

AUSTRALIAN CAPITAL TERRITORY

Building (Amendment) Ordinance 1987

No. 20 of 1987

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

Dated 29 May 1987.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G SCHOLES
Minister of State for Territories

An Ordinance to amend the *Building Ordinance 1972*

Short title

1. This Ordinance may be cited as the *Building (Amendment) Ordinance 1987*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Building Ordinance 1972*.²

Application

3. Section 6 of the Principal Ordinance is amended by omitting from subsection (3) "Works" and substituting "Housing and Construction".

Stages of building work for inspection purposes

4. Section 36 of the Principal Ordinance is amended:

(Ord. 5/85)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

- (a) by omitting subsection (1) and substituting the following subsection:

“(1) The Building Controller shall, in a building permit for building work involving the erection or alteration of a building, specify each stage in the building work in respect of which the holder of the building permit is required to give to the Building Controller notice in accordance with subsection (5), each being a stage included in the stages of building work specified in the Schedule.”;

- (b) by omitting subsection (2);
- (c) by omitting from subsection (3) “, notwithstanding the specification of stages for inspection under this section,”; and
- (d) by omitting subsections (5) to (9) (inclusive) and substituting the following subsections:

“(5) The holder of a building permit for building work involving the erection or alteration of a building shall not proceed beyond a stage in the building work specified in that permit under subsection (1) unless:

- (a) the holder has given the Building Controller notice of the fact that the stage has been reached and 2 working days have elapsed since that notice was given; or
- (b) the holder has given the Building Controller notice of the period during which the holder expected that the stage would be reached (being a period that commenced at the expiration of 2 working days after the notice was given and ending at the expiration of 4 working days after the notice was given) and the stage was reached at any time during that period.

“(6) In this section, ‘working day’ means a day other than a Saturday, Sunday or public holiday.”.

Conditions of building permits

5. Section 40 of the Principal Ordinance is amended:

- (a) by omitting from paragraph (e) “and”; and
- (b) by inserting after paragraph (e) the following paragraph:
- “(ea) a notice in accordance with subsection 36 (5) will be given by the holder of the building permit to the Building

Controller in respect of each stage in the building work specified in the permit; and”.

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

6. Section 44 of the Principal Ordinance is amended by omitting subsection (2).

Notice to carry out building work

7. Section 46 of the Principal Ordinance is amended by omitting from paragraph (1) (b) “(6)” and substituting “(5)”.

Certificates of occupancy and use

8. Section 53 of the Principal Ordinance is amended:

- (a) by inserting in subsection (3) “strictly” after “not”;
- (b) by inserting in subsection (3) “but is substantially in accordance with those requirements” after “work” (second occurring);
- (c) by omitting from subsection (3) “, subject to the next two succeeding sub-sections,”;
- (d) by omitting subsection (4) and substituting the following subsections:

“(4) Where:

- (a) building work involving the erection or alteration of a building as completed is substantially but not strictly in accordance with the prescribed requirements for the building work; and
- (b) the Building Controller issues a certificate under subsection (3) in respect of that building work;

the Building Controller may, by notice in writing served on the applicant for that certificate, require the applicant to carry out such work as is specified in the notice, being work that is necessary to secure strict compliance with the prescribed requirements for the building work, within the period specified in the notice.

“(4A) A person who fails to comply with a requirement contained in a notice under subsection (4) served on him or her is:

- (a) guilty of an offence punishable on conviction by a fine not exceeding \$400; and
- (b) in respect of each day subsequent to the first during which he or she so fails to comply, guilty of a separate offence punishable on conviction by a fine not exceeding \$50.”;
- (e) by omitting from paragraph (9) (c) “and”;
- (f) by inserting after paragraph (9) (d) the following word and paragraph:
 - “; and (e) a certificate signed by a registered architect within the meaning of the *Architects Ordinance 1959* or a person who is the holder of a builder’s licence of a class that authorises that person to carry out building work of the relevant kind certifying that particular building work complies with the conditions to which the building permit for that building work is subject is evidence of that fact.”;
- (g) by omitting from subsection (10) “for the purpose” and substituting “by the owner of the parcel of land on which the building work was carried out”; and
- (h) by omitting from subsection (11) “for the purpose” and substituting “by the owner of the parcel of land on which the building work was carried out”.

9. After section 53 of the Principal Ordinance the following sections are inserted:

Statement that permit conditions are met

“53A. (1) The Building Controller may, on receiving:

- (a) a notice under subsection 36 (5); or
- (b) an application for the issue of a certificate under subsection 53 (2), (3), (6), (10) or (11);

require the holder of a building permit relating to the building work the subject of the notice or the application, as the case may be, to supply the Building Controller with a statement in writing:

- (c) that the conditions to which the permit is subject have been complied with in carrying out the building work; or

- (d) specifying the extent to which the conditions to which the permit is subject have not been complied with in carrying out the building work.

“(2) The holder of a building permit shall not, without reasonable excuse, fail to comply with a requirement made of him or her under subsection (1).

Penalty: \$400.

Notification of decisions

“53B. (1) If the Building Controller refuses to issue a certificate under subsection 53 (2), (3), (6), (10) or (11) the Building Controller shall, within 30 days after the date of the decision, cause to be given to the owner of the relevant parcel of land a notice in writing setting out the decision and giving the reasons for the decision.

“(2) A notice under subsection (1) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, a person whose interests are affected by the decision to which the notice relates is entitled to apply to the Administrative Appeals Tribunal for a review of the decision.

“(3) A failure to comply with subsection (2) in relation to a decision does not affect the validity of the decision.

Review of decisions

“53C. Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Building Controller refusing to issue a certificate under subsection 53 (2), (3), (6), (10) or (11).”

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 3 June 1987.
2. Ordinance No. 26, 1972 as amended by Nos. 7 and 38, 1974; Nos. 45 and 61, 1976; No. 46, 1978; No. 30, 1979; Nos. 69, 70 and 71, 1982; Nos. 20 and 66, 1983; No. 68, 1984.