

**BUILDERS LICENSING (AMENDMENT) ACT, 1979,
No. 182**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 182, 1979.

An Act to amend the Builders Licensing Act, 1971, with respect to the constitution of the Builders Licensing Board, the scheme of licensing under that Act, the accounts and funds of that Board and other matters; to validate certain matters; and for other purposes. [Assented to, 18th December, 1979.]

See also Statutory and Other Offices Remuneration (Builders Licensing Board) Amendment Act, 1979.

Builders Licensing (Amendment).

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 :—

Short title.

1. This Act may be cited as the "Builders Licensing (Amendment) Act, 1979".

Commence-
ment.

2. (1) Except as provided in subsections (2)–(4), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–4, commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced, as the case may require.

(3) Schedule 1, and section 6 and Schedules 2 and 5, shall commence on such day or days as may be appointed or respectively appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Schedule 4 (1) (b) and (12) shall be deemed to have commenced on 1st February, 1977.

Principal
Act.

3. The Builders Licensing Act, 1971, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO CONSTITUTION OF THE BUILDERS
LICENSING BOARD.

Builders Licensing (Amendment).

**SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO LICENCES.**

**SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO FINANCE.**

**SCHEDULE 4.—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT.**

**SCHEDULE 5.—SAVING AND TRANSITIONAL PROVISIONS
RELATING TO LICENCES.**

**SCHEDULE 6.—VALIDATIONS AND OTHER SAVING AND
TRANSITIONAL PROVISIONS.**

5. The Principal Act is amended in the manner set forth in Amendment of Act No. 16, 1971.

6. Schedule 5 has effect.

Saving and transitional provisions relating to licences.

7. Schedule 6 has effect.

Validations and other saving and transitional provisions.

SCHEDULE 1.

Sec. 5.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
CONSTITUTION OF THE BUILDERS LICENSING BOARD.**

(1) Section 3 (1), definition of “Deputy Chairman”—

After the definition of “Crown lands”, insert :—

“Deputy Chairman” means the person holding office as Deputy Chairman of the Board;

Builders Licensing (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(2) (a) Section 4 (2)—

Omit “six”, insert instead “8”.

(b) Section 4 (2) (a1)—

After section 4 (2) (a), insert :—

(a1) one shall be nominated by the Minister and shall, in and by the instrument of his appointment or by a subsequent instrument executed by the Governor, be appointed as the Deputy Chairman of the Board;

(c) Section 4 (2) (d1)—

After section 4 (2) (d), insert :—

(d1) one shall be nominated by the Minister from a panel of three persons nominated by the Building Industry Specialist Contractors Organisation of New South Wales within such period as may from time to time be fixed by the Minister and notified by him to that body;

(d) Section 4 (3)—

Omit “paragraph (b), (c) or (d) of subsection (2)”, insert instead “subsection (2) (b), (c), (d) or (d1)”.

(e) Section 4 (7) (a)—

After “Chairman”, insert “or Deputy Chairman”.

(f) Section 4 (9)—

Omit “paragraph (b), (c), (d) or (f) of subsection (2)”, insert instead “subsection (2) (b), (c), (d), (d1) or (f)”.

Builders Licensing (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(g) Section 4 (9)—

Omit “paragraph (b), (c) or (d) of subsection (2)”, insert instead “subsection (2) (b), (c), (d) or (d1)”.

(h) Section 4 (11)—

Omit the subsection, insert instead :—

(11) The Chairman and the Deputy Chairman shall devote the whole of their time to the duties of their offices.

(i) Section 4 (11A)—

Omit “is”, insert instead “and the Deputy Chairman are”.

(j) Section 4 (11A) (b)—

Omit “him”, insert instead “each of them”.

(k) Section 4 (12)—

After “Chairman”, insert “or Deputy Chairman”.

(l) Section 4 (13)—

After “Chairman”, insert “or Deputy Chairman”.

(m) Section 4 (14)—

After “Chairman”, insert “or Deputy Chairman”.

(n) Section 4 (15)—

Omit “1902”, insert instead “1979”.

Builders Licensing (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(o) Section 4 (15)—

After “Chairman”, insert “or Deputy Chairman”.

(3) Section 5 (1)—

After “Chairman” wherever occurring, insert “or Deputy Chairman”.

(4) (a) Section 6 (1)—

After “Chairman” where firstly, secondly and fourthly occurring, insert “or Deputy Chairman”.

(b) Section 6 (1)—

Omit “continuously been the Chairman and”, insert instead “, since that appointment, continuously held office as the Chairman or Deputy Chairman or has held office as the Chairman for each period since that appointment during which period he was not holding office as the Deputy Chairman and, in either case,”.

(c) Section 6 (1)—

Omit “office”, insert instead “position”.

(d) Section 6—

Before “(Superannuation)” wherever occurring, insert “and Other Authorities”.

(e) Section 6 (2)—

After “Chairman” wherever occurring, insert “or Deputy Chairman”.

Builders Licensing (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(f) Section 6 (3)—

Omit “The Chairman shall not”, insert instead
“Neither the Chairman nor the Deputy Chairman
shall”.

(g) Section 6 (4)—

After “Chairman” wherever occurring, insert “or
Deputy Chairman”.

(5) Section 7 (2)—

Omit the subsection, insert instead :—

(2) The Chairman or, in his absence, the Deputy
Chairman, shall preside at all meetings of the Board at
which he is present and, if the Chairman and Deputy
Chairman are absent from any meeting, a member elected
by the members present shall preside at the meeting.

(6) Section 50 (1A)—

After “Chairman”, insert “or Deputy Chairman, or to each
of them.”.

(7) Section 57—

After “Chairman”, insert “or Deputy Chairman”.

*Builders Licensing (Amendment).***Sec. 5.****SCHEDULE 2.****AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO LICENCES.**

(1) (a) Section 2, matter relating to Division 1 of Part III—

After “*Licences*”, insert “*and Subsidiary Full Licences*”.

(b) Section 2, matter relating to Division 2 of Part III—

After “*Licences*”, insert “*and Subsidiary Restricted Licences*”.

(2) Section 3 (1B)—

After section 3 (1A), insert :—

(1B) In this Act, a reference to a full-time employee of a person is a reference to an employee who is required, by the terms of his employment by that person, to work for that person otherwise than on a casual or temporary basis.

(3) Part III, Division 1, heading—

After “*Licences*”, insert “*and Subsidiary Full Licences*”.

(4) (a) Section 9 (1), (2)—

Omit the subsections, insert instead :—

(1) A person (either by himself or as a member of a partnership)—

(a) shall not—

(i) by any statement made to any person, indicate, expressly or impliedly, that he is willing or prepared to carry out, under a contract with any person, any building work;

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

- (ii) by any statement made in an advertisement, indicate, expressly or impliedly, that he is willing or prepared to carry out any building work; or
- (iii) carry out any building work, unless he is the holder of a full licence authorising him to carry out that building work; and

(b) shall not, by any statement made to any person or made in an advertisement, indicate, expressly or impliedly, that he is the holder—

- (i) of a full licence, unless he is the holder of a full licence;
- (ii) of a subsidiary full licence, unless he is the holder of a subsidiary full licence;
- (iii) of a full licence authorising him to carry out building work of a particular kind, unless he is the holder of a full licence authorising him to carry out that kind of building work; or
- (iv) of a subsidiary full licence authorising him to carry out building work of a particular kind, unless he is the holder of a subsidiary full licence authorising him to carry out that kind of building work.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

Penalty : \$2,000 and, in the case of a continuing offence, \$200 for each day the offence continues.

(2) A person who is the holder of a full licence, other than a qualified full licensee, shall not do any of the things referred to in subsection (1) (a) (i), (ii) or (iii) in respect of any kind of building work unless—

- (a) where that holder is an individual and does not do that thing as a member of a partnership, he is the holder of at least one subsidiary full licence authorising him to carry out that kind of building work granted to him on behalf of one of his full-time employees;
- (b) where that holder does that thing as a member of a partnership, another member of the partnership is a qualified full licensee or he or another member of the partnership holds at least one subsidiary full licence authorising him to carry out that kind of building work granted to him on behalf of a full-time employee of the partnership; or
- (c) where that holder is a corporation and does not do that thing as a member of a partnership, it is the holder of at least one subsidiary full licence authorising it to carry out that kind of building work granted to it on behalf of a director of the corporation or one of its full-time employees.

Penalty : \$2,000 and, in the case of a continuing offence, \$200 for each day the offence continues.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(b) Section 9 (4) (a)—

Omit “person;”, insert instead “person who is the holder of a licence or a permit;”.

(c) Section 9 (4) (a1)—

Omit “or a subsidiary restricted licence”.

(d) Section 9 (4) (a1)—

After “work”, insert “of a kind”.

(e) Section 9 (4) (b)—

Before “building work” where firstly occurring, insert “any kind of”.

(f) Section 9 (4) (b)—

After “licence” where lastly occurring, insert “authorising the holder to carry out that kind of building work”.

(g) Section 9 (4A)—

Omit “(1),”, insert instead “(1) in respect of any kind of building work,.”.

(h) Section 9 (4A)—

After “licence”, insert “authorising the holder to carry out that kind of building work”.

*Builders Licensing (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(5) Section 9A—

After section 9, insert :—

Breach of
conditions
of full
licence.

9A. The holder of a full licence shall comply with any conditions imposed on the licence for the time being under this Act.

Penalty : \$1,000 and, in the case of a continuing offence, \$100 for each day the offence continues.

(6) (a) Section 10 (1)—

Omit “behalf.”, insert instead :—

behalf authorising him to carry out—

(a) all kinds of building work; or

(b) building work of the kind specified in his application, other than building work consisting solely of work of one class or description that is prescribed for the purposes of paragraph (a) or (b) of the definition of “trade work” in section 3 (1).

(b) Section 10 (1A) (a)—

Omit “one of his”, insert instead “any one of his full-time”.

(c) Section 10 (1A) (b)—

Omit “an employee”, insert instead “any one of the full-time employees”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(d) Section 10 (1A) (c)—

Omit “a director of the corporation or one of its employees”, insert instead “any one of its directors or full-time employees”.

(e) Section 10 (1B)—

After section 10 (1A), insert:—

(1B) A person eligible to make an application under subsection (1A) may make separate applications under that subsection in respect of different full-time employees or directors, as the case may require.

(7) (a) Section 11 (1)—

Omit “behalf,”, insert instead “behalf authorising him to carry out building work of a kind specified in the application,.”.

(b) Section 11 (1) (b)—

Omit “a full”, insert instead “the”.

(c) Section 11 (1) (c)—

After “out”, insert “that kind of”.

(d) Section 11 (1) (d)—

Before “building”, insert “that kind of”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(e) Section 11 (1) (f)—

Omit the paragraph, insert instead :—

(f) that he is not disqualified from holding a licence of the kind for which he has applied or a person holding a licence suspended under Part IV that is of the same kind as the licence for which he has applied,

(f) Section 11 (1) (g)—

Omit the paragraph, insert instead :—

(g) that, unless he is exempted under subsection (1A), he holds the qualification or qualifications prescribed for the purposes of this paragraph, and that, for a period of at least 2 years, or such shorter period as the Board may, in any particular case, determine, during the 3 years immediately preceding his application, he has been employed in, or has been a contractor for, the carrying out of building work of such a kind as in the opinion of the Board fits him to be the holder of the full licence; or

(g) Section 11 (1) (h)—

Omit “an employee of that individual who is to”, insert instead “one or more of his full-time employees who will”.

(h) Section 11 (1) (h)—

After “work”, insert “of that kind”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(i) Section 11 (1A)—

Omit “qualifications referred to in subsection (1) (g) (ii)”, insert instead “qualification or qualifications referred to in subsection (1) (g)”.

(j) Section 11 (2)—

Omit “appropriate matter or matters specified in paragraph (g) of subsection (1)”, insert instead “matters specified in subsection (1) (g)”.

(k) Section 11 (3)—

After section 11 (2), insert :—

(3) A full licence granted under subsection (1) authorises the holder of the licence to carry out—

- (a) except as provided in paragraph (b)—all kinds of building work; or
- (b) where the licence specifies a kind of building work as the kind of building work that he is authorised to carry out—only that kind of building work,

and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

(8) (a) Section 12—

Omit “behalf,”, insert instead “behalf authorising it to carry out building work of a kind specified in the application.”.

(b) Section 12 (a) (ii)—

Omit “a full”, insert instead “the”.

*Builders Licensing (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(c) Section 12 (a) (iii)—

Omit the subparagraph, insert instead :—

(iii) is not disqualified from holding a licence authorising the carrying out of the same kind of building work as that which would be authorised to be carried out by the licence applied for if it were granted and is not a person holding a licence suspended under Part IV that would, if it were in force, authorise the carrying out of that kind of building work;

(d) Section 12 (b)—

After “out”, insert “that kind of”.

(e) Section 12 (c)—

Before “building” wherever occurring, insert “that kind of”.

(f) Section 12 (d)—

Omit “an employee or director of the corporation, being the employee or director who is to”, insert instead “one or more of the directors or full-time employees of the corporation who will”.

(g) Section 12 (d)—

After “work”, insert “of that kind”.

(h) Section 12 (f)—

Omit the paragraph, insert instead :—

(f) that the corporation is not disqualified from holding a licence of the kind for which it has applied or a person holding a licence

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

suspended under Part IV that is of the same kind as the licence for which it has applied.

(i) Section 12 (2)—

At the end of section 12, insert :—

(2) A full licence granted under subsection (1) authorises the holder of the licence to carry out—
(a) except as provided in paragraph (b)—all kinds of building work; or
(b) where the licence specifies a kind of building work as the kind of building work that it is authorised to carry out—only that kind of building work,

and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

(9) (a) Section 13—

Omit “licence,”, insert instead “licence authorising the holder to carry out building work of a kind specified in the application.”.

(b) Section 13 (a)—

After “behalf”, insert “authorising him or it to carry out that kind of building work”.

(c) Section 13 (b) (i), (ii)—

Omit the subparagraphs, insert instead :—

(i) a full-time employee of an individual referred to in section 10 (1A) (a) or a director or a full-time employee of a corporation referred

Builders Licensing (Amendment).

SCHEDE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

to in section 10 (1A) (c), that sufficient persons on whose behalf the individual or corporation, as the case may be, is to hold subsidiary full licences will have the control and supervision of all building work of that kind to be carried out by that individual or corporation; or

(ii) a full-time employee of a partnership referred to in section 10 (1A) (b), that sufficient full-time employees of the partnership will have the control and supervision of all building work of that kind to be carried out by that partnership; and

(d) Section 13 (c)—

Omit “employee or”, insert instead “full-time employee or the”.

(e) Section 13 (c) (i)—

Omit the subparagraph, insert instead :—

(i) is not the holder of a full licence or a restricted licence; and

(f) Section 13 (c) (ii)—

After “licence” where secondly occurring, insert “, authorising him to carry out that kind of building work.”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(g) Section 13 (2)—

At the end of section 13, insert :—

(2) A subsidiary full licence granted under sub-section (1) authorises the holder of the licence to carry out—

- (a) except as provided in paragraph (b)—all kinds of building work; or
- (b) where the licence specifies a kind of building work as the kind of building work that he is authorised to carry out—only that kind of building work,

and to do so subject to—

- (c) his being the holder of the appropriate full licence; and
- (d) the conditions, if any, imposed on that full licence for the time being under this Act.

(10) Part III, Division 2, heading—

After “*Licences*”, insert “*and Subsidiary Restricted Licences*”.

(11) (a) Section 13A (1)—

Omit “, after the expiration of three months after the commencement of the Builders Licensing (Amendment) Act, 1976” wherever occurring.

(b) Section 13A (1) (a)—

Omit “or” where lastly occurring, insert instead “and”.

*Builders Licensing (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(c) Section 13A (1) (b) (i)–(iv) —

Omit section 13A (1) (b) (i) and (ii), insert instead :—

- (i) of a restricted licence, unless he is the holder of a restricted licence;
- (ii) of a subsidiary restricted licence, unless he is the holder of a subsidiary restricted licence;
- (iii) of a restricted licence authorising him to carry out trade work of a particular kind, unless he is the holder of a restricted licence authorising him to carry out that kind of trade work; or
- (iv) of a subsidiary restricted licence authorising him to carry out trade work of a particular kind, unless he is the holder of a subsidiary restricted licence authorising him to carry out that kind of trade work.

(d) Section 13A (2) —

Omit the subsection, insert instead :—

(2) A person who is the holder of a restricted licence, other than a qualified restricted licensee, shall not do any of the things referred to in subsection (1) (a) (i), (ii) or (iii) in respect of any kind of trade work unless—

- (a) where that holder is an individual and does not do that thing as a member of a partnership, he is the holder of at least one subsidiary restricted licence authorising him to carry out that kind of trade work granted to him on behalf of one of his full-time employees;

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

- (b) where that holder does that thing as a member of a partnership, another member of the partnership is a qualified restricted licensee or he or another member of the partnership holds at least one subsidiary restricted licence authorising him to carry out that kind of trade work granted to him on behalf of a full-time employee of the partnership; or
- (c) where that holder is a corporation and does not do that thing as a member of a partnership, it is the holder of at least one subsidiary restricted licence authorising it to carry out that kind of trade work granted to it on behalf of a director of the corporation or one of its full-time employees.

Penalty : \$2,000 and, in the case of a continuing offence, \$200 for each day the offence continues.

(e) Section 13A (4) (a)—

Omit “person;”, insert instead “person who is the holder of a licence or a permit;”.

(f) Section 13A (4) (b)—

Omit section 13A (4) (b) (ii), insert instead :—

- (ii) from carrying out trade work, of a kind that he is authorised by that licence to carry out;

(g) Section 13A (5)—

Omit “(1),”, insert instead “(1) in respect of any kind of trade work,.”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(h) Section 13A (5)—

After “licence”, insert “authorising the holder to carry out that kind of trade work”.

(12) Section 13B—

Omit “subject to which the licence was issued”, insert instead “imposed on the licence for the time being under this Act”.

(13) (a) Section 13C (1)—

Omit “the” where lastly occurring, insert instead “his”.

(b) Section 13C (2) (a)—

Omit “one of his”, insert instead “any one of his full-time”.

(c) Section 13C (2) (b)—

Omit “an employee”, insert instead “any one of the full-time employees”.

(d) Section 13C (2) (c)—

Omit “a director of the corporation or one of its employees”, insert instead “any one of its directors or full-time employees”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(e) Section 13C (2A)—

After section 13C (2), insert :—

(2A) A person eligible to make an application under subsection (2) may make separate applications under that subsection in respect of different full-time employees or directors, as the case may require.

(14) (a) Section 13D (1) (b)—

Omit “a restricted”, insert instead “the”.

(b) Section 13D (1) (f)—

Omit the paragraph, insert instead :—

(f) that he is not disqualified from holding a licence of the kind for which he has applied or a person holding a licence suspended under Part IV that is of the same kind as the licence for which he has applied,

(c) Section 13D (1) (g)—

Before “qualifications”, insert “qualification or”.

(d) Section 13D (1) (h)—

Omit “an employee of that individual who is to”, insert instead “one or more of his full-time employees who will”.

(e) Section 13D (2)—

Omit “appropriate matter or matters”, insert instead “matter”.

Builders Licensing (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—continued.****(f) Section 13D (3)—**

Omit the subsection, insert instead :—

(3) A restricted licence granted under subsection (1) authorises the holder of the licence to carry out trade work of the kind specified in the licence and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

(15) (a) Section 13E (1) (a) (ii)—

Omit “a restricted”, insert instead “the”.

(b) Section 13E (1) (a) (iii)—

Omit the subparagraph, insert instead :—

(iii) is not disqualified from holding a licence authorising the carrying out of the same kind of trade work as that which would be authorised to be carried out by the licence applied for if it were granted and is not a person holding a licence suspended under Part IV that would, if it were in force, authorise the carrying out of that kind of trade work;

(c) Section 13E (1) (d)—

Omit “an employee or director of the corporation, being the employee or director who is to”, insert instead “one or more of the directors or full-time employees of the corporation who will”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(d) Section 13E (1) (f)—

Omit the paragraph, insert instead :—

(f) that the corporation is not disqualified from holding a licence of the kind for which it has applied or a person holding a licence suspended under Part IV that is of the same kind as the licence for which it has applied.

(e) Section 13E (2)—

Omit the subsection, insert instead :—

(2) A restricted licence granted under subsection (1) authorises the holder of the licence to carry out trade work of the kind specified in the licence and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

(16) (a) Section 13F (b) (i), (ii)—

Omit the subparagraphs, insert instead:—

(i) a full-time employee of an individual referred to in section 13C (2) (a) or a director or a full-time employee of a corporation referred to in section 13C (2) (c), that sufficient persons on whose behalf the individual or corporation, as the case may be, is to hold subsidiary restricted licences will have the control and supervision of all trade work of that kind to be carried out by that individual or corporation; or

(ii) a full-time employee of a partnership referred to in section 13C (2) (b), that sufficient full-time employees of the partnership will have

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

the control and supervision of all trade work of that kind to be carried out by that partnership; and

(b) Section 13F (c)—

Omit “employee or”, insert instead “full-time employee or the”.

(c) Section 13F (c) (i)—

Omit the subparagraph, insert instead :—

(i) is not the holder of a full licence or a restricted licence; and

(d) Section 13F (2)—

At the end of section 13F, insert :—

(2) A subsidiary restricted licence granted under subsection (1) authorises the holder of the licence to carry out trade work of the kind specified in the licence and to do so subject to—

(a) his being the holder of the appropriate restricted licence; and

(b) the conditions, if any, imposed on that restricted licence for the time being under this Act.

(17) Section 13H—

Omit “an employee or director” where firstly and secondly occurring, insert instead “a director or full-time employee”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(18) Section 14A—

After section 14, insert :—

14A. (1) When the Board grants a licence under section 11, 12, 13D or 13E it may impose on the licence such conditions as it thinks fit.

(2) Where a condition is prescribed, for the purposes of this section, in respect of a class of licences, the condition shall be deemed to be imposed on each licence of that class.

(3) A condition imposed on a licence under subsection (1) shall be specified in the licence.

(19) Section 15AA—

After section 15, insert :—

15AA. The Board may, by notice in writing served on the holder of a licence granted under section 11, 12, 13D or 13E—

Variation,
etc., of
conditions
on certain
licences.

- (a) revoke or vary any condition imposed on the licence for the time being by the Board; or
- (b) impose on the licence such new conditions as it thinks fit.

(20) (a) Section 16 (1) (a)—

Before “employee”, insert “full-time”.

(b) Section 16 (1) (b)—

After “some other”, insert “full-time”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(c) Section 16 (1) (c)—

Omit the paragraph, insert instead:—

(c) where the applicant is a corporation and that other person is a director or an employee of the corporation—the name of some other director or full-time employee of the corporation.

(d) Section 16 (3)—

Omit “paragraph (a)” wherever occurring, insert instead “subsection (1) (a)”.

(21) Section 21 (1) (a)—

Omit the paragraph, insert instead :—

(a) except with the approval in writing of the Board, knowingly assist in any way—

- (i) a person who is not the holder of a licence to carry on the business of carrying out building work;
- (ii) a person who is the holder of a full licence to carry on the business of carrying out building work other than building work of a particular kind authorised to be carried out by that full licence; or
- (iii) a person who is the holder of a restricted licence to carry on the business of carrying out building work other than trade work of a particular kind authorised to be carried out by that restricted licence;

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(22) (a) Section 30 (1) (d)—

Omit “from holding a licence, or from being a person on whose behalf a licence may be held; or”, insert instead :—

from—

- (i) holding a licence of the class (or of any of the classes) of licences specified in the determination or a licence other than of the class (or of any of the classes) of licences so specified; or
- (ii) being a person on whose behalf any such licence may be held; or

(b) Section 30 (1) (e)—

Omit “from holding a licence or from being a person on whose behalf a licence may be held;”, insert instead :—

from—

- (iii) holding a licence of the class (or of any of the classes) of licences specified in the determination or a licence other than of the class (or of any of the classes) of licences so specified; or
- (iv) being a person on whose behalf any such licence may be held,

(c) Section 30 (2)—

Omit “A determination”, insert instead “Subject to subsection (2A), a determination”.

*Builders Licensing (Amendment).*SCHEDELE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(d) Section 30 (2A)—

After section 30 (2), insert :—

(2A) Where the Board has made a determination under subsection (1) (c), (d) or (e), the Board may refuse to grant any licence under section 11, 12, 13D or 13E to the defendant during the period for which the determination would, if this subsection had not been enacted, have had no force or effect by reason of subsection (2).

(e) Section 30 (3)—

Omit the subsection, insert instead :—

(3) Where the Board determines that a licence be suspended or cancelled and—

- (a) no appeal against the Board's determination has been made within the time limited for appealing against it; or
- (b) an appeal against that determination has been so made but has been withdrawn,

the holder of the licence shall, forthwith after the expiration of that time or the withdrawal of that appeal, as the case may be, lodge the licence with the Board.

Penalty : \$500.

(f) Section 30 (3A) (c)—

After “defendant” where firstly occurring, insert “on his own behalf or held on behalf of the defendant”.

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(23) (a) Section 31 (1)—

Omit the subsection, insert instead :—

(1) Any—

- (a) applicant for a licence or permit or for the restoration or variation of a licence who is aggrieved by any determination of the Board in relation to his application;
- (b) defendant under Part IV who is aggrieved by any determination of the Board made under section 30 upon the inquiry at which he was the defendant; or
- (c) holder of a full licence or a restricted licence who is aggrieved by any determination of the Board to impose a condition on the licence or to vary or revoke a condition imposed on the licence for the time being by the Board,

may, within 21 days after notice of the determination is served on him or, in the case of a determination referred to in subsection (6), within 21 days after the date on which that determination is deemed to have been made, appeal against the determination to the District Court.

(b) Section 31 (5A) (a)—

Omit “(1A)”, insert instead “(1B)”.

(c) Section 31 (5A) (c)—

After “defendant” where firstly occurring, insert “on his own behalf or held on behalf of the defendant”.

*Builders Licensing (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(24) (a) Section 32 (1)—

Omit “a licence”, insert instead “a full licence or a restricted licence”.

(b) Section 32 (1) (a), (b)—

Omit the paragraphs, insert instead :—

- (a) who enters into a contract undertaking to carry out, by himself or by others, any kind of building work or trade work, as the case may be, which he is authorised by that licence to carry out; or
- (b) who, otherwise than pursuant to such a contract, commences any kind of building work or trade work, as the case may be, which he is authorised by that licence to carry out,

(c) Section 32 (1A)—

Omit the subsection, insert instead :—

(1A) A reference in subsection (1)—

- (a) to building work, does not include a reference to—
 - (i) trade work undertaken by the holder of a restricted licence under a contract with the holder of a full licence or with the holder of a permit; or
 - (ii) any other building work of a class or description prescribed for the purposes of this subparagraph; or

Builders Licensing (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENCES—*continued.*

(b) to trade work, does not include a reference to—

- (i) trade work referred to in paragraph (a) (i); or
- (ii) any other trade work of a class or description prescribed for the purposes of this subparagraph.

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FINANCE.

(1) Section 2—

Omit the matter relating to Part VII, insert instead :—

PART VII.—FINANCE—ss. 39–44.

DIVISION 1.—*Builders Licensing Board Account, and Associated Funds*—ss. 39–40A.

DIVISION 2.—*Builders Licensing Board Insurance Account, and Associated Funds*—ss. 40B–41B.

DIVISION 3.—*Builders Licensing Board Trust Account*—s. 42AA.

DIVISION 4.—*General*—ss. 42A–44.

Builders Licensing (Amendment).

SCHEDULE 3—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
FINANCE—continued.****(2) Part VII, Division 1, heading—**

Before section 39, insert :—

**DIVISION 1.—*Builders Licensing Board Account, and
Associated Funds.***

(3) (a) Section 39 (1)—

Omit “Board and from which shall be paid all amounts required to meet expenditure incurred in accordance with the provisions of this Act”, insert instead “Board, other than moneys required by this Act to be deposited in the Builders Licensing Board Insurance Account or the Builders Licensing Board Trust Account”.

(b) Section 39 (1A)—

After section 39 (1), insert :—

(1A) The Builders Licensing Board Account may be applied to meet expenditure incurred in accordance with the provisions of this Act, other than expenditure for any of the purposes to which the moneys in the Builders Licensing Board Insurance Account or Builders Licensing Board Trust Account may be applied.

(c) Section 39 (2)—

After “shall”, insert “, in relation to the Builders Licensing Board Account,.”.

Builders Licensing (Amendment).

SCHEDULE 3—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
FINANCE—continued.**

(d) Section 39 (2) (a)—

After “the General Fund;”, insert “and”.

(e) Section 39 (2) (b)—

Omit the paragraph.

(f) Section 39 (3) and (4)—

Omit the subsections.

(4) (a) Section 40 (1) (a)—

After “Act”, insert “other than moneys forming part of the Special Insurance Fund”.

(b) Section 40 (1) (c)—

Before “Insurance”, insert “Builders Licensing Board Trust Account, the General Insurance Fund, the Special”.

(c) Section 40 (1) (d)—

Omit “subsection (3) of section 39”, insert instead “section 43B (1)”.

(d) Section 40 (2) (c)—

Omit “paragraph (a) of subsection (1) of section 42”, insert instead “section 40A (1) (a)”.

(e) Section 40 (2) (d)—

Before “Insurance”, insert “Builders Licensing Board Trust Account, to the General”.

*Builders Licensing (Amendment).*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
FINANCE—*continued.*

(5) Section 40A and Part VII, Division 2—

After section 40, insert :—

**Education
Fund.**

40A. (1) The Education Fund shall consist of—

- (a) such moneys in the General Fund as the Treasurer may from time to time direct to be allocated to the Education Fund; and
- (b) all moneys received by the Board under section 43B (1) and allocated by the Board to the Education Fund.

(2) The Board may, from time to time, appropriate any part of the moneys in the Education Fund for or towards the encouragement of apprenticeship in the building industry by subsidy or otherwise, or the assistance of education or research in, or any public purpose connected with, the building industry.

DIVISION 2.—*Builders Licensing Board Insurance Account,
and Associated Funds.***Builders
Licensing
Board
Insurance
Account.**

40B. (1) There shall be established in a bank in New South Wales a Builders Licensing Board Insurance Account into which shall be deposited all moneys that are received by the Board and form part of the General Insurance Fund or Special Insurance Fund.

(2) The Builders Licensing Board Insurance Account may be applied to meet expenditure for the purposes to which the General Insurance Fund or the Special Insurance Fund may be applied.

Builders Licensing (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
FINANCE—*continued.*

(3) In the books of the Board there shall, in relation to the Builders Licensing Board Insurance Account, be created the following funds :—

- (a) the Builders Licensing Board General Insurance Fund, in this Part referred to as the General Insurance Fund; and
- (b) the Builders Licensing Board Special Insurance Fund, in this Part referred to as the Special Insurance Fund.

(6) (a) Section 41—

Before “Insurance” wherever occurring, insert “General”.

(b) Section 41 (1) (c)—

Omit “and”.

(c) Section 41 (1) (d)–(f)—

Omit section 41 (1) (d), insert instead :—

- (d) all moneys received by the Board under section 43B (1) and allocated by the Board to the General Insurance Fund;
- (e) all investments of moneys in the General Insurance Fund made under section 41B; and
- (f) all moneys received by the Board as proceeds of investment of the General Insurance Fund under section 41B.

(d) Section 41 (2) (c)—

Omit “and”.

*Builders Licensing (Amendment).*SCHEDULE 3—*continued.***AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
FINANCE—*continued.***

(e) Section 41 (2) (d)—

Omit “38B.”, insert instead “38B; and”.

(f) Section 41 (2) (e)—

After section 41 (2) (d), insert :—

(e) making such investments under section 41B of the moneys in the General Insurance Fund as the Board thinks fit.

(7) Sections 41A, 41B—

After section 41, insert :—

Special
Insurance
Fund.

41A. (1) The Special Insurance Fund shall consist of—

- (a) the prescribed proportion of all moneys received by the Board as fees for restricted licences of a prescribed class of restricted licences or for the renewal or restoration of restricted licences of any such class;
- (b) all investments of moneys in the Special Insurance Fund made under section 41B; and
- (c) all moneys received by the Board as proceeds of investment of moneys in the Special Insurance Fund made under section 41B.

(2) In subsection (1)—

“prescribed class of restricted licences” means—

- (a) the class of restricted licences prescribed for the purposes of that subsection; or

Builders Licensing (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
FINANCE—*continued.*

(b) where no class of licences is so prescribed
—restricted licences for which fees of
\$100 are payable;

“prescribed proportion” means—

(a) the proportion prescribed for the
purposes of that subsection; or
(b) where no proportion is so prescribed—
50 per cent.

(3) The Special Insurance Fund may be applied
to either or both of the following purposes :—

(a) making refunds under section 18A of so much of
any fees for restricted licences as forms part of
the Special Insurance Fund to applicants for or
holders of restricted licences in respect of their
applications for restricted licences or their
restricted licences;
(b) making such investments under section 41B of
the moneys in the Special Insurance Fund as the
Board thinks fit.

41B. The provisions of the Superannuation Act, 1916, ^{Power to} ^{invest} ^{Insurance} ^{Funds.}
with respect to the investment of the State Superannuation Fund apply to and in respect of the Board and the investment of the General Insurance Fund and the Special Insurance Fund as if the Board and the Fund referred to in those provisions were the Board and those funds.

*Builders Licensing (Amendment).*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
FINANCE—*continued.*

(8) Section 42—

Omit the section.

(9) Part VII, Division 3 and Part VII, Division 4, heading—

Before section 42A, insert :—

DIVISION 3.—*Builders Licensing Board Trust Account.*

Builders
Licensing
Board Trust
Account.

42AA. (1) There shall be established in a bank in New South Wales a Builders Licensing Board Trust Account into which shall be deposited—

- (a) all moneys paid to the Board pursuant to a direction referred to in section 30B (1); and
- (b) all moneys received by the Board as proceeds of investment of the moneys referred to in paragraph (a).

(2) The Builders Licensing Board Trust Account may be applied to the following purposes :—

- (a) making payments for the purposes for which the moneys in that account may be applied pursuant to section 30B (2) and (3); and
- (b) making such investments by way of deposit of the moneys in that account with a bank in New South Wales as the Board thinks fit.

DIVISION 4.—*General.*

Builders Licensing (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
FINANCE—*continued.*

(10) Section 43 (1)—

After “fund”, insert “and the Builders Licensing Board Trust Account”.

(11) Section 43B—

After section 43A, insert :—

43B. (1) The Treasurer may advance such moneys to the Board, upon such terms and conditions as to repayment and interest as may be agreed upon. Miscellaneous provisions.

(2) The funds and the Builders Licensing Board Trust Account created under this Part shall each be separate and distinct.

SCHEDULE 4.

Sec. 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 2, matter relating to Part IVa—

Omit “s. 30A”, insert instead “ss. 30A, 30B”.

(b) Section 2—

After the matter relating to Part VI, insert :—

PART VIa.—INSPECTIONS AND REPORTS—s. 38C.

Builders Licensing (Amendment).

SCHEDEULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(2) Section 3 (1), definition of “building work”—

From paragraph (a), omit “or in the making of alterations or additions to”, insert instead “the making of alterations or additions to, or the repairing, renovation, decoration or painting of”.

(3) Section 4 (1B)—

After section 4 (1A), insert :—

(1B) In the exercise and discharge of the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act (except in relation to the content of a report or recommendation made by it to the Minister), the Board shall be subject to the control and direction of the Minister.

(4) (a) Section 8 (1)—

After “officers and”, insert “temporary”.

(b) Section 8 (1)—

Omit “1902”, insert instead “1979”.

(c) Section 8 (2)—

After “officers or”, insert “temporary”.

(5) (a) Section 13G (3) (c)—

Omit “except where the Board considers that special circumstances exist”, insert instead “subject to subsection (4)”.

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(b) Section 13G (3) (c)—

Omit “two”, insert instead “5”.

(c) Section 13G (4)—

After section 13G (3), insert :—

(4) Subsection (3) (c) does not apply in respect of an applicant for a permit where the Board—

(a) is satisfied that the permit is required to authorise the applicant to carry out owner-builder’s work that is—

(i) to be carried out on land on which the applicant has been authorised to carry out owner-builder’s work; and

(ii) to be used in connection with the building work authorised to be carried out by the applicant,

by a permit previously granted under subsection (3); or

(b) considers that special circumstances exist.

(6) (a) Section 18A (1) (a)—

After “permit”, insert “was or”.

(b) Section 18A (1)—

After “licence” where secondly, thirdly and fourthly occurring, insert “was or”.

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(c) Section 18A (1A)—

After section 18A (1), insert :—

(1A) Where, before, on or after the date of assent to the Builders Licensing (Amendment) Act, 1979—

(a) a licence was or is granted to the applicant therefor; and

(b) after the licence was or is granted, the fee prescribed in respect of an application for a licence of the class to which the licence belongs has been or is reduced to a lesser fee,

the Board may refund to the applicant or the holder of the licence, or to any other person who appears to the Board to be entitled thereto, the difference between the firstmentioned and secondmentioned fees.

(d) Section 18A (2)—

After “subsection (1)”, insert “or (1A)”.

(7) (a) Section 29 (3)—

Omit “obeying”, insert instead “complying with the requirements set forth in”.

(b) Section 29 (3)—

Omit “a District”, insert instead “the District”.

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(8) Section 30B—

After section 30A, insert :—

30B. (1) Directions specified pursuant to section 30A (2) in an order made by the Board under section 30A (1) with respect to building work carried out under a contract by the holder of a licence may include a direction requiring the purchaser concerned to pay moneys to the Board for the purpose of their being applied by the Board towards the cost of the building work carried out for, and materials supplied to, that purchaser under that contract by the holder. Deposit of moneys as security.

(2) Where moneys have been paid by any person to the Board pursuant to a direction referred to in subsection (1), they may be applied by the Board, at such time or times and to such extent as the Board thinks fit, for the purpose referred to in that subsection.

(3) Any moneys paid by any person to the Board pursuant to a direction referred to in subsection (1) and any moneys representing interest accrued thereon shall be repaid by the Board to that person to the extent, if any, that those moneys are not applied by the Board for the purpose referred to in that subsection.

(9) (a) Section 32 (1) (c)—

Omit the paragraph, insert instead :—

(c) in the case of a contract referred to in paragraph (a), within one month after entering into the contract, serve on the Board notice of the contract;

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(b) Section 32 (1) (e)—

Omit “(i)”.

(10) (a) Section 36 (a) (i)—

Omit “subparagraph (i) of paragraph (c) of subsection (1) of section 32”, insert instead “section 32 (1) (c)”.

(b) Section 36 (b) (i)—

Omit the subparagraph, insert instead :—

(i) where notice of commencement of that building work has been served on the Board in accordance with section 32 (1) (d) and the date of commencement is not determined by the Board as referred to in subparagraph (ii), the date of commencement shown in that notice; or

(11) (a) Section 37 (1)—

Omit “subparagraph (i) of paragraph (c) of subsection (1) of section 32”, insert instead “section 32 (1) (c)”.

(b) Section 37 (2)—

Omit “within one month”, insert instead “as soon as practicable”.

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(c) Section 37 (3)—

Omit the subsection, insert instead :—

(3) Where notice of commencement of any building work has not been—

- (a) specified in a notice served on the Board in accordance with section 32 (1) (c); or
- (b) served on the Board in accordance with section 32 (1) (d),

the Board may determine the date of commencement of the building work.

(d) Section 37 (4)—

Omit “so served”, insert instead “specified in a notice served in accordance with section 32 (1) (c) or served in accordance with section 32 (1) (d)”.

(e) Section 37 (4) (a)—

Omit “within one month”, insert instead “as soon as practicable”.

(12) Part VIA—

After Part VI, insert :—

PART VIA.

INSPECTIONS AND REPORTS.

38C. (1) The Board may, on application made in a ~~Inspections~~ form approved by the Board, and subject to such conditions ~~and reports~~ ~~on~~ as are approved by the Board and specified in the ~~dwellings~~ application, cause inspections of, and reports on the condition of, dwellings to be made.

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(2) An application under this section shall be accompanied by the fee determined by the Board in relation to applications of the class to which the application belongs, which fee shall be refunded by the Board to the applicant or to any other person who appears to the Board to be entitled thereto if the Board rejects the application.

(3) The Board—

- (a) may reject an application under this section for any reason it thinks fit; and
- (b) shall be deemed to have rejected an application if it fails to make available to the applicant the report for which he applied by—
 - (i) the time notified to the applicant under subsection (4); or
 - (ii) where the applicant agrees with the Board upon a later time—that time.

(4) When the Board receives an application under this section, it shall cause the applicant to be notified of the time by which the report should be available to him.

(5) Where the Board causes a report under this section to be made available to the applicant, the Board is not liable, in respect of anything included in or omitted from the report—

- (a) to any person other than the applicant; or
- (b) to the applicant, if each of the Board's servants involved in the inspection or the preparation of the report has, in being so involved, acted in good faith, with reasonable care and in

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

accordance with the conditions, if any, specified in the application, as referred to in subsection (1).

(6) Nothing in subsection (5) affects the operation of section 7 (7).

(7) Section 51 does not apply to or in respect of an inspection for the purposes of this section.

(8) An inspection of and report on the condition of a dwelling may be made under this section in relation to the whole or a part or parts of the dwelling and may be made whether construction of the dwelling was commenced before, on or after the date of assent to this Act.

(13) (a) Section 50 (1)—

Omit “subsection (1A)”, insert instead “subsections (1A) and (1B)”.

(b) Section 50 (1)—

After “under this Act”, insert “(other than section 55A)”.

(c) Section 50 (1B)—

After section 50 (1A), insert :—

(1B) The Board may delegate to the Chairman or Deputy Chairman, or to each of them, the exercise or performance of the Board’s powers under section 52A (2) and (3), but shall not otherwise delegate the exercise or performance of the Board’s powers under those subsections.

*Builders Licensing (Amendment).*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(d) Section 50 (3) (a)—

After “13”, insert “, 13D, 13E, 13F, 13G”.

(e) Section 50 (3) (a)—

After “licence or”, insert “permit or for”.

(14) Section 51 (1)—

After “authorised”, insert “under this subsection”.

(15) Section 52A—

After section 52, insert :—

Power to
inspect
books, etc.

52A. (1) In this section, “authorised officer” means a person authorised by the Board under subsection (2).

(2) The Board may, by order in writing, authorise—

(a) a servant of the Board; or

(b) any officer, servant or employee of whose services the Board makes use pursuant to this Act,

to examine the business records of holders of licences in respect of whom complaints have been made to the Board under section 24 (b2).

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(3) Where the Board is of the opinion that the circumstances of the case so require, the Board may, by notice in writing served on the holder of a licence in respect of whom a complaint has been made to the Board under section 24 (b2), require the holder—

- (a) to appear before an authorised officer for the purpose of his being examined with respect to his financial position; and
- (b) to produce to an authorised officer such of the records relating to the financial position of the holder as are within the holder's possession or subject to his control,

at—

- (c) a time and date, being a date occurring not less than 21 days after the date of service of the notice; and
- (d) a place, being an office of the Board or the place last notified to the Board as his principal place of business in New South Wales,

specified in the notice.

(4) Where the holder of a licence on whom a notice under subsection (3) has been served notifies the Board in writing not less than 14 days before the date specified in the notice under subsection (3) (c) that he wishes to substitute a different place from that which was specified in the notice under subsection (3) (d), the different place shall be deemed to have been specified in the notice under that paragraph if—

- (a) the different place is an office of the Board or is the place last notified to the Board (whether or not in the notification given for the purpose of this subsection) as the principal place of business in New South Wales of the holder; or

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(b) the Board, by an instrument in writing served on the holder not less than 7 days before the date specified in the notice under subsection (3) (c), consents to the substitution of the different place for the place specified in the notice under subsection (3) (d).

(5) Where the holder of a licence appears before an authorised officer pursuant to a requirement made under subsection (3) (a), the authorised officer may—

(a) require the holder to answer any question that is reasonably related to the ascertainment of the financial position of the holder by the authorised officer; and

(b) examine, or take copies of, or extracts or notes from, any record relating to the financial position of the holder that is produced by him to the authorised officer.

(6) A person shall not—

(a) neglect or fail to comply with a requirement made of him by—

- (i) the Board, under subsection (3); or
- (ii) an authorised officer, under subsection (5) (a),

except to the extent, if any, that he is not able to comply with the requirement;

(b) in purported compliance with a requirement made of him by the Board under subsection (3) (b), produce a record that he knows to be false or misleading in a material particular;

Builders Licensing (Amendment).

SCHEDELE 4—continued.**MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—continued.**

- (c) make a statement that he knows to be false or misleading in a material particular when he is appearing before an authorised officer; or
- (d) wilfully obstruct or delay an authorised officer exercising or attempting to exercise any of his powers under subsection (5) (b).

Penalty : \$500.

(7) Where a person answers a question in compliance with a requirement made of him under subsection (5) (a) by an authorised officer and the answer tends to incriminate the person, neither the question nor the answer may be used in criminal proceedings against that person except proceedings under subsection (6) in respect of making a false or misleading statement in answer to the question.

(8) Subsection (7) applies whether the person objects to answering the question or not.

(16) Section 53 (c)—

Omit “section 52”, insert instead “sections 52 (3) and 52A (7)”.

(17) (a) Section 55 (b)—

Omit the paragraph, insert instead :—

(b) where it is addressed to the holder or former holder of a licence or permit—

(i) by delivering it to any place shown on the application for the licence or permit as the holder's or former

*Builders Licensing (Amendment).*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

holder's place of abode or business (or to the last place of abode or business of the holder or former holder known to the Board) and by leaving it there with some person for that holder or former holder; or

(ii) by posting it by pre-paid mail in an envelope addressed to the holder or former holder at any place shown on the application for the licence or permit as the holder's or former holder's place of abode or business (or at the last place of abode or business of the holder or former holder known to the Board),

(b) Section 55 (2), (3)—

At the end of section 55, insert :—

(2) Subsection (1) does not affect the operation of—

- (a) section 351 or 362 of the Companies Act, 1961, with respect to service of a notice, order or certificate referred to in that subsection; or
- (b) section 31 of the Business Names Act, 1962, with respect to service of a notice, order, certificate or subpoena so referred to,

and, for the purposes of section 351 of the Companies Act, 1961, a notice, order or certificate under this Act addressed to a foreign company, within the meaning of that Act, shall be deemed to be required to be served on the foreign company.

Builders Licensing (Amendment).

SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(3) In this section, a reference—

- (a) to the holder or former holder of a licence, being a subsidiary full licence or a subsidiary restricted licence, includes a reference to any person on whose behalf the licence is, or formerly was, held; or
- (b) to a licence or permit, includes a reference to a licence or permit that is not in force.

(18) Section 55A—

After section 55, insert :—

55A. (1) In this section, “prescribed instrument” means Order for a notice or an order under this Act, other than an order substituted service, under this section.

(2) Upon being satisfied on oath that it is impracticable, otherwise than pursuant to an order under this subsection, to effect service of a prescribed instrument on the holder or former holder of a licence or permit, the Board may order that the carrying into effect of procedures specified in the order, being procedures intended to have the effect of bringing the prescribed instrument to the notice of the holder or former holder, as the case may require, shall—

- (a) forthwith upon their being carried into effect, constitute service of the prescribed instrument for the purposes of this Act; or
- (b) at the expiration of a period of time specified in the order or on the occurrence of an event so specified, constitute that service.

*Builders Licensing (Amendment).*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT—*continued.*

(3) When—

- (a) the procedures specified in an order made under subsection (2) with respect to the service of a prescribed instrument on a person have been carried into effect; and
- (b) the period of time, if any, specified under subsection (2) (b) in the order has expired or the event, if any, so specified has occurred,

the prescribed instrument shall be deemed to have been served on the person for the purposes of this Act.

(4) Section 55 (3) applies in respect of a reference in this section to the holder or former holder of a licence or to a licence or permit in the same way as it applies in respect of any such reference in section 55.

(19) Section 62 (1) (c)—

After “licences”, insert “or permits”.

Sec. 6.

SCHEDULE 5.

SAVING AND TRANSITIONAL PROVISIONS RELATING TO LICENCES.

Saving of
certain
licences.

1. A licence granted under the Principal Act before the commencement of this Schedule shall be deemed to have been granted under the Principal Act, as amended by this Act.

*Builders Licensing (Amendment).*SCHEDULE 5—*continued.*SAVING AND TRANSITIONAL PROVISIONS RELATING TO
LICENCES—*continued.*

2. (1) Notwithstanding sections 11 (3), 12 (2) and 13 (2) of the Principal Act, as amended by this Act, any—

- (a) full licence granted under the Principal Act before the commencement of this Schedule that, when it was so granted, bore an endorsement stating that the licence was issued for a particular purpose; or
- (b) subsidiary full licence granted under the Principal Act before or after that commencement to the holder of any such full licence by reason of his having been the applicant for the full licence,

Authority
conferred
by certain
licences
limited.

shall, on and from that commencement, be deemed to be a full licence or subsidiary full licence, as the case may be, authorising the holder to carry out only building work of a kind that would enable the holder of the licence to achieve that purpose.

(2) Nothing in subclause (1) of this clause affects the power of the Board under section 15AA of the Principal Act, as amended by this Act, to impose a condition on a full licence referred to in that subclause.

3. Any determination made by the Board under section 30 (1) (d) or (e) of the Principal Act before the commencement of this Schedule—

Effect of
certain
determina-
tions by
Board.

- (a) to disqualify a person, either permanently or for a period that expires after the commencement of this Schedule, from being the holder of a licence under that Act—shall be deemed to have been a determination to disqualify the person from being the holder of any licence under that Act, as amended by this Act; or
- (b) to disqualify a person, either permanently or for a period that expires after the commencement of this Schedule, from being a person on whose behalf a licence may be held under that Act—shall be deemed to have been a determination to disqualify the person from being a person on whose behalf any licence may be held under that Act, as amended by this Act.

4. Notwithstanding clause 3 or any provision of Division 1 or 2 of Part III of the Principal Act, as amended by this Act, where—

Power to
grant
licences
in certain
cases.

- (a) a person applies for a licence under that Act, as so amended, after the commencement of this Schedule; and

*Builders Licensing (Amendment).*SCHEDULE 5—*continued.*SAVING AND TRANSITIONAL PROVISIONS RELATING TO
LICENCES—*continued.*

(b) the person is not entitled to be granted the licence by reason only that—

- (i) he is a person disqualified from holding the licence for which he has applied by reason of a determination under section 30 (1) (d) or (e) of the Principal Act made by the Board before that commencement; or
- (ii) a person on whose behalf the licence, if granted, would be held is disqualified from being a person on whose behalf the licence may be held by reason of a determination referred to in subparagraph (i),

the Board may, if it considers that the particular circumstances of the case so warrant, grant the licence.

Sec. 7.

SCHEDULE 6.

VALIDATIONS AND OTHER SAVING AND TRANSITIONAL PROVISIONS.

Validation
and
transitional
provisions
in respect
of funds.

1. (1) The creation in the books of the Board of a Builders Licensing Board Special Insurance Fund before the commencement of this Schedule is validated.
- (2) The crediting before the commencement of this Schedule of 50 per cent of moneys received by the Board as fees for restricted licences (being restricted licences for which fees of \$100 were payable) or for the renewal or restoration of those restricted licences, to the fund referred to in subclause (1) of this clause, instead of to the Builders Licensing Board General Fund referred to in section 39 (2) (a) of the Principal Act, is validated.
- (3) All moneys held immediately before the commencement of this Schedule in the Builders Licensing Board Account in the Special Deposits Account in the Treasury and credited to—
 - (a) the Builders Licensing Board Insurance Fund referred to in section 39 (2) (b) of the Principal Act shall be paid to the Board and shall form part of the Builders Licensing Board General Insurance Fund created under section 40B of the Principal Act, as amended by this Act; or

Builders Licensing (Amendment).

SCHEDULE 6—*continued.*

VALIDATIONS AND OTHER SAVING AND TRANSITIONAL
PROVISIONS—*continued.*

(b) the fund referred to in subclause (1) of this clause shall be paid to the Board and shall form part of the Builders Licensing Board Special Insurance Fund created under section 40B of that Act, as so amended.

(4) Upon the moneys credited to the fund referred to in subclause (1) of this clause being paid to the Board in accordance with subclause (3) (b) of this clause, that fund is abolished.

(5) Any moneys advanced to the Board under section 39 (3) of the Principal Act before the commencement of this Schedule shall be deemed to have been advanced under section 43B (1) of the Principal Act, as amended by this Act.

2. Any refund made by the Board before the commencement of this Validation Schedule which would have been validly made had section 18A (1A) of the of certain Principal Act, as amended by this Act, been in force at the time of the refunds. making of that refund shall be deemed to have been validly made.

3. The Governor shall be deemed to have approved, under section Certain 35 (1) of the Principal Act, of the Board— approvals deemed to

(a) on 24th June, 1976, entering into a contract for the renewal have been of the Special Contingency Reinsurance Agreement, the approval given. of the entry into which by the Board was confirmed by the Governor on 7th March, 1973; and

(b) on 22nd June, 1978, entering into a further contract providing for the variation of the Agreement referred to in paragraph (a).