



BERMUDA

BUILDING ACT 1988

1988 : 18

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SCHEDULE

[preamble and words of enactment omitted]

Short title and commencement

1 This Act may be cited as the Building Act 1988 and shall come into force on a day the Minister charged with responsibility for Planning may by notice publish in the Gazette.

Interpretation

2 (1) In this Act, unless the context otherwise requires—

“building” means any permanent or temporary building and includes any other structure or erection of whatever kind or nature, whether permanent or temporary or any part of a building or a structure or an erection;

“building Code” or “Code” means a Code issued under section 23A;

“Building Official” means the officer prescribed by section 3(1);

“building operation” includes—

- (a) the erection of any building;
- (b) the carrying out of any structural alteration or extension of any building;
- (c) the carrying out of any works whether of a structural nature or otherwise for the purpose of effecting a material change in the way any building or premises or part thereof is used;
- (d) the installation or renewal of—
 - (i) an electrical system;
 - (ii) a gas fuel system;
 - (iii) a plumbing, drainage or sewage disposal system; or
 - (iv) a mechanical system;
- (e) the carrying out of any works inside a building which affects any fire protection measure;
- (f) the excavation or quarrying of land;
- (g) the demolition of any building—
 - (i) which is within twenty-five feet of a road; or
 - (ii) to which the public has access;

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(h) the reconstruction of a building;

(i) the roofing over of an open space between walls or buildings;

(j) the conversion of a movable object into a building;

(k) the removal of a building from one site and its re-erection elsewhere;

“building permit” means a building permit issued under the building Regulations;

“building Regulations” means regulations made under section 23;

“inspector” means an inspector appointed pursuant to section 4;

“material change”, in relation to the use of a building, means a change from one use group to another in accordance with the building Codes;

“Minister” means the Minister charged with responsibility for planning;

“occupancy permit” means a permit issued under the building Regulations;

“owner” includes the owner, lessee or occupier of any property and any other person for the time being occupying or having charge of, or control or possession of, any property whether in his own right or in the right of his wife or any other person;

“plans” includes drawings of any other description and also specifications or other information in any form;

“premises” includes buildings, land, easement and hereditaments of any tenure;

“road” means any road whether public or private and includes any street, square, court, alley, lane, bridge, footway, track, path, passage, or other highway

“Tribunal” means the Building Appeals Tribunal established by section 13.

(2) In subsection (1) “structure or erection” in the definition of “building” includes a vehicle, vessel, aircraft or other movable object of any kind in such circumstances as may be prescribed by order of the Minister, being circumstances that in the opinion of the Minister justify it for those purposes as a building.

(3) The prescribed order mentioned in subsection (2) shall be subject to the negative resolution procedure.

(4) *[Repealed by 1998:33]*

(5) *[Repealed by 1998:33]*

(6) In this Act, a reference to the deposit of plans in accordance with building Regulations is a reference to the deposit of plans in accordance with building Regulations for the purposes of section 7.

[Section 2 amended by 1998:33 effective 1 September 1998; subsection (1) "Minister" amended by BR 5/2011 para.5 effective 25 February 2011]

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Building Official

3 (1) The Director of Planning shall be the Building Official for the purposes of this Act and shall have such powers and shall perform such functions as are assigned to him by or under the provisions of this Act and building Regulations and Codes.

(2) The Building Official shall be subject to the general supervision and control of the Minister.

[Section 3 amended by 1998:33 effective 1 September 1998]

Inspectors

4 For the purposes of this Act there shall be in the public service inspectors who shall assist the Building Official in performing his functions under this Act and the building regulations and Codes.

[Section 4 amended by 1998:33 effective 1 September 1998]

Building operation prohibited except under building permit

5 (1) Subject to this Act, no person shall commence or carry on, or cause to be commenced or carried on, any building operation unless—

- (a) under and in accordance with the conditions of a valid building permit and in accordance with the provisions of this Act and the building Regulations; or
- (b) under an exception or an exemption specified in this Act or in the Development and Planning Act 1974 [*title 20 item 1*].

(2) Any person who violates subsection (1) commits an offence:

- (a) Punishment on summary conviction: a fine of \$5,000;
- (b) Punishment on conviction on indictment: imprisonment for 2 years or a fine of \$25,000,

and a further fine of \$500 for each day on which the violation continues after he is convicted.

(3) If any work respecting a building operation is undertaken in violation of this section, the Minister may, without prejudice to his right to take proceedings under subsection (2) in respect of the violation, by notification, require the owner to pull down or remove the work or effect such alterations in the work as may be necessary to make it comply with the building regulations or Codes.

(4) If a person to whom the notification has been given under subsection (3) fails to comply with the provisions thereof before the expiration of twenty-eight days or such further period, not in any case exceeding fifty-six days, as a Magistrate may on his application allow, the Minister may pull down or remove such work or effect such alterations in the work as he deems necessary, and may recover from him the expenses reasonably incurred by the Minister in so doing.

[Section 5 amended by 1998:33 effective 1 September 1998]

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Application for grant of building permit

6 An application for the grant of a building permit shall be made to the Building Official which application shall be made in accordance with the provisions of the building Codes.

[Section 6 amended by 1998:33 effective 1 September 1998]

Passing or rejection of plans

7 (1) Where plans of any proposed work are, in accordance with building Regulations and Codes, deposited with the Building Official, it is the duty of the Building Official, subject to any other section of this Act or to the building Regulations or Codes that expressly require or authorise him in certain cases to reject plans, to pass the plans unless—

- (a) they are defective; or
- (b) they show that the proposed work would contravene any provision of the building Regulations or Codes.

(2) If the plans—

- (a) are defective; or
- (b) show that the proposed work would contravene any provision of the building Regulations or Codes,

the Building Official may reject the plans or, subject to subsection (4), pass them subject to either or both of the conditions set out in subsection (3).

(3) The conditions mentioned in subsection (2) are—

- (a) that such modifications as the Building Official may specify shall be made in the deposited plans; and
- (b) that such further plans as the Building Official may specify shall be deposited.

(4) The Building Official may only pass plans subject to a condition such as is specified in subsection (3) if the person by whom or on whose behalf they were deposited—

- (a) has requested him to do so; or
- (b) has consented to his doing so.

(5) A request or consent under subsection (4) shall be in writing.

(6) The Building Official shall within the relevant period from the deposit of the plans notify the person by whom or on whose behalf they were deposited whether they have been passed or rejected and where the Building Official fails to so notify the plans shall be deemed to have been rejected.

(7) A notification that plans have been rejected shall specify the defects on account of which, or the section of this Act or the provision of the building Regulations or Codes for nonconformity with which, they have been rejected.

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- (8) A notification that plans have been passed shall—
- (a) specify any condition subject to which they have been passed; and
 - (b) state that the passing of the plans operates as an approval of them only for the purposes of the requirements of any section of this Act, other than this section, and any building Regulations.

(9) For the purposes of this section and section 15(2) “the relevant period”, in relation to the passing or the rejection of plans, means eight weeks or such extended period (expiring not later than six months from the deposit of the plans) as may before the expiration of the eight weeks be agreed in writing between the person depositing the plans and the Building Official.

(10) Any question arising under this section between the Building Official and the person by whom or on whose behalf plans are deposited as to whether the plans are defective or whether the proposed work would contravene any of the building Regulations or Codes, may by notice of appeal to the Tribunal by that person be determined by the Tribunal, but no such notice shall be entertained unless it is made before the proposed work has been commenced.

[Section 7 amended by 1998:33 effective 1 September 1998]

Planning permission must be in force

8 Where plans of any proposed work have been passed under this Act or the building Regulations or Codes, they shall be treated as such only so long as there is still in force a lawfully granted planning permission and if the permission is not in force then notwithstanding any provisions in this Act the plans shall be deemed not to have been passed.

[Section 8 amended by 1998:33 effective 1 September 1998]

Proposed departure from plans

9 (1) Where plans of any proposed work have been passed under this Act or the building Regulations or Codes, the person by whom or on whose behalf the plans were in accordance with building Regulations or Codes deposited with the Building Official may, and in such cases as may be prescribed by building Regulations or Codes shall, for the purpose of obtaining the approval of the Building Official to any proposed departure or deviation from the plans as passed, deposit plans of the departure or deviation.

(2) Section 7 applies in relation to plans deposited under subsection (1) as it applies in relation to the plans originally deposited.

[Section 9 amended by 1998:33 effective 1 September 1998]

Lapse of deposit of plans

10 (1) Where a building permit issued becomes invalid by virtue of the building Codes, the Building Official may, by notification to the person by whom or on whose behalf the plans were deposited or the owner for the time being of the land to which the plans relate, declare that the deposit of the plan is of no effect.

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(2) Where a notification has been given under subsection (1), this Act and the building Codes shall, as respects the proposed work, have effect as if no plans had been deposited.

[Section 10 amended by 1998:33 effective 1 September 1998]

Inspection for conformity with building Regulations or Codes

11 (1) The Building Official has power to carry out tests to ascertain, as regards any work or proposed work to which building Regulations or Codes are applicable, whether any provision of the building Regulations or Codes is or would be contravened by or by anything done or proposed to be done in connection with, that work.

(2) The Building Official has power, for the purpose of ascertaining whether there is or has been, in the case of a building, a contravention of a continuing requirement that applies in relation to that building, to carry out inspections and tests.

(3) In subsection (2) "continuing requirement" means a continuing requirement imposed by the building Regulations or Codes.

(4) The Building Official shall exercise such powers under subsections (1) and (2) in accordance with the building Regulations and Codes.

[Section 11 amended by 1998:33 effective 1 September 1998]

Removal or alteration of offending work

12 (1) If any work to which building Regulations or Codes are applicable is executed—

- (a) without plans having been deposited;
- (b) notwithstanding the rejection of the plans; or
- (c) otherwise than in accordance with any requirements subject to which the Building Official passed the plans,

the Minister may by notification to the owner—

- (d) require the owner to cease all work; or
- (e) require him either to pull down or remove the work or to comply with any other requirements specified in the notification, being requirements that the Minister might have made under the section in question as a condition of passing plans.

(2) If a person to whom a notification has been given under subsection (1) fails to comply with the notification before the expiration of twenty-eight days, or such longer period as a Magistrates' Court may on his application allow, the Minister may—

- (a) pull down or remove the work in question: or
- (b) effect such alterations in it as the Minister deems necessary,

and may recover from the owner the expenses reasonably incurred by the Minister in so doing.

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(3) A notification under subsection (1) (called a "section 12 notification") shall not be given, in a case where plans were deposited and the work was shown on them, on the ground that the work contravenes this Act or any building Regulations or Codes if the plans were passed by the Building Official and if the work has been executed in accordance with the plans and of any requirement made by the Building Official as a condition of passing the plans.

(4) This section does not affect the right of any person to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any provision of this Act or any building Regulations or Codes; but if—

- (a) the work is one in respect of which plans were deposited;
- (b) the plans were passed by the Building Official; an
- (c) the work has been executed in accordance with the plans,

the court on granting an injunction has power to order the Building Official to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall in accordance with rules of court cause the Building Official, if not a party to the proceedings, to be joined as a party to them.

[Section 12 amended by 1998:33 effective 1 September 1998]

Building Appeals Tribunal

13 (1) There shall be a Building Appeals Tribunal (hereafter referred to as the Tribunal) which shall exercise and perform such functions assigned to it under this Act.

(2) The Tribunal shall consist of not less than four and not more than six members who shall be appointed by the Minister.

(3) There shall be a chairman of the Tribunal and also a deputy chairman thereof appointed from among the members by the Minister.

(4) The Minister may remove from office any member of the Tribunal or fill any vacancy in the membership of the Tribunal.

(5) A member of the Tribunal may resign his office at any time by notice in writing addressed to the Minister.

(6) At all meetings of the Tribunal three members shall form a quorum.

(7) The chairman shall preside at all meetings of the Tribunal but at any time when the chairman is absent or otherwise incapable of acting or there is a vacancy in the office of chairman the deputy chairman may perform the functions of chairman.

(8) In the case of an equality of votes on any question at a meeting of the Tribunal, the person presiding shall have, in addition to a deliberative vote, a second vote.

(9) All appeals brought before the Tribunal shall be determined by a majority of the members present and entitled (and not otherwise disqualified) to vote in accordance with this Act.

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(10) For the purposes of an appeal under section 15 the appellant concerned may, if he so desires, be represented by counsel or otherwise.

(11) The Tribunal may regulate its procedure in such manner as it thinks fit.

(12) Acts of the Tribunal may be signified under the hand of the chairman or such other person as the Tribunal may authorise.

(13) The Minister shall provide the Tribunal with office accommodation and secretarial assistance for the discharge of its functions.

(14) Fees shall be paid to the members of the Tribunal in accordance with the Government Authorities (Fees) Act 1971 [*title 14 item 6*].

Interest in matter before tribunal

14 A member of the Tribunal shall not, so long as he is in any way directly or indirectly concerned in any matter before the Tribunal, take part in any deliberation or decision of the Tribunal on such matter and the member shall be disregarded for the purpose of constituting a quorum of the Tribunal for any such deliberation or decision.

Appeal against refusal or rejection

15 (1) A person who is aggrieved—

- (a) by the refusal of the Building Official to pass a plan;
- (b) by the rejection of a plan under section 7; or
- (c) by the imposition of any conditions under section 7,

may by notice appeal to the Tribunal.

(2) Any notice of appeal under this section shall be brought as follows—

- (a) in respect of a notification that is given under section 7, within twenty-eight days of the giving of the notification;
- (b) in respect of a failure to notify under section 7, within twenty-eight days after the expiration of the relevant period.

(3) The Tribunal shall commence the hearing of an appeal within eight weeks after receiving a notice of appeal.

(4) The Tribunal may allow or dismiss the appeal or may reverse or vary any part of the decision of the Building Official, whether the appeal relates to that part or not, and may give such directions to the Building Official as it thinks fit; however, where the Tribunal fails to commence the hearing within the time prescribed by subsection (3), the Tribunal shall allow the appeal.

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Appeal to Supreme Court from decision of Tribunal

16 (1) Where the Tribunal gives a decision in proceedings on an appeal under section 15, the aggrieved person under section 15 or the Building Official may appeal to the Supreme Court against the decision on a point of law.

(2) On any appeal under this section the Supreme Court may make such order, including an order for costs, as it thinks just.

(3) Rules of Court made under the Supreme Court Act 1905 [*title 8 item 1*] regulating the practice and procedure on appeals from tribunals to the Supreme Court shall apply to appeals under this section.

Appeal against section 12 notification

17 (1) A person aggrieved by the giving of a section 12 notification may appeal to the Magistrates' Court and the procedure shall be by way of complaint for an order.

(2) Subject to subsection (3), on an appeal under this section the Court—

(a) shall, if it determines that the Minister was entitled to give the notification, confirm the notification; and

(b) shall, in any other case, vary or revoke any part of the notification.

(3) If, in a case where the appeal is against a notification under section 12(1), the Court is satisfied that the Minister was entitled to give the notification, but in all the circumstances of the case the purpose for which was enacted the section of this Act under which the notification was given has been fully achieved, the Court may revoke the notification.

(4) An appeal under this section shall be brought within twenty-eight days of the giving of the section 12 notification and for the purposes of this subsection the making of the complaint is deemed to be the bringing of the appeal.

(5) Where an appeal is brought under this section—

(a) the section 12 notification is of no effect pending the final determination or withdrawal of the appeal; and

(b) section 12(2) has effect in relation to that notification as if immediately after the words "twenty-eight days" there were inserted the words "(beginning, in a case where an appeal is brought under section 17, on the date when the appeal is finally determined or, as the case may be, withdrawn)".

Appeal to Supreme Court from decision of Magistrates' Court

18 Where a person is aggrieved by an order, determination or other decision of the Magistrates' Court under this Act, he may appeal to the Supreme Court.

Crown to be bound

19 This Act binds the Crown except that nothing contained in this Act or in any Regulations made thereunder shall be deemed to impose any fee upon any Department of the Government.

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Dangerous, dilapidated buildings or structures

20 (1) If it appears to the Minister that any building is in such a condition or is used to carry such loads, as to be dangerous, he may—

- (a) where danger arises from the condition of the building, make an order—
 - (i) requiring the owner thereof to execute such work as may be necessary to obviate the danger within a reasonable time to be specified in the order;
 - (ii) requiring the owner thereof to demolish, if the owner of the building so elects, the building or any dangerous part of it, and to remove any rubbish resulting from the demolition within a reasonable time to be specified in the order; or
 - (iii) prohibiting the owner thereof from using the building or part thereof for any purpose other than a purpose approved by the Minister until the Minister being satisfied that all necessary works have been executed to obviate the danger, withdraws or modifies the prohibition; or
- (b) where danger arises from overloading of the building, make an order restricting its use by the owner until the Minister, being satisfied that all necessary works have been executed to obviate the danger, withdraws or modifies the restriction.

(2) An order made under subsection (1) shall be served in accordance with section 27 upon the owner of the building or the person at whose expense the work is being done affected thereby.

(3) If the person on whom an order is made under subsection (1)(a)(i) and (ii) fails to comply with the order within the time specified, the Minister may execute the order in such manner as he thinks fit and recover the expenses reasonably incurred by him in so doing from the person in default.

(4) Without prejudice to the right of the Minister to exercise the powers mentioned in subsection (3), the person who fails to comply with an order made under subsection (1) commits an offence:

Punishment on summary conviction: a fine of \$5,000 and a further fine of \$1,000 for each day on which the non-compliance continues after he is convicted.

Immediate action

21 (1) If the Minister is satisfied that any building is in such a condition, or is used to carry such loads, as to be dangerous and that immediate action should be taken for the protection of any person or to remove the danger, the Minister may take such steps as may be necessary for those purposes.

(2) The Minister may recover from the owner of the building the expenses reasonably incurred by him under subsection (1).

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Special emergency powers

22 (1) If it appears to the Minister at any time that any building owing to the occurrence of flood, fire, hurricane or any other disaster (whether caused by God or man), is in such a condition as to be dangerous to persons or property in its vicinity, and is beyond repair, and that the danger cannot be effectively obviated by the exercise by him or any of the powers conferred upon him by section 20 or 21, he may, subject to subsection (2), cause the building or part of the building to be demolished.

(1A) Where owing to the occurrence of fire the Minister decides to cause the building or part of the building to be demolished he shall first consult the Chief Fire Officer regarding fire safety matters.

(2) Before any building or part of a building is demolished under subsection (1), all articles or things within the building or its curtilage which, in the opinion of the person charged by the Minister with the demolition, appear to be of value and to be capable of being removed without endangering the safety of any person, shall be removed by that person and stored by the Minister until claimed by the owner or until the expiration of the period of twelve months, whichever first occurs.

(3) Any expenses incurred by the Minister in the exercise of his powers under this section shall be defrayed out of moneys provided by the Legislature.

(4) Any article or thing that is removed from the building or its curtilage pursuant to subsection (2) and remains unclaimed by the owner for a period exceeding twelve months may be sold or otherwise disposed of by the Minister, and the proceeds of sale or disposition shall be applied to the discharge of any expenses mentioned in subsection (3).

[Section 22 amended by 2014 : 33 s. 55 effective 1 January 2018]

Regulations

23 (1) The Minister may make regulations prescribing anything which may be or is to be prescribed under this Act and may, in particular, make regulations which—

- (a) specify the qualifications for persons submitting plans for the purposes of this Act, and different qualifications may be prescribed in respect of different types of plans; and
- (b) specify the qualifications for plumbers, electricians or other skilled artisans connected with the building trades or prescribe the standards to be met by those persons.

(2) Regulations made under this section are subject to the affirmative resolution procedure.

(3) A person who is guilty of an offence under the building Regulations is liable on summary conviction to a fine of \$5,000 or to imprisonment for six months or both.

[Section 23 amended by 1997:25 effective 14 July 1997; and repealed and replaced by 1998:33 effective 1 September 1998]

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Building Codes

23A (1) Subject to this Act, the Minister may for the purposes of securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings issue building Codes—

- (a) with respect to the design and construction of buildings;
- (b) with respect to the provision of services, fittings and equipment; and
- (c) in connection with buildings generally,

and different Codes may be issued in relation to different types of buildings.

(2) Without limiting the generality of subsection (1), the Codes may—

- (a) provide for the giving of notices, the deposit of plans of proposed work or work already executed (including provision as to the number of copies to be deposited), the retention by the Building Official of copies of plans deposited with him in accordance with the Regulations, the inspection and testing of work and buildings;
- (b) make provision concerning building permits, prescribe the procedure and conditions respecting application for building permits, and specify conditions relating to the grant of any building permit or class of building permit or conditions to be attached thereto;
- (c) prescribe the period of validity of a building permit and provide for the renewal and transfer of a building permit;
- (d) make provision concerning building operations and specify the requirements to be met by owners and building contractors concerning any building operation, any inspection or testing of buildings or the maintenance and operation of any class of building;
- (e) make provision concerning occupancy permits and prescribe the procedure and conditions respecting the application for and the issue of the permits; and
- (f) provide for the proper disposal of waste products discharged from any building.

(3) In preparing any building Codes under this section, the Minister shall consult—

- (a) such officers from the Departments of Works and Engineering and Health and the Bermuda Fire and Rescue Service as he considers appropriate;
- (aa) the Chief Fire Officer regarding fire safety matters; and
- (b) such persons representing the architectural, construction, engineering and surveying professions in Bermuda as he considers appropriate.

(4) Subject to subsection (5), the Minister shall inform the public by means of a notice published in the Gazette and at least one other newspaper in Bermuda at least three

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months in advance of the date on which a building Code comes into effect, and shall state in the notice whether the Code replaces or amends any previous building Code.

(5) The Minister may waive or reduce the period of three months mentioned in subsection (4) as he thinks fit where a Code amends a previous Code—

- (a) to correct a mistake, or
- (b) in any circumstances where safety is an issue.

(6) Notwithstanding that a building Code has replaced or amended a previous building Code (“the old Code”) with effect from a specified date, the old Code—

- (a) shall continue to apply, or
- (b) shall continue to apply without the amendments,

(as the case may be) to any building operation in respect of which the application for a building permit was received by the Building Official before that date (whether or not a permit has been issued or work has commenced).

(7) Copies of building Codes issued from time to time under this section shall be made available for inspection free of charge at the office of the Building Official during normal working hours.

(8) Building Codes issued under this section are not statutory instruments and shall not be subject to the Statutory Instruments Act 1977.

[Section 23A inserted by 1998:33 effective 1 September 1998; subsection (3)(a) amended by 2007:23 s.17 effective 2 July 2007; Section 23A(3) amended by 2014 : 33 s. 55 effective 1 January 2018]

Enforcement of building Codes

23B (1) Where it appears to a building inspector that any person carrying out a building operation has failed to comply with any provision of the relevant building Code, he may by notice in writing (a “field correction notice”) to such person—

- (a) specify the failure; and
- (b) require the person within such reasonable time as may be specified, or such further time as the Building Official may allow, to comply with the provision in question;

and he may also state in the notice what steps are necessary to ensure such compliance.

(2) Where it appears to the Building Official that any person carrying out a building operation has failed to comply with any provision of the relevant building Code (whether or not a field correction notice has been issued) and the Building Official considers it necessary to exercise his powers under this subsection, he may by notice in writing to such person—

- (a) prohibit any continuation of the building operation (such notice referred to as a “stop work notice”); or
- (b) impose conditions on the continuation of the building operation,

until such time as the provision in question has been complied with.

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(3) In addition to the methods of service specified in section 27(1), a notice issued under this section may be served—

- (a) by leaving it with any apparently responsible person at the place where the building operations are being conducted; or
- (b) if no such person can be found, by affixing it, or a copy of it, to some conspicuous part of the building or structure in question.

(4) A person who fails to comply with a notice served under this section commits an offence and shall be liable on summary conviction—

- (a) to a fine of \$5,000 or to imprisonment for six months, or to both, and
- (b) to a further fine of \$500 for each day on which the offence continues.

[Section 23B inserted by 1998:33 effective 1 September 1998]

Indemnity against certain actions

24 (1) No action shall lie against the Crown, the Minister, the Building Official or any person acting under the authority of the Minister or the Building Official in respect of any loss or damage whatsoever suffered by any person through the exercise, in good faith by the Minister, the Building Official or by any such person of the powers conferred upon them by this Act or the building Regulations or Codes save only in respect of any loss or damage which arises directly from the negligence of the Minister, the Building Official or any such person as aforesaid in the carrying out of any operation.

(2) No person shall in any civil proceedings as against the Crown or the Minister rely—

- (a) on any provision in this Act or in Regulations or Codes made thereunder as constituting or imposing a duty upon the Minister or upon any public officer to inspect any building or any building operation; or
- (b) on any certificate, permit, report or other document given, granted, made or issued pursuant to this Act or to Regulations or Codes made thereunder as containing any representation respecting the state of any building, the standard of construction of any building or the compliance or non-compliance by any person of the Act or Regulations or Codes made thereunder.

[Section 24 amended by 1998:33 effective 1 September 1998]

Power to enter premises

25 (1) Subject to this section, the Building Official or any inspector shall, on producing if so required, some authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

- (a) for the purpose of ascertaining whether there is, or has been on, or in connection with the premises any contravention of this Act or the building Regulations or Codes;

- (b) for the purpose of ascertaining whether or not circumstances exist which would authorise or require the Minister or the Building Official to take any action or execute any work under this Act or the building Regulations or Codes;
- (c) for the purpose of taking any action, or executing any work, authorised or required by this Act or the building Regulations or Codes to be taken or executed by the Minister or the Building Official;
- (d) for the purpose generally of the performance by the Minister or the Building Official or any other person of their functions under this Act or the building Regulations or Codes.

(2) Any person who refuses admission to premises to a person mentioned in subsection (1) to defeat the object of detecting a contravention of the Act or the building Regulations or Codes commits an offence:

Punishment on summary conviction: a fine of \$5,000.

(3) If it is shown to the satisfaction of a Magistrate on sworn information in writing—

- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent or that the case is one of urgency; and
- (b) that there is reasonable ground for entry into the premises for any such purpose as mentioned in subsection (1),

the Magistrate may by warrant under his hand authorise the Building Official by himself or any inspector to enter the premises, if need be by force.

(4) Any warrant issued under subsection (3) shall continue in force until the purpose for which the entry is authorised has been satisfied.

(5) The Building Official or an inspector entering any premises by virtue of this section or of a warrant issued under subsection (3), may take with him such other persons as may be necessary to assist him, and such other person assisting the Building Official or an inspector shall have while so assisting the like powers of the Building Official or the inspector.

(6) Where the Building Official or an inspector enters unoccupied premises by virtue of this section or of a warrant issued under subsection (3), he shall leave them as effectually secured against trespassers as he found them.

[Section 25 amended by 1998:33 effective 1 September 1998]

Obstruction

26 Any person who wilfully obstructs any person acting in the execution of any power conferred by this Act or by the building Regulations or Codes or by any warrant issued under this Act commits an offence:

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Punishment on summary conviction: imprisonment for two months or a fine of \$500.

[Section 26 amended by 1998:33 effective 1 September 1998]

Service of notice

27 (1) Any notification, notice, order or other document which is required or authorised by or under this Act or the building Regulations or Codes to be given to or served on a person may be given or served—

- (a) by delivering it to that person;
- (b) by leaving it, or sending it in a prepaid registered letter addressed to him, at his usual or last known residence;
- (c) in the case of a body corporate, by delivering it to the secretary or clerk at the registered or principal office of the body corporate or by sending it in a prepaid registered letter addressed to the body corporate's secretary or clerk at that office;
- (d) in the case of a notice, order or document which is to be given or served on the owner of any premises, if it is not practicable after reasonable enquiry to ascertain the name and address of a person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of "owner" or "occupier" of the premises (naming them) to which it relates and delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

(2) The Minister may, for the purpose of enabling any notification, notice, order or other document which is required or authorised by or under this Act or the building Regulations or Codes to be given to or served on a person, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as the holder of a freehold estate, mortgagee, lessee or otherwise, and any person who, having been required under this subsection to give any information, fails to give that information, or knowingly makes any mis-statement in respect thereof, commits an offence:

Punishment on summary conviction: a fine of \$500.

[Section 27 amended by 1998:33 effective 1 September 1998]

Recovery of expenses

28 Where the Minister has incurred expenses on works for the repayment of which the person in respect of whom the expenses were incurred is liable under this Act, the Minister may recover as a debt owing to the Crown in any court of competent jurisdiction from the person any expenses reasonably incurred.

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Savings and amendments

29 (1) Any Regulations including the Building Code made under the repealed section 53 of the Development and Planning Act 1974 [*title 20 item 1*] and in force immediately before the commencement of this Act shall continue in force until repealed by Regulations made under this Act.

(2) Any building work done before the commencement of this Act in, on or to a building shall be deemed to have been done in conformity with this Act and the building Regulations if done in conformity with the law in force at the time the work was done.

(3) Any building work commenced before the date of commencement of this Act pursuant to a permit, licence, approval or other permission given or issued under the law in force immediately before that date may be completed in accordance with that law and, if and when so completed, shall be deemed to have been carried out in conformity with this Act and the building Regulations.

(4) The laws specified in the first column of the Schedule are amended in the manner specified in the second column of that Schedule.

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SCHEDULE

(Section 29(4))

[*omitted*]

[Assent Date: 7 June 1988]

[This Act was brought into operation on 14 June 1991 by BR 33/1991]

Amended by

1997 25
1998 33
2007 23
BR 5 / 2011
2014 33]