

BUILDING

No. 19 of 1964.

An Ordinance to continue in force the Canberra Building Regulations and to make provision with respect to their enforcement.

Short title.

1. This Ordinance may be cited as the *Building Ordinance 1964*.*

Commencement.

2. This Ordinance shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.†

Interpretation.

3.—(1.) In this Ordinance, unless the contrary intention appears—

“alteration”, in relation to a building, means an alteration to the building whether internal or external;

“building” includes—

- (a) a structure upon or attached to land;
- (b) an addition to a building;
- (c) a structure attached to a building; and
- (d) a part of a building;

“owner” includes—

- (a) in the case of a parcel of land held under a lease from the Commonwealth for a period of years—the person who is the lessee of the parcel of land;
- (b) in the case of a parcel of land which is held in fee simple—the person in whom the fee simple is vested; and
- (c) in the case of a parcel of land occupied under a tenancy from the Commonwealth—the person who occupies the land;

“structure” includes a fence, mast, antenna, aerial or advertising device, notice or sign;

“the Committee” means the Canberra Building Review Committee established under this Ordinance;

“the proper authority” means a person for the time being appointed as such by the Minister under this Ordinance.

* Made on 14 September, 1964; notified in the *Commonwealth Gazette* on 24 September, 1964.
 † The date fixed was 27 May, 1965; see *Commonwealth Gazette*, 27 May, 1965, p. 2005.

(2.) In this Ordinance, a reference to the Canberra Building Regulations shall be read, if those Regulations have been amended by regulations made in pursuance of sub-section (2.) of the next succeeding section, as including those Regulations as so amended.

4.—(1.) The Canberra Building Regulations, being the Regulations first specified in the Schedule to this Ordinance and made under the *Building and Services Ordinance* 1924, as amended by the other Regulations specified in that Schedule and made under that Ordinance as amended from time to time, shall be in force by virtue of this Ordinance.

Continuation
in force of
Canberra
Building
Regulations.

(2.) The Minister may make regulations, not inconsistent with this Ordinance, amending the Canberra Building Regulations but so that any such amendment shall be—

- (a) in respect of a matter dealt with by those Regulations; or
- (b) for making provision for or in relation to—
 - (i) the entry of inspectors on land and into buildings for the purposes of this Ordinance and of those Regulations;
 - (ii) the circumstances in which a permit to erect a structure or a permit to carry out an alteration to a building may be issued to a person who is not the holder of a builder's licence or a builder's special licence;
 - (iii) the fees to be paid for licences and permits under those Regulations;
 - (iv) the prohibition of the use and occupancy of buildings until specified conditions have been complied with; and
 - (v) the imposition of penalties not exceeding One hundred pounds for offences against the regulations, and, where the offence is a continuing offence, a penalty not exceeding Five pounds for each day during the period for which the offence continues.

5.—(1.) The Minister may appoint a person to be the proper authority for the purposes of this Ordinance and the Canberra Building Regulations.

Appointment
of officers.

(2.) The Minister may appoint such inspectors as he considers necessary for the purposes of this Ordinance and the Canberra Building Regulations.

(3.) The proper authority has all the powers and may perform any of the functions of an inspector under this Ordinance and the Canberra Building Regulations.

Stop notices.

6.—(1.) Where an inspector has, during the construction or alteration of a building, reason to believe that the construction or alteration of the building is being carried out otherwise than in accordance with the Canberra Building Regulations, the plans and specifications approved (whether before or after the commencement of this Ordinance) under those Regulations for the construction or alteration, or the conditions subject to which the plans and specifications were approved, the inspector may, by notice in writing, prohibit the carrying out of further work on the construction or alteration or such further work on the construction or alteration as is specified in the notice.

(2.) A notice under the last preceding sub-section ceases to be in force—

- (a) if an inspector, by notice in writing, revokes the notice given under that sub-section;
- (b) on the expiration of seven days after the notice under that sub-section was given unless an inspector has, within that period of seven days, given a notice under the next succeeding sub-section; or
- (c) if a notice is given under the next succeeding sub-section, when the work specified in that notice is carried out.

(3.) Where a notice has been given under sub-section (1.) of this section, an inspector may, within the period of seven days after the service of that notice, by a further notice, specify the work (including work by way of demolition) that, in the opinion of the inspector, should be carried out to ensure that the construction or alteration will be carried out in accordance with the Canberra Building Regulations, the plans and specifications approved under those Regulations and the conditions subject to which the plans and specifications were approved and shall, by that further notice, require that work to be carried out in accordance with those Regulations, those plans and specifications and those conditions.

(4.) Any act or thing done by a person for the purposes of complying with a notice given under the last preceding sub-section shall not be deemed to be a contravention of a notice under sub-section (1.) of this section.

7.—(1.) Where the construction or alteration of a building is being carried out and a permit in respect of the construction or alteration has not been issued under the Canberra Building Regulations, the proper authority may, by notice in writing, prohibit the carrying out of all further work on the building or alteration.

Provisions
applicable
where permit
not obtained.

(2.) Where, after a notice under the last preceding sub-section is given—

(a) an application is made within fourteen days after service of the notice to the proper authority for the issue, under the Canberra Building Regulations, of a permit in respect of the construction or alteration; and

(b) the proper authority grants a permit,
the notice shall be deemed to have been revoked.

(3.) Where—

(a) an application referred to in the last preceding sub-section is not made within fourteen days after the notice referred to in sub-section (1.) of this section was given; or

(b) the proper authority rejects an application made under that sub-section,

the proper authority may, by notice served on the owner of the parcel of land, require the owner to have such work (including work by way of demolition) as is specified in the notice carried out.

8.—(1.) Where, before or after the commencement of this Ordinance, a building, as defined in section three of this Ordinance, has been erected or an alteration has been made to a building, as defined in section three of this Ordinance, and a permit for the construction or alteration of the building has not been issued under the Canberra Building Regulations, the proper authority may serve on the owner of the parcel of land on which the building is erected a notice requiring him to demolish the building or to have such alterations to the building as are specified in the notice carried out.

Buildings and
alterations
erected without
a permit.

(2.) The last preceding sub-section does not apply to or in relation to—

(a) a building erected by or for the Commonwealth or an alteration to such a building made by or for the Commonwealth; and

- (b) a building, or an alteration to a building, in respect of which the proper authority has, within twelve months after the commencement of this Ordinance, issued, on the application of the owner of the parcel of land on which the building is erected, a certificate stating that he is satisfied that, having regard to the nature of the building or the alteration and the manner in which the building has been erected or the alteration carried out, it is not desirable that the last preceding sub-section should apply in relation to the building or the alteration.

Time for compliance with notices to be specified and failure to comply to be a continuing offence.

9. An inspector or the proper authority shall, in a notice under section six, seven or eight of this Ordinance requiring the doing of an act or thing, specify a period within which the requirements in the notice are to be complied with and, where a person is guilty of an offence by reason of his failure to comply with those requirements within the period so specified, that offence shall, for the purposes of this Ordinance, be deemed to continue so long as the requirements are not complied with, notwithstanding that the specified period has elapsed.

Service of notices.

10.—(1.) A notice under section six or seven of this Ordinance may be addressed—

- (a) to the owner of the parcel of land on which the building, or the alteration to the building, referred to in the notice is being erected or carried out;
- (b) to the builder by whom the erection of the building, or the alteration of the building, referred to in the notice is being carried out;
- (c) in the case of a notice under sub-section (1.) of section six, or sub-section (1.) of section seven, of this Ordinance—to any person carrying out work on the erection of the building, or on the alteration, referred to in the notice; or
- (d) jointly to any two or more of the persons referred to in the last three preceding paragraphs.

(2.) A notice under this Ordinance addressed to one person may be served—

- (a) by delivering the notice to the person personally;
- (b) by sending the notice by posting (under prepaid postage) the notice as a letter addressed to the person at his place of residence or business; or

- (c) by affixing the notice in a prominent position on the building, or, in the case of an alteration to a building, on a part of the building being altered, to which the notice relates.

(3.) Where a notice under this Ordinance is addressed jointly to two or more persons, a number of copies of the notice equal to the number of persons to whom the notice is addressed shall be signed by the person giving the notice, and one of those copies shall be served, in any of the manners specified in the last preceding sub-section, on each of those persons.

11.—(1.) Where, on a parcel of land—

Offences.

- (a) the erection or alteration of a building is commenced, carried on or completed, and a permit for the erection or alteration of the building has not been issued under the Canberra Building Regulations; or
- (b) the erection or alteration of a building (not being the erection of a structure or an alteration of a building in respect of which a permit has been issued to a person who is not the holder of a builder's licence, or a builder's special licence, issued under the Canberra Building Regulations) is commenced, carried on or completed by a person who is not the holder of a builder's licence or a builder's special licence issued under the Canberra Building Regulations in respect of the building or the alteration,

the owner of the parcel of land and the builder by whom the erection or alteration of the building is commenced, carried on or completed are each guilty of an offence against this section.

(2.) Where there is a contravention, or a failure to comply with the requirements, of a notice given under section six, seven or eight of this Ordinance, each person on whom the notice or a copy of the notice has been served is guilty of an offence against this section.

(3.) The penalty for an offence against this section is, subject to the next succeeding sub-section, a fine not exceeding Two hundred pounds.

(4.) Where a person is convicted of an offence arising out of non-compliance with the requirements of a notice under section six, seven or eight of this Ordinance, the penalty for the offence is a fine not exceeding Two hundred pounds and, in addition, a fine of Five pounds for each day on which the failure to comply with the requirements of the notice is deemed to continue.

12.—(1.) For the purposes of this Ordinance, there shall be a Committee to be known as the Canberra Building Review Committee.

(2.) The Committee shall consist of five members, namely—

- (a) a chairman;
- (b) an officer of the Department of the Interior;
- (c) a person representing the Royal Australian Institute of Architects;
- (d) a person representing the Institution of Engineers of Australia; and
- (e) a person representing the Australian Institute of Builders.

(3.) Each member of the Committee shall be appointed by the Minister and shall hold office, for such period not exceeding three years, as is specified in the instrument of appointment.

(4.) The Chairman and the other members of the Committee are eligible for re-appointment on the expiration of their term of office.

(5.) A person is not eligible for appointment (including appointment by way of re-appointment) as a person representing an organization referred to in paragraph (c), (d) or (e) of sub-section (2.) of this section unless—

- (a) he is a member of that organization; and
- (b) subject to the next succeeding sub-section, his name is included on a panel of three names submitted to the Minister by that organization in relation to the making of the appointment.

(6.) Paragraph (b) of the last preceding sub-section does not apply—

- (a) if an organization does not, within the time specified by the Minister in a notice to the organization requesting the submission of a panel of three names, submit such a panel; or
- (b) in any case where the Minister considers that there are special circumstances that justify the appointment or re-appointment of a person other than a person whose name is included on a panel of names submitted to the Minister.

(7.) A member of the Committee is not eligible to act as a member of the Committee in any matter coming before the Committee in which the member is, either directly or indirectly, financially interested.

13. The members of the Committee shall be paid such fees (if any) and allowances (if any) as the Minister determines. Remuneration.

14. The Minister may, by instrument in writing under his hand, remove from office a member of the Committee— Termination of office of members.

- (a) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) if the member resigns his office by writing under his hand addressed to the Minister;
- (c) if the member becomes incapable of performing his duties;
- (d) in the case of a member representing an organization referred to in paragraph (c), (d) or (e) of sub-section (2.) of section twelve of this Ordinance, if the member ceases to be a member of that organization; or
- (e) in the case of a member referred to in paragraph (b) of that sub-section, if the member ceases to be an officer of the Department of the Interior.

15.—(1.) The Committee may hear and determine an objection notwithstanding that there is a vacancy in the office of a member of the Committee or that a member of the Committee is absent but the Committee shall not hear and determine an objection unless three members are present. Meetings.

(2.) Where the Chairman is absent from a hearing, the members present may elect an acting chairman for the purposes of that hearing.

(3.) The Chairman or Acting Chairman has a deliberative vote and, where there is an equality of votes, a casting vote.

(4.) A decision of a majority of the members of the Committee present at a meeting of the Committee shall be deemed to be a decision of the Committee.

16.—(1.) Where—

- (a) a notice has been served on a person under sub-section (3.) of section six, sub-section (3.) of section seven, or section eight, of this Ordinance; or
 - (b) a builder's licence or special builder's licence issued under the Canberra Building Regulations to a person has been cancelled or suspended by notice in writing under those Regulations,
- Objections.

that person may, within thirty days after the date of service of the notice, lodge with the Secretary to the Department of the Interior an objection in writing to the notice.

(2.) The Committee shall hear and determine an objection, and, for that purpose, has power to summon witnesses, require the production of books and documents and take evidence on oath.

(3.) In the case of an objection to a notice referred to in paragraph (a) of sub-section (1.) of this section, the Committee shall, if satisfied that the compliance with the requirements of the notice is, in the circumstances of the case, justified, dismiss, by order, the objection but, if not so satisfied, shall, by order—

(a) revoke the notice; or

(b) revoke the notice and give such directions to be complied with by the person who lodged the objection as, in the circumstances, it thinks fit.

(4.) In the case of an objection referred to paragraph (b) of sub-section (1.) of this section, the Committee shall, if satisfied that the giving of the notice was, in the circumstances of the case, justified, dismiss, by order, the objection but, if not so satisfied, revoke the notice.

(5.) Where—

(a) a notice has been served on a person under sub-section (3.) of section seven of this Ordinance, by reason of the fact that the person did not make an application referred to in sub-section (2.) of that section; and

(b) the person on whom the notice has been served lodges an objection in writing to the notice, the Committee shall not make an order under the last preceding sub-section, other than an order dismissing the objection—

(c) unless the person lodging the objection makes, not later than seven days after the date of lodging the objection, an application under the *Buildings (Design and Siting) Ordinance 1964* for the approval of the National Capital Development Commission with respect to the external design and siting of the building or the alteration to the building, referred to in the notice under sub-section (3.) of section seven of this Ordinance; and

(d) until the application referred to in the last preceding paragraph has been finally dealt with under the *Buildings (Design and Siting) Ordinance 1964*.

(6.) The Committee shall not, by an order under paragraph (a) of sub-section (3.) of this section, revoke a notice or give any directions if the revocation or compliance with the directions would result in the external design or the siting of the building, or, in the case of an alteration to a building, the building, as altered, being otherwise than in accordance with approvals, given under the *Buildings (Design and Siting) Ordinance 1964*, with respect to those matters.

17.—(1.) Where the Committee, by an order under sub-section (3.) of the last preceding section, has dismissed an objection to a notice requiring the demolition of a building or has given directions that require the person who lodged the objection to demolish a building, the person who lodged the objection, may, within twenty-one days after the giving of the order, appeal to the Supreme Court against the order.

Appeal to
Supreme Court.

(2.) Jurisdiction to hear and determine appeals under this section is vested in the Supreme Court.

(3.) On an appeal under this section, the Supreme Court may confirm the order of the Committee or may make such other order, including the giving of directions to be complied with by the appellant, as, in the circumstances of the case, it considers to be just and reasonable.

18.—(1.) A person who contravenes or fails to comply with a direction given to him in an order made by the Committee or by the Supreme Court is guilty of an offence against this Ordinance.

Offences—
failure to
comply with
order of
Committee or
Court.

(2.) The penalty for an offence against this section is, subject to the next succeeding sub-section, a fine not exceeding Two hundred pounds.

(3.) Where an offence against this section is committed by a person by reason of his failure to comply with a direction given to him in an order made by the Committee or by the Supreme Court within the time specified in the direction—

(a) that offence shall, for the purposes of this section, be deemed to continue so long as the directions are not complied with, notwithstanding that the specified period has elapsed; and

(b) the penalty for the offence is a fine not exceeding Two hundred pounds and, in addition, a fine of Five pounds for each day on which the failure to comply with the directions is deemed to continue.

Time not to run, pending objection or appeal.

19.—(1.) Where an objection is lodged to a notice referred to in paragraph (a) of section sixteen of this Ordinance, time does not run, for the purpose of calculating a period of time specified in the notice, in the period that commences on the day on which the objection was lodged and ends—

- (a) on the day on which the Committee makes its order on the objection; or
- (b) if an appeal is lodged to the Supreme Court against the order, the day on which the Supreme Court makes its order on the appeal.

(2.) Where—

- (a) the Committee, in an order made by it under sub-section (3.) of section sixteen of this Ordinance, gives directions to be complied with by a person; and
- (b) an appeal is lodged to the Supreme Court against the order,

time does not run, for the purpose of calculating a period of time specified in the order made by the Committee, until the day on which the Supreme Court makes its order on the appeal.

Power of the Minister to authorize carrying out of requirements or directions in case of default.

20. Where a person—

- (a) on whom a notice has been served under sub-section (3.) of section six, sub-section (3.) of section seven, or section eight, of this Ordinance;
- (b) to whom the Committee has given directions in an order made by it under section sixteen of this Ordinance; or
- (c) to whom the Supreme Court has given directions in an order made on an appeal under section seventeen of this Ordinance,

fails to comply with the requirements of the notice or the directions in such an order, the Minister may authorize a specified person, with such assistance as that person considers necessary, to enter upon the land on which the building referred to in the notice or order is erected and to carry out the requirements in the notice or the directions in the order, and the costs incurred in carrying out those requirements or directions are recoverable as a debt due to the Commonwealth from the person who has failed to carry out those requirements or directions.

Savings in relation to water supply and sewerage.

21. This Ordinance does not affect the operation of the Canberra Sewerage and Water Supply Regulations in force under the *Building and Services Ordinance 1924-1942* or the

power conferred by that Ordinance to make regulations providing matters for and in relation to the supply of water or the provision of a sewerage system.

22. The Minister may make regulations not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance. Regulations.

THE SCHEDULE.

CANBERRA BUILDING REGULATIONS IN FORCE UNDER SECTION 4.

Year and Number.	Date on which made.	Date of Notification in <i>Gazette</i> .
..	16th October, 1924	.. 18th October, 1924
..	20th September, 1926	.. 12th October, 1926
..	2nd April, 1927	.. 14th April, 1927
..	10th December, 1927	.. 15th December, 1927
..	31st May, 1928	.. 7th June, 1928
..	6th October, 1933	.. 12th October, 1933
..	2nd August, 1934	.. 9th August, 1934
..	23rd December, 1937	.. 6th January, 1938
..	19th December, 1938	.. 30th December, 1938
1942, No. 6	10th July, 1942	.. 6th August, 1942
1949, No. 4	11th April, 1949	.. 28th April, 1949
1953, No. 12	2nd September, 1953	.. 10th September, 1953
1959, No. 13	24th September, 1959	.. 1st October, 1959