

AUSTRALIAN CAPITAL TERRITORY

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No. 38 of 1974

AN ORDINANCE

To amend the *Building Ordinance 1972*, as amended by the *Building Ordinance 1974*.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this first day of October, 1974.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

GORDON M. BRYANT
Minister of State for the Capital Territory.

BUILDING ORDINANCE (No. 2) 1974

1. (1) This Ordinance may be cited as the *Building Ordinance* (No. 2) 1974.* Short title and citation.

(2) The *Building Ordinance 1972*,† as amended by the *Building Ordinance 1974*,‡ is in this Ordinance referred to as the Principal Ordinance.

(3) Section 1 of the *Building Ordinance 1974* is amended by omitting sub-section (2).

(4) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Building Ordinance 1972-1974*.

2. Section 4 of the Principal Ordinance is amended by omitting from sub-section (3) the words "by the last preceding sub-section" and substituting the words "by sub-section (1)". Repeal and saving.

3. Section 9 of the Principal Ordinance is amended— Inspections.

(a) by omitting from sub-section (5) the words "notice or order is being carried out" and substituting the words "notice or order has been, or is being, carried out"; and

(b) by inserting after sub-section (5) the following sub-section:—

"(5A) Where, either before or after the commencement of this Ordinance, the building work in relation to a building that was required to be carried out by a notice issued in pursuance of section 8 of the

* Notified in the *Australian Government Gazette* on 3 October 1974.

† Ordinance No. 26, 1972.

‡ Ordinance No. 7, 1974.

Building Ordinance 1964-1970 has not been carried out, the Minister may, by instrument in writing, authorize a building inspector, with such assistance as the building inspector considers necessary, to enter upon the land on which that building is erected and to carry out that building work.”

Building Manual.

4. Section 25 of the Principal Ordinance is amended by omitting paragraphs (c) and (d) of sub-section (2) and substituting the following paragraphs:—

- “(c) specify acceptable standards of manufacture and performance of materials;
- (d) specify acceptable methods of use of those materials; and
- (e) specify acceptable standards for plans and specifications submitted to the Building Controller for his approval under this Ordinance.”

Stop notices.

5. Section 43 of the Principal Ordinance is amended—

- (a) by inserting in paragraph (b) of sub-section (3), after the words “was given”, the words “, not being a notice given on the ground specified in paragraph 43 (1) (a),”; and
- (b) by omitting sub-section (4) and substituting the following sub-section:—

“(4) Where, if a stop notice in relation to building work is given on the ground specified in paragraph 43 (1) (a)—

- (a) an application for a building permit in respect of that building work is made under this Ordinance within 14 days of the giving of the notice; and
- (b) having regard to all the circumstances and the building work so far carried out, the Building Controller grants a building permit,

the notice shall be deemed to have been revoked.”

Notice specifying building work, including demolition, of building to which stop notice relates.

6. Section 44 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) the words “the building work is being carried out by a person who is not the holder of a building permit for the work or is not employed by or under contract to such a person” and substituting the words “specified in paragraph 43 (1) (a)”; and
- (b) by omitting sub-section (3) and substituting the following sub-section:—

“(3) Where—

- (a) an application for a building permit is not made as provided by sub-section 43 (4); or
- (b) the Building Controller rejects an application under that sub-section,

the Building Controller, in a case in which the stop notice has not ceased to be in force, may, by notice in writing, require the owner of the parcel of land on which the building work was being carried out before

the giving of the stop notice to carry out such building work (including demolition) as is specified in the notice within such period as is specified in the notice.”.

7. Section 46 of the Principal Ordinance is repealed and the following section substituted:—

“ 46. (1) Where—

- (a) building work has been carried out, either before or after the commencement of this Ordinance, without a permit for that building work having been issued under the Canberra Building Regulations or without a building permit granted under this Ordinance for that building work having been in force at the time the building work was carried out;
- (b) building work for which a building permit has been granted under this Ordinance has been carried out in contravention of sub-section 36 (3) or 36 (6), or otherwise than in accordance with the conditions referred to in section 40;
- (c) building work, in respect of which a notice has been served under this Part or an order has been made by the Review Committee or the Supreme Court, has been carried out otherwise than in accordance with that notice or order;
- (d) building work has been carried out on a parcel of land held under lease from Australia, contrary to a provision, covenant or condition of the lease;
- (e) building work has been carried out contrary to the approval of the Commission or a condition of that approval given under the *Buildings (Design and Siting) Ordinance 1964-1973* in respect of that building work; or
- (f) the Building Controller finds, on inspection, that—
 - (i) a building has deteriorated to such an extent as to be unfit for use for the purpose stated, or as a building of the class specified, in the approved plans and specifications for that building or, where the building is being occupied for some other purpose or so as to come within some other class as provided by the Building Manual, as to be unfit for use for that other purpose or as a building of that other class;
 - (ii) building work has not been completed when the building permit in respect of the building work lapsed;
 - (iii) a building or part of a building is not structurally sound;
 - (iv) the maximum safe live load or the load that a building was designed to carry has been exceeded; or
 - (v) the external condition of a building is such that injury to persons or damage to property may result from a part of the building becoming detached,

Notice to carry out building work.

the Building Controller may serve on the owner of the parcel of land on which the building work has been carried out or on which the building has been erected, as the case may be, a notice directing him to carry out such building work (including demolition) on that parcel of land as is specified in the notice within such period as is specified in the notice, and may, with respect to the building work specified in the notice, require the owner to submit for approval plans and specifications and obtain the grant of a building permit.

“(2) Where building work has been carried out in the circumstances mentioned in paragraph (1) (a), a notice given by the Building Controller in pursuance of sub-section (1) shall be deemed to have been revoked if the building Controller, on application by or on behalf of the owner of the parcel of land made under this Ordinance within 14 days after the service of the notice, grants a building permit for that building work.

“(3) A notice served on the owner of a parcel of land by the Building Controller in pursuance of sub-section (1) directing that person to carry out building work may specify safety precautions to be taken by that person with respect to that building work, being safety precautions that are reasonable in the circumstances.

“(4) Where the owner of a parcel of land—

- (a) is directed by a notice under sub-section (1) to carry out building work (not being demolition); and
- (b) is not required by the Building Controller under that sub-section to submit plans and specifications for approval and obtain the grant of a building permit,

he shall pay to the Building Controller those fees that would have been payable if he had been required to submit plans and specifications for approval and obtain the grant of a building permit.”

Recovery of costs of work carried out by inspector.

8. Section 62 of the Principal Ordinance is amended by inserting after the words “under this Ordinance”, the words “, or in the carrying out of the requirements of a notice under section 8 of the *Building Ordinance* 1964-1970.”

Evidence.

9. Section 63 of the Principal Ordinance is amended by inserting after sub-section (3) the following sub-section:—

“(3A) In any proceedings before a court or the Review Committee, a document purporting to be a certificate given by the Building Controller and certifying that no person on a specified date or during a specified period was the holder of a building permit for specified building work is evidence that on the specified date or during the specified period no person was the holder of such a building permit.”