

AUSTRALIAN CAPITAL TERRITORY
BUILDING ORDINANCE (No. 2) 1974

EXPLANATORY MEMORANDUM

No. 38 of 1974

When the Building Ordinance 1972 came into operation it was intended that persons who had carried out illegal building work, being building work in respect of which a Building Permit was not obtained under the provisions of the previous Ordinance, should not by virtue of the repeal of that Ordinance escape all legal liability for that illegal building work.

2. However, owing to a technical defect in the transitional provisions of the Building Ordinance 1972, the Building Controller was deprived in effect of all of his powers to control such illegal building work which had been carried out prior to the introduction of the Ordinance.

3. The proposed amendments to section 9 to be made by the Building Ordinance (No. 2) 1974 will restore this power to the Building Controller.

4. The proposed Ordinance will also amend the Building Ordinance 1972-1974 in other respects, as follows:

- the amendment to section 4 will remove a purely technical defect;
- new paragraph 25(2)(e) will allow the imposition of standards in relation to the drafting, format and presentation of plans and specifications;
- the amendments to sections 43 and 44 will introduce refinements into the stop notice procedure and tie up some loose ends which have become apparent during the operation of the new Ordinance;
- section 46 will be repealed and a new section substituted which similarly will refine the procedures available to the Building Controller in relation to building work which has been completed; in addition, the new section 46 will confer on the Building Controller power to direct the rectification of building work on grounds additional to those contained in the present section 46 – for example, where the building work has been carried out contrary to the lease (new paragraph (d)) or where its external condition is likely to pose a danger to the public (new paragraph (f)(v));
- the amendment to section 62 will be consequential upon the amendment to section 9;
- section 63 will be amended to provide that the Building Controller's Certificate is to be evidence in court proceedings that no building permit had been granted in respect of the building work specified in the certificate: This amendment will remove a bar to the successful prosecution of persons who have carried out building work illegally.

G.M.B.

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Minister's Initials