



ANNO DECIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1967

No. 62 of 1967

An Act to provide for the licensing of certain persons
in the building trade and for other purposes.

[Assented to 16th November, 1967]

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

PART I.**PART I.****PRELIMINARY.**

- Short title.** 1. This Act may be cited as the "Builders Licensing Act, 1967".
- Commence-
ment and
application.** 2. (1) This Act shall come into operation on a day to be fixed by proclamation.
(2) This Act does not apply to or in relation to the carrying out of any building work, or the construction of any building, outside the portions of the State to which the Building Act, 1923-1965, applies.
- Arrangement.** 3. This Act is arranged as follows :—
PART I.—PRELIMINARY, ss. 1-4.
PART II.—THE BOARD AND THE ADVISORY COMMITTEE—
DIVISION 1.—THE BOARD, ss. 5-12 :
DIVISION 2.—THE ADVISORY COMMITTEE, s. 13.
PART III.—LICENCES, ss. 14-19.
PART IV.—OFFENCES AND MISCELLANEOUS,
ss. 20-29.

4. (1) In this Act, unless the contrary intention appears— Interpretation.

“building” means any building of a permanent nature used or intended to be used for residential, professional, manufacturing, trading, commercial, hospital, institutional, assemblage or public purposes; but does not include any building intended solely for the business of primary production as defined in the Land Tax Act, 1936-1967:

“building work” means work in the nature of—

(a) the erection, construction, alteration of, addition to, or the repair or improvement of any building;

or

(b) the making of any excavation, or filling for, or incidental to, the erection, construction, alteration of, addition to, or the repair or improvement of any building:

“classified trade” means one of the trades into which building work is classified under this Act:

“deputy” means deputy appointed to act for a member:

“general builder’s licence” means a current and valid general builder’s licence issued under section 15 of this Act:

“licence” means a general builder’s licence or a restricted builder’s licence:

“member” means member of the Board or, as the case may require, member of the advisory committee, and includes a deputy when lawfully acting for a member:

“restricted builder’s licence” means a current and valid restricted builder’s licence issued under section 16 of this Act:

“the advisory committee” means the Builders Licensing Advisory Committee constituted pursuant to this Act, and includes any sub-committee of that committee:

“the appointed day” means the day declared by proclamation to be the appointed day for the purposes of section 21 of this Act, being a day not earlier than the thirtieth day of June, 1968:

“the Board” means the Builders Licensing Board of South Australia constituted pursuant to this Act:

“the chairman” means the chairman of the Board or, as the case may require, chairman of the advisory committee, and includes a deputy or acting chairman of

the Board or the advisory committee when lawfully acting as chairman of the Board or the advisory committee :

“the secretary” means the secretary of the Board or the person for the time being acting as such.

(2) The provisions of this Act shall be construed as being in addition to and not being in derogation of any other Act.

PART II.

PART II.

THE BOARD AND THE ADVISORY COMMITTEE.

DIVISION 1.—THE BOARD.

DIVISION I.

5. (1) There shall be a board which shall be called the The Board.
"Builders Licensing Board of South Australia".

(2) Subject to this Act the Board—

(a) shall be a body corporate with perpetual succession and a common seal ;

(b) shall be capable of suing and being sued, and, with the written consent of the Minister, of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of property of all kinds ;

(c) shall hold all its property for and on behalf of the Crown ;

and

(d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the Board affixed to any document and shall, unless the contrary is proved, presume that it was duly affixed.

(4) Subject to this Act, the Board shall consist of five members appointed by the Governor who have in their respective professional capacities substantial knowledge of the building industry and of whom—

(a) one shall be a legal practitioner as defined in the Legal Practitioners Act, 1936-1964, of not less than five years' standing, who shall be the chairman of the Board ;

(b) one shall be a resident of this State who is a member of the South Australian Chapter of the Royal Australian Institute of Architects and selected by

the Governor after consultation with the governing body of that chapter ;

(c) one shall be a resident of this State who is a corporate member of The Australian Institute of Building and selected by the Governor after consultation with the governing body of the South Australian Chapter of that institute ;

(d) one shall be a resident of this State who is a member of The Institute of Chartered Accountants in Australia or The Australian Society of Accountants and selected by the Governor after consultation with the council of the South Australian Division of the Australian Society of Accountants and the council of the South Australian Branch of The Institute of Chartered Accountants in Australia ;

and

(e) one shall be a resident of this State who is a Member of The Institution of Engineers Australia and selected by the Governor after consultation with the governing body of the South Australian Division of that institution.

(5) Where any member is unable to perform his duties as such or is acting or is about to act as the deputy of the chairman for any period, the Governor may at any time appoint a deputy to act for the member during that period or any part thereof and a person so appointed shall, while so acting, be deemed to be a member and any person so appointed to be deputy of the chairman shall, while so-acting, be deemed to be the chairman.

(6) The Public Service Act, 1936-1967, shall not apply to or in relation to the appointment of a member of the Board and a member shall not, as such, be subject to that Act.

**Tenure of
Office.**

6. (1) Subject to this section, a member shall be appointed for such term of office, not exceeding three years, as shall be specified in the instrument of his appointment.

(2) On the expiration of his term of office as a member, a person shall, subject to subsection (4) of section 5 of this Act, be eligible for re-appointment as a member.

(3) The Governor may, by notice in writing served on a member, remove him from office if the Governor is satisfied that by reason of any offence committed by the member or any dishonourable or dishonest conduct of the member or by reason of any mental or physical incapacity of the member, he ought not to remain a member of the Board.

(4) The office of a member shall become vacant if—

(a) he dies or his term of office expires ;

(b) he resigns by written notice given to the Minister ;

(c) he is removed from office by the Governor pursuant to subsection (3) of this section ;

(d) he absents himself from three meetings of the Board in any period of twelve months without the leave of the Minister ;

or

(e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent persons or compounds with his creditors.

(5) On the occurrence of any vacancy in the office of a member, a person eligible under this Act for appointment as a member shall, in accordance with this Act, be appointed to fill the vacancy.

7. (1) The chairman of the Board shall preside at every meeting of the Board at which he is present. Proceedings of the Board.

(2) If the office of chairman is vacant, or the person appointed as the chairman and the deputy (if any) of the chairman are not present at a meeting, a member elected by the members present at the meeting shall act for, and have all the powers of, the chairman for that meeting.

(3) Four members shall constitute a quorum at any meeting of the Board for the transaction of business and no business shall be transacted at a meeting unless a quorum is present.

(4) On any matter before a meeting of the Board—

(a) the decision of the majority of the votes cast by the members present at the meeting shall be the decision of the Board ;

and

(b) the chairman shall have a deliberative vote and, in the case of an equality of votes, a second or casting vote also.

(5) An act or proceeding of the Board shall not be invalid solely on the ground that there was at the time thereof a vacancy in the office of any member ; and shall, notwithstanding the subsequent discovery that there was a defect in the appointment of a member, or that a member was not entitled to act as such, be as valid and effectual as if the member was duly appointed and was entitled to act as a member.

(6) No liability shall attach to any member for any act or omission by the Board or by him in good faith and in the exercise or purported exercise of its or his powers or functions or in the discharge or purported discharge of its or his duties under this Act.

(7) Subject to this Act, the business of the Board shall be conducted in such manner as the Board may determine.

(8) The Board may refer any matter to the advisory committee for its consideration and recommendations and shall have regard to, but is not obliged to give effect to, the recommendations, if any, made by the advisory committee.

(9) The Board shall hold its first meeting on such day and at such time and place as the Minister appoints.

Common seal
of the
Board.

8. (1) The common seal of the Board shall be kept in the custody of such member or officer of the Board as the Board determines and shall not be affixed to any instrument except in pursuance of a resolution of the Board.

(2) The affixing of the common seal to any instrument executed by the Board shall be attested by the signatures of any two members.

9. The chairman and other members of the Board shall be entitled to receive remuneration and allowances at such rates as are fixed by the Governor.

Remuneration
of members.

10. (1) The Board shall, not later than the thirty-first day of October in each year, furnish to the Minister a report on the operations of the Board during the year ended on the thirtieth day of June in that year.

Reports of
the Board,
accounts and
audit.

(2) The Board shall keep full and proper accounts of all its financial transactions and the Auditor-General shall, once at least in each year, inspect and examine the property of the Board and audit the books and accounts of the Board and after each such audit, shall make a report to the Minister on the state of the affairs of the Board.

(3) The provisions of section 41 of the Audit Act, 1921-1959, as amended, shall apply and have effect as if the Board were a public corporation referred to in that section.

(4) The Minister shall cause every report of the Board and of the Auditor-General received by him under this section to be laid on the table in each House of Parliament within fourteen days after it is received by him if Parliament is then in session, or, if Parliament is not then in session, within fourteen days after the commencement of the next session of Parliament.

11. (1) There shall, for the purposes of this Act, be a secretary and such other officers of the Board as shall be appointed under the Public Service Act, 1936-1967.

Secretary
and officers
of the
Board

(2) The secretary and officers so appointed shall act under the directions of the Board.

12. (1) Subject to subsection (2) of this section, the Board shall keep and maintain a register containing the names, addresses of and other prescribed particulars relating to every person who as at the date to which the register is made up, is the holder of a general builder's licence or the holder of a restricted builder's licence.

The register.

(2) The register shall be kept and maintained in accordance with this Act.

(3) In the month of February in each year, the Board shall furnish the Minister with a copy of the register, corrected to the thirty-first day of December in the last preceding year and the Minister shall, as soon as practicable after receiving it, cause the same to be published in the *Gazette*.

(4) A copy of the register so published shall, in any legal proceedings, be *prima facie* evidence of the contents of the register as at the date to which the register purports to have been so corrected.

(5) A certificate signed by the secretary certifying that a person was not on a date or during a period specified in the certificate the holder of a general builder's licence or the holder of a restricted builder's licence which authorizes the holder thereof to undertake and carry out building work within the classified trade specified therein shall, in any legal proceedings, be *prima facie* evidence of the facts therein certified.

DIVISION II.

DIVISION 2.—THE ADVISORY COMMITTEE.

The advisory
committee.

13. (1) There shall, for the purposes of this Act, be a committee which shall be called the "Builders Licensing Advisory Committee".

(2) The advisory committee shall consist of—

(a) such number of members as shall be prescribed ;
and

(b) such members appointed by the Governor as shall, in the Governor's opinion, be representative of the various sections of the building industry.

(3) The Governor shall appoint one of the members of the advisory committee to be the chairman and one to be the deputy chairman of the advisory committee and may at any time appoint a deputy to act for a member while he is unable to perform his duties as such or is acting as the chairman or deputy of the chairman.

(4) The Public Service Act, 1936-1967, shall not apply to or in relation to the appointment of a member of the advisory committee and a member of that committee shall not, as such, be subject to that Act.

(5) Subject to this section, a member of the advisory committee shall be appointed for such term of office as shall be specified in the instrument of his appointment, but on the expiration of his term of office as a member, a person shall, subject to paragraph (b) of subsection (2) of this section, be eligible for re-appointment as a member.

(6) The Governor may, by notice in writing served on a member, remove him from office on any ground that may be prescribed.

(7) The office of a member shall become vacant if—

(a) he dies or his term of office expires ;

(b) he resigns by written notice given to the Minister ;

(c) he is removed from office pursuant to subsection (6) of this section ;

or

(d) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent persons or compounds with his creditors.

(8) On the occurrence of any vacancy in the office of a member of the advisory committee, a person eligible under this Act for appointment as a member shall, in accordance with this Act, be appointed to fill the vacancy.

(9) The advisory committee shall consider and make recommendations to the Board on such matters as are referred to it by the Board and for that purpose may establish and appoint such sub-committees as may be approved by the Minister.

(10) The chairman and other members of the advisory committee shall be entitled to receive allowances at such rates as are prescribed.

(11) The Governor may make regulations regulating and prescribing the practice and procedure of the advisory committee and providing for such matters as are necessary or convenient for the proper functioning of the advisory committee.

(12) Subject to this Act, the business of the advisory committee shall be conducted in such manner as the committee may determine.

(13) An act or proceeding of the advisory committee shall not be invalid solely on the ground that there was at the time thereof a vacancy in the office of any member, and shall, notwithstanding the subsequent discovery that there was a defect in the appointment of a member, or that a member was not entitled to act as such, be as valid and effectual as if the member was duly appointed and was entitled to act as a member.

(14) No liability shall attach to any member of the advisory committee for any act or omission by the committee or by him in good faith and in the exercise or purported exercise of its or his powers or functions or in the discharge or purported discharge of its or his duties under this Act.

PART III.

PART III.

LICENCES.

Licences
generally.

14. (1) Subject to this Act, a licence shall be valid and effectual for the purposes of this Act for such period not exceeding twelve months as shall be stated therein.

(2) A licence may, upon application being made to the Board and payment of the prescribed fee therefor not more than one month before the date of expiration thereof, be renewed by the Board from time to time and a licence so renewed shall, subject to this Act, in the case of each renewal, be valid and effectual for a further period of twelve months commencing from the time it would have expired had it not been renewed.

(3) A licence shall cease to be valid and effectual for the purposes of this Act—

(a) upon the expiration thereof or, if it has been renewed, upon the expiration of the period for which it has been renewed ;

(b) upon cancellation thereof under this Act until an order, if any, is made under section 18 of this Act annulling such cancellation ;

and

(c) for any period during which it is suspended under this Act.

(4) A person is not entitled to be granted a licence or to have a licence renewed under this Act at any time during which any licence previously issued to him is cancelled or suspended or at any time during which the person is disqualified from holding or obtaining a licence.

General
builder's
licence.

15. (1) Subject to this Act, a general builder's licence authorizes the holder thereof to undertake and carry out building work of any kind.

(2) Subject to this Act, a person, not being a body corporate, who applies to the Board in the prescribed form for a general builder's licence and pays to the Board the prescribed fee therefor shall be granted such licence upon satisfying the Board—

(a) that he is of or over the age of twenty-one years ;

(b) that he is a person of good character and repute and a fit and proper person to hold such a licence

and

(c) that—

(i) he—

is registered under the Architects Act, 1939-1965 ;

or

is a corporate member of the Institution of Engineers, Australia, or the holder of qualifications which exempt him from the Associate Membership examination of that institution ;

or

is a corporate member of the Australian Institute of Building,

and, in the Board's opinion, has not less than three years' practical experience in building work generally ;

or

(ii) he possesses the necessary qualifications that are prescribed for the holder of a general builder's licence ;

or

(iii) although not satisfying the requirements of sub-paragraph (i) or (ii) of this paragraph, he has nevertheless had such experience of building work generally, whether within or outside the State, as would render him fit to carry out and discharge the duties, responsibilities and obligations of the holder of a general builder's licence.

(3) Subject to this Act, a body corporate or a partnership carrying on business in the State, which applies to the Board in the prescribed form for a general builder's licence and pays to the Board the prescribed fee therefor, shall be granted such licence upon satisfying the Board—

(a) that, in the case of the body corporate, all the directors or all the members of the board of management thereof, or, in the case of the partnership, all the partners thereof are persons of good character and repute ;

(b) that, but for this Act, it has the power, authority and capacity to undertake and carry out building work of any kind ;

and

(c) that, in the case of the body corporate, at least one of the directors or of the members of the board of management thereof, or, in the case of the partnership, at least one of the partners thereof, is the holder of a general builder's licence or, if the body corporate has been incorporated or the partnership has been formed outside the State, that an individual residing in the State, who is the holder of a general builder's licence, is the manager or agent in this State of the body corporate or partnership.

(4) Where, during the currency of a general builder's licence issued pursuant to subsection (3) of this section to a body corporate or a partnership, there is not, for any period exceeding twenty-one days or such longer time as the Board may, on application, allow, at least one of the directors or of the members of the board of management of the body corporate, or at least one of the partners of the partnership who is the holder of a general builder's licence or, if the body corporate has been incorporated or the partnership has been formed outside the State, the body corporate or partnership has for a like period no manager or agent residing in the State who is the holder of a general builder's licence, the general builder's licence so issued to the body corporate or the partnership, as the case may be, shall, by force of this subsection, be suspended for that period and that body corporate or partnership shall be deemed not to be the holder of a general builder's licence in respect of that period accordingly.

(5) For the purposes of this Act, the South Australian Housing Trust shall at all times be deemed to be the holder of a current and valid general builder's licence issued under this section.

**Restricted
builder's
licence.**

16. (1) Subject to this Act, a restricted builder's licence authorizes the holder thereof to undertake and carry out building work within such classified trade as is specified in the licence.

(2) Subject to this Act, a person, not being a body corporate, who applies to the Board in the prescribed form for a restricted builder's licence which authorizes the holder thereof to undertake and carry out building work within a classified trade and pays to the Board the prescribed fee therefor shall be granted such a licence upon satisfying the Board—

(a) that he is of or over the age of twenty-one years ;

(b) that he is a person of good character and repute and a fit and proper person to hold such a licence ;

and

(c) that—

- (i) he possesses the necessary qualifications that are prescribed for the holder of a restricted builder's licence which authorizes the holder thereof to undertake and carry out building work within such classified trade ;

and

- (ii) although not satisfying the requirements of sub-paragraph (i) of this paragraph, he has nevertheless had such experience of building work within such classified trade, whether within or outside the State, as would render him fit to carry out and discharge the duties, responsibilities and obligations of the holder of such a restricted builder's licence.

(3) Subject to this Act, a body corporate or a partnership carrying on business in the State which applies to the Board in the prescribed form for a restricted builder's licence which authorizes the holder thereof to undertake and carry out building work within a classified trade and pays to the Board the prescribed fee therefor shall be granted such a licence upon satisfying the board—

- (a) that, in the case of the body corporate, all the directors or all the members of the board of management thereof or, in the case of the partnership, all the partners thereof, are persons of good character and repute ;

- (b) that, but for this Act, it has the power, authority and capacity to undertake and carry out building work within such classified trade;

and

- (c) that, in the case of the body corporate, at least one of the directors or of the members of the board of management thereof, or, in the case of the partnership, at least one of the partners thereof, is the holder of such a restricted builder's licence or of a general builder's licence or, if the body corporate has been incorporated or the partnership has been formed outside the State, that an individual residing in the State, who is the holder of such a restricted builder's licence or of a general builder's licence is the manager or agent in this State of the body corporate or partnership.

(4) Where, during the currency of a restricted builder's licence authorizing the holder thereof to undertake and carry out building work within a classified trade issued pursuant to subsection (3) of this section to a body corporate or a partnership there is not, for any period exceeding twenty-one days, or such longer time as the Board may, on application, allow, at least one of the directors or of the members of the board of management of the body corporate, or at least one of the partners of the partnership who is the holder of such a restricted builder's licence or of a general builder's licence, or, if the body corporate has been incorporated or the partnership has been formed outside the State, the body corporate or partnership has for a like period no manager or agent residing in the State who is the holder of such a restricted builder's licence or of a general builder's licence, the restricted builder's licence so issued to the body corporate or the partnership, as the case may be, shall, by force of this subsection, be suspended for that period and that body corporate or partnership shall be deemed not to be the holder of such restricted builder's licence in respect of that period accordingly.

Matters to
be considered
by the Board.

17. (1) Without limiting its power to refuse an application for any other cause, the Board may refuse an application for a licence or renewal of a licence on any ground upon which such a licence may be cancelled or suspended.

(2) The Board may, for the purpose of ascertaining whether the applicant has the appropriate qualifications prescribed for the licence, require any applicant for a licence to undergo any test or examination approved by the Minister and may, on payment by the applicant of such fee for the test or examination as may be prescribed, itself conduct such test or examination or arrange for such test or examination to be conducted.

Cancellation
or suspension
of licences.

18. (1) The Board may, by order, cancel or suspend for any period any licence granted under this Act—

- (a) if the licence or any renewal thereof had been obtained by fraud, dishonesty or misrepresentation ;
- (b) if the holder of the licence is convicted of any offence, the commission of which would in the opinion of the Board render him unfit to be the holder of the licence ;
- (c) if the holder of the licence has been found, by any court or other tribunal, or, after due inquiry, by the Board, to have been negligent or incompetent in the performance of any building work or other work in the building trade or in any branch thereof which he had undertaken in pursuance of any contract ;

(d) if the holder of the licence has been found, by any court or other tribunal, or, after due inquiry, by the Board, to have been guilty of fraudulent conduct or dishonesty in connection with the undertaking, carrying out or completion of any building work or other work in the building trade or in any branch thereof ;

or

(e) if, in the Board's opinion, the holder of the licence having undertaken the personal supervision and control of any building work or having undertaken to carry out any building work, the personal supervision and control or the design or execution of that work was inadequate or incompetent or that work was not carried out under the supervision and control required by this Act,

and upon the making of the order of cancellation, or during the period of the suspension, as the case may be, the person to whom the licence had been granted shall cease to be the holder thereof.

(2) The Board may, in and by the order cancelling or suspending a licence, disqualify the holder thereof from holding or obtaining a licence for any period.

(3) A person whose licence has been cancelled or a person whose licence has been suspended for a period exceeding three months or a person who is disqualified from holding or obtaining a licence may, after the expiration of three months from the making of the order of cancellation, suspension or disqualification, apply to the Board for an order annulling such cancellation, suspension or disqualification, as the case may be, and the Board may, after holding such inquiry as it thinks fit, for such reason or reasons as the Board thinks proper, by order, annul such cancellation, suspension or disqualification.

(4) Upon the making of the order of annulment the order of cancellation, suspension or disqualification to which it refers shall cease to have effect.

(5) Before making an order cancelling or suspending a licence, or disqualifying the holder thereof from holding or obtaining a licence, the Board shall conduct an inquiry and give the holder of the licence an opportunity of showing cause why the order should not be made.

19. (1) When the Board makes a decision or an order—

Appeal.

- (a) refusing an application by a person for a licence ;
- (b) cancelling or suspending a person's licence ;
- (c) disqualifying a person from holding or obtaining a licence ;

(d) refusing to annul the cancellation or suspension of a person's licence ;

or

(e) refusing to annul the disqualification of a person from holding or obtaining a licence,

the Board shall give that person its reasons for the decision or order, and the person may, if aggrieved by the decision or order, within thirty days after the reasons for the decision or order have been so given, appeal to the Local Court of Adelaide of full jurisdiction.

(2) The local court shall have jurisdiction to hear and determine the appeal and may review the decision or order appealed against and the reasons therefor, and may, having regard to all matters which it considers relevant, including the interests of the public, confirm, vary or reverse the decision or order, but the onus shall be on the appellant to satisfy the court that the decision or order should be varied or reversed.

(3) Unless the court, with the consent of the appellant and the Board, directs otherwise, every appeal shall be by way of re-hearing.

(4) Subject to the rules of court (if any) made for the purposes of this Act under section 28 of the Local Courts Act, 1926-1965, at the hearing of any appeal under this Act, the appellant and the Board shall be entitled to appear personally or by counsel or solicitor.

(5) The court may order the appellant or the Board to pay costs in connection with any appeal.

(6) Where the court by its determination of an appeal varies or reverses a decision or an order of the Board, the Board shall, as soon as practicable after receiving notice of the determination, give effect to that determination as if it were a decision or an order of the Board.

(7) The determination of the local court on any matter arising out of an appeal under this Act shall be final and conclusive.

(8) The local court may, at any time after an appeal against a decision or order of the Board—

(a) cancelling or suspending a person's licence ;

or

(b) disqualifying a person from holding or obtaining a licence,

has been lodged, and on the application of the appellant, make an order postponing the effect of the decision or order appealed against until the appeal is determined by the court or until such other time as may be fixed by the court and the order shall have effect according to the tenor thereof.

PART IV.

PART IV.

OFFENCES AND MISCELLANEOUS.

20. (1) For the purposes of considering or dealing with any application made to the Board or of conducting any inquiry under this Act, the Board may—

Powers of Board in dealing with applications, etc.

- (a) require, by summons under the hand of the chairman or of the secretary acting under the direction of the Board, the attendance of any witness ;
- (b) by notice in writing signed as aforesaid, require the production of any books, papers or documents relevant to the inquiry before the Board ;
- (c) inspect any books, papers and documents produced before it and make copies of or extracts from matters therein that are relevant to the matter before the Board ;

and

- (d) examine witnesses on oath or affirmation which may be administered by any member or by the secretary.

(2) A person into whose conduct the Board is conducting any inquiry is entitled to be represented at the inquiry by counsel, solicitor or agent, and the Board shall give such person or his counsel, solicitor or agent an opportunity of making to the Board such representations as, in the opinion of the Board, are relevant to the inquiry.

21. (1) If any person—

Offences.

- (a) who has been personally served with a summons referred to in paragraph (a) of section 20 of this Act to attend before the Board, without lawful excuse (proof whereof shall lie on him), fails to attend in obedience to such summons ;
- (b) wilfully interrupts the proceedings of the Board ;
- or
- (c) being called or examined as a witness in any proceeding or inquiry before the Board, refuses to be sworn or to affirm or, without lawful excuse (proof whereof shall lie on him), fails to produce any books, papers or documents mentioned in a notice referred to in paragraph (b) of section 20 of this Act and personally served upon him, or knowingly or wilfully makes a false statement to the Board,

he shall be guilty of an offence and liable to a penalty not exceeding Two hundred dollars or to imprisonment not exceeding six months, or to both.

(2) On or after the appointed day a person shall not—

(a) assume, take or use as a description of his trade, occupation, or business the expression “Master Builder”, “Builder”, “Licensed Builder”, “Registered Builder”, “Building Contractor”, “Licensed Building Contractor” or “Registered Building Contractor”, or any other title or description likely to lead persons to believe that he is entitled, willing or able to undertake or carry out building work generally, unless he is the holder of a general builder’s licence ;

or

(b) hold himself out, or assume, take or use as a description of his trade or business any title or description likely to lead persons to believe, that he is entitled, willing or able to undertake or carry out any building work within a classified trade unless he is the holder of a general builder’s licence or the holder of a restricted builder’s licence authorizing him to undertake and carry out building work within that trade.

Penalty : Five hundred dollars.

(3) On or after the appointed day, a person shall not carry out for fee or reward or undertake, or submit a bid or tender, to carry out, whether by himself or through the services of any other person or persons any building work within a classified trade unless he or such other person or any of such other persons is the holder of a general builder’s licence, or the holder of a restricted builder’s licence authorizing him to undertake and carry out building work within that classified trade.

Penalty : Seven hundred and fifty dollars.

(4) It shall be a defence to a charge under subsection (3) of this section if the defendant proves—

(a) that the total amount charged by him for the building work with reference to which he was charged was wholly by way or in the nature of wages paid or payable to him ;

or

(b) that the total amount charged by him for the building work with reference to which he was charged, inclusive of labour and materials, did not exceed one hundred dollars if the building work consisted solely of painting work, or two hundred and fifty dollars in any other case.

(5) Where a person has carried out or undertaken, or submitted a bid or tender, to carry out any building work in contravention of this section, he shall not be entitled to claim, or recover in any court, the amount of any fee or charge for any building work so carried out or carried out pursuant to such undertaking, bid or tender.

(6) On or after the appointed day, a person shall not knowingly construct, or cause to be constructed, or employ any other person to construct, any building for immediate sale or for immediate letting under lease or licence if such construction is not carried out under the personal supervision and control of the holder of a general builder's licence.

Penalty: Seven hundred and fifty dollars.

(7) It shall be a defence to a charge under subsection (6) of this section if the defendant proves—

(a) that the total cost of the construction of the building, inclusive of labour and materials, did not exceed one thousand dollars ;

or

(b) that, at all times during the construction of the building, he was the holder of a general builder's licence and, at all material times, the construction was carried out either under his personal supervision and control or under the personal supervision and control of a person competent to supervise and control the carrying out of such construction and who is employed by him for that purpose ;

or

(c) that the building was built for his own use and occupation.

(8) For the purposes of subsection (6) of this section, but without limiting the effect thereof, a person who has constructed, or caused to be constructed, or employed any other person to construct a building which he sells or offers for sale or for letting under lease or licence before the expiration of eighteen months after the completion of the construction shall, in the absence of proof to the contrary, be deemed as the case may be, to have knowingly constructed, or caused to be constructed, or employed that other person to construct the building for immediate sale or for immediate letting under lease or licence.

(9) On or after the appointed day, a person shall not—

(a) falsely state or imply in any advertisement of a building offered by him or on his behalf for sale that the building was constructed by or under the directions or supervision of a master builder or the holder of a general builder's licence ;

or

- (b) state or imply in any advertisement of a building offered by him or on his behalf for sale that the building was constructed by or under the directions or supervision of a person who then was a master builder or the holder of a general builder's licence unless the advertisement also states the name and address of the person by whom or under whose directions or supervision the building was constructed.

Penalty : Four hundred dollars.

(10) A person who, after the appointed day, has constructed or caused to be constructed any building the construction of which has not been carried out by or under the directions or supervision of the holder of a general builder's licence shall not advertise the building for sale by him or sell the building unless he states in the advertisement or, as the case may be, he informs the purchaser of the building in writing that the construction of the building had not been carried out by or under the directions or supervision of the holder of a general builder's licence.

Penalty : Four hundred dollars.

(11) On or after the appointed day, a person shall not for fee or reward construct or cause to be constructed any building or for fee or reward undertake to construct any building, whether by himself or through the services of any other person or persons, unless he is the holder of a general builder's licence and the construction is carried out by or under the personal supervision and control of the holder of a general builder's licence.

Penalty : Seven hundred and fifty dollars.

(12) It shall be a defence to a charge under subsection (11) of this section if the defendant proves—

- (a) that the total amount charged for the construction of the building was wholly in the nature of wages paid or payable to him ;
- (b) that the total cost of the construction of the building, inclusive of labour and materials, did not exceed one thousand dollars ;

or

- (c) that, at all times during the construction of the building, he was the holder of a general builder's licence and, at all material times, the construction was carried out either under his personal supervision and control or under the personal supervision and

control of a person competent to supervise and control the carrying out of such construction and who is employed by him for that purpose.

(13) The holder of a licence shall, within seven days after becoming or ceasing to be—

(a) a partner in a partnership ;

or

(b) a director or a member of the board of management of a body corporate,

inform the Board in writing signed by him the name and business address of the partnership or the body corporate and the date when he became or ceased to be, as the case requires, the partner in the partnership, or the director or member of the board of management of the body corporate.

Penalty : One hundred dollars.

(14) Every body corporate that is the holder of a licence shall—

(a) within seven days after any person who is the holder of a licence becomes or ceases to be a director or a member of the board of management of the body corporate ;

or

(b) within seven days after a director or a member of the board of management of the body corporate becomes or ceases to be the holder of a licence,

inform the Board in writing signed by a member of the board of directors or of the board of management of the body corporate, the name and business address of the body corporate and, as the case requires, the date when, and the fact that, the holder of the licence became or ceased to be a director or a member of the board of management of the body corporate, or the date when, and the fact that, the director or member of the board of management became or ceased to be the holder of the licence.

Penalty : One hundred dollars.

(15) The partners in every partnership that is the holder of a licence shall—

(a) within seven days after any person who is the holder of a licence becomes or ceases to be a partner in that partnership ;

or

(b) within seven days after a partner in that partnership becomes or ceases to be the holder of a licence,

inform the Board in writing signed by any one of the partners the name and business address of the partnership and, as the case requires, the date when, and the fact that, the holder of the licence became or ceased to be a partner in that partnership, or the date when, and the fact that, that partner became or ceased to be the holder of a licence.

Penalty : One hundred dollars.

(16) Every holder of a licence shall install or erect in a prominent position on the site of any building work (other than building work constituting alterations or repairs to any existing dwellinghouse, flat or home unit) being carried out by him or on his behalf or on the outside of the place where such building work is being carried out a sign showing in easily legible characters his name and licence number and the type of licence held by him, and if the licence is a restricted builder's licence, the classified trade in which he is authorized to undertake and carry out building work.

Penalty : Two hundred dollars.

(17) Where the holder of a restricted builder's licence is carrying out building work in association with the holder of a general builder's licence, it shall be a sufficient compliance with subsection (16) of this section if the provisions of that subsection were complied with only by the holder of the general builder's licence.

(18) Subject to this section, where any building work is undertaken on or after the appointed day by any person who is the holder of a licence, that person shall cause the building work to be carried out under his personal supervision and control or under the personal supervision and control of a person competent to supervise and control the carrying out of such building work and who is employed by him for that purpose.

Penalty : Two hundred dollars.

(19) A person who has carried out or is carrying out any building work or under whose supervision or control any building work has been or is being carried out shall, if required by notice in writing signed by the chairman and served upon him personally or by post, within such time after the service of the notice on him as the chairman specifies in the notice, or the Board allows, supply to the Board such particulars relating to a contract, undertaking or engagement entered into by him in connection with that building work as the chairman specifies in the notice.

Penalty : Two hundred dollars.

(20) A person shall not supply to the Board in response to a notice referred to in subsection (19) of this section any information which, to his knowledge, is false in any material particular or calculated to mislead the Board.

Penalty : Five hundred dollars.

22. (1) Any member or officer of the Board, authorized in that behalf in writing by the chairman, may enter any premises where building work is being carried out and inspect such building work and take such steps as are necessary to enforce the provisions of this Act or to prevent any contravention thereof.

Board may enter building sites.

(2) No person shall hinder or obstruct the member or officer of the Board in the lawful exercise by him of the powers conferred by subsection (1) of this section.

Penalty : Two hundred dollars.

23. A member or officer of the Board shall not, except in the course of his duty under this Act, directly or indirectly communicate or divulge to any person any information which comes to his knowledge in consequence of his office concerning the business of any person who is or was the holder of a licence.

Member of Board not to divulge information.

Penalty : Two hundred dollars.

24. Notwithstanding any provision of the Arbitration Act, 1891-1934, any provision of a contract relating to the performance or carrying out of any building work in the construction of any dwellinghouse or any building designed for residential flats or residential units (the total cost of the construction of which house or building does not exceed twenty thousand dollars) entered into after the commencement of this Act which has the effect of submitting, or binding the parties to the contract to submit, to arbitration any matter or dispute concerning the performance or carrying out of such building work or any part thereof has no force or effect unless and until, after such matter or dispute arose, the parties to the contract by writing duly executed by them agree that such provision has effect in relation to such matter or dispute.

Effect of submission to arbitration of dispute concerning building work.

25. In any legal proceedings, a signature that purports to be the signature of any person who is or has been the chairman, a member or the secretary of the Board shall, if such signature appears on any document executed pursuant to this Act or in the exercise or discharge of any power conferred, function vested or duty imposed by or under this Act, and in the absence of proof to the contrary, be deemed to be the signature of that person.

Signatures of chairman, etc.

Proceedings
under this
Act.

26. (1) Proceedings for any offence against this Act or against any provision of this Act shall be disposed of summarily.

(2) Any such proceedings may be instituted by and in the name of the Board or by any person authorized by the Board in writing under the hand of the chairman either generally or in each particular case; and in any such proceedings no proof shall, unless evidence is given to the contrary, be required of any such authorization having been given by the Board.

(3) Proceedings for an offence under this Act may be commenced at any time within two years after the offence was committed.

Power of
Board to
exempt
persons and
work from
operation of
this Act.

27. (1) The Board may, with the approval of the Minister, by order published in the *Gazette*, exempt any person, firm or any class of person or any building work or class of building work from the operation of all or any of the provisions of this Act either generally or subject to such conditions as the Board specifies in the order.

(2) The Board may, with the like approval, by order published in the *Gazette*, revoke or vary any previous order made under subsection (1) of this section or under this subsection.

(3) Upon the publication of the order referred to in subsection (2) of this section, that order shall take and have effect according to its tenor.

Financial.

28. (1) All moneys paid to or recovered by the Board under this Act shall, except to the extent to which the Board is required or liable to disburse the same, be paid to the Treasurer of the State and shall form part of the General Revenue thereof.

(2) The moneys required for the purposes of the administration of this Act or the affairs of the Board shall be paid out of moneys appropriated by Parliament for those purposes.

Regulations.

29. The Governor may make regulations—

- (a) for or with respect to all matters or things which are necessary or expedient to be prescribed for giving effect to this Act;
- (b) prescribing all matters or things which by this Act are required or permitted to be prescribed;
- (c) regulating the conduct of the business of the Board;
- (d) prescribing particulars to be entered in the register relating to persons, partnerships or classes of persons whose names are required to be entered therein;

- (e) for or with respect to the issue of certified copies of and certified extracts from the register on payment of the respective fees chargeable therefor ;
 - (f) prescribing the several qualifications, courses of training and examinations for purposes of various provisions of this Act ;
 - (g) prescribing the several fees chargeable and the forms to be used under this Act ;
 - (h) prohibiting a person who is exempted from the operation of all or any of the provisions of this Act subject to any conditions from acting in breach of any such conditions ;
 - (i) classifying building work into various trades for the purposes of this Act ;
 - (j) requiring the holders of licences or councils to furnish the Board at such time or times as may be prescribed with such returns or information as may be prescribed ;
- and
- (k) prescribing penalties, not exceeding in each case two hundred dollars, for any breaches of, or non-compliance with, the regulations or any provisions thereof.

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

J. M. NAPIER, Governor's Deputy.