

HEIGHT OF BUILDINGS (AMENDMENT) ACT.

Act No. 3, 1952.

An Act to make further provision in relation to the height of buildings; to amend the Height of Buildings (Metropolitan Police District) Act, 1912, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 2nd April, 1952.] Elizabeth II,
No. 3, 1952.

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

1. (1) This Act may be cited as the "Height of Buildings (Amendment) Act, 1952." Short title,
citation,
etc.

(2) The Height of Buildings (Metropolitan Police District) Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Height of Buildings Act, 1912-1952.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(4) Where in any Act, ordinance, regulation, by-law or instrument reference is made to the Height of Buildings (Metropolitan Police District) Act, 1912, such reference shall be deemed to be a reference to the Height of Buildings Act, 1912-1952.

2. The Height of Buildings (Metropolitan Police District) Act, 1912, as amended by subsequent Acts, is amended— Amendment
of Act
No. 58,
1912.

(a) by omitting from section two the words "Provided that space for water tanks or reservoirs, lift or elevator machinery upon the top of a building, although intended to be so occupied, shall not, if constructed on a design approved" Sec. 2.
(Definition
of
"height.")

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approved by the Minister, be taken into account in determining the height of the building" and by inserting in lieu thereof the words "Provided that:—

- (a) water tanks or reservoirs, or air-conditioning, lift or elevator machinery, or any other machinery whatsoever, upon the top of a building, although intended to be so occupied or used, shall not, if constructed on a design approved by the Minister, be taken into account in determining the height of the building;
- (b) wireless towers upon the top of a building occupied only during reasonable periods for maintenance purposes and not used for advertising signs of any description shall not, if constructed on a design approved by the Minister, be taken into account in determining the height of a building."

Substituted
secs. 3
and 4 and
new sec. 4A.
Application
of Act.

- (b) by omitting sections three and four and by inserting in lieu thereof the following sections:—

3. (1) This Act shall apply to—

- (a) the Sydney Metropolitan Area with boundaries as defined in Schedule Four to the Local Government Act, 1919, as amended by subsequent Acts;
- (b) the City of Newcastle; and
- (c) any area to which the provisions of this Act are applied in accordance with subsection two of this section.

(2) The Governor may, by proclamation to be published in the Gazette, declare that any area, with boundaries as therein defined, shall be an area in respect of which the provisions of this Act shall apply.

The Governor may in like manner revoke or vary any such proclamation.

(3) This Act shall bind the Crown.

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**Height of
buildings.**

4. (1) A building shall not—

- (a) be erected of a greater height than eighty feet unless the skyline and the plans of such building have been approved by the Minister;
- (b) under any circumstances be erected of a greater height than one hundred and fifty feet.

(2) A building whether erected before or after the commencement of the Height of Buildings (Amendment) Act, 1952, shall not—

- (a) be rebuilt, reconstructed or increased to a greater height than eighty feet unless the skyline and the plans of such building as so rebuilt, reconstructed or increased have been approved by the Minister;
- (b) under any circumstances be rebuilt, reconstructed or increased to a greater height than one hundred and fifty feet.

(3) A building of a greater height than eighty feet whether erected before or after the commencement of the Height of Buildings (Amendment) Act, 1952, shall not be altered in any manner whatsoever unless the plans of such alterations have been approved by the Minister.

(4) The Minister in granting any approval under this section may impose such conditions as he may think fit.

(5) The erection, rebuilding, reconstruction, increase in height or alteration of any building which has been commenced before the commencement of the Height of Buildings (Amendment) Act, 1952, may be continued and completed after such commencement as if the Height of Buildings (Amendment) Act, 1952, had not been enacted.

(6) In this section “building” shall not include a building used exclusively for the purposes of public worship, a chimney stack, sewer

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Occupation
and use of
buildings
of greater
height than
eighty feet.

sewer ventilator or gasometer or any building
exempted from the operation of this section.

4A. (1) Where a building—

- (a) has been erected, rebuilt, reconstructed or increased to a greater height than eighty feet or altered in accordance with the plans approved and any conditions imposed by the Minister under section four of this Act; or
- (b) is in the course of being so erected, rebuilt, reconstructed, increased in height or altered,

the proprietor of such building shall not occupy or use or permit any person to occupy or use such building or any completed portion thereof, as the case may be, for any purpose until the Minister has, by writing under his hand, signified his approval thereto in the manner prescribed.

(2) Such signification of approval shall state—

- (a) the classification of the building;
- (b) the purpose or purposes for which such building or completed portion thereof, as the case may be, may be occupied or used;
- (c) the conditions (if any) subject to which the building or any portion thereof may be occupied or used.

The purpose or purposes referred to in paragraph (b) of this subsection shall be the purpose or purposes for which such building or completed portion thereof, as the case may be, was erected, rebuilt, reconstructed, increased in height or altered.

(3) Any approval given under this section may from time to time be varied by the Minister.

(4)

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(4) No approval or variation thereof shall be withheld under this section if—

- (a) the Board of Fire Commissioners of New South Wales has reported to the Minister that adequate provision has been made in the building or portion thereof to which the approval relates for preventing and extinguishing fires and protecting and saving life and property in case of fire; and
 - (b) the proprietor of the building to which the approval relates has certified to the Minister in the manner prescribed that such building has been erected, rebuilt, reconstructed, increased in height or altered in accordance with the plans approved and any conditions imposed by the Minister under section four of this Act, or is in the course of being so erected, rebuilt, reconstructed, increased in height or altered, as the case may require.
- (c) (i) by omitting from section five the words “If any person erects or increases or causes to be erected or increased the height of any building in contravention of this Act, or otherwise contravenes any of the provisions hereof, he shall be liable to a penalty not exceeding fifty pounds” and by inserting in lieu thereof the words “If any person—
- (a) erects, rebuilds, reconstructs, or increases in height, or causes to be erected, rebuilt, reconstructed or increased in height, any building, or alters or causes to be altered any building, in contravention of this Act;
 - (b) fails to comply with any conditions imposed by the Minister pursuant to

Sec. 5.
(Penalties.)

Sec. 3, 1952.

to section four of this Act or to which any approval under section 4A of this Act is subject; or

- (c) occupies or uses any building or portion thereof for any purpose or purposes other than the purpose or purposes for which such building or portion may be used pursuant to any approval relating to such building or portion as originally given or varied, as the case may be, under section 4A of this Act,

he shall be liable to a penalty not exceeding two hundred and fifty pounds."

- (ii) by inserting in the same section after the word "occurred" the words "or discontinue occupying or using the building or any portion thereof for any purpose or purposes";

- (iii) by omitting from the same section the words "fifty pounds" where lastly occurring and by inserting in lieu thereof the words "one hundred pounds";

**Sec. 6.
(Regulations.)**

- (d) by omitting subsection one of section six and by inserting in lieu thereof the following subsections:—

(1) The Governor may make regulations not inconsistent with this Act:—

- (a) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed to carry this Act into effect;
- (b) exempting specified classes of buildings from the operation of section four of this Act;
- (c) for fixing the fees to be paid upon applications for approval under sections four and 4A of this Act and for variations of approval under section 4A of this Act.

(1A.)

Veterinary Surgeons (Amendment) Act.

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(1A) The regulations may impose a penalty ^{No. 3, 1952.}
not exceeding fifty pounds for any breach
thereof.
