

12 GEO. VI. No. 20, 1948. *Building Operations, Etc., Amendment Act.*

HOUSING.

- (1) *Building Operations and Timber and Building Materials Control Act Amendment Act of 1948* 12 Geo. VI. No. 20
- (2) *State Housing Act Amendment Act of 1948* 12 Geo. VI. No. 15

An Act to Amend "The Building Operations and Timber and Building Materials Control Act of 1945" in certain particulars, and for other purposes.

12 GEO. VI.
No. 20.
BUILDING
OPERATIONS
AND TIMBER
AND BUILDING
MATERIALS
CONTROL ACT
AMENDMENT
ACT OF 1948.

[ASSENTED TO 6TH APRIL, 1948.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Building Operations and Timber and Building Materials Control Act Amendment Act of 1948*," and shall be read as one with *"*The Building Operations and Timber and Building Materials Control Act of 1945*," herein referred to as the Principal Act.

Short title
and
construction.

The Principal Act and this Act may collectively be cited as "*The Building Operations and Timber and Building Materials Control Acts, 1945 to 1948*."

Collective
title.

Amendments of the Principal Act.

2. Section four of the Principal Act is repealed and the following section is inserted in lieu thereof:—

Repeal of
and new s.4.

"[4.] This Act and every Proclamation, Order in Council, regulation, permit, direction, prohibition, or other act of executive or administrative authority made, issued, granted, given or done under or pursuant to this Act by the Governor in Council, the Minister, any delegate of the Minister, or any other person or authority shall be read and construed, and it is hereby declared always was to be read and construed, so as not to exceed the legislative power of the State to the intent that where any enactment contained in this Act, or provision contained in any such Proclamation, Order in Council

Construction
of Act.

or regulation, or any, or any term, provision, condition or limitation of any, such permit, or any such direction, prohibition or other act of executive or administrative authority would but for this section have been construed as being in excess of that power it shall nevertheless be, and it is hereby declared always nevertheless was, a valid enactment, provision, permit, direction, prohibition or, as the case may be, act of executive or administrative authority to the extent to which it is or was not in excess of that power."

Amendments
of s. 5.

3. Section five of the Principal Act is amended, as follows :—

(a) The definition of the term " Minister " is repealed and the following definition is inserted in lieu thereof, namely :—

Minister.

" " Minister "—The Secretary for Labour and Industry or other Minister of the Crown for the time being charged with the administration of this Act ;"

(b) In the definition of the term " Order in Council " the words " the Principal Act and " are repealed.

(c) In the definition of the term " Prescribed " the words " the Principal Act and " are repealed.

(d) In the definition of the term " Regulations " the words " the Principal Act and " are repealed.

(e) The words " and, subject to this Act, the definitions in the Principal Act shall, *mutatis mutandis*, apply and extend to this Act " are repealed.

Amendments
of s. 6.

4. Section six of the Principal Act is amended, as follows :—

(a) The following definitions are inserted therein before the definition " Building operation," namely :—

Approval.

" " Approval "—The approval by Brisbane City Council or by a Local Authority of a building operation in its Area, and which approval is in force at any material time: the term includes any authority or other means by which the carrying out of any building operation is approved by Brisbane City Council or by a Local Authority ;

Area.

" Area "—When used with reference to a structure means the area of such structure ascertained as prescribed ;"

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(b) The definition of the term “ Building operation ” is repealed and the following definitions are inserted in lieu thereof, namely :—

“ “ Building operation ”—Includes any one or more ^{Building operation.} of the following operations, that is to say :—

- (a) Erecting, altering, adding to, constructing, reconstructing, building, rebuilding, re-erecting, demolishing, removing, renovating, repairing, plastering, panelling, lining, decorating, painting, colouring, white washing, and/or papering any structure (whether carried on on the site or elsewhere and whether above or below the surface) ; and/or
- (b) Affixing to any structure any fixtures or fittings ; and/or
- (c) Doing any work for the provision of water, gas, electricity, sewerage, drainage, heating, hot water, ventilation, airconditioning, and/or for the installation of any lift or escalator.

“ Building materials ” includes all materials (other ^{Building materials.} than timber) fittings, and appliances normally used in the course of or for the purposes of any building operation ; ”

(c) The definition of the term “ Director of the Bureau of Industry and Government Statistician ” is repealed and the following definition is inserted in lieu thereof, namely :—

“ “ Director of the Bureau of Industry and Under Secretary, Department of Labour and Industry ”—the term includes any person ^{Director of the Bureau of Industry and Under Secretary, Department of Labour and Industry.} who is for the time being discharging the duties of the office of the Director of the Bureau of Industry and Under Secretary, Department of Labour and Industry ; ”

(d) The definition of the term “ Dwelling-house ” is repealed and the following definitions are inserted in lieu thereof, namely :—

“ “ Dwelling-house ” means a structure for human ^{Dwelling-house.} habitation by a single family unit or by clergy, including all structures (other than a

brick, or concrete, or brick and concrete wall, or a fence, drive, pavement, path, terrace, platform or embankment in excess of prescribed measurements) associated with it situated wholly or partly on the land appurtenant to it, but does not include a block of flats, double-unit dwelling-house, or other multiple dwelling, or an hotel or a structure containing shop or factory premises ;

Financial year.

“ Financial year ”—The period of time from and including the first day of July in any calendar year to and including the thirtieth day of June in the next succeeding calendar year ; ”

(e) The definition of the term “ Permit ” is repealed and the following definition is inserted in lieu thereof, namely :—

Permit.

“ “ Permit ”—A permit under this Act to carry out any building operation, and which permit is in force at any material time ; ”

(f) The definition of the term “ Preliminary approval ” is repealed.

(g) In the definition of the term “ Primary production ” the words “ forestry operations and fishing operations ” are repealed and the words “ and forestry operations ” are inserted in lieu of such repealed words.

(h) The following definitions of terms are added to the said section, namely :—

Structure.

“ “ Structure ” means structure of any kind and includes, but without limit to the generality of its meaning, any building, bridge, wharf, wall, hoarding, tankstand, tank, fence, tennis court, trellis, swimming baths, or any brick or concrete work, and for the purposes of this Act any two or more structures within the meaning of this definition situated wholly or partly on the land appurtenant to any one of such structures shall collectively be a structure ;

Timber.

“ Timber ” for the purpose of this Part means any wood used in building operations.”

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5. Section seven of the Principal Act is repealed Repeal of and new s. 7 and the following section is inserted in lieu thereof, namely :—

“ [7.] (1.) The Minister may, generally, or in relation Power of Minister to delegate. to any matters or class of matters or in relation to any particular area, by writing under his hand, delegate such of his powers, functions, and authorities under this Part of this Act (other than this power of delegation) as he thinks fit, so that the delegated powers, functions, and authorities may subject to this Act be exercised by a delegate with respect to the matters or class of matters or area specified in the instrument of delegation.

The Minister may make any such delegation subject to such terms, conditions, and limitations as he shall specify in the instrument of delegation.

(2.) Where under this Act the exercise of any power, function, or authority by the Minister is dependent upon the opinion, belief, or state of mind of the Minister in relation to any matter, that power, function, or authority may be exercised by the delegate upon the opinion, belief, or state of mind of that delegate.

(3.) Every such delegation shall be revocable at will and no such delegation shall prevent the exercise of any power, function, or authority by the Minister.

(4.) Any such delegation may be published in the *Gazette* and upon such publication shall be judicially noticed.

(5.) The Minister may make such and so many delegations under this section and to such number of persons as he shall deem necessary or desirable for the effective administration of this Act.”

6. Section eight of the Principal Act is amended, as Amendments of s. 8. follows :—

(a) The paragraph thereof commencing with the words “ Zone B ” is repealed and the following paragraphs are inserted in lieu thereof, namely :—

“ “ Zone B ”—The towns of Coolangatta, Redcliffe, and Southport and that part of the Shire of Nerang within five miles of the coast of Queensland, and such areas adjacent to those towns and that part of the Shire of Nerang as may be specified from time to time by the Governor in Council by Order in Council ;

“ Zone C ”—All islands off the coast of Queensland and every part of the mainland of Queensland within five miles of the coast thereof excepting any city or town, part of a city or town, that part of the Shire of Nerang, and any other area for the time being included in Zone A or Zone B.”

(b) The paragraph thereof commencing with the words “ Zone C ” is repealed and the following paragraph is inserted in lieu thereof, namely :—

“ “ Zone D ”—Every part of the State of Queensland which is not for the time being included in Zone A, or Zone B, or Zone C.”

Repeal of
and new s. 9.

7. Section nine of the Principal Act is repealed and the following section is inserted in lieu thereof, namely :—

When
building
operations
unlawful.

“ [9.] (1.) A person shall not at any time without a permit under this part of this Act—

- (i.) Carry out, or commence or continue to carry out ; or
- (ii.) Do, or commence or continue to do, any work in the course of or for the purpose of carrying out,

any building operation unless such building operation is at that time exempted from the provisions of this section.

(2.) Where—

- (i.) Any building operation is carried out ; or
- (ii.) The carrying out of any building operation is commenced or continued ; or
- (iii.) Any work is done in the course of or for the purpose of carrying out any building operation ; or
- (iv.) The doing of any work in or for the purpose of carrying out any building operation is commenced or continued,

contrary to the provisions of subsection one of this section each of the following persons shall be guilty of an offence against this Act, that is to say :—

- (a) The owner ;
- (b) The lessee, sub-lessee, tenant or sub-tenant ;

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- (c) In the case of a building operation carried out or commenced or continued to be carried out or work done or commenced or continued to be done in the course of or for the purpose of carrying out a building operation for or on behalf of a body or association of persons other than a body corporate, partnership, or firm, every member of the governing body, by whatever name called, and every officer of such body or association with whose connivance or consent such building operation is carried out, commenced, or continued or, as the case may be, such work is done, commenced, or continued ;
- (d) Any architect, builder, contractor, or engineer employed in any capacity in connection with such building operation or work ;
- (e) Any person employed in any advisory or supervisory capacity in connection with such building operation or work ;
- (f) Any person employed in any capacity in connection with such building operation or work by any of the persons mentioned in paragraphs (a), (b), (c), (d), and (e) of this subsection.

Moreover, but without prejudice to section seven of **The Criminal Code*, any other person who aids, abets, counsels, or procures the commission of any offence against this section by any of the aforementioned persons shall be deemed to have committed that offence and shall be liable accordingly.

(3.) In this section the term "owner" means (but without limit to the generality of its meaning) the person at whose request or at whose expense the building operation or work is, is being, or is to be carried out or done."

8. Section ten of the Principal Act is repealed and the following section is inserted in lieu thereof, ^{Repeal of} ^{and new s.} ^{10.} namely :—

"[10.] (1.) Any building operation hereinafter in this section specified shall be exempted from the provisions of section nine of this Act if such building operation is ^{When} ^{building} ^{operations} ^{exempted.}

carried out under, subject to, and in accordance with the provisions hereinafter in this section specified in relation to that building operation, that is to say :—

- (a) Any building operation in respect of a dwelling-house for use as such by a primary producer where such dwelling-house is situated in the locality within which primary production is carried on by such primary producer and where such dwelling-house is not situated within the Area of the City of Brisbane ;
- (b) Any building operation in respect of a structure used or intended to be used for or in connection with primary production or storing, treating, or processing of primary products where such structure is situated upon the property upon which such primary production is carried on and where the cost of such building operation does not exceed five hundred pounds
- (c) The provision of sewerage or drainage connections, or sewerage apparatus connected to a septic tank and such septic tank, ordered by Brisbane City Council or by a Local Authority
- (d) The work of repairing plumbing or electricity systems or installations where such work is strictly confined to maintaining or restoring existing such systems or installations, and does not in any way make any extension thereof or improvement thereto ;
- (e) Any building operation in respect of the erection in Zone A of a dwelling-house the area of which does not exceed—
 - (i.) Where the dwelling-house is situated south of the Tropic of Capricorn, one thousand two hundred and fifty square feet ; or
 - (ii.) Where the dwelling-house is situated north of the Tropic of Capricorn, one thousand five hundred square feet ;
- (f) Any building operation in respect of the erection in Zone C of a dwelling-house for use as a permanent residence the area of which does not exceed—
 - (i.) Where the dwelling-house is situated south of the Tropic of Capricorn, one thousand two hundred and fifty square feet ; or

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- (ii.) Where the dwelling-house is situated north of the Tropic of Capricorn, one thousand five hundred square feet ;
- (g) Any building operation in respect of the erection in Zone D of a dwelling-house ;
- (h) Any building operation in respect of a structure situated in Zone A where, if such building operation is in respect of a structure other than a dwelling house, the aggregate cost of such building operation and of all other building operations carried out in the same financial year wholly or partly on or within the land appurtenant to such structure does not exceed one hundred pounds or where, if such building operation is in respect of a dwelling-house,—
 - (i.) The area of which is less than one thousand two hundred and fifty square feet (or, if situated north of the Tropic of Capricorn, one thousand five hundred square feet) immediately prior to the commencement of such building operation, such area will not be increased to more than one thousand two hundred and fifty square feet (or, if situated north of the Tropic of Capricorn, to more than one thousand five hundred square feet) by the carrying out of such building operation ;
or
 - (ii.) The area of which is or exceeds one thousand two hundred and fifty square feet (or, if situated north of the Tropic of Capricorn, one thousand five hundred square feet) immediately prior to the commencement of such building operation, such area will not be increased by the carrying out of such building operation ;
- (j) Any building operation in respect of a structure situated in Zone B where the aggregate cost of such building operation and of all other building operations carried out in the same financial year wholly or partly on or within

the land appurtenant to such structure does not exceed fifty pounds and where, if such building operation is in respect of a dwelling-house—

- (i.) The area of which is less than one thousand two hundred and fifty square feet immediately prior to the commencement of such building operation, such area will not be increased to more than one thousand two hundred and fifty square feet by the carrying out of such building operation ; or
 - (ii.) The area of which is or exceeds one thousand two hundred and fifty square feet immediately prior to the commencement of such building operation, such area will not be increased by the carrying out of such building operation ;
- (k) Any building operation in respect of a structure situated in Zone C where the aggregate cost of such building operation and of all other building operations carried out in the same financial year wholly or partly on or within the land appurtenant to such structure does not exceed one hundred pounds and where, if such building operation is in respect of a dwelling-house—
- (i.) The area of which is less than one thousand two hundred and fifty square feet (or, if situated north of the Tropic of Capricorn, one thousand five hundred square feet) immediately prior to the commencement of such building operation, such area will not be increased to more than one thousand two hundred and fifty square feet (or, if situated north of the Tropic of Capricorn, to more than one thousand five hundred square feet) by the carrying out of such building operation ; or
 - (ii.) The area of which is or exceeds one thousand two hundred and fifty square feet (or, if situated north of the Tropic of Capricorn, one thousand five hundred square feet) immediately prior to the

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commencement of such building operation, such area will not be increased by the carrying out of such building operation ;

- (l) Any building operation in respect of a structure, other than a place of public amusement or public resort as defined in **“The Local Government Acts, 1936 to 1948,”* situated in Zone D where the aggregate cost of such building operation and of all other building operations carried out in the same financial year wholly or partly on or within the land appurtenant to such structure does not exceed five hundred pounds ;
- (m) (Where the Governor in Council has, by Order in Council published in the *Gazette*, specified any building operation additional to the building operations hereinbefore in this section set forth which it shall be lawful to carry out provided that such building operation is carried out under, subject to, and in accordance with the terms and conditions specified in such Order in Council) such building operation where it is carried out under, subject to, and in accordance with the terms and conditions specified in such Order in Council ;
- (n) Any building operation carried out by Brisbane City Council under †*“The City of Brisbane Acts, 1924 to 1946,”* or by a Local Authority under **“The Local Government Acts, 1936 to 1948.”*

(2.) The onus of proof that any building operation is exempted from the provisions of section nine of this Act shall lie on the defendant but without prejudice to the right of the prosecutor to adduce evidence proving or tending to prove that such building operation is not so exempted.”

9. The following section is inserted after section ten of the Principal Act, namely :—

“[10A.] (1.) The Minister may permit the carrying out of any building operation.

* 1 G. 6 No. 1 and amending Acts.

† 15 G. 5 No. 32 and amending Acts.

New s. 10A inserted.

Permit to carry out building operation.

Every permit shall be in writing and shall be in or to the effect of the prescribed form.

(2.) (a) An application for a permit to carry out a building operation shall be in writing, shall be in or to the effect of the prescribed form, shall be signed by the applicant, and shall contain or be accompanied by such information and particulars as are prescribed or, in so far as not prescribed, directed by the Minister.

(b) The Minister is hereby authorised to require the applicant to furnish him with all such further information and particulars additional to the information and particulars contained in or accompanying the application as he shall think necessary or desirable in the circumstances.

(c) Moreover the Minister may require any application, any information or particulars contained in or accompanying an application, any further information or particulars furnished pursuant to his requirement, or the signature to any application or to any such information or particulars to be verified in such manner as may be prescribed or, in so far as not prescribed, as he shall direct.

(3.) The Minister may, in his absolute discretion, grant or refuse to grant a permit.

In granting any permit the Minister shall not be bound by the application but he may—

(i.) Grant the permit without conditions or limitations ; or

(ii.) Grant the permit subject to such conditions or limitations as he thinks fit including (but without limit to his power in that behalf) any or all of the conditions and limitations set forth in subsection four of this section.

(4.) A permit may be granted subject to any or all of the following conditions and limitations, that is to say—

(i.) (In a case where the dwelling-house or other structure upon which the building operation is to be carried out is required for purposes specified in the application) such conditions or limitations as to the sale, letting or use of the dwelling-house or other structure as the Minister considers necessary or convenient to ensure that the dwelling-house or other structure is used for those purposes ;

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- (ii.) That so much only of any building operation as is specified in the permit be carried out;
- (iii.) That so much only of any building operation be carried out as does not involve the expenditure of more than a sum specified in the permit;
- (iv.) (In the case of the erection or construction of a dwelling-house or other structure) that such dwelling-house or other structure shall not exceed the area specified in the permit;
- (v.) (In the case of any building operation in respect of an existing dwelling-house or other structure) that the area of such dwelling-house or other structure shall not be increased by such building operation so as to exceed the area specified in the permit;
- (vi.) That all building operations or any class or classes of building operations authorised by the permit shall be carried out during any period specified in the permit;
- (vii.) That so much only of any building operation or of any class or classes of building operations as does not involve the expenditure of more than a sum specified in the permit, shall be carried out during any period specified in the permit."

10. The following section is inserted after section New s. 10B inserted.
10A of the Principal Act as previously inserted by this Act, namely:—

“ [10B.] (1.) The Minister may, at any time and from Cancellation or suspension of permit.
time to time, by a notice in writing given to the person to whom a permit has been granted, amend, alter, add to, vary or revoke the terms, conditions and limitations of such permit or any of them.

(2.) The Minister may cancel any permit—

- (i.) If he is satisfied that there has been a substantial change in circumstances since the issue of such permit; or
- (ii.) If the building operation authorised by such permit has not been commenced or, if commenced, completed within such period after the issue of the permit as is, in his opinion, reasonable.

Moreover the Minister may, in his absolute discretion suspend any permit.

Such suspension shall whilst it is in force have the same effect as a cancellation of the permit and the Minister may when suspending a permit fix the period of its suspension or he may suspend it without fixing the period of its suspension.

Where the Minister has upon any date suspended a permit without fixing the period of its suspension, the onus of proof that such permit is in force at any later date shall be on the defendant, but without prejudice to the right of the prosecutor to adduce evidence proving or tending to prove that such permit is not in force at that later date."

Repeal of
and new
s. 11.

11. Section eleven of the Principal Act is repealed and the following section is inserted in lieu thereof, namely:—

Power to
give
directions.

"[11.] (1.) If in the opinion of the Minister any provision of this Part of this Act has been, or is being, or will be contravened or not complied with in relation to—

- (i.) Any building operation which is being or is about to be carried out, or the carrying out of which has been commenced; or
- (ii.) Any work in the course of or for the purpose of any such building operation;

he may, at any time and from time to time, by notice in writing, give to the person on whose behalf such building operation is being or is about to be carried out, or has been commenced, or to any architect, builder, contractor or engineer employed in any capacity, or to any other person employed in any advisory or supervisory capacity, or to any other person legally liable under section nine of this Act for an offence in relation to such building operation or work, or to some or all of the persons hereinbefore in this subsection mentioned, such directions in relation to the building operation or work or its suspension or discontinuance, or as to the furnishing to him or to any person specified by him of any information in relation to the building operation or work, as the Minister thinks fit.

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(2.) A person to whom a notice is given under subsection one of this section—

- (i.) Shall comply with any directions applicable to him ; and
- (ii.) Shall furnish any information in his possession specified in the notice ; and
- (iii.) Shall not carry out, or commence or continue to carry out, any building operation or do, or commence or continue to do, any work in the course of or for the purpose of commencing, continuing or carrying out any building operation contrary to any direction contained in the notice.

(3.) Where a notice under subsection one of this section has been given upon any date, the onus of proof that such notice is not in force at any later date shall be on the defendant, but without prejudice to the right of the prosecutor to adduce evidence proving or tending to prove that such notice is in force at that later date.

(4.) This section shall apply with respect to every building operation including any building operation which is exempted from the provisions of section nine of this Act and also any building operation in respect of which a permit has been granted by the Minister.”

12. The following section is inserted after section New s. 11A inserted. eleven of the Principal Act, namely :—

“ [11A.] Except as provided by this section an architect, engineer, or other person employed in an advisory or supervisory capacity in connection with any building operation shall not be entitled to be paid or to recover any moneys by way of commission, fees or otherwise howsoever for any work done at any time in connection with designing, planning, supervising or advising upon the erection or construction of, or any other building operation upon, a dwelling-house where such erection, construction or other building operation is at that time not permitted under or exempted from the provisions of section nine of this Act. Certain payments to architects and engineers unlawful.”

The amount of any such commission, fee, or other remuneration paid to an architect, engineer or other person shall be deemed to be a debt due and payable by him to the person who made the payment and shall be recoverable accordingly.”

This section shall not apply as respects a design, plan or other document or thing required under this Act to be furnished to the Minister with or in connection with an application for a permit or reasonably prepared for or in connection with that application.

Repeal of
and new
s. 16.

13. Section sixteen of the Principal Act is repealed and the following section is inserted in lieu thereof, namely :—

Powers and
duties of
Brisbane
City
Council and
Local
Authorities
with respect
to building
operations.

“ [16.] (1.) To the extent necessary to give operation and effect to the provisions of this Act, the provisions of **“ The City of Brisbane Acts, 1924 to 1946,”* and of all ordinances thereunder, and of †*“ The Local Government Acts, 1936 to 1947,”* and of all by-laws of a Local Authority thereunder relating to building operations shall be read and construed with and subject to this Act, but so that every such provision shall, except in so far as compliance therewith would be a contravention of or a failure to comply with a provision of this Act, continue of full force and effect.

Subject as hereinbefore in this section provided, both the applicable provisions of this Act and such of the provisions of the Acts, ordinances and by-laws hereinbefore in this section mentioned as are applicable shall be complied with as respects any building operation.

(2.) A person shall not—

- (i.) Commence any building operation in Zone A or Zone D where the cost of such building operation (or the aggregate cost of such building operation and of all other building operations carried out in the same financial year on or within the area appurtenant to the structure on which such building operation is carried out) exceeds one hundred pounds ; or
- (ii.) Commence any building operation in Zone B or Zone C where the cost of such building operation (or the aggregate cost of such building operation and of all other building operations carried out in the same financial

* 15 G. 5 No. 32 and amending Acts.

† 1 G. 6 No. 1 and amending Acts.

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year on or within the area appurtenant to the structure on which such building operation is carried out) exceeds fifty pounds,

before such building operation has been approved—

- (iii.) By Brisbane City Council if to be carried out within the Area of the City of Brisbane; or
- (iv.) In any other case by the Local Authority of the Area within which such building operation is to be carried out.

Any person who at any time commences, continues, or carries out or who permits or allows to be commenced, continued, or carried out any building operation in contravention of the provisions of this subsection shall be guilty of an offence.

(3.) Brisbane City Council or a Local Authority shall not at any time—

- (i.) Approve of any building operation or of any plan, design, drawing, specifications or other matter for or in connection with a building operation when such building operation cannot be lawfully carried out under this Part of this Act; or
- (ii.) Approve of so much only of any building operation as may be lawfully carried out under this Act if the whole of such building operation, or if any plan, design, drawing, specification or other matter submitted with the application for such approval shows that the whole of such building operation, cannot at that time be lawfully carried out under this Part of this Act; or
- (iii.) Approve of any building operation which cannot be lawfully carried out under this Part of this Act except pursuant to a permit hereunder, before the delivery to it of such permit.

(4.) Every approval by Brisbane City Council or a Local Authority of a building operation shall be in or to the effect of the prescribed form and shall contain the prescribed information and particulars.

(5.) Subject to this section a Local Authority may approve of a building operation upon application being made to it in that behalf notwithstanding that its by-laws do not require the carrying out of such building operation to be approved of by it.

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(6.) The person obtaining an approval required under subsection two of this section shall keep or cause to be kept such approval at the site of the building operation at all times during which such building operation, or any work in the course of or for the purposes of such building operation, is being carried out and shall produce it for inspection by any person employed in any capacity in connection with such building operation when required by such lastmentioned person to do so.

(7.) A person shall not commence employment in any capacity upon or in connection with a building operation, or any work in or for the purposes of a building operation, for which approval is required under subsection two of this section unless he has first satisfied himself by inspecting such approval that such building operation may be lawfully carried out.

Any person who fails to comply with the provisions of this subsection shall be guilty of an offence.

In this subsection the term "employment" includes (but without limiting the generality of its meaning) employment in any capacity as architect, builder, contractor or engineer, or employment in any advisory or supervisory capacity.

(8.) If Brisbane City Council or a Local Authority approves of a building operation contrary to any provision of this section, every member and officer of Brisbane City Council or, as the case may be, that Local Authority who is knowingly a party to or concerned in the granting of such approval shall be deemed to have contravened that provision of this section and shall be guilty of an offence."

Repeal of
and new s.
17.

14. Section seventeen of the Principal Act is repealed and the following section is inserted in lieu thereof, namely :—

Priorities in
supply of
timber and
building
materials

" [17.] (1.) This section shall apply as respects such building operations or classes of building operations as may be prescribed from time to time.

A building operation so prescribed is hereinafter in this section called a " priority building operation."

(2.) Where Brisbane City Council or a Local Authority approves of a priority building operation it shall, upon the application of the person obtaining such approval, give to him a certificate to that effect.

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If the form of such certificate is prescribed, it shall be in or to the effect of such prescribed form.

(3.) The holder of a certificate mentioned in subsection two of this section may produce such certificate to any supplier of timber or building materials required for the priority building operation specified in such certificate and may order such timber or building materials from such supplier.

Such supplier shall not at any time when he has not fulfilled such order supply any timber or building materials ordered by such holder to any person other than another holder of a certificate for a priority building operation who requires the timber or building materials for such building operation.

(4.) Nothing in this section shall require a supplier to deliver timber or building materials to any person who upon tender of such delivery fails to pay the lawful price for such timber or building materials, if such payment is then demanded by the person making such delivery.

(5.) A person shall not be legally liable for his failure to supply timber or building materials to any other person pursuant to any contract or agreement if such failure was caused by his having given priority in the supply of such timber or building materials to the holder of a certificate mentioned in subsection two of this section."

15. The following section is inserted after section New s. 17A inserted. seventeen of the Principal Act, namely :—

" [17A.] (1.) A person shall not at any time after the passing of **"The Building Operations and Timber and Building Materials Control Act Amendment Act of 1948,"* Unlawful use of dwelling-houses in Zone B. without the prior consent in writing of the Minister, sell, transfer, assign, let or sub-let or agree to sell, transfer, assign, let or sub-let to any other person, or create or agree to create in favour of any other person any license to occupy, any dwelling-house or any part of any dwelling-house situated in Zone B, the erection of which was completed on or after the twenty-second day of November, one thousand nine hundred and forty-five.

(2.) The Minister may in his absolute discretion give or refuse to give his consent under this section.

* This Act.

The Minister may consent without conditions or limitations or he may consent subject to such conditions or limitations as he thinks fit including conditions or limitations which will be binding upon a purchaser or sub-lessee as well as conditions and limitations binding the applicant for the consent.

(3.) Any person who contravenes or fails to comply with any provision of this section, or who contravenes or fails to comply with any condition or limitation of a consent under this section which is binding upon him, and any auctioneer or commission agent who is knowingly concerned in any such contravention or failure, shall be guilty of an offence.

Amendment
of s. 19.

16. Subsections one, two, and three of section nineteen of the Principal Act are repealed; and subsection four of the said section nineteen is amended by repealing the words "Where the offence is prosecuted upon indictment" and by inserting the words "Where there is a conviction upon a prosecution upon indictment for an offence against this Part of this Act" in lieu of such repealed words.

Amendment
of s. 36.

17. Section thirty-six of the Principal Act is amended as follows:—

(a) The words "or, in the case of any applicant for or holder of a permit, at his address as stated in his application for the permit" are added to subsection two thereof.

(b) In subsection four thereof the words "six months" are repealed and the words "twelve months" are inserted in lieu thereof, and, in addition, the words "four months" are repealed and the words "six months" are inserted in lieu thereof.

(c) Subsection six thereof is repealed and the following subsection is inserted in lieu thereof, namely:—

"(6.) (a) In any proceedings for an offence against this Act the allegation or averment in the indictment, information, or complaint—

- (i.) That any building operation is not exempted from the provisions of section nine of this Act; or
- (ii.) That a permit has not been granted for the carrying out of any building operation; or

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- (iii.) That any permit has been cancelled or is suspended at the time stated in such averment ; or
- (iv.) That any building operation or any work in the course of or for the purpose of any building operation contravened or failed to comply with any term, condition or limitation of the permit for such building operation ; or
- (v.) That any building operation has not been approved by Brisbane City Council or, as the case requires, a Local Authority ; or
- (vi.) That a specified date is the date of discovery of such offence,

shall be evidence of the matter or matters so alleged or averred, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters.

(b) Paragraph (a) of this subsection shall apply to any matter so alleged or averred although—

- (i.) Evidence in support or rebuttal of such matter or of any other matter is given ; or
- (ii.) Any matter so alleged or averred is a mixed question of law and fact, but in that case the averment shall be evidence of the fact only.

(c) Any document signed by the Minister or by his delegate, or by any person thereunto authorised by the Minister or his delegate, which purports to be a duplicate or copy of any permit, notice, order, requirement, or direction made, issued, or given under this Act shall, upon its production in evidence, be evidence of the permit, notice, order, requirement or, as the case may be, direction of which it purports to be such duplicate or copy, without any proof that such duplicate or copy was compared with the original thereof and without any notice to produce such original.

In the absence of evidence in rebuttal thereof the same shall be conclusive evidence of the original whereof it purports to be a duplicate or copy.

(d) This subsection shall not lessen or affect any onus of proof otherwise falling on the defendant.”

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New s. 36A
inserted.

18. The following section is inserted after section thirty-six of the Principal Act, namely :—

Offences and
penalties.

“ [36A.] (1.) (a) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence.

(b) Any person guilty of an offence against this Act shall be liable, unless some specific penalty is prescribed by this Act for such offence, to a penalty as follows, that is to say :—

(i.) If the offence is prosecuted summarily—a penalty not exceeding four hundred pounds or, if the offender is a body corporate, not exceeding two thousand pounds ; or

(ii.) If the offence is prosecuted on indictment—a penalty not exceeding one thousand pounds or imprisonment for a term not exceeding twelve months or, if the offender is a body corporate, a penalty not exceeding five thousand pounds.

(2.) Any offence against this Act may be prosecuted in a summary way under **“ The Justices Acts, 1886 to 1946,”* or upon indictment :

Provided that every offence against this Act shall be prosecuted in a summary way unless the Minister directs that such offence be prosecuted upon indictment.

Repeal of s.
39 and new
ss. 39 and 40.

19. Section thirty-nine of the Principal Act is repealed and the following sections are inserted in lieu thereof, namely :—

Regulations.

“ [39.] The Governor in Council may from time to time make regulations providing for all or any purposes whether general or to meet particular cases that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

Without limiting the generality of these provisions, regulations may be made for or in respect of all or any of the following matters and things—

(i.) Prescribing forms under this Act, and the respective purposes for which such forms are to be used ;

* 50 V. No. 17 and amending Acts.

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- (ii.) Applications for permits under this Act, persons by whom such applications may be made, the information and particulars to be contained in or to accompany such applications; and the verification of such applications, information and particulars;
- (iii.) Applications for approvals of building operations by Brisbane City Council and Local Authorities, the persons by whom such applications may be made, forms for such applications, the information and particulars to be contained in or to accompany such applications, and the verification of such applications, information and particulars;
- (iv.) Approvals by Brisbane City Council or any Local Authority of building operations, providing for, regulating and controlling such approvals and the form thereof (which power to regulate and control shall include power to prohibit), and providing for, regulating and controlling the furnishing by Brisbane City Council and Local Authorities of copies of all such approvals;
- (v.) Certificates by Brisbane City Council or any Local Authority that building operations are priority building operations, providing for regulating and controlling, the issue of such certificates, which power to regulate and control shall include power to prohibit;
- (vi.) Defining terms, conditions and limitations upon and subject to which any specified building permits or classes of building permits may be issued;
- (vii.) The method of ascertaining the areas of structures or of any class or classes of structures, and providing for, regulating and controlling the ascertainment of any such area according to such method;
- (viii.) The method of ascertaining the areas of brick, or concrete, or brick and concrete walls, fences, drives, pavements, paths, terraces, platforms or embankments, or of any of

- them, or of any class or classes thereof, and providing for regulating and controlling the ascertainment of any such area according to such method ;
- (ix.) Providing for, regulating and controlling arrangements for securing timber and/or building materials ;
- (x.) Returns and statistics to be furnished under and for the purposes of this Act, information and particulars to be contained in or to accompany such returns and statistics, the persons or classes of persons by whom any such returns or statistics are to be furnished, the person or persons to whom the address or addresses at which and the time or times when any such returns and statistics are to be furnished ;
- (xi.) Defining the functions, powers and duties of inspectors and other officers ; and
- (xii.) All matters or things required or permitted by this Act to be prescribed, in so far as not required to be otherwise prescribed.

Publication
of Orders in
Council and
regulations.

[40.] (1.) Every Order in Council or regulation made under this Act shall—

- (a) Be published in the *Gazette* ;
- (b) Shall, upon its publication in the *Gazette*, be judicially noticed ;
- (c) Take effect from the date of such publication, in the case of such regulation, or from a later date to be specified in the regulations ; and
- (d) Be laid before Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2.) If Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after such regulation has been laid before Parliament disallowing any such Order in Council or regulation

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or part thereof, that Order in Council or regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

For the purposes of this paragraph the term "sitting days" shall mean days on which Parliament actually sits for the despatch of business."

20 The repeal or repeal and re-enactment with or ^{Savings.} without modification of any provision of the Principal Act by this Act shall not affect—

- (i.) Any regulation, permit, notice, order, requirement, or direction made, issued, or given under the Principal Act which is in force at the passing of this Act; or
- (ii.) Any liability, penalty, forfeiture, or punishment incurred under any provision of the Principal Act or of any regulation thereunder or any prosecution in respect of any such liability, penalty, forfeiture, or punishment.

Every such regulation, permit, notice, order, requirement, or direction shall, subject as hereinafter provided in this section, continue in force until it expires by effluxion of time unless sooner repealed, revoked, amended, suspended, or cancelled under the Principal Act as amended by this Act:

Provided that every such regulation, permit, notice, order, requirement, or direction shall, while it so continues in force, be read and construed subject to the Principal Act as amended by this Act.

This section shall be read and construed so as not to limit the operation and effect of "*The Acts Shortening Acts*"