



ANNO VICESIMO NONO

ELIZABETHAE II REGINAE

A.D. 1980

No. 44 of 1980**An Act to amend the Builders Licensing Act, 1967-1976.***[Assented to 26th June, 1980]*

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Builders Licensing Act Amendment Act, 1980".

(2) The Builders Licensing Act, 1967-1976, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Builders Licensing Act, 1967-1980".

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of
principal Act,
s. 4—
Interpretation.

3. Section 4 of the principal Act is amended by inserting in subsection (1) after the definition of "general builder's licence" the following definition:—

"legal practitioner" means a person admitted and enrolled as a practitioner of the Supreme Court of South Australia:.

Amendment of
principal Act,
s. 5—
The Board.

4. Section 5 of the principal Act is amended by striking out subsection (5) and inserting in lieu thereof the following subsections:—

(5) The Governor may appoint a suitable person (who may, but need not, be a member of the Board) to be the deputy of the chairman of the Board, and any such person shall, while acting in the absence of the chairman, be deemed to be the chairman and to have all the powers, authorities, duties and obligations of the chairman of the Board.

(5a) A person appointed to be deputy of the chairman of the Board must be a legal practitioner of not less than five years' standing.

(5b) The Governor may appoint a suitable person to be a deputy of a member of the Board other than the chairman, and any such person shall, while acting in the absence of that member or while that member is acting as deputy of the chairman, be deemed to be a member and to have all the powers, authorities, duties and obligations of a member of the Board.

(5c) A deputy of a member of the Board appointed under subsection (4) (b) of this section must be a person with substantial knowledge of the building industry nominated by the Minister after consultation with the Master Builders Association of South Australia.

(5d) A deputy of a member of the Board appointed under subsection (4) (c) of this section must be a person with substantial knowledge of the building industry nominated by the Minister after consultation with the Housing Industry Association.

(5e) A deputy of a member of the Board appointed under subsection (4) (d) of this section must be a person who is in the opinion of the Minister an appropriate person to represent the interests of those on whose behalf building work is carried out.

5. Section 7 of the principal Act is amended—

(a) by striking out subsection (2);

and

(b) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) Three members of the Board, consisting of—

(a) the chairman or deputy chairman;

(b) a person with substantial knowledge of the building industry;

and

(c) a person representing the interests of those on whose behalf building work is carried out,

shall constitute a quorum of the Board, and no business shall be transacted at a meeting of the Board unless a quorum is present.

Amendment of
principal Act,
s. 7—
Proceedings of
the Board.

6. Section 14 of the principal Act is amended—

(a) by striking out the word “and” before paragraph (c) of subsection (3);

(b) by inserting after paragraph (c) of subsection (3) the following paragraph:—

and

(d) upon surrender of the licence in pursuance of this section.;

and

(c) by inserting after subsection (4) the following subsections:—

(5) A person may, with the consent of the Board, surrender a licence.

Amendment of
principal Act,
s. 14—
Licences
generally.

(6) Where a licence is surrendered pursuant to this section, or the holder of a licence dies during the term of his licence, the Board may refund such portion of any fee paid in respect of that licence as it thinks fit.

Amendment of
principal Act,
s. 15—
General
Builder's
Licence.

7. Section 15 of the principal Act is amended—

(a) by inserting after paragraph (b) of subsection (2) the following paragraph:—

(ba) that he has sufficient financial resources to carry on business in a proper manner under such a licence;;

and

(b) by inserting after paragraph (a) of subsection (3) the following paragraph:—

(ab) that it has sufficient financial resources to carry on business in a proper manner under such a licence;.

Amendment of
principal Act,
s. 15a—
Provisional
general
builder's
licence.

8. Section 15a of the principal Act is amended—

(a) by inserting after paragraph (b) of subsection (2) the following paragraph:—

(ba) that he has sufficient financial resources to carry on business in a proper manner under such a licence;;

and

(b) by inserting after paragraph (a) of subsection (3) the following paragraph:—

(ab) that the partnership has sufficient financial resources to carry on business in a proper manner under such a licence;.

Amendment of
principal Act,
s. 16—
Restricted
builder's
licence.

9. Section 16 of the principal Act is amended—

(a) by inserting after paragraph (b) of subsection (2) the following paragraph:—

(ba) that he has sufficient financial resources to carry on business in a proper manner under such a licence;;

and

(b) by inserting after paragraph (a) of subsection (3) the following paragraph:—

(ab) that it has sufficient financial resources to carry on business in a proper manner under such a licence;.

Amendment of
principal Act,
s. 18—
Power of
investigation.

10. Section 18 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) The Board may, upon receipt of a complaint of any person on whose behalf any building work has been carried out, or of its own motion, conduct an investigation in order to ascertain whether building work was carried out in a proper and workmanlike manner.

(1a) An investigation may only be conducted under this section in respect of—

(a) building work carried out by a person who was the holder of a licence at the time the building work was carried out;

or

(b) building work of a prescribed kind carried out by a person who was unlicensed at the time the building work was carried out.;

(b) by striking out from subsection (3) the passage “the holder of the licence to carry out such remedial work as may be specified in the order within such time as may be so specified” and inserting in lieu thereof the passage “that remedial work be carried out”;

(c) by inserting after subsection (3) the following subsection:—

(3a) An order under subsection (3) of this section may require the person whose work was investigated—

(a) if he is the holder of an appropriate licence, to carry out such remedial work as may be specified in the order within such time as may be specified in the order;

or

(b) if—

(i) he is not the holder of an appropriate licence;

or

(ii) the Board believes he is not likely to carry out the remedial work in a proper and workmanlike manner,

to employ at his own expense a licensed person approved by the Board to carry out such remedial work as may be specified in the order within such time as may be specified in the order.;

(d) by striking out from subsection (4) the passage “the holder of a licence to carry out remedial work” and inserting in lieu thereof the passage “a person to carry out remedial work or cause remedial work to be carried out”;

(e) by striking out from subsection (4) the passage “the holder of the licence” and inserting in lieu thereof the passage “that person”;

(f) by striking out from subsection (6) the passage “the holder of a licence to carry out remedial work” and inserting in lieu thereof the passage “a person to carry out remedial work, or cause remedial work to be carried out.”;

(g) by striking out from paragraph (b) of subsection (6) the passage “the holder of the licence” and inserting in lieu thereof the passage “the person”;

(h) by striking out from subsection (7) the passage “the holder of a licence to carry out remedial work” and inserting in lieu thereof the passage “a person to carry out remedial work or to cause remedial work to be carried out”;

and

(i) by striking out from subsection (7) the passage “the holder of the licence”, twice occurring, and inserting in lieu thereof, in each case, the passage “that person”.

Amendment of principal Act, s. 18a—
Power to summon, etc.

11. Section 18a of the principal Act is amended by striking out from paragraph (a) of subsection (1) the passage “a licensed person” and inserting in lieu thereof the passage “the person whose work is being investigated”.

Amendment of principal Act, s. 18b—
Compensation where complaint made vexatiously or for an ulterior purpose.

12. Section 18b of the principal Act is amended by striking out from subsection (1) the passage “the holder of a licence” wherever it occurs and inserting, in the first case, the passage “any person”, and in the second case, the passage “that person”.

Amendment of principal Act, s. 19f—
Appeals from decisions and orders of the Board.

13. Section 19i of the principal Act is amended by inserting after subsection (3) the following subsection:—

(4) A person who fails to comply with an order under subsection (3) of this section shall be guilty of an offence and liable to a penalty not exceeding one thousand five hundred dollars.

Amendment of principal Act, s. 19j—
Powers of inquiry.

14. Section 19j of the principal Act is amended by inserting in paragraph (f) of subsection (3) after the word “Board” the passage “the Tribunal or the Supreme Court”.

Amendment of principal Act, s. 21—
Offences.

15. Section 21 of the principal Act is amended by striking out from subsection (19) the passage “and served upon him personally or by post”.

Enactment of s. 26a of principal Act.

16. The following section is enacted and inserted in the principal Act after section 26 thereof:—

Service.

26a. (1) A notice or document required or permitted to be served on a person under this Act shall be deemed to have been duly served if it has been—

(a) served on him personally;

or

(b) in the case of the holder of a licence sent by registered or certified mail addressed to him at his address for service, or left for him at that address with a person apparently over the age of sixteen years.

(2) The address for service of the holder of a licence is the last address for service of that person of which notice has been given in accordance with the regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor