



AUSTRALIAN CAPITAL TERRITORY

Building (Amendment) Act (No. 2) 1991

No. 43 of 1991

An Act to amend the *Building Act 1972*

[Notified in ACT Gazette S95: 20 September 1991]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Building (Amendment) Act (No. 2) 1991*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) Subject to subsection (3), the remaining provisions commence on a day, or on respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, “Principal Act” means the *Building Act 1972*.¹

Interpretation

4. Section 5 of the Principal Act is amended—
- (a) by omitting from subsection (1) the definitions of “the Building Manual” and “the Standards Committee”; and
 - (b) by inserting in subsection (1) the following definitions:
 - “ ‘Building Code’ means the building code published under Division 4 of Part II;
 - ‘government agency’ means an administrative unit of the Public Service, a Territory authority, a Commonwealth Department, or a body (whether incorporated or not) established by or under a Commonwealth Act;”.

Application

5. Section 6 of the Principal Act is amended by omitting subsections (3) and (4).

Binding the Crown

6. Section 6A of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

“(b) sections 9B and 9C and subsection 29 (2);”.

Substitution

7. Division 4 of Part II of the Principal Act is repealed and the following Division substituted:

“Division 4—The Building Code

Building Code

“24. (1) The Minister shall cause a code, to be called the Building Code, to be prepared and published for the purposes of this Act.

“(2) For the purposes of subsection (1), the Minister may—

- (a) by instrument, adopt all or part of the provisions of the Building Code of Australia prepared and published by the Australian Uniform Building Regulation Co-ordinating Council, as in force at a particular time, with such modifications (if any) as are specified in the instrument; and
- (b) cause to be prepared and published an Australian Capital Territory Appendix to the Building Code of Australia.

“(3) The Building Code prepared in accordance with this section, and each instrument under paragraph (2) (a), is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

“(4) The Building Code, or any amendment, takes effect on the day on which notice of it is published in the *Gazette* pursuant to section 25.

Publication

“25. The Minister shall publish in—

- (a) the *Gazette*; and
- (b) a daily newspaper published and circulating in the Territory;

notice of the preparation of the Building Code and each amendment to it.

Inspection

“26. (1) The Building Controller shall keep a copy of the Building Code at his or her office at all times.

“(2) A person may, upon request, at any time at which the Building Controller’s office is open for business, inspect the Building Code kept by the Building Controller.

Exemptions

“27. (1) The Minister may, by instrument, exempt, either generally or in a particular case, a government agency, or a government agency included in a class of government agencies, from the application of all or any of the provisions of the Building Code.

“(2) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Certified copies

“28. In any proceedings before a court or the Tribunal, evidence of the Building Code as in force on a specified date or during a specified period may be given by the production of an office copy of the Building Code certified by the Building Controller as a true copy as at that date or during that period.”.

Insertion

8. Before section 30 of the Principal Act the following section is inserted in Part III:

Compliance with Building Code

“29. (1) A person shall not, without reasonable excuse, carry out building work except in accordance with the Building Code.

Penalty:

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

“(2) A government agency shall not, without reasonable excuse, carry out building work except in accordance with the Building Code.”.

Evidence

9. Section 63 of the Principal Act is amended by omitting paragraph (5) (b).

Further amendments

10. The Principal Act is amended as set out in the Schedule.

Application—existing permits, notices, plans etc.

11. Notwithstanding the amendments of the Principal Act effected by this Act, the Principal Act in force immediately before the commencement day, continues to apply in relation to—

- (a) an instrument made, granted or issued under that Act; or
- (b) a plan approved under that Act;

being an instrument or plan in force immediately before that day.

SCHEDULE
FURTHER AMENDMENTS

Section 10

Subsection 7 (2)—

Omit “buildings, and for giving effect to decisions of the Standards Committee”, substitute “buildings”.

Subsection 15 (1)—

Omit “in accordance with the prescribed form,”, substitute “in writing,”.

Paragraph 18 (1) (b)—

Omit “Building Manual”, substitute “Building Code”.

Subsections 22 (1) and (1A)—

Omit “in accordance with the prescribed form”, substitute “in writing”.

Subsection 31 (2)—

Omit “in accordance with a prescribed form”, substitute “in writing”.

Subparagraphs 32 (1) (a) (iii) and (iv)—

Omit “Building Manual”, substitute “Building Code”.

Subparagraph 32 (2) (b) (i)—

Omit “Building Manual”, substitute “Building Code”.

Paragraph 33 (2A) (c)—

Omit “Building Manual”, substitute “Building Code”.

Subsections 33 (3), (3A) and (4)—

Omit “Building Manual”, substitute “Building Code”.

Paragraph 35 (2) (b)—

Omit “in accordance with the prescribed form”, substitute “in writing”.

Subsection 39 (1)—

Omit “in accordance with the prescribed form”, substitute “in writing”.

Paragraphs 40 (a) and (b)—

Omit “Building Manual”, substitute “Building Code”.

Paragraph 42A (a)—

Omit “Class I or X of the classifications of buildings in Part 6.1 of the Building Manual”, substitute “Class 1 or 10 of the classifications of buildings in the Building Code”.

SCHEDULE—continued**Subsection 53 (5)**—

Omit “Building Manual” (wherever occurring), substitute “Building Code”.

Paragraph 53 (8) (b)—

Omit “Building Manual”, substitute “Building Code”.

Section 58A (definitions of “flat”, “ground storey”, “habitable room”, “house”, “mezzanine” and “storey”)—

Omit “Building Manual”, substitute “Building Code”.

Paragraph 58B (d)—

Omit “Class I or Class II of the classifications of buildings in Part 6.1 of the Building Manual”, substitute “Class 1 or 2 of the classifications of buildings in the Building Code”.

NOTE

1. 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; Nos. 20 and 47, 1987; Nos. 31, 73 and 80, 1988; No. 86, 1988 (as amended by No. 38, 1989); Nos. 87 and 88, 1988; Nos. 21, 38 and 50, 1989; Act No. 60, 1990; No. 23, 1991.

[Presentation speech made in Assembly on 15 August 1991]