

BUILDERS REGISTRATION.

No. 97 of 1975.

AN ACT to amend the Builders Registration Act, 1939-1970.

[Assented to 1st December, 1975.]

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, 1975*. Short title and citation.

(2) In this Act the Builders Registration Act, 1939-1970 is referred to as the principal Act. Reprinted as approved for reprint 30th March, 1971.

(3) The principal Act as amended by this Act may be cited as the Builders Registration Act, 1939-1975.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Section 4
amended.

3. Subsection (1) of section 4 of the principal Act is amended—

- (a) by deleting the words “two hundred dollars” in lines three and four of the penalty provision set out at the end of the subsection and substituting the words “one thousand dollars”; and
- (b) by deleting the word “eight” in line seven of the penalty provision set out at the end of the subsection and substituting the word “twelve”.

Section 4A
amended.

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

- (a) by deleting the word “twenty” in line nine of subsection (1a) and substituting the word “thirty”.
- (b) by repealing subsection (2) and re-enacting it as follows—

(2) A person who for the purposes of obtaining or attempting to obtain a building license from a local authority makes a representation or statement that is false in a material particular in relation to—

- (a) the value of a building to be erected under the building license;
- (b) the fee or charge payable in respect of the carrying out of the building work;
- (c) any qualifications held under this Act; or

- (d) any exemption from the provisions of this Act,

commits an offence.

Penalty: Four hundred dollars or imprisonment for twelve months. ; and

- (c) by deleting the words "Four hundred dollars" in the last line of subsection (3) and substituting the words "One thousand dollars".

5. Section 9A of the principal Act is amended by deleting the passage commencing with the word "shall" in line ten, and ending with the word "provisions", in the last line, and substituting the passage—

Section 9A
amended.

"and who applies to be registered under the Act shall be entitled to be so registered if and when—

- (e) he pays the prescribed fee for such registration; and
- (f) he satisfies the Board that he has had five years' experience in supervising building construction or in assisting in the supervision of building construction".

6. Section 10 of the principal Act is amended—

Section 10
amended.

(a) as to subsection (1)—

- (i) by deleting the word "or" after item (II) of subparagraph (iv) of paragraph (b);
- (ii) by deleting the passage "building," in the last line of item (III) of subparagraph (iv) of paragraph (b) and substituting the passage "building;"; and

(iii) by adding after item (III) of subparagraph (iv) of paragraph (b) the following items—

(IV) although not having complied with the requirements of item (I), (II) or (III) of this subparagraph has nevertheless had at least five years' practical experience in the work of building construction and has obtained corporate membership of the Australian Institute of Building; or

(V) although not having complied with the requirements of item (I), (II), (III) or (IV) of this subparagraph has nevertheless had five years' experience in the work of building construction as a manager or supervisor and satisfies the Board that he is fit and competent to carry out building work, ;

(b) by repealing subsections (1a), (1b) and (1c); and

(c) by repealing subsection (4) and re-enacting it as follows—

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

7. Section 10A of the principal Act is amended by:—

(a) deleting the word "twenty" in line 13 of subsection (3) and substituting the word "thirty"; and

- (b) deleting the word "Two" in line one of the penalty provision set out at the end of subsection (4) and substituting the word "Four".

8. Section 10B of the principal Act is amended by deleting the passage "the name, registered number and class of registration" in lines one and two of paragraph (b) and substituting the words "the registered number".

Section 10B
amended.

9. Section 10C of the principal Act is amended by deleting the passage "the name, registered number and class of registration" in lines nine and ten and substituting the words "the registered number".

Section 10C
amended.

10. The principal Act is amended by adding after section 10C a section as follows—

Section 10CA
added.

10CA. The requirement for the management and supervision of any building work prescribed by section ten B and section ten C of this Act shall not have been complied with unless it can be shown that the management and supervision was sufficient to ensure that the whole of the building work was carried out in a proficient and workmanlike manner. .

Standard of
management
and
supervision.

11. Section 12A of the principal Act is amended—

Section 12A
amended.

- (a) by repealing subsection (1) and substituting the following subsections—

(1) Where the Board is satisfied that any building work has not been carried out in a proper and workmanlike manner by reason that the building work is faulty or unsatisfactory the Board may by order in writing served on the person who carried out the building work order him to—

- (a) remedy the faulty or unsatisfactory building work within such reasonable time as is specified in the order; or
- (b) pay to the owner of the building such costs of remedying the building work that is faulty or unsatisfactory as the Board considers reasonable in which case any costs so ordered by the Board constitute a debt to the owner and are recoverable by him in a court of competent jurisdiction.

(1a) Where, on complaint being made to it by a person for whom building work has been carried out, the Board is satisfied that in some respect (other than its being faulty or unsatisfactory) the building work has not been carried out in a proper and workmanlike manner the Board may, having regard to the extent of the failure to carry out the building work in a proper and workmanlike manner in relation to the whole of the building work, by order in writing served on the person who carried out the building work order him to—

- (a) remedy the building work that has not been carried out in a proper and workmanlike manner within such reasonable time as is specified in the order; or
- (b) pay to the person for whom the building work was carried out—
 - (i) such costs of remedying the building work that has not been carried out in a proper and workmanlike manner as the Board considers is reasonable; or

- (ii) such sum of money as the Board considers reasonable to compensate him for the failure to carry out the building work in a proper and workmanlike manner,

and any costs or sum of money so ordered to be paid constitutes a debt due to the person to whom it is so ordered to be paid and is recoverable by him in a court of competent jurisdiction.

(1b) The provisions of subsections (1) and (1a) of this section apply to and in relation to building work carried out by any person, whether a builder or not, and whether registered under this Act or not.

(1c) Nothing in paragraph (A) of subsection (1) of section four of this Act precludes a person who is not registered as a builder under this Act from carrying out an order of the Board made pursuant to paragraph (a) of subsection (1) or (1a) of this section. ;

(b) as to subsection (2)—

- (i) by deleting the word “builder” in line one and substituting the word “person”; and

- (ii) by adding after the expression “(1)” in line two the passage “or (1a)”;

(c) as to subsection (4), by deleting the word “builder” in line one and substituting the word “person”; and

(d) by adding after subsection (5) the following subsection—

(6) Nothing in this section has the effect of limiting, restricting or otherwise

affecting any right or remedy a person would have had had this section not been enacted but in hearing and determining any matter in which a builder or other person against whom or which an order has been made under this section and a person for whom building work has been carried out are parties a court may have regard to any order made by the Board under this section and any variation of such an order made by a magistrate under this section. .

Section 12B
added.

12. The principal Act is amended by adding after section 12A the following new section—

Board may
recover
costs of
investigation
of frivolous
or vexatious
complaints.

12B. Where—

- (a) a person for whom building work was carried out by a builder had complained to the Board that the building work was not carried out in a proper and workmanlike manner; and
- (b) the Board is satisfied after investigating the matter (whether or not the Board also conducts a formal inquiry under section thirteen of this Act) that the complaint was frivolous or was not made in good faith,

the Board may order the person who made the complaint to pay to it the Board's reasonable costs of investigating the matter and the amount certified by the Board to be its reasonable costs of investigation may be recovered by the Board from that person as a debt due to the Board in any court of competent jurisdiction. .

Section 12C
added.

13. The principal Act is amended by adding the following new section—

Builder may
request
Board to
investigate
work.

12C. Any builder may request the Board to examine any building work performed by him and the Board may if it thinks fit give effect to such request. .

14. Section 13 of the principal Act is amended by adding after paragraph (c) of subsection (1) the following paragraphs—

Section 13
amended.

- (ca) where the builder is a partnership, company or other body corporate, the building work carried out has not been managed and supervised by the partnership, company or other body corporate, as the case may be, as required by section ten B of this Act; or
- (cb) who has made any statement or representation with respect to the provision of finance or the terms or charges therefor that is to his knowledge false in a material particular, for the purpose of inducing a person to enter into a contract for the carrying out or completion of any building work or for the purpose of inducing a person to purchase any land on which building work has been carried out by the builder; or .

15. Section 22 of the principal Act is amended—

Section 22
amended.

- (a) by repealing subsection (2); and
 - (b) as to subsection (3), by deleting the passage “, not exceeding twenty-five dollars,” in line four.
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