

Queensland



ANNO TRICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE

No. 114 of 1984

An Act to amend the Building Act 1975-1984 in certain
particulars

[ASSENTED TO 18TH DECEMBER, 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. (1) This Act may be cited as the *Building Act Amendment Act 1984 (No. 2)*.

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

(2) Except as provided by subsection (1), this Act or the provisions thereof specified in the Proclamation shall commence on the day or days appointed by Proclamation for the commencement of this Act or, as the case may be, those provisions.

3. Principal Act and citation as amended. (1) In this Act the *Building Act 1975-1984*, being the *Building Act 1975-1981* as amended by the *Building Act Amendment Act 1984*, is referred to as the Principal Act.

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

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

(a) inserting the following expression after the expression “PART II—STANDARD BUILDING BY-LAWS (ss. 6-14);”—

“PART IIA—PROVISIONS RELATING TO THE HOLDING OF EXPO '88 (ss. 14A-14G);”;

(b) omitting the expression “30B” and substituting the expression “30D”.

5. Amendment of s. 6. Schedule prescribes Standard Building By-laws. Section 6 of the Principal Act is amended by inserting the following subsection after subsection (3):—

“(4) A reference in this Act to the Standard Building By-laws shall be taken to include a reference to those by-laws as modified pursuant to section 9.”.

6. Amendment of s. 12A. By-laws Variation Sub-Committee. Section 12A of the Principal Act is amended in subsection (3) by—

(a) omitting the words “may be prescribed” and substituting the words “the Governor in Council from time to time determines”;

(b) omitting the words “as prescribed”.

7. **New Part IIA.** The Principal Act is amended by inserting the following heading and sections after section 14:—

**“PART IIA—PROVISIONS RELATING TO THE HOLDING
OF EXPO '88**

14A. Interpretation. In this Part “Expo '88” and “Site” each has the meaning assigned to it in the *Expo '88 Act 1984*.

14B. Modification of Standard Building By-Laws. Without limiting the generality of section 9 the Standard Building By-laws may be modified pursuant to that section for the purpose of prescribing requirements in respect of the carrying out of building work of a temporary nature where the building work is carried out on the Site and for the purpose of holding Expo '88.

14C. By-laws (Expo '88) Variation Committee. (1) For the purpose of determining whether any modifications, made pursuant to section 14B, to the Standard Building By-laws should be varied in respect of building work that is proposed to be carried out, is being carried out or has been carried out on the Site there shall be constituted a committee called the By-laws (Expo '88) Variation Committee.

(2) The By-laws (Expo '88) Variation Committee shall be constituted by—

- (a) a chairman;
- (b) the member of the Building Advisory Committee who for the time being is the representative of the Department of Works on that Committee;
- and
- (c) the member of the Building Advisory Committee who for the time being is the representative of the State Fire Services Council on that Committee.

(3) The chairman of the By-laws (Expo '88) Variation Committee shall be appointed from time to time by and shall hold office at the pleasure of the Minister.

(4) Where it appears to the Minister—

- (a) that the chairman of the By-laws (Expo '88) Variation Committee will be unable to discharge his functions as the chairman of that committee for any period, the Minister may appoint a person to act in the place of the chairman and for so long as the appointment continues that person shall be deemed to be the chairman of the By-laws (Expo '88) Variation Committee and may exercise the powers and perform the functions of the chairman;
- (b) that the member of the By-laws (Expo '88) Variation Committee referred to in subsection (2) (b) will be unable to discharge his functions as a member of that committee for any period, the Minister may,

upon the recommendation of the Minister of the Crown for the time being responsible for the administration and control of the Department of Works, appoint a person to act in the place of that member and for so long as the appointment continues that person shall be deemed to be a member of the By-laws (Expo '88) Variation Committee and may exercise the powers and perform the functions of a member of that committee;

- (c) that the member of the By-laws (Expo '88) Variation Committee referred to in subsection (2) (c) will be unable to discharge his functions as a member of that committee for any period, the Minister may, upon the recommendation of the Minister of the Crown for the time being charged with the administration of the *Fire Brigades Act 1964-1984*, appoint a person to act in the place of that member and for so long as the appointment continues that person shall be deemed to be a member of the By-laws (Expo '88) Variation Committee and may exercise the powers and perform the functions of a member of that committee.

(5) A person appointed to act in the place of the chairman or other member of the By-laws (Expo '88) Variation Committee shall hold office at the pleasure of the Minister.

(6) An officer of the Public Service of the State may be appointed as a member of the By-laws (Expo '88) Variation Committee and may hold that appointment in conjunction with any other appointment he holds in the Public Service.”.

8. New sections 14D, 14E, 14F and 14G. The Principal Act is amended by inserting the following sections after section 14C:—

“14D. Remuneration. (1) Subject to subsection (2) a member of the By-laws (Expo '88) Variation Committee shall be paid such remuneration as the Governor in Council from time to time determines.

(2) A member of the By-laws (Expo '88) Variation Committee who is a member of the Public Service of the State shall not be paid any remuneration on account of his attendance at meetings of the committee during his ordinary hours of duty as such an officer but he shall be entitled to expenses necessarily incurred by him in so attending.

14E. Quorum. (1) A quorum of the By-laws (Expo '88) Variation Committee shall consist of 2 members.

(2) No business shall be transacted at a meeting of the By-laws (Expo '88) Variation Committee unless a quorum is present.

14F. Presiding at meetings. The chairman of the By-laws (Expo '88) Variation Committee shall preside at every meeting

of the committee at which he is present and in his absence another member of the committee chosen by the members present at the meeting shall preside.

14G. Application of certain sections. Notwithstanding any other provision of this Act, sections 12B, 12C, 12D, 12E, 12F, 12G, 42 and 49 shall apply to and in relation to the Standard Building By-laws as modified for the purpose referred to in section 14B as if a reference therein to the By-laws Variation Sub-Committee or to the sub-committee were a reference to the By-laws (Expo '88) Variation Committee constituted pursuant to section 14C."

9 Amendment of s. 18. Remuneration of referee. Section 18 of the Principal Act is amended by omitting the words "may be prescribed" and substituting the words "the Governor in Council from time to time determines".

10. Amendment of s. 28. Remuneration of members. Section 28 of the Principal Act is amended by—

(a) omitting the words "may be prescribed" and substituting the words "the Governor in Council from time to time determines";

(b) omitting the words "as prescribed".

11. Amendment of s. 30B. Powers of Local Authority. Section 30B of the Principal Act is amended by—

(a) in subsection (1), omitting the words "shall consider the application and in connexion therewith";

(b) in subsection (2)—

(i) inserting after the expression "subsection (1)" the words "and within the time required by this Act";

(ii) in paragraph (b), inserting after the word "conditions" the words "as to matters to which this Act and the Standard Building By-laws are relevant".

12. New ss. 30BA, 30BB, 30BC, 30BD, 30BE and 30BF. The Principal Act is amended by inserting the following sections after section 30B:—

"30BA. Local Authority to advise applicant where town planning laws are applicable. (1) Where an application for approval to the carrying out of building work is made under this Act to a Local Authority, the Local Authority shall forthwith decide whether having regard to—

(a) the Town Plan for the City of Brisbane in force under the *City of Brisbane Town Planning Act 1964-1984*;

(b) a town planning scheme having the force of law pursuant to section 33 of the *Local Government Act 1936-1984*;

or

- (c) an interim development by-law (being one made pursuant to section 33 (21) of the *Local Government Act 1936-1984* to regulate and control the subdivision and use of land and the erection or use of buildings or other structures on land to be included within a town planning scheme pending the coming into force of the scheme) that is applicable in respect of the Area or part of the Area of the Local Authority in which is situated the land to which the application relates,

the building work may be lawfully carried out only if—

- (i) the land on which the building work is to be carried out is rezoned to permit the use of the land or the erection or use of buildings or other structures on the land for the purpose in respect of which the application was made;
- or
- (ii) the approval, consent or permission of the Local Authority is obtained to permit the use of the land or the erection or use of buildings or other structures on the land for the purpose in respect of which the application was made,

or both those conditions are satisfied.

(2) Where, pursuant to subsection (1), a Local Authority decides that building work may be lawfully carried out only if the condition specified in provision (i) or (ii) of subsection (1), or both those conditions, is or are satisfied, it shall notify the applicant in writing of that decision within 14 days of its receipt of the application unless the necessary town planning application has or, as the case may be, the necessary town planning applications have been received by it.

(3) An applicant who is dissatisfied with the decision of the Local Authority contained in a notification issued pursuant to subsection (2) may appeal to The Local Government Court against that decision.

(4) The Local Government Court may allow an appeal under subsection (3) in whole or in part or may dismiss the appeal.

(5) An appeal under subsection (3) shall be instituted within 30 days after the date of the receipt by the applicant of written notification of the Local Authority's decision.

30BB. Times within which applications for approval to the carrying out of building work to be decided. (1) Subject to section 30BC (2) where an application for approval to the carrying out of building work on land, and the necessary town planning application or town planning applications in respect thereof, are

made to a Local Authority, it shall decide on the application for approval to the carrying out of building work within—

- (a) where only one town planning application is required to be made, 14 days after the town planning application has been finally disposed of;

or

- (b) where more than one town planning application is required to be made, 14 days after the last town planning application has been finally disposed of,

or within 40 days after the date on which the application for approval to the carrying out of building work is received by the Local Authority whichever period is the last to expire.

(2) For the purposes of this section and section 30BC, a town planning application shall not be taken to have been finally disposed of until—

- (a) where the application is required by law to be decided by the Governor in Council, when the Governor in Council decides the application and such decision is communicated to the Local Authority;

or

- (b) where rights of appeal are conferred by law in respect of the application—

- (i) subject to provision (ii), when such rights have been exhausted and the result of the last appeal (if any) has been communicated to the Local Authority or the time limited by law within which those rights are to be exercised has expired without those rights having been exercised;

or

- (ii) in respect of rights of appeal conferred on objectors by section 22 of the *City of Brisbane Town Planning Act 1964-1984* or section 33 (18) of the *Local Government Act 1936-1984*—when such rights have been exhausted, or the time limited by law within which those rights are to be exercised has expired without those rights having been exercised, and the Local Authority has thereafter made its decision in respect of the application.

(3) Where an application for approval to the carrying out of building work is made under this Act to a Local Authority and—

- (a) a notification is not given to the applicant pursuant to section 30BA (2) because no town planning application is necessary;

or

- (b) a notification is given to the applicant pursuant to section 30BA (2) and upon appeal by the applicant

pursuant to section 30BA (3) in respect of the decision contained in the notification The Local Government Court determines that no town planning application is necessary,

the Local Authority shall—

in the case referred to in paragraph (a), decide the application within 40 days after the date on which the application is received by it;

in the case referred to in paragraph (b), decide the application within 14 days after the determination of The Local Government Court is communicated to the Local Authority.

(4) A Local Authority may, with the prior approval of the Minister, by notice served on the applicant for approval to the carrying out of building work before the expiration of a period of 14 days or, as the case may be, a period of 40 days referred to in subsection (1) or (3) or, if that period has been extended pursuant to an approval or approvals previously given under this subsection, before the expiration of the period as so extended, extend or further extend the period.

30BC. When application for approval to the carrying out of building work to be refused. (1) Where an application for approval to the carrying out of building work is made under this Act to a Local Authority and a notification is given to the applicant pursuant to section 30 BA (2), the Local Authority shall forthwith refuse the application if the applicant fails to make the necessary town planning application or town planning applications—

(a) where no appeal is instituted by the applicant pursuant to section 30BA (3) in respect of the decision contained in the notification—within 90 days after the date on which the notification is given;
or

(b) where, upon appeal by the applicant pursuant to section 30BA (3) in respect of the decision contained in the notification, the appeal is terminated or The Local Government Court determines that a town planning application or town planning applications is or are necessary—within 90 days after the date on which notice that the appeal has been terminated or determined is communicated to the Local Authority,

or within such longer period as the Local Authority, with the prior approval of the Minister, allows.

(2) Where an application for approval to the carrying out of building work is made under this Act to a Local Authority and—

for the purposes of the application, the necessary town planning application is or has been made or, as the

case may be, the necessary town planning applications are or have been made;
and

that town planning application or, as the case may be, any of those town planning applications, upon being finally disposed of (within the meaning of that expression as defined in section 30BB (2)), is or are not approved,

the Local Authority shall refuse the application for approval to the carrying out of building work within 14 days after that town planning application or, as the case may be, the last of those town planning applications is finally disposed of.

30BD. No right of objection under section 31. There shall not be a right of objection to a referee pursuant to section 31 in respect of the refusal by a Local Authority of an application for approval to the carrying out of building work under section 30BC.

30BE. Interpretation. In sections 30BA, 30BB and 30BC—

“The Local Government Court” means The Local Government Court constituted under the *City of Brisbane Town Planning Act 1964-1984*;

“town planning application” means an application for—

(a) the rezoning of land the subject of an application for approval to the carrying out of building work to permit the use of the land or the erection or use of buildings or other structures on the land for the purpose in respect of which the application for approval to the carrying out of building work was made;

or

(b) the approval, consent or permission of a Local Authority to permit the use of land the subject of an application for approval to the carrying out of building work or the erection or use of buildings or other structures on the land for the purpose in respect of which the application for approval to the carrying out of building work was made.

30BF. Application of sections 30BA, 30BB and 30BC. Sections 30BA, 30BB and 30BC do not apply in respect of an application for approval to the carrying out of building work made to a Local Authority where the application was received by the Local Authority prior to the commencement of those sections.”.

13. Amendment of s. 30C. Application for preliminary decision. Section 30C of the Principal Act is amended by inserting the following subsections after subsection (2):—

“(2A) A Local Authority shall decide an application made to it under subsection (1) within 40 days after the date of its receipt of the application.

(2B) A Local Authority may, with the prior approval of the Minister, by notice served on the applicant before the expiration of the period of 40 days mentioned in subsection (2A) or, if that period has been extended pursuant to an approval or approvals previously given under this subsection, before the expiration of the period as so extended, extend or further extend the period.”.

14. Amendment of s. 67. Regulations. Section 67 of the Principal Act is amended in subsection (1) by omitting paragraph (a).