



ANNO TRICESIMO SEPTIMO

**ELIZABETHAE II REGINAE**

**A.D. 1988**

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**No. 84 of 1988**

**Act to amend the Building Act, 1971.**

*[Assented to 1 December 1988]*

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Building Act Amendment Act, 1988*.
- (2) The *Building Act, 1971*, is in this Act referred to as "the principal Act".

**Commencement**

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

**Penalties for improper performance of building work**

3. Section 10 of the principal Act is amended—
  - (a) by striking out "\$400", wherever it occurs, and substituting, in each case, "Division 6 fine";
  - and
  - (b) by striking out "\$50", wherever it occurs, and substituting, in each case, "Division 10 fine".

**Notice to desist from building work**

4. Section 11 of the principal Act is amended by striking out from subsection (2) "\$100" and substituting "a division 10 fine".

**Performance of building work in emergency**

5. Section 12 of the principal Act is amended by striking out from subsection (2) "\$100" and substituting "a division 9 fine".

**Classification of buildings**

6. Section 13 of the principal Act is amended by striking out from subsection (5) "\$400. Default penalty: \$50" and substituting "Division 6 fine. Default penalty: Division 10 fine".

**Powers of referees**

7. Section 22 of the principal Act is amended by striking out "*Arbitration Act, 1891*" and substituting "*Commercial Arbitration Act, 1986*".

**Notice of defect**

8. Section 35 of the principal Act is amended by striking out from subsection (5) "\$400. Default penalty: \$50" and substituting "Division 6 fine. Default penalty: Division 10 fine".

**Variation of requirements**

9. Section 36 of the principal Act is amended—

(a) by striking out from subsection (1) “an order that the requirements contained in the notice be varied or struck out” and substituting “a determination under this section”;

and

(b) by striking out subsection (2) and substituting the following subsections:

(2) The referees may, upon an application under subsection (1), determine that—

(a) the requirements of the notice be carried out;

(b) the requirements of the notice be carried out subject to modifications;

or

(c) the notice be struck out,

as the referees think just in the circumstances.

**Council may require conformity with Act**

10. Section 38 of the principal Act is amended—

(a) by striking out from subsection (1) “, require him to bring it into conformity with the provisions of this Act or to demolish the building or structure” and substituting the following:

—

(a) require the owner to bring the building or structure or the building work into conformity with the provisions of this Act;

(b) require the owner to demolish the building or structure;

or

(c) require the owner to do one or the other as the owner may choose.;

and

(b) by striking out from subsection (2) “\$400. Default penalty: \$50” and substituting “Division 6 fine. Default penalty: Division 10 fine”.

**Disclosure of interest**

11. Section 39d of the principal Act is amended by striking out from subsection (1) “\$200” and substituting “Division 7 fine”.

**Notice of defect**

12. Section 39f of the principal Act is amended by striking out from subsection (5) “\$400. Default penalty: \$50” and substituting “Division 6 fine. Default penalty: Division 10 fine”.

**Notice to adjoining owner of certain building work**

13. Section 49 of the principal Act is amended by striking out from subsection (2) “\$400” and substituting “a division 8 fine”.

**Encroachments upon public places**

14. Section 50 of the principal Act is amended by striking out from subsection (1) “\$400” and substituting “Division 8 fine”.

**Obstruction of surveyors**

15. Section 59b of the principal Act is amended by striking out “\$400” and substituting “Division 7 fine”.

**Regulations****16. Section 61 of the principal Act is amended—**

- (a) by striking out from paragraph (gg) "\$200 and default penalties not exceeding \$50" and substituting "a division 7 fine and default penalties not exceeding a division 11 fine";

and

- (b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsections:

(2) The regulations may adopt, wholly or partially and with or without modification—

- (a) a code relating to matters in respect of which regulations may be made under subsection (1) or otherwise relating to buildings, structures or building work;

or

- (b) an amendment to such a code.

(3) Any regulations adopting a code, or an amendment to a code, may contain such incidental, supplementary and transitional provisions as appear to the Governor to be necessary.

(4) The regulations or a code adopted by the regulations may—

- (a) refer to or incorporate, wholly or partially and with or without modification, a standard or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time;

- (b) be of general or limited application;

- (c) make different provision according to the persons, things or circumstances to which they are expressed to apply;

and

- (d) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the council or the building surveyor.

(5) Where—

- (a) a code is adopted by the regulations;

or

- (b) the regulations, or a code adopted by the regulations, refers to a standard or other document prepared or published by a prescribed body,

then—

- (c) a copy of the code, standard or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations;

(d) in any legal proceedings, evidence of the contents of the code, standard or other document may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code, standard or other document;

and

(e) the code, standard or other document has effect as if it were a regulation made under this Act.

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

D. B. DUNSTAN, Governor