

WESTERN AUSTRALIA.

BUILDERS' REGISTRATION.

No 29 of 1939.¹

[As amended by Acts:

- No. 43 of 1940 assented to 30th December, 1940;
- No. 15 of 1944 assented to 8th December, 1944;
- No. 14 of 1945 assented to 9th January, 1946;
- No. 24 of 1948 assented to 9th December, 1948;
- No. 44 of 1953 assented to 29th December, 1953;
- No. 63 of 1956 assented to 4th January, 1957;
- No. 61 of 1959² assented to 10th December, 1959.
- No. 54 of 1961³ assented to 23rd November, 1961;
- No. 33 of 1965 assented to 21st October, 1965;
- No. 29 of 1966⁴ assented to 27th October, 1966;
- No. 41 of 1968⁵ assented to 8th November, 1968;
- No. 58 of 1970 assented to 5th November, 1970;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT relating to the qualifications and registration of Builders; to constitute a Board in relation thereto, and for other purposes connected therewith.

[Assented to 16th December, 1939.]

BE it enacted by the King'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. This Act may be cited as the *Builders' Registration Act, 1939-1970*, and shall come into operation on a day to be fixed by proclamation.¹

Short title
and com-
mencement.
Amended by
No. 58 of
1970, s. 1.

¹ Came into operation on 1st May, 1940; See *Gazette* 26/4/1940, p. 597.

² Came into operation on 5th February, 1960; See *Gazette* 5/2/1960, p. 254.

³ Came into operation on 2nd February, 1962; See *Gazette* 2/2/62, p. 324.

⁴ Came into operation on 16th December, 1966; See *Gazette* 16/12/66, p. 3316.

⁵ Came into operation on 1st January, 1969; See *Gazette* 13/12/68, p. 3814.

Interpre-
tation.

Amended by
No. 43 of
1940, s. 2;
No. 54 of
1961, s. 3;
No. 29 of
1966, s. 3;
No. 41 of
1968, s. 3.

2. In this Act, unless inconsistent with the context of subject matter:—

“Board” means the Builders’ Registration Board of Western Australia constituted under this Act.

“Builder” means a person trading as a builder.

“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 a farm building, and the term used as an abstract noun means the erection or structural alteration of any such building.

“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.

“Company” means a company incorporated or registered under the Companies Act, 1893-1938,¹ or which, being a foreign company, has complied with the provisions of Part VIII of the said Act.

“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.

“Local Authority” means a municipal council or road board.

“Person trading as a builder” means any person who, or any partnership or any company or other body corporate that is engaged in

¹ Repealed by No. 36 of 1943, s. 4. For corresponding provisions of the repealed Act see Companies Act, 1961.

constructing, altering, repairing, adding to or improving the walls and structural parts of buildings for a fixed sum, percentage, or valuable consideration, or reward other than wages.

“Minister” means the Minister for the time being charged with the administration of this Act.

“Register” means the register of builders under this Act.

“Registrar” means registrar appointed under this Act.

“Supervisor” means a person, not being a builder, who oversees the execution or performance of building work, but does not include a foreman, leading hand or other person employed in a like or less responsible capacity in the building industry.

3. This Act shall apply within the metropolitan area as defined in the Second Schedule of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1951.¹

Areas under the Act. See No. 41 of 1951, s. 4.

Provided that the Governor may from time to time by proclamation declare that the Act shall apply in any other place or places, and thereupon the same shall apply accordingly: Provided that the Governor may by further proclamation revoke any such proclamation.

4. (1) No person who is not registered under this Act shall—

(A) (a) construct either for himself or any other person, any building for the purpose of the immediate sale thereof;

(aa) construct for himself any building other than a dwelling house or a building comprising two dwellings on

Prohibition against un-registered builders carrying on business.

Amended by No. 43 of 1940, s. 3; No. 24 of 1948, s. 3; No. 44 of 1953, s. 2; No. 63 of 1956, s. 2; No. 61 of 1959, s. 3; No. 54 of 1961, s. 4; No. 29 of 1966, s. 4.

¹ Now Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1970.

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ground level, each being complete and self-contained, whether or not the building is so designed as to give an external appearance of a single dwelling;

- (b) enter into any contract or engagement to construct any building, or build any building for another in pursuance of any contract or engagement;
- (c) be entitled to recover in any court any fee or charge under any such contract or engagement;
- (d) hold himself out as trading as a registered builder, or, as the case may be, a journeyman builder,

unless—

- (i) the total fee or charge payable in respect of the carrying out of the same does not exceed two thousand four hundred dollars; or
 - (ii) under subsection (2) of this section he is a person exempted from the necessity of obtaining registration;
- (B) assume, take or use (either alone or in combination with any other word, letter or device) the name or title of “registered builder” or, as the case may be, “journeyman builder”, or any name, title or description calculated to lead others to believe he is so registered, or by words or conduct hold himself out as being so registered.

Penalty: For a first offence, not exceeding one hundred dollars; for a second or subsequent offence, not less than one hundred dollars or more than two hundred dollars and in either case if the offence consists of a contravention of subparagraph (b) of paragraph (A) of this subsection a further penalty not exceeding eight dollars for every day or part of

a day during which the offence continues to be committed after any conviction.

(2) The persons exempted from the necessity of obtaining registration under this Act as mentioned in subparagraph (ii) of paragraph (A) of subsection (1) of this section are— Exemption.

(a) any person who is—

(i) [*deleted by No. 61 of 1959, s. 3.*]

(ii) [*deleted by No. 61 of 1959, s. 3.*]

(iii) an officer or servant of the Crown or of any Crown instrumentality, or of any local authority, in so far as he directs or supervises the carrying out of any contract or engagement in the performance of his duties as such officer or servant;

(b) [*deleted by No. 54 of 1961, s. 4.*]

(c) any local authority;

(d) [*deleted by No. 54 of 1961, s. 4.*]

(3) The provisions of this section apply notwithstanding that a number of distinct contracts or engagements to perform work or render services are entered into in connection with the same building by the same person, where:— Splitting
contracts.

(i) the moneys payable in respect of the performance of the contracts or engagements exceed two thousand four hundred dollars in the aggregate but some or all of such contracts or engagements taken severally do not exceed that sum; or

- (ii) in any case where the Board is satisfied that they are substantially in respect of the one undertaking or that they were entered into with a view to evading the provisions of this Act.

Local Authorities not to issue building permits to unregistered persons.
 Added by No. 24 of 1948, s. 4.
 Amended by No. 44 of 1953, s. 3; No. 63 of 1956, s. 3; No. 54 of 1961, s. 5; No. 29 of 1966, s. 5; No. 41 of 1968, s. 4.

4A. (1) It shall be unlawful for any local authority to issue to any person who is not registered under this Act a building license to commence or proceed with any building on any block of ground in any area within which this Act applies—

- (a) unless the total fee or charge payable in respect of the carrying out of such building does not exceed two thousand four hundred dollars; or
- (b) unless the person to whom such building license is issued is a person exempted under subsection (2) of section four of this Act from the necessity of obtaining registration; or
- (c) unless the person to whom such a building license is issued is proposing to construct the building to which the building license relates for himself and not for the purpose of the immediate sale thereof, and—
 - (i) the building to which the building license relates is a dwelling house or a building comprising two dwellings on ground level, each being complete and self-contained, whether or not the building is so designed as to give an external appearance of one dwelling; and
 - (ii) the person to whom the building license is issued has furnished the local authority with a statutory declaration verifying the fact that he

has not, within the last preceding two years, obtained from that or any other local authority the issue of any other building license pursuant to this paragraph.

(d) [*deleted by No. 54 of 1961, s. 5.*]

(1a) It shall be unlawful for any local authority to issue to any person who is a journeyman builder under section ten A of this Act a building license to commence or proceed with any building on any block of ground in any area within which this Act applies, if the cost of the work including the cost of supplying the necessary materials and rendering the necessary services is reasonably likely when the work is commenced to exceed twenty thousand dollars whether that person contracts or engages to execute the work under one or more than one contract, unless paragraph (c) of subsection (1) of this section applies to that person.

(2) Any person who, in order to obtain from any local authority any building license makes any false and fraudulent declaration, representation or statement, either in writing or otherwise, relating to the total fee or charge payable in respect of the carrying out of any proposed building or relating to the qualifications as to either the registration or the right to exemption from registration of the person proposing to carry out the building, shall be guilty of an offence and shall be liable to a fine not exceeding two hundred dollars or be imprisoned for any term of not more than twelve months.

(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.

Constitution
of the
Builders'
Registration
Board of
Western
Australia.
Amended by
No. 15 of
1944, s. 2,
No. 44 of
1953, s. 4,
No. 61 of
1959, s. 4,
No. 54 of
1961, s. 6,
No. 41 of
1968, s. 5.

5. (1) A body corporate is hereby constituted under the name of the Builders' Registration Board of Western Australia.

(2) The Board shall have perpetual succession and a common seal, and shall be capable of suing and being sued.

(3) The Board shall consist of five members, namely, a representative nominated by the West Australian Chapter of the Royal Australian Institute of Architects, a representative appointed by Master Builders' Association of Western Australia, a representative of the workers engaged in the building trade nominated by the Governor, a registered builder appointed by the Governor and one other person appointed by the Governor who shall be chairman.

(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.

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

Vacancies.
Added by
No. 41 of
1968, s. 6.

- (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 five 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.

6. (1) No act or proceeding of the Board shall be invalidated in consequence only of there being any vacancy in the number of members of the Board, or by reason of any defect in the appointment of any person who has acted as a member.

Board.
Proceedings
validated.
Amended by
No. 44 of
1953, s. 5,
No. 63 of
1956, s. 4,
No. 61 of
1959, s. 5,
No. 33 of
1965, s. 2.

(2) At any meeting of the Board the chairman, or, in his absence, any member elected to act as chairman of such meeting by the members present, shall preside, and in case of an equality of votes, shall have a second or casting vote.

Chairman
of meeting,
casting vote.

Quorum.

(3) Three members of the Board shall be a quorum for the conduct of the business of the Board, and a quorum of the Board may lawfully exercise the powers vested in the Board, notwithstanding any vacancy or vacancies in its membership.

Fees to members.

(4) Each member of the Board (including the chairman) shall be paid out of the funds of the Board such fee as shall from time to time be prescribed.

First meeting of the Board.

(5) The Board shall hold its first meeting on such day and such time and place as the Minister appoints, and on such day the Board shall be deemed and taken to be duly constituted.

Appointment of officers.

7. (1) The Board may appoint a registrar and such clerks and other employees as are necessary for the carrying out of its duties and functions, and may pay to any person so appointed such salary or remuneration as the Board thinks fit.

(2) The registrar shall be charged with the custody of the register.

Duties and powers of Board.
Amended by No. 44 of 1953, s. 6.

8. Subject to this Act the duties and powers of the Board shall be:—

- (a) to determine the course of training (including practical experience in the work of a builder) and the examination mentioned in Item (I) of subparagraph (iv) of paragraph (b) of subsection (1) of section ten of this Act;
- (b) to compile and keep a register containing the names, addresses, qualifications, and other prescribed particulars of persons who are admitted to the register pursuant to this Act, and to publish a copy of the same, and of any supplementary list pursuant to this Act;

- (c) to issue or cancel certificates of registration;
- (d) to cancel or suspend the registration of any person under this Act;
- (e) to annul such cancellation or suspension;
- (f) to take proceedings for offences against this Act; and
- (g) generally, to carry out the provisions of this Act.

9. (1) The Board shall cause to be kept a register of builders (to be called the Register of Builders), which shall be in the prescribed form.

Builders' Register. Amended by No. 54 of 1961, s. 7.

(2) The entry in the register shall in such case indicate the qualifications or other matters in virtue of which the entry was made.

Entries.

(3) The Board shall, in the month of July in every year in which the Minister so directs, cause a copy of the register, corrected to the thirty-first day of December then last past to be published in the *Government Gazette*.

Register to be gazetted.

(4) In the month of July in each year in which a copy of the register is not published, the Board shall publish in the *Government Gazette* a supplementary list showing all alterations, additions, revisions, and removals made in the register during the twelve months ended on the thirty-first day of December then last past.

Supplementary lists.

(5) Every supplementary list so published shall be deemed to be part of the last published copy of the register, and such last published copy shall be read and construed as subject to every such list.

Published copies and lists to be read together.

Evidence.

(6) Any copy of the register, or of any such supplementary list published as aforesaid, shall be *prima facie* evidence of the facts therein stated, and the absence of the name of any person from such published copy shall be *prima facie* evidence that such person is not or was not registered under this Act (as the case may be).

Certificate.

(7) A certificate that any person is or is not or was or was not registered under this Act shall, if signed by the registrar, be *prima facie* evidence of the facts therein stated.

Registration of architects and engineers without necessity of completing course or passing examinations.
Added by No. 61 of 1959, s. 6.
Amended by No. 54 of 1961, s. 8.

9A. A person who is

- (a) a member of The Royal Australian Institute of Architects (West Australian Chapter);
- (b) registered under the Architects Act, 1921;
- (c) a member of The Institution of Engineers, Australia (Perth Division); or
- (d) a member of The Australasian Institute of Mining and Metallurgy;

shall, on application being made by him and on payment of the prescribed fee, be registered in accordance with the application under this Act, without the necessity of completing the prescribed course of training and passing the prescribed examination referred to in those provisions.

Who may be registered.
Repealed and re-enacted by No. 43 of 1940, s. 4.
Amended by No. 14 of 1945, s. 2; No. 24 of 1948, s. 5; No. 44 of 1953, s. 7; No. 63 of 1956, s. 5; No. 54 of 1961, s. 9; No. 29 of 1966, s. 6; No. 41 of 1968, s. 7.

10. (1) Any person, not being a company or any other body corporate, who applies to be registered under this section as a registered builder shall be entitled to be so registered if and when—

- (a) he has paid the prescribed fees for such registration; and
- (b) he has satisfied the Board that he—
 - (i) has attained the age of twenty-one years; and

- (ii) [*Deleted by No. 29 of 1966, s. 6.*]
- (iii) is a person of good character; and
- (iv) (I) has completed the prescribed course of training, including practical experience for a period of at least seven years, or for periods aggregating at least seven years, in the work of a builder, or as a supervisor of building work, and has passed the examination prescribed for applicants for registration as registered builders;
- (II) although not having complied with the requirements of item (I) of this subparagraph has nevertheless had such experience in the work of a builder elsewhere than in the State, 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; or
- (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

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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.

(1a) Any person who immediately prior to the coming into operation of the Builders' Registration Act Amendment Act, 1961, was registered as a builder—class B under the provisions of section ten A of this Act as enacted prior to the coming into operation of that Act, shall be entitled to be registered under this section as a registered builder, if that person pays the prescribed fees for such registration and satisfies the Board that—

- (a) he has been actively engaged as a builder in the building industry, or has been a supervisor of building work, during a period of not less than five consecutive years; and
- (b) he has during that period of five years carried out building work, or has supervised the construction of buildings, of an average annual aggregate value of not less than twenty-five thousand dollars.

(1b) Any person, not being a company or other body corporate, who at the date of the coming into operation of the Builders' Registration Act Amendment Act, 1961, is a builder or a supervisor of

building work but is not registered under this Act, may within three months of that date apply to the Board for registration under this section, and shall be entitled to be so registered if and when—

- (a) he pays the prescribed fees for such registration; and
- (b) he satisfies the Board that he—
 - (i) has attained the age of twenty-one years;
 - (ii) [*Deleted by No. 29 of 1966, s. 6.*]
 - (iii) is a person of good character;
 - (iv) has been actively engaged as a builder in the building industry or has been a supervisor of building work during a period of not less than five consecutive years;
 - (v) has during that period of five years carried out building work, or has supervised the construction of buildings, of an average annual aggregate value of not less than twenty-five thousand dollars; and
 - (vi) he is sufficiently competent as a builder as in the opinion of the Board to merit registration under this section without the necessity of completing the prescribed course of training and passing the prescribed examination referred to in subsection (1) of this section.

(1c) (a) Any person not registered under this Act who at the date of the coming into operation of the Builders' Registration Act Amendment Act, 1961, is actively engaged as a builder or as a supervisor of building work, but is not able to fulfil the requirements for registration under this section specified

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in paragraph (b) of subsection (1b) of this section, may within three months after the coming into operation of that Act notify the Board in writing that he intends to apply to the Board for registration as a registered builder under this section if and when he is able to fulfil those requirements.

(b) If during the period of five years immediately following the coming into operation of the Builders' Registration Act Amendment Act, 1961, a person who has given notice to the Board in accordance with the provisions of paragraph (a) of this subsection applies to the Board for registration as a registered builder under this section, that person shall be entitled to be so registered if and when he has paid the prescribed fees for such registration and has satisfied the Board that he fulfils the requirements specified in paragraph (b) of subsection (1b) of this section.

(2) Any partnership or any company or other body corporate which applies to be registered under this Act shall, subject as hereafter provided, be entitled to be so registered if and when—

(a) it has paid the prescribed fees for such registration; and

(b) it has satisfied the Board that—

(i) it is duly authorised to engage in the business of trading as a builder; and

(ii) there is already registered under this Act at least one partner of the partnership or at least one director of the company or at least one member of the board of management of the body corporate, or a person employed in such a manner and with such duties and responsibilities by the partnership or the company or the body corporate to manage and

supervise the building work undertaken by the partnership or the company or the body corporate as in the opinion of the Board will ensure the proper management and supervision of the building work.

(3) Notwithstanding anything to the contrary contained in this Act, the registration under this Act of a partnership or a company or other body corporate pursuant to subsection (2) of this section shall continue and have effect only while at least one partner of the partnership or at least one director of the company or at least one member of the board of management of the body corporate, or a person employed as provided by subsection (2) of this section, by the partnership or the company or the body corporate aforesaid to manage and supervise the building work undertaken by it continues to be registered under this Act.

(4) Every registered builder and every journeyman builder shall affix or erect on all works under his control a sign of reasonable dimensions showing in easily legible letters and figures his name and registered number and his class of registration.

10A. (1) On and after the coming into operation of the Builders' Registration Act Amendment Act, 1961, no person shall be registered or continue to be registered as a registered builder—class B under the provisions of this section as enacted prior to the coming into operation of that Act.

Conditional registration.
Added by No. 44 of 1953, s. 8.
Amended by No. 63 of 1956, s. 6; No. 61 of 1959, s. 7; No. 54 of 1961, s. 10; No. 29 of 1966, s. 7.

(2) Every person who immediately prior to the coming into operation of the Builders' Registration Act Amendment Act, 1961, was registered as a registered builder—class B under the provisions of this section as enacted prior to the coming into operation of that Act shall be and be deemed to be a journeyman builder, and unless he becomes regis-

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tered as a registered builder under section ten of this Act, shall continue to be a journeyman builder under this section so long as in each year, the first of which shall commence on the first day of January, one thousand nine hundred and sixty-two, he—

- (a) pays the annual registration fee prescribed by subsection (3) of section twenty-two of this Act; and
- (b) complies with the requirements of this Act in general so far as they relate to journeyman builders, and of subsections (3) and (4) of this section in particular.

(2a) Any person who at the time of the coming into operation of the Builders' Registration Act Amendment Act, 1961, has under the provisions of this section as enacted prior to the coming into operation of that Act—

- (a) passed the examination prescribed for applicants for registration as builders—class B, but is not registered under those provisions as a builder—class B; or
- (b) taken in the month of November, one thousand nine hundred and sixty-one, the examination prescribed for applicants for registration as builders—class B but the results of such examination are not yet known,

shall, if and when that person has completed the course of training prescribed for applicants for registration as builders—class B under those provisions, be and be deemed to be a person to whom the provisions of subsection (2) of this section apply, subject however in the case of a person referred to in paragraph (b) of this subsection, to his passing the examination therein mentioned or any supplementary examinations granted in respect of that examination.

(3) The conditions of registration under this section are that the person registered—

- (a) shall not, unless he does so for himself and not for the purpose of the immediate sale of the building, execute, or contract or engage to execute, in the area to which this Act applies the erection, construction, alteration, repair, addition to, or improvement of, a building if the cost of executing the work, including the cost of supplying the necessary materials and rendering the necessary services, is reasonably likely when the work is commenced to exceed twenty thousand dollars, whether he contracts or engages to execute the work under one or more than one contract or engagement; and
- (b) shall comply with the requirements of notices served upon him under subsection (4) of this section.

(4) (a) By notice in writing served upon a person registered under this section, the Board may, from time to time, require him to supply to the Board within seven days of the service of the notice upon him or such longer time as the Board specifies in the notice or allows, such particulars, relating to a contract or engagement entered into, or to work executed or being executed, by him in connection with a building in the area to which this Act applies, as the Board specifies in the notice.

(b) By the same or a subsequent notice the Board may require the person registered under this subsection to verify by statutory declaration all or any of the particulars he is required to supply under this subsection.

(c) A person who, having been required under this subsection to make a statutory declaration, makes in the declaration a statement which in any

material particular is to his knowledge, false, commits an offence.

Penalty: Two hundred dollars or twelve months' imprisonment.

(5) [*Deleted by No. 54 of 1961, s. 10.*]

Building work by partnership that is exempt from registration to be under management and supervision of registered builder.
Added by No. 61 of 1959, s. 8.
Amended by No. 54 of 1961, s. 11; No. 29 of 1966, s. 8; No. 41 of 1968, s. 8.

10B. Where any building work is carried out by a partnership, the partners therein shall cause—

- (a) the building work to be managed and supervised by one of the partners who is registered under this Act or by an employee of the partners who is so registered; and
- (b) the name, registered number and class of registration of that partner or employee to appear—
 - (i) in all advertisements, if any, published by or on behalf of the partnership in respect of the building work; and
 - (ii) in any sign affixed or erected on the building work pursuant to subsection (4) of section ten of this Act or otherwise.

Penalty: Two hundred dollars.

Details of person supervising and managing building work constructed by company to be supplied in advertisements and signs on building site.
Added by No. 61 of 1959, s. 8.
Amended by No. 54 of 1961, s. 12; No. 29 of 1966, s. 9; No. 41 of 1968, s. 9.

10C. Where any building work is carried out by a company or body corporate, 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 the company or body corporate shall cause the name, registered number and class of registration of that person to appear—

- (a) in all advertisements, if any, published by or on behalf of the company or body corporate in respect of the building work; and

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- (b) in any sign affixed or erected on the building work pursuant to subsection (4) of section ten of this Act or otherwise.

Penalty: Two hundred dollars.

10D. The penalties imposed by the provisions of sections ten B and ten C of this Act are in addition to and not in derogation of any penalty, suspension or cancellation of registration imposed by any other provisions of this Act.

Ss. 10 B and 10C not to derogate from other provisions of this Act. Added by No. 61 of 1959, s. 8.

11.* (1) Any applicant for registration under this Act whose application has been refused by the Board shall be entitled, on demand, to be furnished in writing with the reason or reasons for such refusal.

Appeal against refusal of Board to register.

Added by No. 43 of 1940, s. 6.

Amended by No. 44 of 1953, s. 9, Cf section 14 of this reprint.

(2) Within fourteen days of receipt by the applicant of such reasons, he or it may appeal to the magistrate of the nearest local court against the decision of the Board by notice in writing of his or its intention so to do, at a day not less than ten days after service of such notice on the Board.

(3) The magistrate of the local court may allow such appeal or dismiss same, and, in the event of allowing such appeal, may direct the Board to register the appellant under this Act, in accordance with the provisions thereof.

(4) The magistrate of the local court may award costs to the successful party.

(5) The appellant may adduce all such evidence at the hearing of the appeal of which he has given the Board seven days' notice before the date fixed for the hearing, but not further or otherwise.

* The provisions of this section were enacted by section 6 of No. 43 of 1940 and were incorporated and numbered as section 11 in the Builders' Registration Act, 1939-1940, as reprinted and published in Volume 2 of the Reprinted Acts of the Parliament of Western Australia, 1943.

Course of training and examinations to be prescribed by the Board.
No. 29 of 1939, s. 11.
Amended by No. 44 of 1953, s. 10.

12. (1) The course of training including practical experience in the work of a builder and the examination mentioned in item (I) of subparagraph (iv) of paragraph (b) of subsection (1) of section ten of this Act shall be prescribed by the Board, who shall conduct or supervise the conduct of such examinations at such times and places as the Board may appoint.

(2) All costs and expenses connected with or incidental to the conduct of such examinations shall be paid by the Board.

Order to remedy unsatisfactory building work.
Added by No. 58 of 1970, s. 2.

12A. (1) Where the Board is of opinion that any building work carried out by any builder under this Act has not been carried out in a proper and workmanlike manner, the Board may, by order in writing served on the builder order him or it to remedy the faulty or unsatisfactory building work within such reasonable time as is specified in the order.

(2) A builder on whom or on which an order has been served pursuant to subsection (1) of this section may, within the period of twenty-one days after service of the order, appeal to the magistrate of the nearest local court against the making of the order or any matter contained therein, by causing notice in writing of the appeal to be served within that period upon the court and the Board.

(3) At the hearing of an appeal duly made under subsection (2) of this section, the magistrate may—

- (a) set aside wholly or vary in any way the order of the Board; or
- (b) decline to set aside or vary the order of the Board,

and may make such order as to the costs of the appeal as he thinks fit, and the decision of the magistrate is final and not subject to any appeal.

(4) Any builder who fails to comply with—

- (a) the terms of an order of the Board made under this section, in any case where no appeal was duly made against the making of the order or where such an appeal was made but the order was not set aside or varied at the hearing of the appeal; or
- (b) the terms of an order of the Board made under this section as varied by a magistrate at the hearing of an appeal brought against the making of the order,

commits an offence.

Penalty: Five hundred dollars.

(5) The making of an order by the Board under this section in respect of any building work carried out by a builder does not, irrespective of whether an appeal is made against the making of the order or of the manner in which the appeal is disposed of, limit or affect in any way the power of the Board to deal with that or any other builder under section thirteen of this Act in connection with the performance, carrying out or completion of the building work which the order required to be remedied.

13. (1) The Board may cancel or suspend registration of any builder under this Act—

- (a) where such registration has been obtained by fraud or misrepresentation; or
- (b) when after such registration such builder has been convicted of any crime or misdemeanour or of any offence which, if committed in Western Australia, would be a crime or misdemeanour; or

Cancellation of registration for fraud or on other grounds. No. 29 of 1939, s. 12. Amended by No. 44 of 1953, s. 11; No. 54 of 1961, s. 13; No. 41 of 1968, s. 10.

Builders' Registration.

- (c) who has been guilty of any negligence or incompetence in connection with the performance of any building work or who has been convicted of any offence against this Act or any regulation; or
- (d) who has been guilty of any fraudulent conduct in regard to the carrying out or completion of any building work; or
- (e) who, being a journeyman builder under this Act, does not comply with the conditions of his registration; or
- (f) where the builder is a partnership or a company or other body corporate and the registration of the partner or the director of the company or the member of the board of management of the body corporate (as the case may be) who is the registered builder, or of the registered builder who is employed by the partnership or the company or the body corporate to manage and supervise the building work undertaken by it, is cancelled or suspended under this Act;

and upon the making of the order of cancellation, or (as the case may be) during the period specified in the order of suspension, such builder shall cease to be registered under this Act.

(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.

(2) By order of the Board the cancellation or suspension of the registration of any builder may at any time, and for such reason and upon such terms as the Board thinks fit, be annulled. A builder whose registration has been suspended or cancelled may at any time after the expiration of three months from the date of such cancellation apply to the Board to annul such cancellation.

(3) Before cancelling or suspending the registration of any builder under subsection (1) of this section, the Board shall—

- (a) send to such builder by post or registered letter, notice in writing of the complaint against the builder; and
- (b) hold full inquiry into the matter and afford such builder an opportunity of giving an explanation personally or in writing.

Appeal from
decision of
Board.

No. 29 of
1939, s. 13.
Cf. s. 11 of
this reprint.

Amended by
No. 54 of
1961, s. 14.

14. (1) Any builder who feels aggrieved by any decision of the Board in withholding or refusing, cancelling, or suspending his registration, or in refusing to annul the cancellation or suspension of his registration, may appeal therefrom to a stipendiary magistrate within one month after the date of such decision.

(2) Such magistrate may decide the appeal on any notes of evidence taken by the Board, or may deal with the matter by way of rehearing, and for that purpose may take evidence on oath or affirmation, in the same manner and to the same extent as he is empowered to do in the exercise of his ordinary jurisdiction. The decision of the magistrate shall be final and conclusive.

Fraudulently
obtaining
certificate,
etc., falsify-
ing register,
etc.

No. 29 of
1939, s. 14.
Amended by
No. 29 of
1966, s. 10.

15. Any person—

- (a) who procures or attempts to procure registration or a certificate under this Act by making or producing or causing to be made or produced any false and fraudulent declaration, certificate, or representation, either in writing or otherwise; or
- (b) who wilfully makes or causes to be made any falsification in or in any manner relating to the register,

shall be guilty of an offence, and shall be liable to a fine not exceeding two hundred dollars, or be imprisoned for any term of not more than twelve months.

Penalty for
disobedience
of order of
Board or
breach of
regulations.

No. 29 of
1939, s. 15.
Amended by
No. 44 of
1953, s. 12;
No. 54 of
1961, s. 15;
No. 29 of
1966, s. 11.

16. Save as otherwise expressly provided, any registered builder or journeyman builder who—

- (a) fails, neglects, or refuses to comply with any lawful direction of the Board made pursuant to this Act or any regulation; or

- (b) is guilty of a contravention of any regulation; or
- (c) does not comply with the conditions of his registration,

shall be liable to a penalty of not more than fifty dollars.

17. (1) For the purpose of conducting any investigations or inquiry authorised to be made under this Act, the Board shall have power to compel the attendance of witnesses, and may administer oaths and affirmations.

Powers conferred on Board in conducting investigation.
No. 29 of 1939, s. 16.

(2) Without limiting the generality of subsection (1) of this section the Board may for the purposes of any such investigation or inquiry take a statutory declaration from any witness or other person.

18. (1) It shall be lawful for any member of the Board, or for any officer of the Board authorised in that behalf by writing under the hand of the chairman of the Board, to enter the premises of any local authority at any time when such premises are open for business, and to examine and make copies of or extracts from all books, papers, records, documents, and other entries of the local authority relating to applications for and the issue of building licenses by the local authority for the purpose of obtaining any information which the Board requires.

Local authorities to furnish information to the Board.
Added by No. 43 of 1940, s. 5, as s. 16A.
Amended by No. 29 of 1966, s. 12; No. 41 of 1968, s. 11.

(2) If any member or officer or servant of a local authority hinders or obstructs or attempts to hinder or obstruct any member or officer of the Board in the lawful exercise by him of the powers conferred by subsection (1) of this section, he shall be guilty of an offence.

Penalty: Two hundred dollars.

19. (1) Any builder whose registration has been cancelled or suspended shall within fourteen days from the notification to such builder of such cancellation or suspension surrender to the Board every certificate issued to such builder under this Act.

Return of certificates.
No. 29 of 1939, s. 17.
Amended by No. 24 of 1948, s. 6; No. 54 of 1961, s. 16; No. 29 of 1966, s. 13.

(2) On failure to do so, such builder shall be liable to a penalty of not more than fifty dollars.

(3) The cancellation or suspension of the registration of any builder shall be effectual, notwithstanding such failure to surrender any certificate.

Signature of
chairman.
No. 29 of
1939, s. 18.
Amended by
No. 29 of
1966, s. 14.

20. In any legal proceedings, any signature, which purports to be the signature of any person who is or has been chairman or member of the Board or registrar shall, if such signature is attached to any certificate of registration or any document under this Act, and in the absence of proof to the contrary, be deemed to be the signature of such person.

Right of
entry and
inspection.
Added by
No. 58 of
1970, s. 3.

20A. (1) Any member of the Board, or person authorised in writing in that behalf by the chairman of the Board, may at any time enter upon any land on which any building work is being carried out and inspect the building work.

(2) A person who in any way resists, obstructs, impedes or delays a member of the Board or other person authorised under subsection (1) of this section, in the exercise of his powers conferred by that subsection commits an offence.

Proceedings
under this
Act.
No. 29 of
1939, s. 19.

21. Any proceedings under this Act may be taken by the registrar or by any other person authorised by the Board, either generally or in any particular case; and in any such proceedings no proof shall, until evidence is given to the contrary, be required of any such authority having been given by the Board.

Limitation
of pro-
ceedings.
Cf. No. 11
of 1902
as amended
s. 51.
Added by
No. 44 of
1953, s. 13.

21A. Where an offence is committed under this Act complaints may be made within twelve months from the time that the offence was committed.

22. (1) There shall be paid to the Board by every candidate for examination or applicant for registration, or for any certificate, such fees as the Board, with the approval of the Governor, prescribes.

Fees and expenses. No. 29 of 1939, s. 20. Amended by No. 44 of 1953, s. 14; No. 61 of 1959, s. 9; No. 54 of 1961, s. 17; No. 29 of 1966, s. 15.

(2) The fees referred to in subsection (1) of this section shall not exceed—

- (a) for examinations—two dollars for each subject;
- (b) for supplementary examinations—four dollars for each subject;
- (c) for registration—four dollars;
- (d) for any certificate—twenty-five cents.

(3) There shall also be paid to the Board on or before the first day of February in each year by every registered builder or journeyman builder such fee, not exceeding twenty-five dollars, as the Minister determines; and if any such builder in any year makes default in paying such fee, the registration of such builder may be suspended, but if the builder gives a satisfactory explanation of such default, the suspension of such registration shall be annulled on payment of such annual fee, together with such additional fee (if any), not exceeding one dollar, as the Board directs.

(4) All fees and penalties paid or recovered under this Act shall be paid to the Board.

(5) The Board shall—

- (a) apply such fees and penalties to—
 - (i) the payment of expenses connected with or incidental to the examination of candidates and to the general expenses (including the payment of fees to members of the Board for attendance at meetings) of the Board in carrying this Act into execution;

- (ii) the provision of scholarships for the technical training of persons employed or to be employed in the building trade, or any trade incidental thereto.

Financial statement and audit thereof and annual report.
No. 29 of 1939, s. 21.

23. (1) The Board shall as soon as practicable after the thirty-first day of December in each year, and not later than the last day of February next following, prepare a financial statement made up to that date, showing the assets and liabilities and the receipts and expenditure of the Board during the preceding twelve months, which statement shall be audited by a qualified auditor.

(2) The Board shall—

- (a) submit a copy of the statement so audited to the Minister; and
- (b) present to the Minister on or before the thirty-first day of March in each year, a report of its proceedings under this Act up to the preceding thirty-first day of December.

Power to make regulations.
No. 29 of 1939, s. 22.
Amended by No. 54 of 1961, s. 18; No. 41 of 1968, s. 12.

24. (1) The Board, with the approval of the Governor, may make regulations for or with respect to—

- (a) the time for and mode of nominating members of the Board;
- (b) regulating the conduct of the business of the Board;
- (c) the register or registration therein and the issue and cancellation of certificates of registration;
- (d) the method of admission to the register of persons who at the commencement of this Act are *bona fide* carrying on the business of a builder;

- (e) the fees payable under this Act;
- (ea) requiring local authorities to give notice in the prescribed manner of the issue of building licenses;
- (f) the particulars required to be given in any notice under this Act;
- (g) any forms to be used under this Act, and any such form or forms to the like effect shall be sufficient in law;
- (h) any matters authorised by this Act to be prescribed;
- (i) granting a temporary license to any approved inter-State builder upon his satisfying the Board of his possessing the requisite qualifications; and
- (j) generally any matters or things necessary or convenient to be prescribed for the due and proper carrying out of the provisions of this Act.

(2) Any such regulations may without prejudice to any other method of revocation be revoked by Order of the Governor in Council.

Power of
Governor
in Council
to revoke
regulations.

