

AUSTRALIAN CAPITAL TERRITORY
BUILDING (AMENDMENT) ORDINANCE 1984

ORDINANCE NO. 68 OF 1984

EXPLANATORY STATEMENT

Sub-section 12(1) of the Seat of Government (Administration) Act 1910 provides that the Governor-General may make Ordinances for the peace, order and good government of the Territory.

The proposed Building (Amendment) Ordinance 1984 will amend the Building Ordinance 1972 (the principal Ordinance) to provide for the licensing of persons to undertake specialist building work, to provide for the granting of building licences subject to restrictions and conditions, to prevent the grant of owner-builder permits to persons who do not have the relevant qualifications and experience, to allow the Building Controller to require an applicant for a builder's licence, who does not hold the prescribed qualifications, to sit an examination, to provide for inspections to be carried out on the grounds of health and safety, to enable building work to be ordered on the grounds of health and safety, to allow tests on the structure and material of a building to be ordered and to change the times within which appeals may be lodged. Details of the proposed Ordinance are as follows:

Sections 1 and 2 deal with interpretation.

Section 3 amends section 5 of the principal Ordinance by inserting a definition of "specialist building work."

Section 4 amends section 9(2) of the principal Ordinance, which relates to inspection of buildings, by adding to the grounds on which an inspection may be authorized a new paragraph (f) which allows an inspection to be authorized where a building is unsafe for fire or health reasons.

Section 5 amends the principal Ordinance as follows:

- . by substituting a new section 14(5) which provides that a Builder's Licence Class D authorises the Licensee to carry out such specialist building work as is endorsed on the licence;
- . by adding new section 14(6A) which provides for the holders of Builder's Licences Classes A, B or C to be permitted to carry out such specialist building work as is endorsed on their licence.
- . by adding new section 14(6B) which provides for the Building Controller to be able to grant builders licences subject to restrictions endorsed on the licence.

- . by making minor consequential changes to section 14.

Section 6 inserts a new section 15(1AA) which allows an applicant for a builders licence to specify the kind of specialist building work for which he seeks authorization.

Section 7 amends section 16 of the principal Ordinance as follows:

- . by substituting a new section 16(1) which provides that a person, other than a company, is not eligible for the grant of a Builders Licence Class D unless he has sufficient qualifications and skills and he has carried out the relevant kind of specialist building work for at least three years.
- . by omitting sections 16(7) and 16(7A) and substituting a new section 16(7) which provides that a person or a partnership is not to be granted a builder's licence unless that person or the members of the partnership are fit and proper persons to hold the licence.
- . by substituting a new section 16(8) which provides that a company shall not be granted a builders licence unless each director is a fit and proper person to hold the licence.
- . by adding a new section 16(10) which provides for the Building Controller to be able to require a person, who is not otherwise eligible for the grant of a builders licence to sit an examination.
- . by adding a new section 16(11) which provides that a person who satisfies the Building Controller in such an examination is to be taken to be eligible for the grant of a builder's licence in respect of building work of the kind specified in his application.

Section 8 repeals sections 17(3), 17(4) and 17(5) of the principal Ordinance which relate to appeals to the Building Review Committee against a decision of the Building Controller to refuse to grant a builder's licence, and inserts a new section 17(3) which permits the Building Controller to place restrictions and conditions on a licence granted pursuant to new section 16(11).

Section 9 inserts new sections 17A and 17B which provide as follows:

- . new section 17A provides for the Building Controller to notify an applicant of the reasons for his decision to:
 - (a) refuse to grant a builder's licence;

- (b) grant a builder's licence subject to conditions or restrictions;
- (c) refuse to authorize the holder of a licence to carry out building work specified for authorization in his application for a licence.

- new section 17B provides for an appeal to the Building Review Committee against a decision by the Building Controller to refuse to grant a licence, to grant a licence subject to restrictions or conditions or to refuse to authorize a licensee to carry out certain kinds of building work.

Section 10 amends section 18(1) of the principal Ordinance by adding to the grounds on which a licence may be cancelled the ground that a licensee has contravened or failed to comply with a requirement made pursuant to the Ordinance; and by altering the reference to a person of good fame and character to a reference to a fit and proper person to hold the relevant licence.

Section 11 substitutes a new section 19(1) relating to appeals to the Supreme Court against decisions of the Building Review Committee. This has the effect of allowing an appeal where the committee places restrictions on a licence and increasing the time for making an appeal to 28 days.

Section 12 amends section 36 of the principal Ordinance as follows:

- by amending section 36(10) to include a reference to tests referred to in new section 36(11).
- by adding new sections 36(11) and 36(12) giving the Building Controller a power to require the holder of a building permit to conduct tests on the material or structure of the building.
- by adding new sections 36(13) and 36(14) giving a right of appeal to the Building Review Committee against a direction issued under new section 36(11).

Section 13 amends section 39(1) to remove the reference to the issue of a building permit for the erection or alteration of a single residential unit on a parcel of land. This will have the effect of requiring applicants for "owner builder" permits to possess the relevant skills and experience.

Section 14 amends section 42(2) of the principal Ordinance to increase the period within which an appeal may be made under that section from 14 to 28 days.

Section 15 amends section 46(1)(f) of the principal Ordinance, by adding a provision that building work may be ordered to be carried out where a building or part of a building is unsafe by

reason of fire hazard or unfit for use by reason of a danger to health.

Section 16 amends section 47(1) of the principal Ordinance to reduce the period within which an appeal may be made under that section from 30 to 28 days.

Section 17 amends section 53 of the principal Ordinance as follows:

- . by inserting in section 53(2) a reference to new section 53(2A); and
- . by inserting a new section 53(2A) which empowers the Building Controller to refuse a certificate of occupancy and use where the holder of a building permit does not comply with a requirement made pursuant to section 36(11).

The Australian Capital Territory House of Assembly has agreed to the making of the Building Ordinance 1984, without amendment.

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