

Building (Further Amendment) Bill

EXPLANATORY MEMORANDUM

- Clause 1 states the purpose of the Bill.
- Clause 2 provides for commencement.
- Clause 3 identifies the Principal Act as the **Building Act 1993**.
- Clause 4 amends section 3(1) to provide a revised definition of "Building Code of Australia".
- Clause 5 inserts a new section 26 to provide that an application for a building permit for a prescribed place of public entertainment must be made to the Building Control Commission.
- Clause 6 inserts a new sub-section (1A) after section 30(1) to require the lodgement with the relevant council of copies of prescribed documents relating to a building permit issued by a relevant building surveyor.
- Clause 7 amends section 40 to clarify that a person who occupies a building not in accordance with an approval to occupy a building on a temporary basis is guilty of an offence under Division 1.
- Clause 8 amends section 64(1) to take into account the amendment to section 40 in the previous clause.
- Clause 9 inserts a new sub-section (1A) after section 73(1) to require the lodgement with the relevant council of copies of prescribed documents relating to a building permit issued by a relevant building.
- Clause 10 amends section 97(1) to allow for the expenses of an adjoining owner incurred in assessing proposed protection work to be re-imbursed.
- Clause 11 inserts a new section 160A to give the Building Appeals Board the jurisdiction to make a determination that a particular design of a building or an element of a building complies with the Act, the regulations or any document adopted or incorporated in the building regulations.

- Clause 12 amends section 179(2) to increase the monetary penalty that the Building Practitioners Board can impose after an inquiry from 20 penalty units to 50 penalty units.
- Clause 13 removes the Building Practitioners Board mandatory obligation to pay costs if the Board makes a finding favourable to a registered building practitioner after an inquiry.
- Clause 14 inserts a new section 186A to give the Building Practitioners Board explicit powers of delegation in relation to suspension of a building practitioner's registration where the annual fee has not been paid or where evidence of the required insurance has not been provided.
- Clause 15 amends section 187(2) to enable the Building Practitioners Board to operate as one or more panels for the purposes of conducting inquiries.
- Clause 16 makes a consequential amendment to section 199(1)(a) take into account the amendment introduced by clause 5.
- Clause 17 amends section 201(1A) to raise the threshold of the cost of building work from \$3000 to \$10 000 for the purposes of applying the building permit levy for new applications, and amends section 201(7) to require lodgement of a building levy return whether or not the relevant building surveyor has received an amount on account of the levy in a prescribed period.
- Clause 18 amends sections 207(1)(e) and 210(2) to acknowledge the change of name of the Building Owners and Managers Association of Australia Limited Victoria Division to the Property Council of Australia.
- Clause 19 amends section 217 of the Act to further extend the application of the Act to the Crown and public authorities including councils in relation to the obtaining of building permits.
- Clause 20 repeals section 218 which has specific provisions obliging the Crown or a public authority to lodge documents with the relevant council as this provision becomes redundant because of the removal of building permit exemptions also introduced by this Bill.
- Clause 21 amends section 221ZZZA to continue the existing power of entry of a compliance auditor in relation to plumbing matters which can be exercised without consent or warrant during specified hours.

- Clause 22 inserts a new Division 1A in Part 13 setting out the role, functions and powers of performance auditors who may be appointed by the Building Control Commission.
- Clause 23 replaces section 228(3) with revised provisions for identity cards for authorised persons which will require the inclusion of photographs.
- Clause 24 replaces the general powers of entry provisions of section 229 with a specific power of entry for statutory inspections of building work or plumbing work.
- Clause 25 replaces sections 231 and 232 with new sections 231 to 232 governing the powers of entry and search of a building or land and the provision of information and production of documents for enforcement purposes.
- Clause 26 inserts a confidentiality provision in relation to information gathered by an authorised person.
- Clause 27 amends section 261(a) to insert a head of power that allows the making of regulations to better define the use of the performance based Building Code of Australia by relevant building surveyors.
- Clause 28 repeals clause 1 of Part 2 of Schedule 1 which is a redundant definition of the Building Code of Australia and amends references to the **Subordinate Legislation Act 1962**.
- Clause 29 makes statute law revision amendments to the Principal Act.
- Clause 30 amends section 32(1A) of the **Sale of Land Act 1962** to require a vendor to give a purchaser particulars of any required insurance in the case of a residence constructed in the preceding 7 years by an owner-builder to which the **House Contracts Guarantee Act 1987** applies, or domestic building work constructed in the preceding 6 years and 6 months to which section 137B of the **Building Act 1993** applies.
- Clause 31 is a statute law revision amendment to section 8 of the **Building (Amendment) Act 1995**.

