

Queensland



ANNO TRICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE



No. 45 of 1984

**An Act to amend the Building Act 1975–1981 in certain
particulars and for related purposes**

[ASSENTED TO 10TH MAY, 1984]

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:—

1. Short title and Citation. (1) This Act may be cited as the *Building Act Amendment Act 1984*.

(2) In this Act the *Building Act 1975–1981* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Building Act 1975–1984*.

2. Commencement of Act. (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) The Governor may by Proclamation—

(a) appoint a date on which this Act (other than section 1 and this section) shall commence; or

(b) appoint dates on which the provisions (other than section 1 and this section) of this Act specified in the Proclamation shall commence.

Such dates may be appointed in the one Proclamation or in different Proclamations.

This Act (other than section 1 and this section) or a provision thereof specified in the Proclamation shall commence on the date appointed by Proclamation made under this subsection for the commencement of this Act or, as the case may be, that provision.

3. Amendment of s. 3. Arrangement of Act. Section 3 of the Principal Act is amended by—

(a) inserting after the words “PART III—APPOINTMENT OF REFEREES (ss. 15–20);” the words “PART IIIA—BUILDING INDUSTRY COMPLAINTS TRIBUNAL (ss. 20A–20G);”;

(b) inserting after the words “*Division I—Objections Against Local Authorities' Decisions*,” the words “*Division IA—Objections Against Failure by Local Authorities to Decide Applications*,”.

4. Amendment of s. 4. Crown to be bound. Section 4 of the Principal Act is amended by—

(a) omitting from provision (a) of subsection (1) the words “of the erection of a building or other structure” and substituting the words “to carry out building work”;

(b) omitting subsection (2) and substituting the following subsection:—

“(2) The carrying out on behalf of the Crown of building work shall not be unlawful by reason only of the absence of an approval thereof by a Local Authority.”;

(c) omitting from subsection (3) the words “building or other structure being or to be erected” and substituting the words “building work being or to be carried out”;

(d) in subsection (4)—

(i) omitting the words “Where a building or other structure is to be erected” and substituting the words “Where building work is to be carried out”;

(ii) omitting the words “the building or other structure is to be erected” and substituting the words “the building work is to be carried out”.

(e) in subsection 5—

(i) in provision (i) of paragraph (a), omitting the words “erection of” and substituting the words “carrying out of building work in relation to”;

(ii) in provision (ii) of paragraph (a), omitting the words “erection of a structure” and substituting the words “carrying out of building work”;

(iii) in provision (i) of paragraph (b), omitting the words “erection of the building or other structure” and substituting the words “carrying out of the building work”;

(iv) in provision (ii) of paragraph (b), omitting the words “erection of the building or other structure” and substituting the words “carrying out of the building work”.

5. Amendment of s. 5. Interpretation. Section 5 of the Principal Act is amended—

(a) by inserting after the definition “building” the following definition:—

““building work” means work in the nature of—

(a) the erection, construction, underpinning, removal, alteration of, addition to, or demolition of, any building or other structure;

(b) the making of any excavation or filling for, or incidental to, the erection, construction, underpinning, removal, alteration of, addition to, or demolition of, any building or other structure:

the term does not include work of a kind declared by the Standard Building By-laws not to be building work for the purposes of those By-laws;”;

(b) by omitting from the end of the definition “structure” the expression “.” and substituting the expression “;”;

(c) by adding after the definition “structure” the following definition:—

““Tribunal” means the Building Industry Complaints Tribunal established under PART IIIA.”.

6. Amendment of s. 11. Standard Building By-laws a complete code. Section 11 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the word “The” and substituting the words “Subject to section 11A, the”;

(ii) omitting the words “the erection of a building or other structure” and substituting the words “the carrying out of building work”;

(b) omitting from subsection (3) the words “to the erection of a building or other structure” and substituting the words “to the carrying out of building work”.

7. New s. 11A. The Principal Act is amended by inserting after section 11 the following section:—

“ **11A. By-laws prescribing requirements as to erection of buildings of Class I and X under Standard Building By-laws.** (1) (a) Notwithstanding the provisions of section 11 a Local Authority shall have the power to make a by-law pursuant to the *Local Government Act* 1936–1983 prescribing requirements in relation to the erection on land of a building of Class I or X as classified by By-law 6.1 of the Standard Building By-laws.

(b) A by-law referred to in paragraph (a) may prescribe differing requirements in respect of different parts of the Area.

(c) (i) Before submitting a by-law referred to in paragraph (a) for the consideration of the Governor in Council pursuant to section 31 (27) of the *Local Government Act* 1936–1983, the Minister shall refer to the Committee and to the Minister for Works and Housing for their representations a copy of the by-law, together with all objections duly lodged to the making of the by-law and the representations of the Local Authority on such objections.

(ii) When considering a by-law referred to in paragraph (a), the Governor in Council shall take account of the representations of the Committee and the Minister for Works and Housing thereon.

(2) Requirements prescribed in a by-law referred to in subsection (1) shall be for the purpose of ensuring that—

(a) the building when erected will be of such a standard as will not, in the opinion of the Local Authority, adversely affect the amenity or likely amenity of the neighbourhood;

(b) the aesthetics of the building will be in keeping with the character of the neighbourhood.

(3) A by-law made by a Local Authority pursuant to subsection (1) shall be deemed to modify the Standard Building By-laws and, until the by-law is amended or revoked, the Standard Building By-laws shall have force and effect in the Area of that Local Authority as so modified.”.

8. Amendment of s. 12A. By-laws Variation Sub-Committee. Section 12A of the Principal Act is amended by omitting from subsection (1) the words “a building or other structure proposed to be erected” and substituting the words “building work that is proposed to be carried out, is being carried out or has been carried out”.

9. New s. 12AA. The Principal Act is amended by inserting after section 12A the following section:—

“ **12AA. Delegate member of By-laws Variation Sub-Committee.** (1) The executive committee of the Local Government Association of Queensland may from time to time nominate a person as a delegate member of the By-laws Variation Sub-Committee to deputise for the member of the Committee who is the representative of Local Authorities.

(2) A nomination of a delegate member pursuant to subsection (1) shall be notified in writing to the Minister as soon as practicable after it is made.

(3) For as long as his nomination as such continues in effect a delegate member shall be entitled to attend meetings of the By-laws Variation Sub-Committee in the absence of the member for whom he is deputising and shall be deemed to be a member of the Sub-Committee.

(4) A nomination of a person as a delegate member shall terminate and be of no further effect—

- (a) in the case of a nomination expressed to be for the purpose of any meeting or meetings of the Sub-Committee, upon the conclusion of that meeting or as the case may be, the last of those meetings;
- (b) in the case of a nomination expressed to be for a period, upon the expiration of that period;
- (c) if the member for whom he is deputising dies or otherwise vacates his office.”.

10. Repeal of and new s. 12B. Variation of Standard Building By-laws. The Principal Act is amended by repealing section 12B and substituting the following section:—

“ **12B. Variation of Standard Building By-laws.** (1) Where building work is proposed to be carried out, is being carried out or has been carried out and that building work does not comply in all respects with the Standard Building By-laws, application may be made to the By-laws Variation Sub-Committee for a variation of those by-laws in their application to that building work in the particular or particulars specified in the application.

(2) The Crown in right of the State or a board, authority or statutory body deemed to represent the Crown in right of the State for the purposes of section 4 may make application in the manner prescribed by subsection (4) (a) for variation of the by-laws as provided for by subsection (1).

(3) An application shall not be made under subsection (1) for a variation in any particular that, pursuant to the Standard Building By-laws, lies within the power of a Local Authority to approve.

(4) An application under subsection (1) shall be made by—

- (a) lodging a duly completed notice of application in the prescribed form, together with the prescribed fee, with the secretary to the Building Advisory Committee; and
- (b) giving a copy of the notice of application to the Clerk of the Local Authority of the Area in which the building work to which the application relates is proposed to be carried out, is being carried out or has been carried out.”.

11. Repeal of and new s. 12C. The Principal Act is amended by repealing section 12C and substituting the following section:—

“**12C. Determination of application to vary.** (1) The By-laws Variation Sub-Committee—

- (a) after considering an application made to it under section 12B; and
- (b) in the case of an application made under section 12B (1), after consulting upon the application with the Local Authority of the Area in which the building work to which the application relates is proposed to be carried out, is being carried out or has been carried out,

may—

- (c) approve the application;
- (d) approve the application subject to conditions; or
- (e) refuse the application.

(2) The secretary to the Building Advisory Committee shall, in writing, notify the Sub-Committee's decision on an application to the applicant and, in the case of an application made under section 12B (1), to the Local Authority of the Area in which the building work to which the application relates is proposed to be carried out, is being carried out or has been carried out.

Such notification or notifications shall be given within 7 days from the date on which the Sub-Committee made its decision.”

12. Amendment of s. 12D. Effect of variation. Section 12D of the Principal Act is amended by—

- (a) inserting after the words “ section 12B (1) ” the words “ or (2) ”;
- (b) omitting from provision (a) the words “ building or structure ” and substituting the words “ building work ”;
- (c) in paragraph (b)—
 - (i) omitting the words “ the erection of the building or structure ” and substituting the words “ carrying out of building work ”;
 - (ii) omitting the words “ building or structure ” and substituting the words “ building work ”.

13. Amendment of s. 12E. Appeal from sub-committee's decision. Section 12E of the Principal Act is amended by adding after subsection (3) the following subsection:—

“ (4) If the secretary to the Committee is of the opinion that an appeal, in respect of which a notice of appeal has been lodged, has not been instituted within the time prescribed by this section, he shall as soon as practicable advise the Director of that fact and of the grounds for his opinion and if the Director is also of that opinion he shall direct that no further action be taken in respect of that notice.

Where the Director so directs, the secretary shall notify the appellant and, in the case of an application under section 12B (1), the Clerk of the Local Authority of the Area in which the building work to which the application relates is proposed to be carried out, is being carried out or has been carried out.”

14. Amendment of s. 12F. Procedure on appeal. Section 12F of the Principal Act is amended by—

(a) omitting from subsection (1) the word “As” and substituting the words “Subject to this Act, as”;

(b) in subsection (5)—

(i) inserting after the words “appellant and” the words “, except in the case of an appeal lodged by the Crown in right of the State or by a board, authority or statutory body deemed to represent the Crown in right of the State for the purposes of section 4,”;

(ii) inserting after the expression “12B” the expression “(1)”;

(iii) omitting the words “building or structure to which the application relates is proposed to be erected” and substituting the words “building work to which the application relates is proposed to be carried out, is being carried out, or has been carried out”.

15. Amendment of s. 13. Transitional provisions. Section 13 of the Principal Act is amended by—

(a) in subsection (1) omitting the words “A building or other structure that was lawfully erected before the coming into operation of the Standard Building By-laws shall not cease to be lawfully erected” and substituting the words “Building work that was lawfully carried out before the coming into operation of the Standard Building By-laws shall not cease to be lawfully carried out”;

(b) in subsection (2)—

(i) in provision (a) omitting the words “lawful erection of a building or other structure” and substituting the words “lawful carrying out of building work”;

(ii) in provision (b) omitting the words “erection of a building or other structure had been granted before the coming into operation of the Standard Building By-laws but such erection” and substituting the words “carrying out of building work had been granted before the coming into operation of the Standard Building By-laws, but such building work”;

(iii) in provision (c) omitting the words “erection of a building or other structure” and substituting the words “carrying out of building work”;

(iv) omitting all words from and including “(d) planning for” to and including “operation of those by-laws.” and substituting the following words:—

“(d) planning for the carrying out of building work had commenced before the coming into operation of the Standard Building By-laws and the Local Authority having jurisdiction in the Area where the building work is to be carried out is of the opinion that to require the building work to be replanned so as to conform with those by-laws would cause hardship to the person for whom the building work is to be carried out having regard to—

(i) the stage the planning has reached;

(ii) the nature of the building work;

- (iii) the means and circumstances of that person,
or any one or more of such matters,

it shall be lawful for the building work to be carried out or completed or for the approval of the Local Authority to be granted as the case may be, subject to and in accordance with the law in force and applicable in the Area in question in respect of the carrying out of the building work in question at the material time before the coming into operation of those by-laws.”;

- (c) in subsection (3)—

(i) omitting the words “The erection of an alteration of” and substituting the words “The carrying out of building work comprising the erection of an alteration of”;

(ii) omitting the words “for the erection” and substituting the words “for the building work”;

(d) in subsection (4), inserting after the words “sought to the” the words “carrying out of building work comprising the”;

(e) in subsection (5) omitting the words “erection of a building or other structure” and substituting the words “carrying out of building work”.

16. Amendment of s. 16. Qualification of referee. Section 16 of the Principal Act is amended by omitting from provision (b) of subsection (1) the words “in the division of Civil Engineering”.

17. New Part IIIA. The Principal Act is amended by inserting after section 20 the following heading and sections:—

“PART IIIA—BUILDING INDUSTRY COMPLAINTS TRIBUNAL

20A. Building Industry Complaints Tribunal. (1) There shall be established from time to time, for the purposes of this Act, a tribunal to be called the Building Industry Complaints Tribunal.

(2) The Tribunal shall consist of four members of whom—

(a) one shall be a representative of Local Authorities nominated by the executive committee of the Local Government Association of Queensland;

(b) one shall be a representative of the Royal Australian Institute of Architects (Queensland Chapter) nominated by that Chapter; and

(c) two shall be nominated by the Minister.

(3) The Chairman of the Tribunal shall be the member appointed by the Governor in Council from time to time to act as Chairman.

(4) Members of the Tribunal shall be entitled to such fees and expenses for attendance at meetings of the Tribunal as are approved by the Governor in Council save that a member of the Tribunal who is an officer of the Public Service of the State shall not receive fees or remuneration for attendance at a meeting of the Tribunal during his ordinary hours of duty.

20B. Appointment of members of Tribunal. (1) Every member of the Tribunal shall be appointed by the Governor in Council by notification published in the Gazette.

(2) An officer of the Public Service of the State may be appointed as a member of the Tribunal and may hold that appointment in conjunction with any other appointment he holds in the Public Service.

(3) At least one month before the date when the Tribunal is to be established or re-established the Minister shall cause notice in writing to be given to each body that is entitled to nominate a person as a member of the Tribunal and shall therein specify a date and shall require such body to furnish him, before the specified date, with that nomination.

If, by the specified date, either of the bodies entitled to do so has not furnished the Minister with a nomination for appointment, the members of the Tribunal may nevertheless be appointed from persons who have been duly nominated and, in addition, the Governor in Council may appoint any person as if he had been nominated by a body entitled to make a nomination and who has failed to duly so do, and the Tribunal so established shall be taken to have been duly established or re-established, as the case may be.

(4) The Tribunal shall be taken to be established upon the publication in the Gazette of notification of the appointment of its members.

20C. Term of Appointment of Tribunal member. (1) A person may be appointed as a member of the Tribunal for any term not exceeding three years as the Governor in Council thinks fit.

The term of appointment shall be specified in the notification of appointment.

A member of the Tribunal shall be eligible for re-appointment.

(2) A member of the Tribunal may at any time—

- (a) resign his appointment as such by writing under his hand given to the Minister;
- (b) be removed from his appointment as such by writing under the hand of the Minister given to him at the direction of the Governor in Council.

20D. Casual vacancies. (1) When a vacancy occurs in the office of a member of the Tribunal before the expiration of his term of appointment the Governor in Council shall, by notification published in the Gazette, appoint another person (duly nominated) thereto.

Unless he sooner resigns or is removed from his office as prescribed, a person appointed to fill such a casual vacancy shall hold office until the time when his predecessor's term of appointment would have expired.

(2) Where the vacancy has occurred in the office of a member nominated by a body pursuant to section 20A (2) (a) or (b), the Minister shall cause notice to be given to the body who

nominated the member in whose office the vacancy has occurred and shall therein specify a date and shall require such body to furnish him, before the specified date, with a nomination of a person to be appointed to fill the vacancy.

If such body fails to comply with the Minister's requisition before the specified date the Governor in Council may appoint any person as representative of that body as if he had been duly nominated.

20E. Functions of Tribunal. The Tribunal—

- (a) shall consider and decide objections made under section 36A;
- (b) shall consider and advise the Minister on such matters as the Minister may refer to it from time to time.

20F. Proceedings of Tribunal. (1) All business of the Tribunal shall be conducted by a quorum at the least, which shall consist of three members.

(2) The Tribunal shall meet at such times and places as it determines and shall conduct its business in such manner as is prescribed or, in so far as is not prescribed, as it determines from time to time.

(3) The Chairman of the Tribunal shall preside at all meetings of the Tribunal at which he is present and, in his absence from any meeting, the members present shall elect from their number a member who shall preside at that meeting.

(4) The person who presides at a meeting of the Tribunal shall have a deliberative vote and, in the event of an equality of votes on any matter, shall have a casting vote.

(5) A proceeding of the Tribunal shall not be invalidated by reason of a defect in the appointment of a member or by reason of a vacancy in the membership of the Tribunal.

20G. Secretary to assist Tribunal. Notwithstanding section 30, the secretary to the Committee is empowered to undertake such duties as are necessary for the effectual discharge of the Tribunal's functions."

18. Amendment of s. 30A. Approval to be obtained. Section 30A of the Principal Act is amended by, in subsection (1), omitting the words "erect or cause to be erected a building or other structure" and substituting the words "carry out or cause to be carried out building work".

19. Amendment of s. 30B. Powers of Local Authority. Section 30B of the Principal Act is amended by in subsection (1)—

(a) omitting the words "erection of a building or other structure" and substituting the words "carrying out of building work";

(b) omitting from provision (a) the words "building or other structure" and substituting the words "building work";

(c) omitting from provision (b) the words “building or other structure” and substituting the words “building work”.

20. Amendment of s. 30C. Application for preliminary decision. Section 30C of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the words “the erection of a building or other structure proposed to be erected” and substituting the words “carry out building work”;

(ii) omitting the words “the building or other structure” and substituting the words “the building work”;

(b) in subsection (4)—

(i) omitting the word “pursued” and substituting the word “pursuant”;

(ii) omitting the words “building or other structure” and substituting the words “building work”.

21. Amendment of s. 30D. Application of Act etc. to offshore buildings and structures. Section 30D of the Principal Act is amended by—

(a) in the note appearing in and at the commencement of the section omitting the words “buildings and structures” and substituting the words “building work”;

(b) in subsection (1)—

(i) omitting the words “erect any building or other structure” and substituting the words “carry out building work”;

(ii) omitting the words “building or other structure to be erected” and substituting the words “building work”;

(c) in subsection (2)—

(i) omitting the words “the erection of a building or other structure proposed to be erected” and substituting the words “the carrying out of building work”;

(ii) omitting the words “a building or other structure being erected” and substituting the words “building work being carried out”;

(iii) omitting the words “building or other structure is being erected” and substituting the words “building work is being carried out”.

22. Amendment of s. 31. Objection to decision under Standard Building By-laws. Section 31 of the Principal Act is amended by omitting from provision (a) of subsection (1) the words “the erection of any building or other structure” and substituting the words “the carrying out of building work”.

23. Amendment of s. 32. Institution of objection. Section 32 of the Principal Act is amended by omitting subsection (3).

24. Amendment of s. 33. Nomination of referee. Section 33 of the Principal Act is amended by adding after subsection (2) the following subsection:—

“(3) If the secretary to the Committee is of the opinion that an objection in respect of which a notice of objection has

been lodged has not been instituted within the time prescribed by section 32, he shall as soon as practicable advise the Director of that fact and of the grounds of his opinion and if the Director is also of that opinion he shall direct that no further action be taken in respect of that notice.

Where the Director so directs, the secretary shall notify the applicant and the Clerk of the Local Authority to whose decision the objection relates.”.

25. Amendment of s. 35. Powers of referee. Section 35 of the Principal Act is amended by omitting the first paragraph from subsection (2) and substituting the following paragraph:—

“ Where an objection relates to an application for approval to carry out building work in respect of which the Local Authority to whom it was made has refused the application without making the determination referred to in paragraph (a) of section 30B (1), the referee may, either before or after entering upon the determination, direct the Local Authority, in writing, to decide the application in accordance with section 30B within a time therein limited by the referee and, if he does so, shall notify the objector accordingly.”.

26. New Division IA, Part V. The Principal Act is amended by inserting after section 36 the following heading and sections:—

“ *Division IA—Objections Against Failure by Local Authorities to Decide Applications*

36A. Objection to Tribunal. (1) Where an application referred to in section 31 (1) (a) is made to a Local Authority and the Local Authority—

- (a) fails to make its decision on the application within the prescribed time; or
- (b) fails to inform the applicant of its decision (whenever made),

the applicant may make an objection in respect of that failure to the Tribunal at any time after the expiration of the prescribed time.

(2) Every such objection shall be instituted by lodging with the secretary to the Committee a duly completed notice of objection accompanied by the prescribed fee.

(3) A notice of objection shall be in or to the effect of the prescribed form.

36B. Procedure on objection. (1) As soon as is practicable after receipt by him of a notice of objection the secretary to the Committee shall, in writing, inform the Clerk of the Local Authority to which the application in respect of which the objection was lodged relates, of the receipt of the objection and require the Clerk to furnish to him, within a period of 14 days—

- (a) all relevant documentation (including plans and specifications) relating to the application in question;

- (b) a statement setting out in detail the reasons why the Local Authority or its delegate had not decided the application in question within the prescribed time; and
- (c) any additional information which the secretary to the Committee may request.

(2) The Clerk of a Local Authority shall duly comply with the tenor of a requisition addressed to him by the secretary to the Committee, pursuant to subsection (1).

(3) Upon receipt of the material required to be furnished to him pursuant to subsection (1), the secretary to the Committee shall forthwith refer that material to the chairman of the Committee together with the notice of objection lodged.

(4) It is the duty of the chairman of the Committee to furnish to the secretary to the Committee, as soon as practicable after the receipt by him of a notice of objection and the material referred to him pursuant to subsection (3), a report in writing in respect of the matters contained in that notice of objection and material.

36C. Reference to Tribunal. (1) Upon receipt by him of the report referred to in section 36B (4) the secretary to the Committee shall refer to the Tribunal for its consideration—

- (a) the objection lodged;
- (b) the material furnished to him by the Local Authority pursuant to section 36B (1); and
- (c) the report of the chairman of the Committee furnished to him pursuant to section 36B (4).

36D. Powers of Tribunal. (1) Upon its entering upon consideration of a reference under section 36C the Tribunal may where it considers such action appropriate, by notice in writing, direct the Local Authority to decide the application to which the objection relates in accordance with section 30B within a time specified in such notice and, if it does so, shall notify the objector accordingly.

Any such notice may include such other lawful directions (not being directions in respect of matters subject to determination by the Local Authority under the Standard Building By-laws) as the Tribunal sees fit.

(2) The Tribunal may, from time to time by notice in writing to the Local Authority, extend the time within which the Local Authority is to comply with a direction issued by the Tribunal to the Local Authority whereupon—

- (a) the direction shall be construed as if the time as last extended were limited therein in lieu of the time actually limited therein; and
- (b) the Tribunal shall notify the objector accordingly.

(4) The Local Authority shall comply with the tenor of a direction issued upon it by the Tribunal pursuant to subsection (1).

36E. Disability of members of Tribunal. (1) If a member of the Tribunal has any pecuniary interest, direct or indirect, in any building work the subject of an application to a Local Authority and in respect of which an objection has been lodged pursuant to section 36A, and is present at a meeting of the Tribunal at which the objection is the subject for consideration, he shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, the objection, and shall withdraw from the meeting during the consideration of that objection.”.

27. Amendment of s. 38. Institution of appeal. Section 38 of the Principal Act is amended by adding after subsection (2) the following subsection:—

“(3) If the secretary to the Committee is of the opinion that an appeal in respect of which a notice of appeal has been lodged, has not been instituted within the time prescribed by this section, he shall as soon as practicable advise the Director of that fact and of the grounds for his opinion and if the Director is also of that opinion he shall direct that no further action be taken upon that notice.

Where the Director so directs, the secretary to the Committee shall notify—

- (a) in the case of an appeal instituted by an objector, the Clerk of the Local Authority against whose decision was made the objection that has led to such appeal;
- (b) in the case of an appeal instituted by or on behalf of a Local Authority, the objector.”.

28. Amendment of s. 42. Appeal to Local Government Court. Section 42 of the Principal Act is amended by omitting subsection (1) and inserting the following subsection:—

“(1) Subject to this Act—

- (a) an applicant to a Local Authority for approval to erect on land a building of Class I or X as classified by By-law 6.1 of the Standard Building By-laws who is dissatisfied with the decision of the Local Authority on such application, where such decision is founded on requirements prescribed by the Local Authority under a by-law made pursuant to Section 11A;
- (b) any person who or Local Authority that is aggrieved by a decision of the Committee on an appeal brought against the decision of the By-laws Variation Subcommittee on an application made to it or the determination of a referee on an objection,

may appeal against the decision to The Local Government Court constituted under the *City of Brisbane Town Planning Act 1964–1982*.

An appeal brought against a decision referred to in provision (b) shall be limited to the ground of—

- (c) want of jurisdiction in the Committee; or
- (d) mistake or error of law by the Committee.”.

29. Amendment of s. 50. Notice to cease erection without approval. Section 50 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the words “ a building or other structure is being erected ” and substituting the words “ building work is being carried out ”;

(ii) omitting the words “ such erection ” and substituting the words “ the carrying out of that building work ”;

(b) omitting subsection (2) and substituting the following subsection—

“(2) A notice given pursuant to subsection (1) shall be given to the owner of the land on which the building work in question is being carried out and to any person engaged in carrying out the building work in question.”;

(c) in subsection (3) omitting the words “ erection of the building or other structure ” and substituting the words “ building work ”.

30. Amendment of s. 51. Lawful to perform emergency work. Section 51 of the Principal Act is amended by—

(a) omitting from subsection (1) the words “ perform work in connexion with the erection of a building or other structure ” and substituting the words “ carry out building work ”;

(b) omitting from subsection (2) the words “ work performed in connexion with the erection of a building or other structure ” and substituting the words “ the carrying out of building work ”;

(c) omitting from subsection (3) the words “ work in connexion with the erection of any building or other structure ” and substituting the words “ building work ”.

31. Amendment of s. 52. Demolition of buildings erected unlawfully. Section 52 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:—

“(2) If the owner of a building or other structure to which a notice given under subsection (1) relates fails to comply with such notice then—

(a) the Local Authority may, itself, cause the building or structure to be demolished;

(b) the owner commits an offence against this Act and is liable to a penalty of \$500.

If after his conviction of the offence defined in the preceding paragraph of this subsection an owner fails to comply with the notice given to him he thereby commits an offence against this Act which shall be taken to be a continuing offence for so long as the requirements of the notice are not satisfied and is liable

to a penalty of \$50 for each day during which his failure continues after such conviction and he may be prosecuted in respect of each continuing offence from time to time until his failure to comply is remedied but he shall not be punished more than once in respect of the same period.”.

32. Amendment of s. 61. Erection on impregnated land prohibited. Section 61 of the Principal Act is amended by, in subsection (1), omitting the word “erect” and substituting the words “carry out building work comprising the erection of”.

33. Amendment of s. 62. Right of entry to remedy offence. Section 62 of the Principal Act is amended by omitting the word “erected” and substituting the words “carried out building work comprising the erection of”.

34. Amendment of s. 64A. Power to delegate. Section 64A of the Principal Act is amended by omitting provision (b) of subsection (1) and substituting the following provision:—

“ “(b) for the purposes of this Act, except where—

- (i) the functions, authorities, powers, duties or discretions are prescribed to be exercised by resolution of the Local Authority;
- (ii) the Act prohibits such delegation; or
- (iii) pursuant to section 52 or 53, the Local Authority may cause a building or structure to be demolished or taken down,”.

35. New s. 64B. The Principal Act is amended by inserting after section 64A the following section:—

“ **64B. Offences generally and penalty.** (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) Save where a specific penalty is otherwise prescribed, a person who commits an offence against this Act is liable to a penalty of \$500 and a daily penalty of \$50.”.