

AUSTRALIAN CAPITAL TERRITORY

Building (Amendment) Ordinance (No. 4) 1988

No. 87 of 1988

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 15 December 1988

N. M. STEPHEN
Governor-General

By His Excellency's Command,

CLYDE HOLDING
Minister of State for the Arts
and Territories

An Ordinance to amend the *Building Ordinance 1972*

Short title

1. This Ordinance may be cited as the *Building (Amendment) Ordinance (No. 4) 1988*.¹

Principal Ordinance

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

Classes of builder's licences

3. Section 14 of the Principal Ordinance is amended by omitting subsection (7) and substituting the following subsections:

"(7) A licensee shall not carry out building work—

(Ord. 91/88)—Cat. No.

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

- (a) knowing that he or she is not the holder of a builder's licence that authorises him or her to carry out that building work; or
- (b) with reckless indifference to whether the building work is building work that the licensee is authorised to carry out by the builder's licence held by the licensee.

Penalty: (a) in the case of a natural person—\$2,000; or
 (b) in the case of a body corporate—\$10,000.

“(7A) A person shall not carry out building work that involves the handling of asbestos—

- (a) knowing that he or she is not the holder of a builder's licence that authorises him or her to carry out that building work; or
- (b) with reckless indifference to whether the building work is building work that the licensee is authorised to carry out by the builder's licence held by the licensee.

Penalty: (a) in the case of a natural person—\$5,000; or
 (b) in the case of a body corporate—\$25,000.”.

General requirements for carrying out building work

4. Section 30 of the Principal Ordinance is amended—

- (a) by inserting after subsection (4) the following subsection:

“(4A) Where building work that involves the handling of asbestos is commenced or carried out in contravention of subsection (1) or (2), the owner of the parcel of land on which the building work is carried out and a person who carries out the building work are each guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$5,000; or
- (b) in the case of a body corporate—\$25,000.”;

and

- (b) by adding at the end the following subsection:

“(7) A person who carries out building work that involves the handling of asbestos is not guilty of an offence against subsection (4A) if the person adduces evidence—

- (a) that he or she did not know that the building work involved the handling of asbestos; and
- (b) that he or she was not recklessly indifferent to whether the building work involved the handling of asbestos;

and that evidence is not rebutted by the prosecution.”.

Substitution

5. Section 51 of the Principal Ordinance is repealed and the following section substituted:

Compliance with notices

“51. (1) A person shall not, without reasonable excuse, fail to comply with the requirements of a notice served on him or her under this Part.

“(2) A person who contravenes subsection (1) is, in respect of each day on which he or she contravenes that subsection (including any such day on which the person is convicted of an offence under this subsection and any subsequent day), guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$500; or
- (b) in the case of a body corporate—\$2,500.”.

Certificates of occupancy and use

6. Section 53 of the Principal Ordinance is amended by omitting subsection (4A) and substituting the following subsections:

“(4A) A person on whom a notice under subsection (4) is served shall not, without reasonable excuse, fail to comply with the requirements of that notice.

“(4B) A person who contravenes subsection (4A) is, in respect of each day on which he or she contravenes that subsection (including any such day on which the person is convicted of an offence under this subsection and any subsequent day), guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$1,000; or
- (b) in the case of a body corporate—\$5,000.”.

Action by Building Controller upon unauthorised use of premises

7. Section 55 of the Principal Ordinance is amended by omitting subsections (2), (3) and (4) and substituting the following subsections:

“(2) A person on whom a notice under subsection (1) is served shall not, without reasonable excuse, fail to comply with the requirements of that notice.

“(3) A person who contravenes subsection (2) is, in respect of each day on which he or she contravenes that subsection (including any such day on which the person is convicted of an offence under this subsection and any subsequent day), guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$500; or
 - (b) in the case of a body corporate—\$2,500.”.
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NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 21 December 1988.
2. 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; Nos. 20 and 47, 1987; Nos. 31, 73, 80 and 86, 1988.