

TASMANIA

BUILDING AMENDMENT BILL 2003

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BUILDING AMENDMENT BILL 2003

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
15 April 2003

*(Brought in by the Minister for Infrastructure, the
Honourable James Glennister Cox)*

A BILL FOR

An Act to amend the *Building Act 2000*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Short title

1. This Act may be cited as the *Building Amendment Act 2003*.

Commencement

2. This Act commences on the day on which this Act receives the Royal Assent.

Principal Act

3. In this Act, the *Building Act 2000** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4. Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting the definition of “certificate of conformity” and substituting the following definition:

“certificate of conformity” has the same meaning as in the Building Code of Australia;

- (b) by inserting the following definition after the definition of “certificate of likely compliance”:

“certificate of plumbing compliance” means a certificate referred to in section 113(3)(b);

- (c) by omitting the definition of “mandatory notification stage” and substituting the following definition:

“mandatory notification stage”
means –

- (a) a stage of building work that requires notification to the building surveyor under the Building Regulations; or
- (b) a stage of plumbing work that requires notification to

*No. 100 of 2000

the relevant permit
authority under the
Plumbing Regulations;

- (d) by omitting the definition of “permit authority” and substituting the following definition:

“permit authority” means a person or body authorised for that purpose by the council of the municipal area in which the relevant building work, building, plumbing work or plumbing installation is located or, if the council has not made such an authorisation, the general manager of the council;

- (e) by omitting “section 168” from the definition of “permit of substantial compliance” and substituting “section 186”;
- (f) by omitting “any” from paragraph (c) of the definition of “temporary structure”.

Section 6 amended (Director of Building Control)

5. Section 6 of the Principal Act is amended by omitting “*Tasmanian State Service Act 1984*” and substituting “*State Service Act 2000*”.

Section 8 amended (Assistance to Director)

6. Section 8(1) of the Principal Act is amended by omitting “*Tasmanian State Service Act 1984*” and substituting “*State Service Act 2000*”.

Section 42 amended (Appeals to Appeal Board)

7. Section 42(1) of the Principal Act is amended by omitting “an accredited”.

Section 44 amended (Decision of Appeal Board)

8. Section 44(1) of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraphs:

- (b) in the case of a refusal of an authorised body to grant an application for accreditation under section 26 or in the case of a decision of an authorised body under section 40, quash the decision of the authorised body and substitute its own decision in accordance with section 26 or section 40; or
- (c) in the case of a dismissal of a complaint without investigation under section 32, quash the decision of the authorised body and require it to investigate the complaint.

Section 45 amended (Notice of decision of Appeal Board)

9. Section 45 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “accredited”;
- (b) by omitting from subsection (2)(a) “appeal” and substituting “application for a review”;
- (c) by omitting from subsection (2)(a) “magistrate” and substituting “Magistrates Court (Administrative Appeals Division)”;

- (d) by omitting from subsection (2)(b) “appeal” and substituting “application for a review”;
- (e) by omitting from subsection (2)(b) “28 days after the date of service of the notice.” and substituting “the prescribed period within the meaning of section 17 of the *Magistrates Court (Administrative Appeals Division) Act 2001*.”.

Sections 46 and 47 substituted

10. Sections 46 and 47 of the Principal Act are repealed and the following sections are substituted:

Appeal to Court

46. An aggrieved person may apply under the *Magistrates Court (Administrative Appeals Division) Act 2001* for a review of –

- (a) a decision of the Appeal Board under section 44(1); or
- (b) a direction of the Appeal Board under section 44(2).

Powers of Court on review

47. (1) In addition to its powers under the *Magistrates Court (Administrative Appeals Division) Act 2001*, on the determination of a review the Magistrates Court (Administrative Appeals Division) may –

- (a) if the Director has not specified an amount of a fine under section 40(3)(e), impose a fine not exceeding 50 penalty units on the accredited building practitioner; or

- (b) order the accredited building practitioner to pay to the complainant or another person any amount that the Court considers appropriate as compensation for any costs in bringing the complaint; or
- (c) make any other order that the Court considers appropriate other than an order for compensation for damages.

(2) If, on determination of a review, the Magistrates Court (Administrative Appeals Division) orders the authorised body to cancel the accreditation of a building practitioner, that Court may order that the building practitioner must not reapply for accreditation by any authorised body within the period specified in the order.

Section 51 amended (Exercise of powers by assistant building surveyor)

11. Section 51 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

(1) An assistant building surveyor may exercise the powers of a building surveyor under this Act only in respect of prescribed buildings or buildings of a prescribed type.

Section 55 amended (Compliance with Building Code)

12. Section 55 of the Principal Act is amended by inserting after subsection (3) the following subsections:

(4) Despite subsection (1), a provision of the Building Code of Australia does not apply to building work –

- (a) for which a permit had been granted before the provision was adopted by the State; or
- (b) if the building surveyor certifies in writing that substantial progress had been made on the design of the building before the provision was adopted by the State.

(5) Subsection (4) does not apply to a provision of the Building Code of Australia if the building surveyor and the owner of the land in respect of which building work is carried out agree that the provision applies to the building work.

Section 57 substituted

13. Section 57 of the Principal Act is repealed and the following section is substituted:

Standards of plumbing work

57. (1) Plumbing work is to comply with the Tasmanian Plumbing Code and this Act.

(2) Despite subsection (1), a provision of the Tasmanian Plumbing Code does not apply to plumbing work –

- (a) for which a permit had been granted before the provision was adopted by the State; or
- (b) if the permit authority certifies in writing that substantial progress had

been made on the design of the plumbing installation before the provision was adopted by the State.

(3) Subsection (2) does not apply to a provision of the Tasmanian Plumbing Code if the permit authority and the owner of the land in respect of which plumbing work is carried out agree that the provision applies to the plumbing work.

Section 107 amended (Form of application for temporary occupancy permit)

14. Section 107(b) of the Principal Act is amended by inserting “any specified documents and” after “by”.

Section 113 amended (Completion of plumbing work)

15. Section 113 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3)(b) “certifying” after “plumber”;
- (b) by inserting the following subsection after subsection (5):

(6) A certificate of plumbing compliance is to –

- (a) be in an approved form; and
- (b) be accompanied by any specified documents.

Section 208 amended (Assistance to Appeal Board)

16. Section 208(1) of the Principal Act is amended by omitting “*Tasmanian State Service Act 1984*” and substituting “*State Service Act 2000*”.

Section 214 amended (Appeal relating to building surveyor)

17. Section 214 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

(1) An owner of a building or land, or a building practitioner engaged by such an owner, may appeal to the Appeal Board against the exercise of, or failure to exercise, any power by a building surveyor under this Act in relation to that building or land.

Sections 215, 216 and 217 substituted

18. Sections 215, 216 and 217 of the Principal Act are repealed and the following sections are substituted:

Appeal relating to permit authority

215. An owner of a building or land, or a plumber engaged by such an owner, may appeal to the Appeal Board against the exercise of, or failure to exercise, any power by a permit authority under this Act in relation to that building or land.

Appeal against change of building surveyor

216. An owner of a building or land, or a building surveyor engaged by such an owner, may appeal to

the Appeal Board against a decision made under section 54.

Appeal relating to fire regulations

217. An owner of a building or land may appeal to the Appeal Board against the exercise of any power under the *General Fire Regulations 2000*, or any regulations made in substitution for those regulations, in relation to that building or land.

Section 233A inserted

19. After section 233 of the Principal Act, the following section is inserted in Division 2:

Non-application of Plumbing Regulations

233A. (1) A provision of the Plumbing Regulations does not apply to any plumbing work –

- (a) for which a plumbing permit is granted before the provision commences; or
- (b) if the permit authority certifies in writing that substantial progress was made on the design of the plumbing installation before the provision commences.

(2) Subsection (1) does not apply if the permit authority and the owner of land in respect of which plumbing work is to be carried out agree that a provision of the Plumbing Regulations applies to the plumbing work.

Section 248 amended (Payments to council or Consolidated Fund)

20. Section 248(a) of the Principal Act is amended by omitting “council” second occurring and substituting “general manager”.

Section 270 amended (Building permit levy)

21. Section 270 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

(1) A levy is payable to the permit authority in respect of building work, and related plumbing work, the estimated total cost of which is more than –

- (a) the prescribed amount; or
- (b) if no amount is so prescribed, \$5 000.