

Act No. 80 of 1989

**LOCAL GOVERNMENT (BUILDING REGULATION)  
AMENDMENT BILL 1989**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Local Government Act 1919—

- (a) to provide for the extent to which the Crown is to be bound by the building regulation provisions of that Act; and
- (b) to enable the determination by the Minister for Local Government of a building application for a building the development application for which has been determined by the Minister for Planning under section 101 of the Environmental Planning and Assessment Act 1979; and
- (c) to enable a council, in determining a building application, to be satisfied as to the compliance of the building with certain statutory requirements by reliance on a certificate given by a suitably qualified person that the building so complies.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** gives effect to the Schedule of amendments to the Principal Act.

**SCHEDULE 1—AMENDMENTS**

**Extent to which the Crown is bound by Part 11 of the Principal Act**

At the present time, the Crown is not bound by Part 11—Building regulation—of the Principal Act.

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Schedule 1 (2) inserts proposed section 304A into the Principal Act. The section requires a building erected by or on behalf of the Crown to comply with the technical provisions of the State's building laws. The technical provisions of the State's building laws are to comprise those provisions of an ordinance, or a document adopted by an ordinance, which are prescribed to be technical provisions of the State's building laws for the purposes of the section. The section enables the Minister for whom, or for whose administration, the building is erected to determine, by order in writing, that a specified technical provision of the State's building laws will not apply to buildings generally or to a particular building or class of buildings or that the technical provisions will apply, but with such exceptions or modifications as may be specified.

Schedule 1 (1) makes a consequential amendment.

**Certification of certain building requirements**

Schedule 1 (3), (5) and (6) make amendments to the Principal Act to enable the introduction of a scheme to facilitate the determination of building applications by councils. The amendments provide that if a building application is accompanied by a certificate (in a form prescribed by ordinance) given by a person (having qualifications prescribed by ordinance) which certifies that the building complies with a prescribed provision of a building law, the council may, for the purpose of deciding the building application, accept the matters so certified.

The amendments exempt a council from liability for things done in good faith in reliance on such a certificate.

The ordinance-making powers under Part 11 of the Principal Act are amended to enable ordinances to be made with respect to the form of the certificate, the qualifications of a person who may give such a certificate and the reduction of the fees to be paid on lodgment of a building application which is accompanied by such a certificate.

**Determination of certain building applications by the Minister for Local Government**

Schedule 1 (4) inserts proposed section 314C into the Principal Act. The section enables the Minister for Local Government to give a direction to a council that certain building applications be referred to the Minister for determination. The relevant building applications are those which relate to a building the development application for which has been determined by the Minister for Planning under section 101 of the Environmental Planning and Assessment Act 1979. The council is required to comply with the Minister's direction. The Minister is empowered to decide the application, as if the Minister were the council, to the exclusion of the council. The Minister's decision is not subject to appeal and is to be administered and enforced by the council as if it were a decision of the council.

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