Practitioner other than if that particular insurer ceases to participate within the provision of the Building Practitioner's Insurance, whichever is the earlier.

This automatic run-off provision shall not apply to a Building Practitioner whose professional indemnity insurance policy was current prior to 1 June 1994 if the Insurer refuses by way of mutual agreement with its Insured to cancel its policy or amend the policy to accord with this Order and confirms such refusal in writing.

This exemption to the specification shall not apply after the expiration of twelve months from the inception of such a policy.

- (b) not exclude liability for loss or damage arising out of or covering defective building work in the State of Victoria as defined in the **Building Act 1993 (Vic)**, unless such liability would otherwise have been excluded by that particular Insurer's standard wording;
- (c) require the Insurer to give notice of any proposed cancellation to the Registrar, Building Practitioners Board of the State of Victoria on the same day that that notice is given to the Insured.
- (d) require the Insurer to give immediate notice to the Registrar, Building Practitioners Board of the State of Victoria of any notice of cancellation received from the Insured.

This order shall have effect from 1 July, 1994.

Dated: 31 May 1994.

ROBERT MACLELLAN  
Minister for Planning



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Subscription inquiries (03) 242 4600

Fax (03) 242 4699

A Victorian Government Publication

Published by

THE LAW PRINTER

a business unit of

Printing and Publishing Services Victoria (PPSV)

Melbourne Victoria Australia

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Address all inquiries to the Government Printer for the State of Victoria

PO Box 292 South Melbourne 3205 Victoria Australia

ISSN 0819—548X

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Price Code C