

LOCAL GOVERNMENT (REGULATION OF FLATS) ACT.

Act No. 16, 1940.

An Act to make further provision for regulating the erection and use of residential flat buildings in municipalities and shires; to amend the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith. George VI.
No. 16, 1940.
[Assented to, 30th May, 1940.]

BE it enacted by the King'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. This Act may be cited as the "Local Government short title. (Regulation of Flats) Act, 1940."

2.

Local Government (Regulation of Flats) Act.

No. 16, 1940.

Amendment
of Act No.
41, 1919.

Sec. 304.

(Interpreta-
tion.)

2. The Local Government Act, 1919, as amended by subsequent Acts, is amended—

- (a) (i) by inserting in section three hundred and four after the definition of "Erection" the following new definition:—

"Flat" means a room or suite of rooms occupied or used or so constructed, designed, or adapted as to be capable of being occupied or used as a separate domicile.

- (ii) by inserting in the same section after the definition of "Party fence wall" the following new definitions:—

"Residential flat building" means a building containing two or more flats, but does not include a row of two or more dwellings attached to each other such as are commonly known as semi-detached or terrace buildings.

"Storey" means any floor containing any habitable room or rooms or containing any room or rooms occupied or used or so constructed, designed or adapted as to be capable of being occupied or used as a shop, office or factory.

Sec. 309
(1) (f).
(Prohibi-
tion of
residential
flats.)

- (b) (i) by omitting from paragraph (f) of subsection one of section three hundred and nine the words "residential flat" where firstly occurring and by inserting in lieu thereof the words "residential flat building or prohibit the erection or use in the district or in such part of the district as may be defined in the proclamation of any building for the purpose of a residential flat building other than a building which conforms to the standard prescribed by this Act for the class of residential flat building defined in such proclamation."

(ii)

- (ii) by inserting next after subsection two of the same section the following new subsections:—

No. 16, 1940.

Sec. 309
(2).

(3) There shall be four classes of residential flat buildings, which may be referred to as Class A, Class B, Class C and Class D, and the standard prescribed by this Act for each such class shall be the standard set out in Schedule Seven in respect of that class.

(4) The council may regulate the number of storeys which may be contained in a residential flat building: Provided that not more than three storeys shall be contained in a residential flat building of either Class A or Class B.

- (e) by inserting after section three hundred and nine the following new section:—

New Sec.
309A.

309A. (1) The council shall within three months after the commencement of the Local Government (Regulation of Flats) Act, 1940, cause to be prepared a map and register of the residential districts within the area.

Map and
Register.

(2) The map shall show clearly and accurately the boundaries for the time being of every residential district which has been proclaimed within the area, together with such further particulars in relation thereto as may be prescribed and any other particulars which the council may determine.

(3) The register shall contain a copy of every proclamation under section three hundred and nine of this Act relating to a residential district within the area, and such further particulars in relation thereto as may be prescribed and any other particulars which the council may determine.

(4) Any person may inspect such map and register without fee as prescribed.

(5)

No. 16, 1940.

(5) Upon application and payment of the fee (if any) fixed by the council, any person may obtain from the council a copy of any part of such map or register certified to be a true copy under the hand of the proper servant of the council. The fee referred to in this subsection shall not exceed the maximum fee (if any) prescribed by ordinance.

(6) This section shall apply to and in respect of a residential district proclaimed either before or after the commencement of the Local Government (Regulation of Flats) Act, 1940.

Sec. 314 (1).
(Applications for approval.)

(d) (i) by inserting at the end of paragraph (b) of subsection one of section three hundred and fourteen the word "and";

(ii) by inserting after the same paragraph the following new paragraph:—

(c) the council shall not approve an application for approval of the erection of a residential flat building which would not conform to one of the standards prescribed for residential flat buildings in Schedule Seven.

(iii) by inserting after subsection one of section three hundred and fourteen the following new subsection—

(1A) Paragraph (c) of subsection one of this section shall not preclude the council from approving an application for approval of the erection of a residential flat building which would not conform to one of the standards prescribed in Schedule Seven to this Act where—

(a) the building is to contain shops; and

(b) such shops are to be erected on the ground floor of the building and facing the road to which the building has frontage; and

(c) such shops either with or without a common entrance hall to the flats

are

are to occupy the whole of the frontage of the allotment on which the building stands; and

- (d) the only departure from the standard prescribed in Schedule Seven and applicable in the particular case is that the external walls of the building for a prescribed distance (not exceeding forty feet) from the road to which the building has frontage are not to be set back from the side boundaries of the allotment or are not to be set back to the extent required under that standard; and
- (e) the council in its absolute discretion is satisfied that, having regard to the circumstances of the case and the public interest, the application should be approved.

For the purpose of this subsection "shops" includes rooms which are to be used or which are to be so constructed or designed as to be capable of being used for the purpose of any trade, industry, manufacture, business, avocation or calling.

- (c) by inserting after Schedule Six the following new Schedule:—

Further amendment of Act No. 41, 1919.

SCHEDULE SEVEN.

CLASSES OF RESIDENTIAL FLAT BUILDINGS.

For the purposes of this Schedule—

"Total area of the site" shall mean—

- (a) in a case where an allotment on which the building stands has a frontage to one road only—the actual area of the allotment plus an additional area equivalent to the area of a rectangular parcel of land having one side equal in length to the length of the frontage of the allotment to the road and the other side equal to thirty-three feet or to one-half the width of the road whichever is the less;

(b)

No. 16, 1940.

- (b) in a case where the allotment on which the building stands has a frontage to more than one road—the actual area of the allotment plus an additional area in respect of each such frontage, the additional area to be added in respect of any particular frontage to a road being an area equivalent to the area of a rectangular parcel of land having one side equal in length to the length of that frontage and the other side equal to thirty-three feet or to one-half the width of that road whichever is the less.

Where a road to which an allotment has a frontage is of variable width, the width of the road for the purposes of this definition shall be the width of the road at the middle point of the frontage.

“Total floor plan area” shall mean the sum of the floor plan areas of the various storeys and the floor plan area of any storey shall mean the area contained within the extreme external boundaries of such storey as shown on the floor plan.

“Floor plan” shall mean a horizontal-section drawing showing the thickness of walls and partitions, arrangement of passages, rooms and openings at any storey.

Class A.

The residential flat building shall not occupy more than the following proportion of the area of the allotment upon which the building stands:—

- in the case of a one-storey building, fifty per centum;
- in the case of a two-storey building, forty per centum;
- in the case of a three-storey building, thirty-five per centum.

The minimum distance of the external walls of any storey from the side boundaries of such allotment shall be twenty feet.

Class B.

The residential flat building shall not occupy more than the following proportion of the area of the allotment upon which the building stands:—

- in the case of a one-storey building, fifty per centum;
- in the case of a two-storey building, forty per centum;
- in the case of a three-storey building, thirty-five per centum.

The minimum distance of the external walls of the first and second storeys from one side boundary of such allotment shall be ten feet and from the other side boundary shall be seven feet six inches; and the minimum distance of the external

external walls of the third storey from one side boundary of such allotment shall be ten feet, and from the other side boundary, nine feet.

No. 16, 1940.

Class C.

The residential flat building shall not occupy more than the following proportion of the area of the allotment upon which the building stands:—

- in the case of a one-storey building, fifty per centum;
- in the case of a two-storey building, forty per centum;
- in the case of a building containing more than two storeys, thirty-five per centum.

The total floor plan area shall not exceed one and one-half times the total area of the site.

The minimum distance of the external walls of the first and second storeys from the side boundaries of the allotment on which the building stands shall be seven feet six inches; and the minimum distance of the external walls of any particular storey (other than the first and second) from the side boundaries of such allotment shall be ascertained by adding to seven feet six inches a distance of one foot six inches in respect of each storey additional to the second, up to and including that particular storey.

Class D.

The residential flat building shall not occupy more than fifty per centum of the area of the allotment upon which the building stands. The total floor plan area shall not exceed one and one-half times the total area of the site.

The minimum distance of the external walls of the first and second storeys from the side boundaries of the allotment on which the building stands shall be five feet; and the minimum distance of the external walls of any particular storey (other than the first and second) from the side boundaries of such allotment shall be ascertained by adding to five feet a distance of one foot six inches in respect of each storey additional to the second up to and including that particular storey.

3. The Local Government Act, 1919, as amended by subsequent Acts, is further amended by inserting after paragraph (m) of section two hundred and eighty-nine the following new paragraph:—

- (n) control and regulate the erection or use of incinerators on premises.

Incinerators.