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THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY

BUILDING (AMENDMENT) BILL (NO. 2) 1991

EXPLANATORY MEMORANDUM

Circulated by Authority of

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Minister for Urban Services

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The Building Act 1972 ("the Principal Act") regulates standards for the erection, alteration, demolition and occupancy of buildings. The Principal Act provides for these technical requirements to be specified in the Building Manual.

The Building (Amendment) Bill (No. 2) 1991 provides that the Building Manual is to be replaced by a Building Code which comprises any or all of the provisions of the Building Code of Australia together with an ACT Appendix. The Building Code of Australia was prepared by the Australian Uniform Building Regulations Co-ordinating Council, an association of State and Territory building control authorities.

The adoption of the Building Code and the ACT Appendix will be undertaken within the existing building control staffing resources and budget.

Details of the Bill are included in the Attachment.

ATTACHMENT

BUILDING (AMENDMENT) BILL (NO. 2) 1991

Clause 1 provides that the Bill, once enacted, may be cited as the Building (Amendment) Act (No. 2) 1991.

Clause 2 is a commencement clause which provides that sections 1 and 2 of the Bill commence on the day on which the Act is notified in the Gazette. The remaining provisions commence on a day, or on respective days, fixed by the Minister by notice in the Gazette, but must in any event commence on the expiration of the period of 6 months commencing on the day on which the Act is notified in the Gazette.

Clause 3 provides that any references in the Bill to the "Principal Act" are to be read as references to the Building Act 1972.

Clause 4 is an interpretation provision which amends section 5 of the Principal Act by omitting from subsection (1) the definitions of "the Building Manual" and "the Standards Committee" and inserting the definitions of "Building Code" and "government agency".

Clause 5 omits subsections 6(3) and (4) which are no longer necessary following the insertion of a general provision binding the Crown to the requirements of the Building Code.

Clause 6 amends section 6A of the Principal Act by omitting paragraph (b) and inserting new paragraph (b) which provides that the Crown will be bound by the provisions of the Act relating to compliance with the Building Code of Australia and the ACT Appendix within the ACT and Jervis Bay Territory.

Clause 7 repeals Division 4 of Part II of the Principal Act and substitutes new Division 4, comprising new sections 24, 25, 26, 27 and 28, which deals with the Building Code.

New subsection 24(1) requires that the Minister cause the Building Code to be prepared and published.

New subsection 24(2) allows the Minister by instrument to adopt all or any of the provisions of the Building Code of Australia, as in force at a particular time, or any modifications specified in the instrument, and to cause to be prepared and published an ACT Appendix to the Code.

New subsection 24(3) provides that an instrument made under this section is a disallowable instrument for the purposes of the Subordinate Laws Act 1989. This means that such an instrument will be of no effect if it fails to satisfy the notification, tabling and retrospectivity requirements under section 10 of the Subordinate Laws Act 1989 and that it is subject to scrutiny and disallowance by the Legislative Assembly.

New subsection 24(4) provides that the Building Code, or any amendment, takes effect on the day on which notice of it is published in the Gazette.

New section 25 provides for publication in the Gazette and a Territory newspaper of notice of the preparation of the Building Code and each amendment.

New section 26 deals with public inspection of the Building Code.

New subsection 26(1) provides that a copy of the Building Code must be kept at the Building Controller's office.

New subsection 26(2) provides that any person may inspect a copy of the Code during business hours.

New section 27 deals with exemptions from compliance with the Building Code.

New subsection 27(1) enables the Minister to exempt government agencies, either generally or in relation to a particular case, from all or any provisions of the Building Code.

New subsection 27(2) provides that an instrument of exemption is also a disallowable instrument.

New section 28 provides that a copy of the Building Code certified by the Building Controller as being in force on a particular day is to be accepted as being such a true copy.

Clause 8 inserts new section 29 in Part III of the Principal Act and deals with compliance with the Building Code.

New subsection 29(1) provides that it is an offence for a person to carry out building work not in accordance with the Code and stipulates a penalty attaching to such an offence.

New subsection 29(2) provides that a government agency has a duty to carry out building work in accordance with the Building Code.

Clause 9 amends section 63 of the Principal Act by omitting paragraph (5)(b). This is an obsolete provision providing for certificates given by the former Department of the Interior.

Clause 10 provides for further formal amendments of the Principal Act in the Schedule.

Clause 11 is a transitional provision providing that the amendments made by the Bill do not apply to instruments in force or plans approved before the date when the amendments made by the Bill take effect.

The Schedule provides for further amendments of the Principal Act of a formal nature.