



ANNO VICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1973

No. 67 of 1973

**An Act to amend the Builders Licensing Act,
1967-1971.**

[Assented to 6th December, 1973]

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

1. (1) This Act may be cited as the "Builders Licensing Act Amendment Act, 1973". Short titles.

(2) The Builders Licensing Act, 1967-1971, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Builders Licensing Act, 1967-1973".

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

3. Section 4 of the principal Act is amended—

(a) by inserting in the definition of "licence" after the passage "a general builder's licence" the passage "a provisional general builder's licence,";

(b) by inserting after the definition of "member" the following definition:—

"provisional general builder's licence" means a current and valid provisional general builder's licence issued under section 15a of this Act ;;

Amendment of
principal Act,
s. 4—
Interpretation.

and

(c) by inserting after the definition of "restricted builder's licence" the following definition:—

"speculative building work" means work consisting in the erection or construction of a building by a person in whom the total legal and equitable interest in the building (except an interest that may exist solely by virtue of a mortgage) lies but does not include a building work declared by regulation not to be speculative building work.

Amendment of
principal Act,
s. 15—
General
builder's
licence.

4. Section 15 of the principal Act is amended by inserting after subparagraph (iii) of paragraph (c) of subsection (2) the following subparagraph:—

or

(iv) he—

(i) has held a provisional general builder's licence for a period of three years or more and has complied with all the conditions subject to which that licence was granted;

and

(ii) has carried out a substantial amount of speculative building work during that period.

Enactment of
s. 15a of
principal Act—

5. The following section is enacted and inserted in the principal Act immediately after section 15 thereof:—

Provisional
general
builder's
licence.

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

(2) Subject to this Act, a person, not being a body corporate, who applies to the Board in the prescribed form for a provisional general builder's licence 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 eighteen 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 he has held a restricted builder's licence under this Act for a period of two years or more.

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

(a) that all of the members of the partnership are persons of good character and repute;

(b) that at least one member of the partnership holds a provisional general builder's licence;

and

(c) that the building work to be carried out in pursuance of the licence will be carried out under the personal supervision of one of the partners who is the holder of a provisional general builder's licence.

(4) Where, during the currency of a provisional general builder's licence issued pursuant to subsection (3) of this section to a partnership, there is not, for any period exceeding twenty-one days or such longer time as the Board may, on application, allow, a partner who holds a provisional general builder's licence personally supervising the building work carried out in pursuance of the licence by the partnership, the provisional general builder's licence shall, by force of this subsection, be suspended until such a person joins the partnership and undertakes the personal supervision of that building work and the partnership shall, for the duration of that suspension, be deemed not to be the holder of a provisional general builder's licence.

(5) A provisional general builder's licence shall be issued by the Board subject to the following conditions:—

(a) the prescribed conditions requiring the holder of the licence to give the Board prescribed notice of any speculative building work that he proposes to undertake in pursuance of the licence;

(b) the prescribed conditions providing for the inspection of building work undertaken in pursuance of the licence by a person holding prescribed qualifications and requiring the licensee to pay the cost of any such inspection;

(c) the prescribed conditions requiring the holder of the licence to furnish the Board with certificates of inspection in relation to building work carried out by him;

and

(d) such other conditions as the Board thinks fit and includes in the licence.

Amendment of
principal Act,
s. 18—
Cancellation or
suspension of
licence.

6. Section 18 of the principal Act is amended by inserting after paragraph (b) of subsection (1) the following paragraph:—

(ba) If, in the case of a provisional general builder's licence, the holder of the licence has contravened or failed to comply with any condition of the licence (whether or not the holder of the licence has been convicted of an offence arising from the contravention or failure);

Amendment of
principal Act,
s. 21—
Offences.

7. Section 21 of the principal Act is amended—

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

(ab) hold himself out as the holder of a provisional general builder's licence, or take or use as a description of his trade or business any title or description likely to lead persons to believe, that he is the holder of a provisional general builder's licence unless he in fact holds such a licence;;

(b) by striking out from subsection (6) the passage "On or after the appointed day" and inserting in lieu thereof the passage "Subject to subsection (6a) of this section";

(c) by inserting after subsection (6) the following subsection:—

(6a) Subsection (6) of this section shall not be construed as preventing the holder of a provisional general builder's licence from carrying out speculative building work under his own personal supervision and control.;

(d) by inserting after subsection (8) the following subsections:—

(8a) A person who holds a provisional general builder's licence shall not knowingly construct, or employ any other person to construct, any building unless the construction is carried out under the personal supervision and control of the holder of the licence.

Penalty: Seven hundred and fifty dollars.

(8b) A person shall not sell or lease or offer for sale or lease a building constructed by the holder of a provisional general builder's licence until the final certificate of inspection required under the conditions of the licence has been furnished to the Board.

Penalty: Seven hundred and fifty dollars.

(8c) A person shall not give a certificate of inspection in respect of building work carried out by the holder of a provisional general builder's licence that is false or misleading in a material particular.

Penalty: Seven hundred and fifty dollars.

(8d) A person who holds a provisional general builder's licence shall not contravene or fail to comply with any condition subject to which the licence was issued.

Penalty: Seven hundred and fifty dollars.;

(e) by inserting in subsection (9) after the passage "general builder's licence" wherever it occurs in paragraphs (a) and (b) the passage "or provisional general builder's licence";

(f) by inserting in subsection (10) after the passage "general builder's licence" wherever it occurs the passage "or provisional general builder's licence";

and

(g) by inserting in subsection (18) after the passage "personal supervision and control or" the passage ", subject to subsection (8a) of this section,".

8. Section 22 of the principal Act is amended by inserting after subsection (2) the following subsection:—

Amendment of
principal Act,
s. 22—
Board may
enter building
sites.

(3) Neither the Board, nor any member or officer of the Board, incurs any civil or criminal liability by reason of carrying out an inspection under this section.

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

M. L. OLIPHANT, Governor