

NORTHERN TERRITORY OF AUSTRALIA

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BUILDING ACT

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NOTE - THIS REPRINT SHOWS THE ACT AS IN FORCE AT 1 MAY, 1980. ANY AMENDMENTS THAT MAY COME INTO OPERATION AFTER THAT DATE ARE NOT INCLUDED.

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An Ordinance relating to Buildings and for Other Purposes

1. SHORT TITLE

This Ordinance may be cited as the Building Act. (See back note 1)

2. COMMENCEMENT

This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the Gazette. (See back note 1)

3. REPEAL AND SAVING

(1) The Buildings Ordinance 1936 is repealed.

(2) An approval or permit given or issued under the Ordinance repealed by this section and in force at the date of commencement of this Ordinance shall be deemed to be an approval or permit given under this Ordinance.

4. DEFINITIONS

In this Ordinance, unless the contrary intention appears -

"building" includes a shed, outbuilding, stable, workshop, garage, privy and any other building of any kind whether used for human habitation or otherwise and includes the foundation of or an excavation for the foundations of a building, and the extension, alteration or addition of or to an existing building;

"building area" includes any town, the boundaries of which have been proclaimed under the provisions of the Crown Lands Ordinance, and includes any other area declared to be a building area under section 7;

"draft planning instrument" means a draft planning instrument exhibited under Division 3 of Part III of the Planning Act;

"erect" includes re-erect;

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"planning instrument" means a planning instrument within the meaning of the Planning Act;

"the Board" means the Building Board established under this Ordinance;

"this Ordinance" includes the Regulations;

"to build" means to erect, extend, or alter a building.

### 4A. APPLICATION OF ORDINANCE TO THE CROWN

Except as provided in section 4B this Ordinance does not bind the Crown.

### 4B. COMMONWEALTH TO FURNISH PLANS AND SPECIFICATION FOR CERTAIN BUILDINGS

(1) This section binds the Crown to the extent that it is not inconsistent with any Act.

(2) Where a building is to be built in a building area by or for the Commonwealth, the Commonwealth shall cause one copy of the plans and specification for the building to be furnished to the Board not less than 28 days before work is commenced on the building.

(3) If the Board objects to any matter concerning the proposed building, the Board may, within 21 days after the copy of the plans and specification for the proposed building was furnished to it, make representations in writing to the Commonwealth in relation to the matter and the Commonwealth shall consider those representations before work is commenced on the building.

(4) Sub-section (2) does not apply to or in relation to a building acquired or used by the Commonwealth for defence purposes or constructed by or for the Commonwealth for such purposes.

### 5. APPLICATION

This Ordinance shall apply only within building areas.

### 6. EXEMPTIONS

The Minister may, by notice in the Gazette, exempt an area or class of buildings from some or all of the provisions of this Ordinance.

### 7. DECLARATION OF BUILDING AREAS

The Administrator may, by notice in the Gazette, declare an area to be a building area for the purposes of this Ordinance.

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### 8. CONSTITUTION OF BOARD

(1) There shall be a Building Board which shall consist of 4 members appointed by the Minister by notice in the Gazette.

(2) The Minister may appoint a member of the Board to be Chairman of the Board.

(3) Where, on account of illness, absence from the Territory or other reason, a member of the Board is unable to perform his duty as a member, the Minister may, by notice in the Gazette, appoint a person to act in his stead, and the person so appointed may exercise and perform, during the inability to act of the member in whose stead he is appointed, all the powers and functions of a member of the Board.

(4) The Chairman shall preside at all meetings of the Board at which he is present, and in his absence from a meeting the senior member present shall preside at the meeting.

(5) Members of the Board, other than the Chairman, shall have seniority according to the order in which they were appointed and where they were appointed by the same instrument they shall be deemed to have been appointed in the order in which they are named in that instrument.

(6) For the conduct of business, any 2 members of the Board is a quorum.

(7) The Board shall meet at least once in each month, unless there is no business for consideration by it, and at such time and place as the Chairman determines.

(8) At every meeting of the Board, the Chairman or a person appointed by him shall take minutes of the proceedings and shall record them in a minute book.

8A. [Repealed]

### 9. POWERS OF THE BOARD

The Board shall be responsible for the administration of this Ordinance and for the control of all building to which this Ordinance applies and, without limiting the generality of the foregoing, shall have the following powers and functions -

- (a) with the approval of the Minister, to require the demolition, destruction, alteration or modification of buildings which are unsafe or unfit for human habitation;
- (b) to require the alteration or modification of any building in a building area which does not comply with any requirement prescribed by the regulations or determined by the Board under the regulations for that class of building in that building area;

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- (c) subject to section 9A, to issue licences or permits to build;
- (d) to recommend to the Minister the exemption of an area or class of buildings from the provisions of this Ordinance;
- (e) to recommend to the Minister the declaration of an area as a building area;
- (f) to investigate and inquire into methods of construction and the types of building most suitable to a particular building area in the Northern Territory of Australia and to report to the Minister thereon; and
- (g) to exercise such other powers and functions as may be conferred on it by the regulations.

9A. RESTRICTIONS ON BUILDING

- (1) A person shall not build -
  - (a) except in accordance with a licence or permit issued for the purpose by the Board;
  - (b) except in accordance with such plans and specifications for the building as are approved by the Board;
  - (c) if the land on which it is proposed to build is land held under lease from the Commonwealth or the Territory under the Crown Lands Ordinance or the Darwin Town Area Leases Ordinance - contrary to a covenant, condition or other provision of the lease; and

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Penalty: 400 dollars.

(2) An application for a licence or permit to build or for approval of plans and specifications for a building shall be made as prescribed.

- (3) The Board shall not issue a licence or permit to build -
  - (a) except in accordance with plans and specifications approved by the Board;
  - (b) if the land on which it is proposed to build is land held under lease from the Commonwealth or the Territory under the Crown Lands Ordinance or the Darwin Town Area Leases Ordinance - unless the Departmental Head of the Department or the Minister certifies by instrument in writing that the building, when completed in accordance with the proposal to build, will not be contrary to a covenant, condition or other provision of the lease; and

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(3A) The Board shall take into account in considering whether to issue a licence or permit to build -

(a) the provisions of any planning instrument; and

(b) the provisions of any draft planning instrument,

applying to or relating to the land on which it is proposed to build.

(4) A licence or permit to build may be made subject to such conditions as are provided by or under the regulations.

### 10. APPEAL TO SUPREME COURT FROM REQUIREMENT OF THE BOARD

(1) Any requirement of the Board shall be given by notice in writing, signed by the Chairman of the Board for the time being, and addressed to the owner or occupier of the building, or such other person as the case may require.

(2) The person to whom such a notice is addressed shall comply with the requirement within the time specified in the notice.

Penalty: 200 dollars or imprisonment for 6 months.

(3) Whenever the Board requires by notice in writing the demolition, destruction, alteration or modification of any building, the person to whom the notice is addressed may, before the time specified in the notice in writing as the time within which he is to comply with the requirement has expired, apply to the Supreme Court of the Northern Territory for an order setting aside the requirement.

(4) Upon such an application being made, the Court shall hear and determine the matter and may, if it considers that the requirement has been properly made under this Ordinance and that the building does not comply with the provisions of this Ordinance and that the demolition or destruction or the alteration or modification required by the notice in writing is reasonably required for the administration of this Ordinance, dismiss the application.

(5) If the Court is not satisfied on the matters set out in subsection (4) it shall grant the application and, by order, set aside the requirement of the Board.

### 11. APPOINTMENT OF OFFICERS

The Minister may, by notice in the Gazette, appoint such engineers, architects, surveyors, inspectors and other persons as are necessary to enable the Board to exercise its powers and perform its functions under this Ordinance.

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### 12. REGULATIONS

The Administrator may make Regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance and in particular -

- (a) for prescribing the conditions subject to which buildings may be erected in the Northern Territory;
- (b) for prescribing the purposes for which, and the conditions upon which, licences or permits may be issued and for prescribing the fees payable therefor;
- (c) for prescribing the types, standards, minimum sizes and maximum spacing of materials to be used in buildings of different types, or put or to be put to different uses, in a building area or part of a building area;
- (ca) for prescribing building standards and siting requirements;
- (cb) for prescribing ancillary matters relating to building, including health and amenity codes;
- (d) for providing for the use of fire-resistant and fire-retarding materials and the lessening of fire hazards in buildings;
- (e) for providing for the minimum and maximum distances of buildings from the boundary lines of the land upon which they are situated;
- (f) for prescribing the powers of the Board with respect to the repair and maintenance of buildings and the condemnation of buildings which are unsafe or unfit or unsuitable for any purpose;
- (g) for prescribing minimum standards required in the presentation of plans and drawings for the consideration of the Board;
- (h) for the regulation of the erection of advertising signs and hoardings; and
- (i) for prescribing penalties not exceeding 100 dollars or imprisonment for 3 months, for a failure to comply with or contravention of the Regulations and, in addition penalties not exceeding 10 dollars for each day during which the offence or contravention continues.

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### Notes

1. The Building Act comprises the Building Ordinance 1955 as amended by the other Ordinances and Acts specified in the following table:

<u>Ordinance, Act</u>	<u>Number and year</u>	<u>Date of assent by Administrator</u>	<u>Date of commencement</u>
<u>Building Ordinance 1955</u>	No. 22, 1955	20 Dec 1955	25 Nov 1960
		<u>Date of notification of Governor-General's assent in N.T. Govt Gazette</u>	
<u>Building Ordinance 1961</u>	No. 9, 1962	21 Mar 1962	4 Apr 1962
		<u>Date of assent by Administrator</u>	
<u>Building Ordinance 1964</u>	No. 15, 1964	9 Apr 1964	9 Apr 1964
<u>Building Ordinance 1967</u>	No. 21, 1967	22 June 1967	22 June 1967
<u>Building Ordinance 1972 (a)</u>	No. 14, 1972	1 June 1972	28 June 1972
<u>Building Ordinance (No. 2) 1972</u>	No. 50, 1972	31 Aug 1972	31 Aug 1972
<u>Ordinances Revision Ordinance 1973 as amended (b)</u>	No. 87, 1973	11 Dec 1973	11 Dec 1973, but see s. 12(2)
	No. 34, 1974	26 Aug 1974	11 Dec 1973, but see s. 3(2)
	No. 69, 1974	24 Oct 1974	11 Dec 1973, but see s. 3
	No. 27, 1976	28 June 1976	Ss 1, 2 and 6: 28 June 1976, but see s. 6(2) Ss 3 and 4: 11 Dec 1973 S. 5: 24 Oct 1974

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<u>Ordinance, Act</u>	<u>Number and year</u>	<u>Date of assent by Administrator</u>	<u>Date of commencement</u>
<u>Transfer of Powers Ordinance 1976 as amended</u>	No. 64, 1976	22 Dec 1976	Ss 1 and 2: 22 Dec 1976 Remainder 1 Jan 1977, but see s. 2(2) and (3)
	No. 65, 1976	22 Dec 1976	22 Dec 1976
<u>Building Ordinance 1977</u>	No. 52, 1977	12 Dec 1977	12 Dec 1977
<u>Transfer of Powers (Self-Government) Ordinance 1978</u>	No. 54, 1978	1 July 1978	1 July 1978, but see s. 8
<u>Statute Law Revision Act (No. 2) 1978</u>	No. 19, 1979	2 Feb 1979	2 Feb 1979, but see s. 34
<u>Building Act 1979</u>	No. 54, 1979	14 May 1979	3 Aug 1979
<u>Remuneration (Statutory Bodies) Act 1979</u>	No. 9, 1980	14 Jan 1980	8 Feb 1980
<u>Statute Law Revision Act (No. 3) 1979</u>	No. 37, 1980	24 Apr 1980	24 Apr 1980

(a) Section 6 of the Building Ordinance 1972 provides as follows:

"6. The amendments of the Principal Ordinance made by this Ordinance do not apply in relation to the erection, alteration or addition to a building in accordance with a licence or permit to build issued under the Principal Ordinance before the commencement of this Ordinance."

(b) General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the Ordinances Revision Ordinance 1973 (as amended) to the following provisions: ss 4, 4A, 4B, 8, 9, 9A, 10 and 12.



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Table of Amendments

Section

- 1. Amended by No. 58, 1978, s. 4
  - 4. Amended by No. 54, 1979, s. 4
  - 4A. Inserted by No. 9, 1962, s. 3
  - 4B. Inserted by No. 9, 1962, s. 3
  - 6. Amended by No. 9, 1962, s. 4; No. 64, 1976, s. 4;  
No. 54, 1978, s. 3
  - 7. Amended by No. 9, 1962, s. 5; No. 54, 1979, s. 5
  - 8.(1) Amended by No. 15, 1964, s. 2; No. 50, 1972, s. 3;  
No. 64, 1976, s. 4; No. 54, 1978, s. 3
  - 8.(2) Amended by No. 15, 1964, s. 2; No. 64, 1976, s. 4;  
No. 54, 1978, s. 3
  - 8.(3) Amended by No. 15, 1964, s. 2; No. 64, 1976, s. 4;  
No. 54, 1978, s. 3;
  - 8A. Inserted by No. 21, 1967, s. 2; repealed by No. 9,  
1980, s. 6
  - 9. Amended by No. 14, 1972, s. 3; No. 64, 1976, s. 4;  
No. 54, 1978, s. 3
  - 9A. Inserted by No. 14, 1972, s. 4
  - 9A.(1) Amended by No. 54, 1978, s. 4; No. 54, 1979, s. 6
  - 9A.(3) Amended by No. 19, 1979, s. 2; No. 54, 1979, s. 6
  - 9A.(3A) Inserted by No. 54, 1979, s. 6
  - 11. Amended by No. 87, 1973, s. 12; No. 64, 1976, s. 4;  
No. 54, 1978, s. 3
  - 12. Amended by No. 14, 1972, s. 5; No. 87, 1973, s. 6;  
No. 52, 1977, s. 3; No. 37, 1980, s. 3
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