



ANNO VICESIMO

ELIZABETHAE SECUNDAE REGINAE

No. 75 of 1971

**An Act to Provide for the Registration of Builders and for
other purposes**

[ASSENTED TO 22ND DECEMBER, 1971]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Builders' Registration Act 1971*.

2. Commencement. This Act shall come into operation on a day to be fixed by the Governor by Proclamation published in the Gazette.

3. Parts. This Act is divided into Parts as follows:—

PART I—PRELIMINARY (ss. 1–4);

PART II—THE BOARD (ss. 5–18);

PART III—REGISTRATION OF BUILDERS (ss. 19–28);

PART IV—REGISTERED BUILDERS (ss. 29–35);

PART V—MISCELLANEOUS (ss. 36–46).

4. **Definitions.** In this Act, unless the contrary intention appears—
- “Board” means the Builders’ Registration Board of Queensland constituted under this Act;
 - “builder” means any individual who, or any firm or any body corporate that, is engaged in building construction for a fixed sum, percentage, valuable consideration or reward other than wages;
 - “building” means any building of a permanent nature used or intended to be used for residential, professional, manufacturing, trading, commercial, hospital, institutional, assemblage or public purposes; but does not include a farm building;
 - “building construction” means—
 - (a) the construction of any building; or
 - (b) any building work which is or includes the construction, alteration, repair or improvement of, or the making of additions to, the walls and structural parts of any building;
 - “chairman” means the chairman of the Board;
 - “dwelling-house” includes a room or suite of rooms forming part of a building and constructed for occupation separately as a dwelling-house;
 - “farm building” means any building of a permanent nature, other than a building used or intended to be used for residential purposes, that is—
 - (a) constructed or to be constructed, on land used primarily for agricultural purposes; and
 - (b) itself used or intended to be used for agricultural purposes;
 - “firm” means a firm within the meaning of the *Business Names Act 1962-1971*;
 - “individual” means a natural person;
 - “local authority” means a local authority within the meaning of the *Local Government Act 1936-1971*;
 - “Magistrates Court” means a Magistrates Court within the meaning of *The Magistrates Courts Acts 1921 to 1964* constituted by a stipendiary magistrate sitting alone;
 - “member” means member of the Board;
 - “Minister” means the Minister for Works and Housing, or other Minister of the Crown for the time being charged with the administration of this Act;
 - “permit” means any permit, approval, consent, permission or other authorization to like effect issued by the Brisbane City Council or a local authority for the commencement or carrying out of building construction;
 - “register” means the register of builders kept under section 17 of this Act;
 - “registered builder” means an individual, a body corporate or a firm registered as a builder under this Act;
 - “registrar” means the registrar of the Board appointed under this Act;
 - “supervisor” means a person, not being a builder, who oversees the execution or performance of building construction, but does not include a foreman, leading hand or other person employed in a like or less responsible capacity in the building trade.

PART II—THE BOARD

5. Builders' Registration Board of Queensland. (1) For the purposes of this Act there shall be a Board, to be called the "Builders' Registration Board of Queensland", constituted as hereinafter provided.

(2) The Board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Board shall be capable, with the written consent of the Minister, of acquiring, taking or letting on lease, holding, selling and otherwise disposing of property of all kinds.

6. Functions of Board. Subject to this Act the functions of the Board shall be:—

- (a) to determine the course of training (including practical experience in building construction and other building work) and the examinations mentioned in subparagraph (i) of paragraph (c) of subsection (1) of section 19 of this Act;
- (b) to compile and keep a register of individuals, bodies corporate and firms who are registered as builders under this Act, and to publish a copy of the same in accordance with this Act;
- (c) to issue or cancel certificates of registration;
- (d) to cancel or suspend the registration of any person under this Act;
- (e) to annul such cancellation or suspension;
- (f) to take proceedings for offences against this Act; and
- (g) generally, to carry out the provisions of this Act.

7. Constitution of Board. (1) Subject to this Act the Board shall consist of five members appointed by the Governor in Council, as follows:—

- (a) a representative of the Government, who shall be chairman of the Board;
- (b) a builder (who in respect of any appointment other than the first appointment of members to constitute the Board shall be a registered builder) nominated by the Australian Institute of Building (Queensland Branch);
- (c) an architect registered under the *Architects Act 1962-1971* nominated by the Australian Institute of Building (Queensland Branch);
- (d) a person nominated by the Minister, from a panel of at least three names submitted to him by the Building Trades Group of Unions, to represent the workers engaged in the building trade;
- (e) a person nominated by the Minister to represent building societies, co-operative housing societies and other similar bodies (not being Crown instrumentalities) having as their principal function the provision of dwelling-houses.

(2) If any nomination for the purposes of paragraph (b) or (c) of subsection (1) of this section be not made within the time specified for the purpose by the Minister or if any nominee be not acceptable to the Governor in Council, the Governor in Council may appoint any person to be a member of the Board in place of the member required to be appointed under the paragraph in question.

8. Tenure of office and remuneration of members. (1) Subject to section 9 of this Act, each member shall hold office for a period of three years but shall, subject to subsection (1) of section 9 of this Act, be eligible for re-appointment.

(2) The Governor in Council may at any time, for sufficient cause, remove any member from office.

(3) If the office of a member becomes vacant before the expiration of his term of office, a successor may be appointed by the Governor in Council for the balance of the term of office remaining and, where the person whose office has become vacant was appointed on the nomination of any person or body, the appointment shall be upon the nomination of that person or body.

(4) Subsection (2) of section 7 of this Act shall apply with all necessary adaptations to an appointment under subsection (3) of this section.

(5) Each member of the Board shall receive such fees and allowances, if any, as may be prescribed.

9. Vacancies and appointment of persons to act during vacancies.

(1) The office of a member shall become vacant if he—

- (a) dies or his term of office expires;
- (b) becomes a patient within the meaning of *The Mental Health Acts 1962 to 1964*;
- (c) becomes bankrupt or compounds with his creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (d) is absent without leave of the Board from three consecutive ordinary meetings of which due notice has been given him either personally or by post;
- (e) resigns his office by writing under his hand addressed to the Minister;
- (f) ceases to hold the qualification essential to his appointment as a member in terms of paragraph (b) or (c) of subsection (1) of section 7 of this Act or, being a person first appointed in terms of the said paragraph (b), is not at all times after the expiration of a period of one year from his appointment a registered builder;
- (g) is removed from office by the Governor in Council.

(2) The attendance of a member at the time and place appointed for an ordinary meeting shall, for the purposes of paragraph (d) of subsection (1) of this section, be deemed to constitute presence at an ordinary meeting notwithstanding that by reason that no quorum is present no meeting is actually held on that day, and the registrar shall record the name of any member who so attends.

(3) If at any time a member is from illness, absence or other proper cause prevented from attending any meeting of the Board, the Minister may appoint some person to act temporarily as a member in his place, and while so acting such person shall have all the powers of and be deemed to be a member of the Board.

(4) If at any time any member is likely, from any proper cause, to be absent from meetings of the Board for more than four months, the Governor in Council may appoint a deputy to act in the place of such member during his absence, and while so acting such person shall have all the powers of and be deemed to be a member of the Board.

(5) In the absence of the chairman from any meeting of the Board the Minister may appoint one of the other members, or, failing such appointment, the members present at the meeting may elect one of the members present, to act as chairman. The member so appointed or elected, while so acting, shall have all the powers of and be deemed to be the chairman of the Board.

10. Proceedings validated. No act or proceeding of the Board shall be invalidated in consequence only of there being any vacancy in the number of members of the Board or by reason of any defect in the appointment of any person who has acted as a member.

11. Protection of members and others. No liability shall attach to any member or officer or employee of the Board for any act or omission by the Board or by him in good faith and in the exercise or purported exercise of its or his powers or functions or in the discharge or purported discharge of its or his duties under this Act.

12. Proceedings of Board. (1) The chairman shall preside at every meeting of the Board at which he is present.

(2) Three members shall constitute a quorum at any meeting of the Board for the transaction of business and no business shall be transacted at a meeting unless a quorum is present.

(3) A duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

(4) On any matter before a meeting of the Board—

(a) subject to paragraph (c) of this subsection the decision of a majority of the votes cast by show of hands by members present at the meeting shall be the decision of the Board;

(b) the chairman shall have a deliberative vote and, in the case of an equality of votes, a second or casting vote also; and

(c) if any member refuses to vote, he shall be deemed to have cast a vote for the negative.

(5) The Board shall cause full and accurate minutes to be kept of the proceedings at its meetings.

(6) Subject to this Act, the Board shall meet at such times and shall conduct its business in such manner as it may determine.

(7) The Board shall hold its first meeting on such day and at such time and place as the Minister appoints.

13. Reports by Board. (1) The Board shall, not later than the thirty-first day of October in each year, furnish to the Minister a report upon the operations of the Board during the year ended on the thirtieth day of June in that year.

(2) The Minister shall cause every such report of the Board to be laid on the table of the Legislative Assembly within fourteen days after it is received by him if the Legislative Assembly is then in session or, if the Legislative Assembly is not then in session, within fourteen days after the commencement of the next session of the Legislative Assembly.

14. Officers of Board. (1) The Board may appoint a registrar and such other officers as it thinks necessary to give effect to this Act and may pay any person so appointed such salary or remuneration as the Board thinks fit and the Minister approves.

(2) The registrar and any other officer so appointed shall hold office during the pleasure of the Board.

(3) The registrar shall be charged with the custody of the register and shall have such further duties as are prescribed or the Board may determine.

15. Funds of Board. (1) All moneys received by or on behalf of the Board, including fees and penalties, shall be paid into the funds of the Board.

(2) The remuneration of the registrar and other officers appointed under this Act, and all other expenses of and incidental to the administration of this Act, shall be paid by the Board out of its funds.

(3) Any surplus moneys of the Board which are not required for the purposes of the last preceding subsection may be expended by the Board for or towards the encouragement or assistance of education or research in connexion with the building industry.

16. Committees. (1) The Board may appoint such committees as it considers necessary for the purposes of considering and making recommendations upon such matters as are referred to them by the Board.

(2) The Board may determine the constitution and functions of such committees and the terms of appointment and remuneration of the members thereof: But no such determination shall be inconsistent with the purposes of this Act.

17. Keeping of register. (1) The Board shall keep a register of builders (to be called the "Register of Builders"), which shall be in the prescribed form.

(2) The register shall contain—

(a) the full name, business address and registration number of every person registered as a builder and where a firm is so registered the name and business address of each member of the firm and where the person so registered is a body corporate the name and business address of every director or member of the board of management of the body corporate;

(b) the date and description of the qualification in respect of which such registration is granted; and

(c) such other particulars as may be prescribed.

(3) Any person may, on payment of such fee as may be prescribed, inspect the register at the office of the Board at all times that the office is open for business.

(4) A registered builder shall notify the Board in writing within fourteen days after any such change of any change that occurs in any of the particulars that under this Act are required to be contained in the register with respect to that registered builder.

18. Roll of registered builders. (1) The Board shall, in the month of January in each year, transmit a copy of the register certified under the signature of the registrar to be correct as at the thirty-first day of December of the last preceding year to the Minister, who shall thereupon cause the same to be published in the Gazette as the "Roll of Registered Builders of Queensland for the year _____", followed by the number of the year in which it is published.

(2) Subject to subsections (3) and (4) of this section, a copy of the roll published as required by subsection (1) of this section shall upon its production in evidence, and until the contrary is proved, be sufficient evidence in all legal proceedings that the persons mentioned in the roll and no others are registered as builders for the year in question.

(3) In the case of a person whose name does not appear on the roll published as required by subsection (1) of this section, a certificate under the hand of the registrar that on any date or during any period mentioned in the certificate such person was registered as a builder shall, upon its production in evidence, be sufficient evidence of the matters stated therein.

(4) In the case of a person whose name appears on the roll published as required by subsection (1) of this section, a copy of the Gazette containing a notification that such person's name has been removed from the register or that the registration of such person as a builder has been cancelled or suspended shall be conclusive evidence of such removal, cancellation or suspension.

PART III—REGISTRATION OF BUILDERS

19. Persons who may be registered. (1) Subject to this Act, any individual who applies to the Board in the prescribed form to be registered as a builder under this Act and pays to the Board the prescribed fee therefor shall be entitled to be so registered upon satisfying the Board—

- (a) that he has attained the age of twenty-one years;
- (b) that he is a person of good fame and character; and
- (c) that—

- (i) he has passed such examination or examinations as are prescribed or where not prescribed as the Board approves and has had practical experience, for a period of at least six years or for periods aggregating at least six years, in building work of such nature as is prescribed or where not prescribed as is approved by the Board, whether as part of a prescribed course of training or otherwise; or
- (ii) although not complying with the requirements of subparagraph (i) of this paragraph, has nevertheless had such experience elsewhere than in Queensland in building work as to render him, in the opinion of the Board, competent to undertake building construction as a registered builder,

but for the purposes of this subsection a person who relies in his application on the provisions of subparagraph (ii) of paragraph (c) of this subsection shall not be entitled to be so registered unless he satisfies the Board that he was not, at the commencement of this Act, a resident of Queensland.

(2) Any individual who, at the commencement of this Act, is a builder or supervisor may within three months of that commencement apply to the Board for registration under this section and shall be entitled to be so registered upon payment to the Board of the prescribed fee therefor and satisfying the Board—

- (a) that he has attained the age of twenty-one years;
- (b) that he is a person of good fame and character;
- (c) that he has been actively engaged as a builder, or has been a supervisor, during a period of not less than five consecutive years;
- (d) that he has during the period mentioned in the preceding paragraph carried out building construction, or has supervised building construction, of an average annual aggregate value of not less than twenty-five thousand dollars; and
- (e) that the period referred to in paragraph (c) of this subsection occurred within the period of ten consecutive years ending on the date of commencement of this Act; and
- (f) that he is sufficiently competent as a builder as, in the opinion of the Board, to merit registration under this section without the necessity of complying with paragraph (c) of subsection (1) of this section.

(3) Any individual who at the commencement of this Act is a builder or a supervisor, but is not able to meet the requirements for registration under this section specified in subsection (2) of this section, may within three months after that commencement notify the Board in writing that he intends to apply to the Board for registration as a registered builder under this section if and when he is able to fulfil the requirements of subsection (4) of this section.

(4) If during the period of five years immediately following the commencement of this Act an individual who has given notice to the Board in accordance with the provisions of subsection (3) of this section applies to the Board for registration, that person shall be entitled to be registered as a builder under the Act upon paying to the Board the prescribed fees for such registration and satisfying the Board that he would fulfil the requirements specified in subsection (2) of this section if the period of ten consecutive years specified in paragraph (e) of that subsection were a period ending on the date of his application for registration under this subsection.

(5) An individual who—

- (a) is registered under the *Architects Act 1962-1971* or holds the qualifications prescribed by paragraph (a), (b) or (c) of subsection (1) of section 18 of that Act; or
- (b) is registered under *The Professional Engineers Act of 1929* or is a corporate member of the Institution of Engineers Australia or is the holder of qualifications which exempt him from the membership examination of that institution; or
- (c) is a member of the Australian Institute of Quantity Surveyors, and, in the Board's opinion, has had not less than three years' suitable practical experience in building construction, shall be entitled to be registered as a builder under this Act without the necessity of complying with paragraph (c) of subsection (1) of this section, if he fulfils all the other requirements of that subsection.

(6) Subject to this Act, a body corporate or a firm carrying on business in the State, which applies to the Board in the prescribed form to be registered as a builder under this Act and pays to the Board the prescribed fees therefor, shall be entitled to be so registered upon satisfying the Board—

- (a) that in the case of the body corporate all the directors or members of the board of management thereof, or in the case of a firm all the members thereof, are of good fame and character;
- (b) that, but for this Act, it has the power, authority and capacity to trade as a builder; and
- (c) that there is already registered under this Act at least one director or member of the board of management of the body corporate, or at least one member of the firm, or a person employed by the body corporate or the firm to manage and supervise the building construction undertaken by it, who has such authority, duties and responsibilities as in the opinion of the Board will ensure the proper management and supervision of such building construction.

(7) Notwithstanding anything to the contrary contained in this Act, the registration under this Act of a body corporate or firm pursuant to subsection (6) of this section shall continue and have effect only while at least one director or member of the board of management of the body corporate or at least one member of the firm or a person employed as provided by subsection (6) of this section by the body corporate or the firm to manage and supervise the building construction undertaken by it continues to be registered as a builder under this Act.

(8) Registration as a builder under this section may be made subject to such conditions and restrictions as the Board deems fit.

20. Application for registration. (1) Application to the Board for registration as a builder under this Act shall—

- (a) be made as prescribed;
- (b) be supported by such evidence as the Board may require; and
- (c) be accompanied by—
 - (i) the prescribed registration fee;
 - (ii) the prescribed roll fee or roll fees referred to in subsection (1) of section 22 of this Act; and
 - (iii) the prescribed certificate fee.

(2) Where the Board refuses an application for registration, all fees which accompanied the application shall be refunded save such part of the registration fee as may be prescribed.

21. Certificates of registration. (1) Where the Board approves an application for registration as a builder under this Act, it shall cause the appropriate entries to be made in the register and shall issue to the applicant a certificate of registration in the form prescribed.

(2) The Board may, in special circumstances, grant to any individual, body corporate or firm who or which has applied for registration as a builder under section 19 of this Act an interim certificate of registration in the prescribed form for a period not exceeding six months at any one time.

(3) The holder of an interim certificate under subsection (2) of this section shall, whilst the certificate remains in force, be deemed to be registered as a builder under this Act.

(4) The Board may cancel an interim certificate at any time.

22. Roll fee. (1) Every individual, body corporate and firm who or which is registered as a builder under this Act shall, upon registration and in respect of the year of registration, pay to the Board the prescribed roll fee for that year:

Provided that any such person who is registered subsequent to the first day of October in any year shall, upon registration and in addition to the prescribed roll fee for the year of registration, pay to the registrar the prescribed roll fee for the year commencing on the first day of January next following the date of registration of that person.

(2) Every registered builder shall, on or before the first day of October in each year, pay to the Board the prescribed roll fee for the year commencing on the first day of January next following.

(3) If any registered builder fails to pay the prescribed roll fee in accordance with subsection (2) of this section, the registrar shall forthwith notify him by registered letter addressed to him at the address appearing in the register in relation to him or it that if such fee is not paid to the registrar on or before the first day of December next following, the Board may remove his name from the register.

(4) If any registered builder fails to pay such fee on or before the said first day of December next following, the Board may remove his name from the register. Such removal shall take effect as from the first day of January next following the date of the removal, and notice thereof shall be published in the Gazette as soon as practicable after such first day of January.

(5) Where a person whose name is removed from the register pursuant to subsection (4) of this section is a director or member of a board of management of a body corporate, or is a member of a firm, or is a person employed by a body corporate or a firm, as provided in paragraph (c) of subsection (6) of section 19 of this Act, whose registration is necessary for the registration of the body corporate or the firm, as the case may be, then, upon the removal of the name of such person from the register, the name of the body corporate or firm concerned shall also be removed from the register.

23. Cancellation and suspension. (1) Where any person dies or becomes a patient within the meaning of *The Mental Health Acts 1962 to 1964* his registration as a builder under this Act is thereby cancelled.

(2) The Board may by order cancel or suspend the registration of any builder under this Act—

- (a) where the builder does not possess the qualifications in respect of which he was registered;
- (b) where the registration was obtained by fraud or misrepresentation;

- (c) where after registration the builder has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland of an offence which, if it were committed in Queensland, would be an indictable offence; or has been convicted in Queensland or elsewhere of any other offence which in the opinion of the Board renders him or it unfit to practise as a registered builder;
- (d) who or which has been guilty of any negligence or incompetence in connexion with the performance of any building work;
- (e) who or which has been guilty of any fraudulent conduct in regard to the carrying out or completion of any building work;
- (f) who or which has been convicted of any offence under this Act;
- (g) which has ceased to be entitled to registration under subsection (7) of section 19 of this Act;
- (h) who becomes bankrupt or compounds with his creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (j) which is in course of being wound up or in respect of which a receiver or manager has been appointed by the Court or pursuant to the powers contained in any instrument or which has ceased to carry on business or is unable to pay its debts which it shall be deemed to be unable so to do if execution or other process issued on a judgment, decree or order of any Court in favour of a creditor of the body corporate is returned unsatisfied in whole or in part.

(3) Where the registration as a builder under this Act of a body corporate or firm has been cancelled by the Board after the holding of an inquiry into a matter or matters arising under paragraph (d) or (e) of subsection (2) of this section the Board may, if in all the circumstances it considers it proper so to do, without further inquiry, by order cancel or suspend the registration as a builder under this Act of the member of the firm, director or member of the board of management or employee by whom the building work to which the inquiry related was, or was required to be, managed and supervised: But the Board shall not cancel or suspend the registration of a person under this subsection unless—

- (a) it has sent to the member of the firm, director, member of the board of management or employee a copy of the notice sent under subsection (4) of this section to the body corporate or firm; and
- (b) it has afforded him an opportunity of giving an explanation personally or in writing.

(4) Before cancelling or suspending the registration of any builder under subsection (2) of this section, the Board shall—

- (a) send to the builder due notice in writing of the complaint against the builder; and
- (b) conduct an inquiry and give the builder an opportunity to show cause why his registration should not be cancelled or suspended.

(5) Upon the making of an order of cancellation under this section, the individual, body corporate or firm named in the order shall cease to be registered as a builder under this Act and upon the making of an order of suspension under this section, the individual, body corporate or firm named in the order shall cease to be registered as a builder under this Act for the period specified in the order.

24. Cancellation or suspension of registration may be annulled. (1) By order of the Board the cancellation or suspension of registration as a builder under this Act may at any time, and for such reason and upon such terms as the Board thinks fit, be annulled.

(2) A builder whose registration has been cancelled or suspended may at any time after expiration of three months from the date of such cancellation or suspension apply to the Board to annul such cancellation or suspension.

25. Certificate to be surrendered on cancellation or suspension. (1) Any builder whose registration has been cancelled or suspended or whose interim certificate of registration has been cancelled shall within fourteen days after the date of notification of cancellation or suspension surrender to the Board every certificate of registration or interim certificate issued to him or it under this Act.

(2) Any builder who fails to comply with any provision of subsection (1) of this section shall be guilty of an offence against this Act.

Penalty: \$100.

(3) The cancellation or suspension of the registration of any builder under this Act or the cancellation of an interim certificate of registration shall be effectual, notwithstanding any failure to surrender any certificate.

(4) Upon the expiry of any period of suspension of registration as a builder, the Board shall return every certificate surrendered pursuant to subsection (1) of this section to the builder by whom or which it was surrendered.

(5) Any cancellation or suspension of registration as a builder under this Act, and any annulment of any such cancellation or registration, shall be published in the Gazette.

26. Duplicate certificate in case of loss, etc. (1) If any certificate is lost or destroyed, the holder, or some person having knowledge of the facts and circumstances, may make a statutory declaration with respect thereto; and the Board if satisfied with such declaration, may issue a fresh certificate to the person entitled to hold the same, on payment of the prescribed fee.

(2) A certificate issued under this section shall be endorsed with a memorandum setting out the reasons for the issue thereof, and thereafter such certificate shall have effect as if it were the original certificate.

27. Appeal. (1) Where the Board makes a decision or an order—

(a) refusing an application by an individual, body corporate or firm for registration as a builder under this Act on any ground other than the ground that the applicant has not passed the prescribed or an approved examination;

- (b) cancelling or suspending the registration of any individual, body corporate or firm; or
- (c) refusing to annul the cancellation or suspension of the registration as a builder under this Act of any individual, body corporate or firm,

the individual, body corporate or firm may appeal against the decision or order to a Magistrates Court within one month after the date on which notice of the decision or order is given to the individual, body corporate or firm in question.

(2) If the Court before whom the appeal is brought is of opinion after consideration of the circumstances of the case that the appeal should be heard by a Court at some other place in the State it shall remit the appeal to the Court at that other place which shall thereupon proceed to hear and determine the appeal.

(3) Unless the Court, with the consent of the Board and the appellant, directs otherwise, every such appeal shall be by way of rehearing and the decision of the Court thereon shall be final and conclusive, and the Board shall give effect thereto.

(4) The Court may make such order as to the costs of the appeal as it thinks fit.

28. Courses of training and examinations. (1) The examinations referred to in subparagraph (i) of paragraph (c) of subsection (1) of section 19 of this Act and courses of training (including practical experience in building work) shall be as prescribed on the recommendation of the Board or, where not so prescribed, as the Board may approve.

(2) The Board shall conduct or supervise the conduct of such examinations in such manner and at such times and places as are prescribed or, where not prescribed, as the Board may appoint.

(3) Subject to this Act the Board may appoint examiners to conduct the examinations to which this section relates.

(4) All costs and expenses connected with or incidental to the conduct of the examinations shall be paid by the Board.

PART IV—REGISTERED BUILDERS

29. Building construction by firm or body corporate. (1) Where any building construction is carried out by a firm registered as a builder under this Act, the members therein shall cause—

- (a) the building construction to be managed and supervised by one of the members who is registered as a builder under this Act or by an employee who is so registered; and
- (b) the name and registered number of that member or employee to appear—
 - (i) in all advertisements published by or on behalf of the firm in respect of the building construction; and
 - (ii) in any sign affixed or erected on the site of the building construction or the building in which the building construction is being carried out whether pursuant to section 30 of this Act or otherwise.

(2) Where any building construction is carried out by a body corporate registered as a builder under this Act, the body corporate shall cause—

- (a) the building construction to be managed and supervised by a director or member of the board of management of the body corporate, as the case may be, who is registered as a builder under this Act, or by an employee who is so registered; and
- (b) the name and registered number of that director or member of the board of management or employee to appear—
 - (i) in all advertisements published by or on behalf of the body corporate in respect of the building construction; and
 - (ii) in any sign affixed or erected on the site of the building construction or the building in which the building construction is being carried out whether pursuant to section 30 of this Act or otherwise.

(3) Any person who fails to comply with any provision of this section shall be guilty of an offence against this Act.

Penalty: \$500.

30. Sign. Every registered builder shall affix or erect in a conspicuous position on the site of any building work under his control or on the outside of the building in which the building work is being carried out, a sign of not less than six square feet in dimension showing in easily legible letters and figures his or its registered name and address and his or its registered number.

31. Offences by persons not registered as builders. (1) A person who is not registered as a builder under this Act, shall not, after the expiration of a period of three months after the commencement of this Act, take or use or by inference adopt (whether alone or in conjunction with any other name, title, word or letter) any name, title, word or letter implying, or which may be construed as implying, that he is so registered, or by words or conduct hold himself out to be so registered.

Penalty: \$1,000.

(2) A person who is not registered as a builder under this Act shall not, after the expiration of a period of three months after the commencement of this Act—

- (a) carry out for himself any building construction except in respect of a single dwelling-house for his own occupation or use;
- (b) carry out any building construction for any other person whether in pursuance of any contract or engagement or not, or tender or offer so to carry out any building construction for any other person or enter into any contract or engagement to carry out building construction for any other person;
- (c) be entitled to recover in any court any fee or charge under any contract or engagement to carry out building construction for another person,

unless it is shown that the total fee or charge payable in respect of the building construction does not exceed four thousand dollars or that he is exempted by subsection (4) of this section from the requirements of this Act as to registration as a builder.

Penalty: \$1,000.

(3) If any person who carries out building construction in respect of a single dwelling-house sells or offers to sell the dwelling-house before the expiration of two years after the completion thereon of the whole of the building work comprising or including the building construction, the dwelling-house shall be presumed, for the purposes of this section, to be and to have been at the time the building construction was carried out, other than for his own occupation and use, unless he has first lodged with the Board a certificate of a competent authority that the building construction was soundly and satisfactorily carried out according to good building practice, or, in the absence of such certificate, unless he has first obtained permission in writing from the Board to sell or offer for sale that dwelling-house and has complied with such conditions, if any, as the Board may determine. For the purposes of this subsection "competent authority" means a person or body nominated by or acceptable to the Board.

(4) The following persons or instrumentalities are exempted, either wholly or to the extent in this subsection specified, from the requirements of this Act as to registration as a builder—

- (a) any person who is an officer or servant of the Crown or of any Crown instrumentality, or of the Brisbane City Council, or of any local authority, in so far as he directs or supervises the carrying out of building construction in the performance of his duties as such officer or servant;
- (b) the Brisbane City Council or any local authority;
- (c) any person who, at any time before the expiration of three months after a day to be fixed by the Governor in Council by Order in Council, carries out building construction under a contract with a registered builder as part only of building work to be carried out by the registered builder or with a person who has contracted with a registered builder for the carrying out of building construction as part only of building work to be carried out by the registered builder;
- (d) any individual in so far as he carries out building construction as an employee in the course of his contract of service with any person.

(5) For the purposes of this section a person who causes the carrying out of building construction other than under a contract or engagement that is not a contract of service is deemed to have carried out the building construction.

(6) The provisions of this section apply notwithstanding that a number of distinct contracts or engagements to perform work or render services are entered into in connexion with the same building by the same person, where—

- (a) the moneys payable in respect of the contracts or engagements exceed four thousand dollars in the aggregate but some or all of such contracts taken severally do not exceed that sum; or
- (b) the contracts or engagements are substantially in respect of the one undertaking or they were entered into with a view to evading the provisions of this Act.

32. Local authorities not to issue building permits to unregistered persons. (1) It shall be unlawful for the Brisbane City Council or any local authority to issue to any person who or which is not registered, as a builder under this Act a permit to commence or to carry out any building construction—

- (a) unless the total fee or charge payable in respect of the carrying out of the building construction does not exceed four thousand dollars;
- (b) unless the person or instrumentality to whom or which the permit is issued is a person or instrumentality to whom or which subsection (4) of section 31 of this Act applies;
- (c) unless the person to whom the permit is issued has lodged with the said Council or local authority a statutory declaration to the effect that the building construction in respect of which the permit is sought is in respect of a single dwelling-house for his own occupation and use; or
- (d) unless the person to whom the permit is issued has obtained exemption from the Board under section 33 of this Act in respect of the proposed building construction and has complied with all of the conditions imposed by the Board in respect of such exemption and applicable to the obtaining of the said permit.

(2) Any person who, in order to obtain from the Brisbane City Council or any local authority any permit as mentioned in subsection (1) of this section makes any declaration, representation or statement, either in writing or otherwise, that is fraudulent or that he knows to be false relating to the total fee or charge payable in respect of any proposed building construction or relating to the qualifications as to either the registration or the right to exemption from registration of, or the application of subsection (4) of section 31 of this Act to, the person or body proposing to carry out the said building construction or as to the exemption of the said person or body or the said building construction from all or any of the provisions of this Act, shall be guilty of an offence against this Act.

Penalty: \$500 or imprisonment for six months.

33. Power of Board to exempt. (1) The Board may, with the approval of the Minister, by order published in the Gazette, exempt any person or any class of person or any building construction or any class of building construction from the operation of all or any of the provisions of this Act either absolutely or subject to such conditions as the Board specifies in the order.

(2) The Board may, with the like approval, by order published in the Gazette revoke or vary any previous order made under subsection (1) of this section or under this subsection.

(3) Upon the publication of any order referred to in subsection (1) or subsection (2) of this section, that order shall take and have effect according to its tenor.

34. Unsatisfactory work. (1) Where the Board is of the opinion that any building work carried out by any builder who is registered as a builder under this Act or who in relation to the building work in question

is exempted under section 33 of this Act from all or any of the provisions of this Act has not been carried out in a proper and workmanlike manner, the Board may, by order in writing served on the builder, order him or it to remedy the faulty or unsatisfactory building work within such reasonable time as is specified in the order.

(2) A builder on whom or on which an order has been served pursuant to subsection (1) of this section may, within the period of twenty-one days after service of the order, appeal to the Magistrates Court at the place nearest the place where the building work in question was carried out against the making of the order or any matter contained therein, by causing notice in writing to be lodged with the Court and served upon the Board within that period.

(3) At the hearing of an appeal duly made under subsection (2) of this section, which shall be by way of rehearing, the Court may—

(a) set aside wholly or vary in any way the order of the Board;
or

(b) decline to set aside or vary the order of the Board,

and may make such order as to the costs of the appeal as it thinks fit, and the decision of the Court shall be final and not subject to any appeal.

(4) Any builder who fails to comply with—

(a) the terms of an order of the Board made under this section, in any case where no appeal was duly made against the making of the order or where such an appeal was made but the order was not set aside or varied at the hearing of the appeal; or

(b) the terms of an order of the Board made under this section as varied by a Court at the hearing of an appeal made against the order,

shall be guilty of an offence against this Act.

Penalty: \$2,000.

(5) The making of an order by the Board under this section in respect of any building work carried out by a builder does not, irrespective of whether an appeal is or is not made against the making of the order or any matter contained therein or of the manner in which the appeal is disposed of, limit or affect the power of the Board to deal with that or any other builder under section 23 of this Act in connexion with the performance, carrying out or completion of the building work which the order required to be remedied.

(6) For the purposes of this section but without limiting the generality of its application, the term "faulty or unsatisfactory building work" includes but is not restricted to building work which fails to comply with any statute, regulation or by-law or with any relevant provision of a contract which includes the performance of such building work.

35. Offences by registered builders. Save as is otherwise expressly provided in this Act, any registered builder who or which—

(a) does not comply with the conditions or restrictions of his or its registration;

(b) contravenes any regulation;

(c) fails, neglects or refuses to comply with any lawful order of the Board made pursuant to this Act,

shall be guilty of an offence against this Act.

Penalty: \$100.

PART V—MISCELLANEOUS

36. Falsely obtaining certificate, etc., falsifying register, etc. Any person—

- (a) who procures or attempts to procure registration or a certificate under this Act by making or producing or causing to be made or produced any declaration, certificate or representation, either in writing or otherwise, that he knows to be false or misleading in a material particular; or
- (b) who wilfully makes or causes to be made any falsification in, or in any matter relating to, the register,

shall be guilty of an offence against this Act.

Penalty: \$500 or imprisonment for six months.

37. Offences generally, penalty and proceedings. (1) All offences against this Act may be prosecuted, and all fees due and payable under this Act may be recovered, in a summary way under *The Justices Acts 1886 to 1968* upon the complaint of any person authorized by the Board, either generally or in any particular case; and in any such prosecution and the proceedings arising therefrom, no proof shall, until evidence is given to the contrary, be required of any such authority having been given by the Board.

(2) Proceedings for an offence against this Act may be instituted at any time within two years after the commission of the offence or twelve months after the commission of the offence comes to the notice of the complainant, whichever is the later.

(3) Any person who contravenes or fails to comply with any of the provisions of this Act shall be guilty of an offence against this Act.

(4) Any person who is guilty of an offence against this Act shall be liable on conviction, if no specific penalty is prescribed for that offence, to a penalty not exceeding \$200.

(5) In this Act, unless the contrary intention appears, a reference to a registered builder or a builder is, where the builder is a firm, a reference to every member of the firm.

(6) Where a person, being a corporation, is guilty of an offence against this Act, any director or member of the board of management, manager, secretary or other officer of the corporation who knowingly authorizes or permits the same or is a party to the offence is guilty of that offence and is liable on conviction to the pecuniary penalty or imprisonment or both provided by this Act for such offence.

(7) Any penalty imposed on a registered builder under any provision of this Act shall be in addition to, and not in derogation of any power of, cancellation or suspension of registration under any provision of this Act.

38. Right of entry and inspection. (1) Any member, or any person authorized in writing in that behalf by the chairman, may at any time enter into any land or premises on which any building work is being carried out for the purposes of making any inspection or inquiry in furtherance of the administration of this Act.

(2) A member or other person authorized under subsection (1) of this section may make such inspections and inquiries as may be necessary for the purpose mentioned in that subsection.

(3) A person who in any way resists, obstructs, impedes or delays a member or other person authorized under subsections (1) and (2) of this section in the exercise of any of the powers conferred by those subsections shall be guilty of an offence against this Act.

Penalty: \$400.

(4) The Brisbane City Council and every local authority shall permit any member, or any officer of the Board authorized in writing in that behalf by the chairman so to do, to enter its premises at any time when its premises are open for business, and to examine and make copies of or extracts from all books, papers, records, documents and other entries of the said Council or local authority relating to applications for and the issue of building permits by the said Council or the local authority for the purpose of obtaining any information which the Board requires.

39. Power of Board to examine on oath. (1) The Board may, for the purposes of this Act—

- (a) examine any person on oath or affirmation, which may be administered by any member or the registrar;
- (b) by medium of any member or the registrar, take a statutory declaration from any person.

(2) If, for the purposes of this Act, any person makes any statement or declaration that he knows to be false, or utters or attempts to utter or put off as true any degree, diploma, certificate, licence, letter, testimonial or other document that he knows to be false, forged or counterfeit, he shall be guilty of an offence against this Act.

Penalty: \$500 or imprisonment for six months.

40. Power of Board to summon witnesses. (1) The chairman, or by consent of a majority of the members present at any meeting of the Board a member, may by writing under his hand summon any person to attend before the Board for the purpose of being examined with respect to any matter within the jurisdiction of the Board and may require any person to produce before it any books, documents and other papers which relate to any such matter and which the Board considers such person is able to produce.

(2) The Board may inspect any books, documents and other papers that are before it pursuant to this section and make copies of any matters therein that are relevant to any matter before the Board.

(3) Any person who—

- (a) having been duly summoned under this section and having been paid or tendered reasonable expenses, without lawful excuse (proof whereof shall lie on him) fails to attend in obedience to the summons;
- (b) wilfully interrupts any proceedings of any inquiry being conducted by the Board under this Act;

(c) being a duly summoned witness at any such inquiry, refuses to be sworn or to affirm or to make a statutory declaration or to answer any lawful question;

(d) without lawful excuse (proof whereof shall lie on him) fails to produce any books, documents or other papers required to be produced by him pursuant to subsection (1) of this section,

shall be guilty of an offence against this Act.

Penalty: \$200.

(4) The Board shall, in making any investigation into any matter or holding any inquiry or hearing any charge under this Act, have all the powers, authority, protection and jurisdiction of a Commission of Inquiry under *The Commissions of Inquiry Acts 1950 to 1954* save any powers, authority, protection and jurisdiction as are, by those Acts, confined to the Chairman, being a Judge of the Supreme Court.

41. Financial statement. The Board shall, as soon as practicable after the thirtieth day of June in each year, publish in the Gazette a statement made up to that date, showing the receipts and disbursements of the Board during the preceding year, certified as correct by the Auditor-General.

42. Evidence. (1) In any proceeding by or on behalf of the Board under this Act it shall not be necessary to prove the appointment of the members, chairman or registrar of the Board.

(2) A writing certified by the registrar to be a true copy of or a true extract from any register, book, certificate, order, notice, list, declaration, statement, document or writing of any nature whatsoever in the custody of the Board or of the registrar or of any other officer of the Board shall, upon its production in evidence, and until the contrary is proved, be sufficient evidence of the original of which it purports to be a copy and shall be receivable in evidence to the same extent as the original.

43. Board may sue, etc. The Board may, in its own name, by the registrar or by any person thereunto authorized by the chairman, institute, carry on, prosecute or defend any action, complaint, information or proceeding whatsoever.

44. Judicial notice. For the purposes of this Act the signatures of the chairman and the registrar shall be judicially noted.

45. Regulations. The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

(a) regulating the appointment and election of members, the proceedings of the Board and the holding and adjourning and the manner and time of convening meetings and prescribing the fees and allowances which may be paid to members of the Board in relation to the exercise of their powers and duties under this Act (including fees for attendance at meetings of the Board and reasonable travelling expenses);

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- (b) regulating the duties of the registrar and other officers;
 - (c) prescribing on the recommendation of the Board the course of training for persons who wish to become applicants for registration as a builder;
 - (d) prescribing what degrees, diplomas, certificates, licences, or other documents shall be recognized by the Board;
 - (e) prescribing the appointment of examiners, and regulating the holding of examinations and prescribing the standards of, subjects of, and fees for such examinations;
 - (f) prescribing on the recommendation of the Board the practical experience in building work and as a builder required of an applicant for registration as a builder;
 - (g) regulating the conduct of proceedings in connexion with charges against builders preferred by the Board under section 34 of this Act;
 - (h) prescribing fees payable under this Act, including fees for the inspection of any register or record and for the making and supply of any copy thereof or extract therefrom;
 - (j) prescribing forms to be used for the purpose of this Act;
 - (k) prescribing the manner of keeping of the register;
 - (l) prescribing the form and manner of keeping the accounting and associated records of the Board;
 - (m) prescribing the amount of any penalty for any breach of the regulations, which penalty shall not exceed in any particular case one hundred dollars; and
 - (n) prescribing all matters and things required or permitted by this Act to be prescribed or which are necessary or convenient to be prescribed.

46. Publication of Orders in Council and Regulations. (1) Every Order in Council and regulation made under this Act shall—

- (a) be published in the Gazette;
- (b) upon its publication in the Gazette, be judicially noticed, and such publication shall be conclusive evidence of the matters contained therein;
- (c) in the case of a regulation, take effect from the date of such publication unless a later date is specified in that or in any other regulation for its commencement when in such event it shall take effect from that later date; and
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Order in Council or regulation has been laid before it disallowing such Order in Council or regulation, or part thereof, that Order in Council

or regulation or part shall thereupon cease to have effect but without prejudice to the validity of anything done in the meantime or to the making of a further Order in Council or regulation.