

1992
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

Building (Amendment) Bill 1992

**A BILL
FOR**

**An Act to amend the *Building Act 1972* and for
related purposes**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Building (Amendment) Act 1992*.

5 Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

10 (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which

this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, "Principal Act" means the *Building Act 1972*.¹

5 Application

4. Section 6 of the Principal Act is amended by omitting subsection (5).

Insertion

5. After section 6 of the Principal Act the following section is inserted:

10 Application—prescribed buildings

"6AA. (1) Parts III and VA do not apply to building work commenced or carried out after the commencement of this section in relation to a prescribed building.

"(2) Part V does not apply to a prescribed building.

15 "(3) Part III does not apply to building work carried out before the commencement of this section in respect of a building if, had that building work been carried out after that commencement, it would have been building work carried out in respect of a prescribed building.

20 "(4) Part V does not apply to a building erected or altered before the commencement of this section (being a building, the building work in respect of which was completed before that commencement) if, had that building been erected or altered after that commencement, it would have been a prescribed building."

Building Code

25 6. Section 24 of the Principal Act is amended by omitting from paragraph (2) (a) "Regulation" and substituting "Regulations".

Conditions of building permits

7. Section 40 of the Principal Act is amended by omitting from paragraph (c) "workmanlike" and substituting "skilful".

30 Insertion

8. Before section 43 of the Principal Act the following section is inserted in Part IV:

Interpretation

35 "42S. A reference in paragraphs 43 (1) (fa) and 46 (1) (ea) to an easement shall be deemed to include a reference to an area of land identified

as an easement for electricity, telecommunication, water, drainage and sewerage services in, on or over the land on—

- (a) a certificate of title; or
- (b) a deposited plan, within the meaning of the *Districts Act 1966*;

5 with respect to that land.”.

Stop notices

9. Section 43 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (f) “or” (last occurring);
- (b) by inserting after paragraph (1) (f) the following paragraph:

10 “(fa) if the building work is of a kind referred to in section 6AA, it is being carried out so as to encroach on an easement; or”; and

- (c) by inserting after subsection (1) the following subsections:

15 “(2) Paragraphs (1) (a), (b) and (c) do not apply to building work of a kind referred to in section 6AA.

“(2A) Paragraph (1) (fa) does not apply to building work of a kind referred to in section 6AA for which approval was obtained before the commencement of that section, if the building work is carried out in accordance with—

- 20 (a) the approved plans for that building work; and
- (b) the conditions subject to which a building permit for the building work was granted.”.

Further notice relating to stop notice

25 10. Section 44 of the Principal Act is amended by adding at the end the following subsection:

“(5) Where building work has been carried out in the circumstances referred to in paragraph 43 (1) (f), the Building Controller shall not give a notice under this section to carry out the demolition of a building except on the recommendation of the Territory Planning Authority.”.

30 **Notice to carry out building work**

11. Section 46 of the Principal Act is amended—

- (a) by inserting after paragraph (1) (e) the following paragraph:

“(ea) building work of a kind referred to in section 6AA has been carried out resulting in encroachment on an easement;”;

(b) by inserting after subsection (2) the following subsection:

5 “(2A) Where building work has been carried out in the circumstances referred to in paragraph (1) (e), the Building Controller shall not give a notice under this section to carry out the demolition of a building except on the recommendation of the Territory Planning Authority.”; and

10 (c) by inserting after subsection (4) the following subsections:

 “(4A) Paragraphs (1) (a) and (b), subsection (1), insofar as that subsection empowers the Building Controller to direct the owner of a parcel of land to submit plans for approval and to require a person carrying out building work to obtain the grant of a building permit, and subsection (4), do not apply to building work of a kind referred to in section 6AA.

15 “(4B) Paragraph (1) (ea) does not apply to building work of a kind referred to in section 6AA for which approval was obtained before the commencement of that section, if the building work has been carried out in accordance with—

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(a) the approved plans for that building work; and

(b) the conditions subject to which a building permit for the building work was granted.”.

Statutory warranties

25 12. Section 58C of the Principal Act is amended by omitting from paragraph (1) (b) “workmanlike” and substituting “skilful”.

Further amendments

13. The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 13

FORMAL AMENDMENTS

1. The following provisions are amended by inserting “or she” after “he” (wherever occurring):

SCHEDULE—continued

Subsections 7 (4) and (6), 8 (1), 9 (7) and 14 (6B), paragraphs 16 (1) (a) and (b), (2) (a), (b) and (c), (3) (a), (b) and (c), (4) (a), (b) and (c), and 17 (2) (a), (b) and (c), section 21, subsections 30 (5) and (6), paragraphs 30 (7) (a) and (b) and 31 (1) (a) and subsections 33A (2), 39 (2), 41A (5), 43 (1), 46 (4), 54A (2) and 55 (1).

2. The following provisions are amended by inserting “or her” after “him” (wherever occurring):

Subsection 7 (2), paragraphs 16 (1) (a), (2) (c), (3) (c) and (4) (c), subsections 16 (9) and 30 (2), paragraph 30 (6) (b), subsections 33 (1) and (6) and 33A (2), paragraph 35 (2) (a), subsections 36 (12) and 39 (1), paragraphs 40 (e) and 43 (3) (a) and subsections 46 (1), 53 (1A) and (1B), 54A (2), 63 (1) and 63A (1).

3. The following provisions are amended by inserting “or her” after “his” (wherever occurring):

Subsections 7 (6) and 15 (1AA) and (1A), paragraphs 16 (1) (a) and (b), (3) (c) and (4) (c), subsections 16 (10) and (11), paragraph 17 (2) (b), subsection 31 (2), paragraph 32 (1) (d), subsection 33 (6), paragraphs 33A (3) (b) and 34 (1) (d), subsections 39 (2), 54A (1) and (2) and 56 (2), paragraph 59 (1) (b) and section 62.

NOTE

1. Ordinance No. 26, 1972 as amended to date. For previous amendments see the tables in Note 1 to the *Building Act 1972* (as reprinted as at 2 October 1991) and see also Act No. 118, 1991 and No. 23, 1992