

BUILDERS' REGISTRATION.

No. 41 of 1968.

AN ACT to amend the Builders' Registration Act, 1939-1966.

[Assented to 8th November, 1968.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Builders' Registration Act Amendment Act, 1968*.

Short title
and citation.

(2) In this Act the Builders' Registration Act, 1939-1966 is referred to as the principal Act.

Reprinted in
Vol. 16 of
the
Reprinted
Acts.

(3) The principal Act as amended by this Act may be cited as the Builders' Registration Act, 1939-1968.

Approved for
reprint 14th
January,
1963 and
amended by
Acts Nos. 33
of 1965 and
29 of 1966.

Commence-
ment.

2. This Act or any provision thereof shall come into operation on such date or such dates as are respectively fixed by proclamation.

S. 2
amended.

3. Section two of the principal Act is amended—

(a) by adding after the passage, “purposes,” in line five of the interpretation, “Building”, the passage, “but does not include a farm building,”;

(b) by adding after the interpretation, “Building” the following interpretation—

“Building license” means a license issued under by-law 119 of the Uniform Building By-laws, 1965, in force under the Local Government Act, 1960. ; and

(c) by adding after the interpretation, “Company” the following interpretation—

“Farm building” means any building of a permanent nature, other than a building used or intended to be used for residential purposes, that is—

(a) constructed or to be constructed, on land used primarily for agricultural purposes; and

(b) itself used or intended to be used for agricultural purposes. .

S. 4A
amended.

4. Section four A of the principal Act is amended—

(a) by substituting for the passage, “permit under section three hundred and seventy-four of the Local Government Act, 1960,” in lines three, four and five of subsection (1), the words, “building license”;

(b) by substituting for the word, "permit" where it occurs in—

- (i) line one of paragraph (b) of subsection (1);
- (ii) lines one and three of paragraph (c) of subsection (1);
- (iii) line one of subparagraph (i) of paragraph (c) of subsection (1); and
- (iv) line one of subparagraph (ii) of paragraph (c) of subsection (1),

the words, "building license" in each case;

(c) by substituting for the word, "permit" in line eight of subparagraph (ii) of paragraph (c) of subsection (1) and again in line two of subsection (2), the word, "license", in both cases;

(d) by substituting for the passage, "permit under section three hundred and seventy-four of the Local Government Act, 1960," in lines three, four and five of subsection (1a), the words, "building license"; and

(e) by adding after subsection (2) the following subsections—

(3) Without affecting the provisions of section four of this Act, a person who—

(a) is not registered as a builder under this Act; and

(b) has constructed a building pursuant to a building license lawfully issued to him under paragraph (c) of subsection (1) of this section,

shall not without having first obtained the consent in writing of the Board, sell or otherwise dispose, within eighteen months of the date of issue to him of the building license, of the land on which the building was constructed.

Penalty: Four hundred dollars.

(4) A court of petty sessions on the hearing of a complaint of a contravention of subsection (3) of this section shall dismiss the charge if the person charged proves that he sought the consent of the Board to the sale or disposal of the land and that he had reasonable grounds of a private or domestic nature for the sale or other disposal of the land. .

S. 5
amended.

5. Section five of the principal Act is amended—

- (a) by substituting for the expression, “(a)” in line one, the subsection designation, “(1)”;
- (b) by substituting for the expression, “(b)” in line four, the subsection designation, “(2)”;
- (c) by substituting for the expression, “(c)” in line seven, the subsection designation, “(3)”;
- (d) by deleting the passage, “an architect appointed by the Governor who shall be chairman,” in lines ten and eleven;
- (e) by deleting the word, “and” in line fifteen;
- (f) by adding after the word, “Governor”, being the last word in the section, the words, “and one other person appointed by the Governor who shall be chairman”; and
- (g) by adding at the end of the section the following subsections—

(4) Every member of the Board shall hold office for a term of three years, subject to section five A of this Act, but shall be eligible for re-appointment.

(5) The members of the Board, including the chairman, holding office on the date of the coming into operation of the Builders' Registration Act Amendment Act, 1968, shall, subject to section five A of this Act, continue to hold office for the period of three years commencing on that date. .

6. The principal Act is amended by adding after section five a section as follows— S. 5A added.

5A. The office of a member of the Board shall become vacant if the member— Vacancies.

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;
- (d) is convicted of an indictable offence;
- (e) is an incapable person within the meaning of section four of the Mental Health Act, 1962; or
- (f) is absent without leave of the Board from six consecutive meetings of the Board,

and the Governor may thereupon appoint a person to be a member of the Board in place of the member whose office has become vacant, and any person so appointed shall hold office for the unexpired part of the term of office of that lastmentioned member. .

7. Section ten of the principal Act is amended— S. 10 amended.

(a) as to subsection (1)—

- (i) by deleting the word, “or” appearing immediately after the passage, “builders;” in the last line of item (I) of subparagraph (iv) of paragraph (b);
- (ii) by deleting the passage, “, or as a supervisor of building work,” in lines five and six of item (II) of subparagraph (iv) of paragraph (b);
- (iii) by substituting for the passage, “building.” in lines eleven and twelve of item (II) of subparagraph (iv) of paragraph (b), the passage, “building; or”; and

- (iv) by adding after item (II) of subparagraph (iv) of paragraph (b), the following passage—

(III) although not having complied with the requirements of item (I) or item (II) of this subparagraph has nevertheless had such experience in the work of a builder within the State, but outside the area to which this Act applies, as to render him in the opinion of the Board, arrived at in such manner as the Board thinks fit, competent to carry out building,

but for the purpose of this subsection—

- (c) a person who relies in his application on the provisions of item (II) of subparagraph (iv) of paragraph (b) of this subsection shall not be entitled to be so registered unless he satisfies the Board that he was not, on the date of the coming into operation of the Builders' Registration Act Amendment Act, 1961, a resident of the State; and
- (d) a person who relies in his application on the provisions of item (III) of subparagraph (iv) of paragraph (b) of this subsection shall not be entitled to be so registered unless he satisfies the Board that he was not, on the date specified in paragraph (c) of this subsection, a resident of the area of the State to which this Act applied on that date. ;
- (b) as to subsection (2)—
- (i) by adding after the word, "employed" in line seven of subparagraph (ii) of paragraph (b), the words, "in such a manner and with such duties and responsibilities"; and

- (ii) by substituting for the word, "aforesaid" in the last line, the words, "as in the opinion of the Board will ensure the proper management and supervision of the building work"; and
- (c) by adding after the word, "employed" in line nine of subsection (3), the passage, "as provided by subsection (2) of this section," .

8. Section ten B of the principal Act is ^{S. 10B} amended—
amended.

- (a) by adding after the word, "Act" in line three of paragraph (a) the words, "or by an employee of the partners who is so registered"; and
- (b) by adding after the word, "partner" in line two of paragraph (b), the words, "or employee".

9. Section ten C of the principal Act is ^{S. 10C} amended—
by substituting for the passage, "if the building work is managed and supervised by a person who is registered under this Act," in lines two, three and four, the passage, "the company or body corporate shall cause the building work to be managed and supervised by a director of the company or member of the board of management of the body corporate, as the case may be, who is registered under this Act or by an employee who is so registered and".

10. Section thirteen of the principal Act is ^{S. 13} amended—
amended.

- (a) by substituting for the words, "contract in connection with any building" in lines three and four of paragraph (c) of subsection (1), the words, "building work";

- (b) by substituting for the words, "building which he has contracted to build" in lines three and four of paragraph (d) of subsection (1), the words, "building work";
- (c) by adding after subsection (1) the following subsections—

(1a) Where the registration under this Act of a partnership, company or body corporate has been cancelled or suspended by the Board after the holding of an inquiry into a matter or matters arising under paragraph (c) or (d) of subsection (1) of this section, the Board may, if in all the circumstances of the case it considers it proper so to do, without further inquiry, by order cancel or suspend the registration under this Act of the partner, director, member of the board of management or employee by whom the building work to which the inquiry related was, or was required by this Act to be, managed and supervised.

(1b) Upon the making of an order of cancellation under subsection (1a) of this section, the person named in the order shall cease to be registered under this Act and upon the making of an order of suspension under that subsection, the person named in the order shall cease to be registered under this Act for the period specified in the order.

(1c) The Board shall not cancel or suspend the registration of a person under subsection (1a) of this section unless—

- (a) it has sent to the partner, director, member of the board of management or employee a copy of the notice sent under subsection (3) of this section to the partnership, company or body corporate; and

- (b) it has afforded him an opportunity of giving an explanation personally at the inquiry or in writing. ;

and

- (d) by adding after the word, "builder" in line two of subsection (3), the passage, "under subsection (1) of this section," .

11. Subsection (1) of section eighteen of the principal Act is amended by substituting for the word, "permits" in line nine, the word, "licenses". S. 18
amended.

12. Subsection (1) of section twenty-four of the principal Act is amended by adding after paragraph (e), the following paragraph— S. 24

- (ea) requiring local authorities to give notice in the prescribed manner of the issue of building licenses; .
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