

## The New ONHWP Indemnity Agreement

ONHWP's new Indemnity Agreement effective as of July 1, 2001 will be phased in over a three-year period.

My review of the new agreement reveals there are several new provisions that do not benefit the guarantor (indemnifier), and appear to impose additional burdens on individuals or corporations, asked to sign indemnities.

My concerns with the new indemnity agreement are as follows:

- ONHWP insists the agreement be signed by the guarantor in blank, then it fills in s.3(d), being the amount of the indemnity, thereafter;
- ONHWP then assesses the risk and determines the scope of the indemnity before signing the document back;
- Once the indemnity is signed back by ONHWP it is binding on the indemnifier;
- The indemnifier does not know how liability, as set out in paragraph 3(d), as filled in by ONHWP, is actually calculated or determined;
- The indemnity is not specific as to the scope of the liability and it can apply to any number of projects;
- The individual or corporation signing the indemnity, has no prior recourse should ONHWP call on the indemnity;
- The indemnifier cannot dispute its liability without becoming embroiled in litigation;
- The expiry of the indemnity is at the complete discretion of ONHWP;
- ONHWP pays out claims before notifying the indemnifier and provides no method to challenge its decision.

An indemnity is often a condition of registration and renewal. Builders therefore can and should be prepared to question its terms should they believe the indemnity is either too onerous or unjustified.

Seek legal advice should you have any concerns with respect to indemnities presented to you as a builder by ONHWP.

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