

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 2 December, 1947.

New South Wales.



ANNO UNDECIMO

GEORGII VI REGIS.

Act No. , 1947.

An Act to amend the Building Operations and Building Materials Control Act, 1945, in certain respects; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows :—

1. (1) This Act may be cited as the “Building Operations and Building Materials Control (Amendment) Act, 1947.”

Short title,
citation,
and
commence-
ment.

(2) The Building Operations and Building
10 Materials Control Act, 1945, is in this Act referred to as
the Principal Act.

Building Operations and Building Materials Control (Amendment).

(3) The Principal Act as amended by this Act, may be cited as the Building Operations and Building Materials Control Act, 1945-1947.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment
of Act No.
12, 1946,
s. 4.
(Definitions.)

10 (a) (i) by inserting in subsection one of section four immediately before the definition of “Building materials” the following new definition:—

“Bedroom” means room designed primarily for use as a sleeping room.

15 (ii) by omitting from the definition of “Cost” in the same subsection all words following the words “services rendered in connection with the building operation” and by inserting in lieu thereof the words “and includes
20 the time or labour of the person for whom the building operation is carried out, to the extent to which such time or labour is expended by him thereon”;

25 (iii) by inserting in the same subsection next after the definition of “Cost” the following new definition:—

“Director” means the Director of the Department of Building Materials.

30 (iv) by inserting in the same subsection at the end of the definition of “Dwelling-house” the words “or a building which is not used or is not intended to be used for permanent and continuous human habitation”;

35 (v) by omitting from the same subsection the definition of “Minister” and by inserting in lieu thereof the following definition:—

“Minister” means Minister for Building Materials.

(vi)

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- (vi) by inserting in the same subsection next after the definition of "Minister" the following new definition:—
 "Prescribed" means prescribed by this Act or by the regulations.
- (vii) by inserting in the same subsection next after the definition of "Primary production" the following new definition:—
 "Regulations" means regulations made under this Act.
- (viii) by inserting after the word "gate" in the definition of "Structure" in the same subsection the words "hoarding, display board";
- (ix) by omitting from the same subsection the definition of "The financial year";
- (x) by omitting from the same subsection the definition of "Under Secretary";
- (xi) by inserting in subsection two of the same section after the word "may" the words "from time to time";
- (b) (i) by omitting subsection two of section five and by inserting in lieu thereof the following subsections:—
- (2) The provisions of subsection one of this section shall not apply to—
- (a) the erection of any dwelling-house within any portion of the State not included within any area set forth in Schedule One to this Act, and used or intended to be used on completion as a permanent residence by any person;
- (b) the erection of any dwelling-house within any area set forth in Schedule Five to this Act, where—
- (i) such dwelling-house is used or intended to be used on completion

Sec. 5.
 (Restrictions
 on building
 operations—
 exemptions.)

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- 5 completion as a permanent residence by any person, and
- (ii) the gross area of the dwelling-house does not exceed one thousand four hundred square feet, and
- (iii) at least one hundred square feet of such gross area comprises verandah space;
- 10 (c) the erection of any dwelling-house within any area set forth in Schedule One to this Act, where—
- 15 (i) such dwelling-house is used or intended to be used on completion as a permanent residence by any person, and
- (ii) the gross area of the dwelling-house does not exceed one thousand three hundred square feet, and
- 20 (iii) the dwelling-house contains at least two bedrooms;
- (d) the erection of any dwelling-house within any area set forth in
- 25 Schedule One to this Act, where—
- (i) such dwelling-house is used or intended to be used on completion as a permanent residence by any person, and
- 30 (ii) the gross area of the dwelling-house does not exceed one thousand one hundred square feet;
- (e) any structure which—
- 35 (i) is erected by or on behalf of a person who is engaged in primary production or in the

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the storage, treating or processing of a primary product, and

5 (ii) is situated in or upon the premises on which such person is so engaged, and

10 (iii) is used or intended to be used by such person for or in connection with the primary production or the storage, treating or processing of a primary product in which such person is so engaged.

15 But this paragraph shall not operate to permit any such person to erect on the same premises during the period of three years immediately following the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947, any structure or structures the total cost of which exceeds five hundred pounds;

20 (f) the installation or extension by a public utility undertaking of mains or connections for the provision of water, gas, electricity, sewerage or drainage;

30 (g) any work for the provision in or on any structure or in or on any land immediately appurtenant thereto of water, gas, electricity, sewerage or drainage but only in so far as such work is ordered by a local governing authority or is reasonably necessary for the purposes for which the structure is primarily used or intended to be used;

(h)

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- 5 (h) the carrying out of any building operations on or within the area appurtenant to a dwelling-house which was erected before the fourth day of February, one thousand nine hundred and forty-six.

10 This paragraph shall not operate to permit the carrying out on the same dwelling-house or within the area appurtenant thereto during the period of three years immediately following the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947, of any building operations the total cost of which exceeds two hundred pounds;

- 20 (i) the carrying out of any building operations in the nature of maintenance work on or in relation to a dwelling-house which was erected at any time after the fourth day of February, one thousand nine hundred and forty-six (whether before or after the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947), but only to the extent to which such building operations are necessary to preserve the dwelling-house in a reasonable state of repair.

35 This paragraph shall not operate to permit the carrying out on or in relation to the same dwelling-house during the period of three years immediately following the commencement of the Building Operations and Building Materials Control

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Control (Amendment) Act, 1947, of any building operations the total cost of which exceeds two hundred pounds;

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- (j) the carrying out of any building operations in the nature of maintenance work on or in relation to any structure (other than a dwelling-house) erected either before or after the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947, but only to the extent to which such building operations are necessary to preserve the structure in a reasonable state of repair.

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For the purposes of this paragraph "building operations" does not include painting, colouring or whitewashing;

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- (k) the painting, colouring or whitewashing of any structure (other than a dwelling-house) erected either before or after the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947.

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This paragraph shall not operate to permit any painting, whitewashing or colouring of the same structure during the period of three years immediately following the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947, the total cost of which exceeds three hundred pounds;

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- (l) work in the nature of operational maintenance of railway works, or of roads or bridges, or of works for the

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- 5 the provision of water, gas, electricity, sewerage, or drainage, or of hydraulic pressure works, or of tramway works, or of wharves, jetties, docks or canals;
- 10 (m) any building operation which the Minister may from time to time by notice published in the Gazette declare to be exempt from the provisions of subsection one of this section.
- A notice under this paragraph may apply to or in respect of—
- 15 (i) any particular building operation specified in the notice; or
- (ii) building operations of a particular class or description specified in the notice; or
- 20 (iii) building operations other than those of a particular class or description specified in the notice; or
- 25 (iv) building operations the cost of which does not exceed a sum specified in the notice, or the cost of which during a stated period does not exceed a sum so specified.
- 30 A notice under this paragraph may provide that any exemption declared in the notice shall be subject to the observance of any terms or conditions specified therein.
- 35 A notice under this paragraph may be rescinded or may from time to time be amended or varied by the Minister by notice published in
- 40 the Gazette.

Without

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Without prejudice to the generality of the foregoing provisions of this paragraph a notice under this paragraph may provide for the amendment of any other paragraph of this subsection, but only for the purpose of enlarging or widening the scope of the exemption contained in the paragraph which the notice proposes to amend, or of removing in whole or in part any limitation on such exemption.

15 (2A) (a) For the purposes of subsection two of this section and subject to paragraph (b) of this subsection the gross area of a dwelling-house shall be taken to be the aggregate of the following areas, that is to say—

20 (i) the area of land which is to be covered by the dwelling-house;

25 (ii) the area of appurtenant land, to the
the extent to which the same is to be
covered by any building (whether
detached from the dwelling-house
or not) which is designed or
intended for use in connection with
the occupation of the dwelling-
house as a habitable room, garage,
store-room, tool-house, or the like,
30 not being a building of such type
or description as may be excluded
from this subparagraph by regula-
tions made under this Act;

35 (iii) the area of that part of the
appurtenant land which is to be
covered by any paved, concreted or
terraced surface, not being neces-
sary paths of access from the
40 building line of the premises to
the

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the main entrance of the dwelling-house or steps necessary for such access, but only to the extent to which such area exceeds fifty square feet.

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(b) Where the dwelling-house comprises more than one floor, the area referred to in subparagraph (i) of paragraph (a) of this subsection shall be disregarded and in its place the total of the areas of all floors shall be counted in ascertaining the gross area of the dwelling-house.

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But where a garage or other room or space is contained within the foundation walls of a dwelling-house and beneath the ground floor thereof, and the ground floor level of the dwelling-house is not elevated more than eighteen inches above the natural level at the highest point of the ground which is covered by the dwelling-house, such garage, room or space shall not, except to the extent to which it includes any habitable room, be deemed to be a separate floor of the dwelling-house.

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(c) The areas referred to in subparagraphs (i) and (ii) of paragraph (a) and in paragraph (b) of this subsection shall be calculated by measurements taken to the outer face of all external walls, piers, posts and the like of the dwelling-house or building, and in the case of openings in or between such external walls, piers, posts and the like by measurements taken to the line indicating the outer face of the same.

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(d) In this subsection "habitable room" means any living room and includes any room intended or adapted to be used for the purpose of sleeping or eating or the cooking of food.

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(ii)

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- (ii) by inserting in subsection three of the same section after the word "may" the words "from time to time";
- 5 (iii) by inserting next after subsection three of the same section the following new subsection:—
- 10 (3A) The Governor may from time to time by proclamation published in the Gazette amend Schedule Five of this Act by adding thereto or omitting therefrom the name or description of any area. Schedule Five to this Act as so amended shall be deemed to be Schedule Five of this Act.
- 15 (c) by inserting in section six after the word "directs" the words "or as may be prescribed"; Sec. 6.
(Application for consent.)
- (d) by omitting section twelve; Sec. 12.
(Repeal.)
- (e) by inserting next after section thirteen the following new section:— New sec.
13A.
- 20 13A. A local governing authority or a public utility undertaking shall not approve of plans or specifications or grant a permit for or in connection with any building operations in respect of which the consent of the Minister is required under this Part of this Act, unless the consent of the Minister to the carrying out of such building operations has been first obtained. Certain approvals and permits not to be granted.
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- 30 (f) by inserting in section fourteen immediately before the words "The Minister" where firstly occurring the words "Without prejudice to the generality of any other provision of this Part of this Act"; Sec. 14.
(Co-operation of governmental, etc., authorities.)
- (g) by omitting section fifteen and by inserting in lieu thereof the following section:— Substituted sec. 15.
- 35 15. (1) Where any building operations are being carried out on any land or premises, or at any time after the fourth day of February, one thousand nine hundred and forty-six, have been or shall be completed on any land or premises, any

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any person authorised in that behalf by writing under the hand of the Minister may exercise either alone or with such assistance as the person so authorised may deem necessary, all or any of the following powers and authorities that is to say:—

- 5 (a) to enter on and inspect the land or premises;
- 10 (b) to require the production of any or every consent granted by the Minister under this Part of this Act in respect of the building operations;
- 15 (c) to require the production of any or every time or wages sheet of persons employed in or in connection with the building operations;
- 20 (d) to require the production of any or every contract, agreement, book, invoice, receipt, delivery-note, document or record relating to the building operations, or to the work done or to be done or to the materials used or to be used in connection therewith;
- 25 (e) to inspect any matter or thing referred to in paragraphs (b), (c) or (d) of this subsection and to make copies of or extracts from the same;
- 30 (f) to make such inquiries and investigations as may be necessary or expedient to enable him to determine whether or not the provisions of this Act are being or have been contravened.

35 (2) Any person who obstructs, delays or hinders a person authorised pursuant to subsection one of this section in the exercise of his powers or authorities under that subsection, or who fails to comply with any requirement lawfully made by a person so authorised, shall be guilty of an offence against this Act and shall be liable

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liable for a first offence to a penalty not exceeding fifty pounds, and for a second or any subsequent offence to a penalty of not less than thirty pounds and not exceeding one hundred pounds.

- 5 (h) by omitting from Part III the sub-heading "DIVISION 1.—*Control of Bricks*" and by inserting in lieu thereof the sub-heading "DIVISION 1.—*Use of Certain Building Materials*." Part III.
(Sub-heading.)

- 10 (i) by omitting section sixteen and by inserting in lieu thereof the following section:— Substituted
sec. 16.

16. (1) A person shall not use, or cause or permit to be used in or in connection with any building operations within any part of the State, building materials of any of the classes specified in Schedule Three to this Act for any purpose other than— Use of
certain
building
materials.

- 15 (a) the erection and equipment of any structure for the erection of which the consent of the Minister has been obtained;
- 20 (b) the erection and equipment of any dwelling-house which, pursuant to paragraphs (a), (b), (c) or (d) of subsection two of section five of this Act, is exempted from the provisions of subsection one of that section; or
- 25 (c) a purpose approved by the Minister or prescribed in the regulations.

30 (2) A person shall not use or cause or permit to be used in or in connection with any building operations within any part of the State, building materials of any of the classes specified in Schedule Four to this Act for any purpose other than a purpose approved by the Minister or prescribed in the regulations.

35 (3) Any approval of the Minister referred to in subsection one or subsection two of this section may be given unconditionally or without limitation, or subject to such conditions or limitations as he thinks fit.

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(4)

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5 (4) The Governor may from time to time by proclamation published in the Gazette amend Schedule Three or Schedule Four to this Act by adding thereto or omitting therefrom the name of any building material and any such proclamation shall have effect according to its tenor.

10 (5) (a) A person shall not sell building materials of any of the classes specified in Schedule Three or Schedule Four to this Act unless—

15 (i) written application in or to the effect of the form prescribed has been made to him by or on behalf of the purchaser, and

20 (ii) the application is accompanied by the prescribed documents signifying that the purposes for which the purchaser proposes to use the building materials are purposes for which the same may lawfully be used under this section, together with such further written particulars and information as may be prescribed.

25 (b) The regulations may require that any documents, particulars or information required by this subsection or the regulations to be furnished by or on behalf of the purchaser, shall be verified by a statutory declaration.

30 (c) Paragraph (a) of this subsection shall not apply to or in respect of the sale of any building materials referred to in that paragraph where—

35 (i) the sale is made to a person who carries on the business of selling building materials as a retail trader, and

 (ii) the seller has reasonable grounds for believing and does in fact believe that the purchaser requires the building materials

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materials for sale by retail in the ordinary course of his business as a retail trader.

- (d) Every person who sells any building materials referred to in paragraph (a) of this subsection shall keep such records in relation to the same as the Minister may direct or as may be prescribed by the regulations.
- (j) by omitting from subsection one of section seven-
 10 teen the words "as to priority" wherever
 occurring; Sec. 17.
(Require-
ments by
Minister.)
- (k) (i) by omitting from subsection one of section
 eighteen the words "by the Under
 15 Secretary" and by inserting in lieu thereof
 the words "in writing by the Minister or
 the Director"; Sec. 18.
(Entry and
inspection.)
- (ii) by omitting from subsection two of the
 same section the words "section fifteen of
 this Act or";
- (iii) by omitting from the same subsection the
 20 word "refuses" and by inserting in lieu
 thereof the words "fails without reasonable
 cause";
- (iv) by omitting from the same subsection the
 25 words "to a penalty not exceeding fifty
 pounds" and by inserting in lieu thereof
 the words "for a first offence to a penalty
 not exceeding fifty pounds, and for a second
 30 or any subsequent offence to a penalty of
 not less than thirty pounds and not
 exceeding one hundred pounds";
- (l) by inserting next after section eighteen the
 following new section:— New sec.
18A.
- 18A. No person shall commence or continue to
 35 carry out any building operations which involve
 the erection of a new structure on any land
 situated within any area set forth in Schedule
 One to this Act unless a notice board is
 conspicuously displayed on such land. Notice
board.

The

Building Operations and Building Materials Control (Amendment).

The notice board shall contain the name of the builder who is engaged in carrying out the building operations and, where those operations are carried out with the consent of the Minister granted under section seven of this Act, the official serial number of that consent.

(m) by omitting section twenty and by inserting in lieu thereof the following section:—

Substituted
sec. 20.

20. (1) Any person who—

Offences.

(a) contravenes or fails to comply with any provision of this Act; or

(b) contravenes or fails to comply with any condition or limitation of any consent or approval granted under this Act; or

(c) makes any statement which is false in any material particular—

(i) in any application made to the Minister or to any person or authority under this Act or the regulations, or

(ii) in any document or writing furnished by him in pursuance of any order requirement request or direction made or given under this Act or the regulations,

shall be guilty of an offence against this Act.

(2) Any person who is guilty of an offence against this Act for which no other penalty or punishment is expressly provided in this Act shall—

(a) in the case of a company—be liable to a penalty not exceeding one thousand pounds, and, in addition, to a daily penalty not exceeding one hundred pounds for each day during which the offence continues,

(b) in the case of an individual—be liable for a first offence to a penalty not exceeding

Building Operations and Building Materials Control (Amendment).

- 5 exceeding five hundred pounds, or to a term of imprisonment not exceeding twelve months, and for a second or any subsequent offence to a penalty of not less than one hundred pounds and not exceeding five hundred pounds, or to imprisonment for a term not exceeding twelve months.
- 10 (n) by inserting at the end of section twenty-one the following new subsection:— Sec. 21.
(Proceedings.)
- (3) An information charging an offence against this Act may be laid at any time within twelve months from the time when the matter of the information arose.
- 15 (o) (i) by inserting in subsection one of section twenty-four after the word “delegate” where firstly occurring the words “to any person or authority”; Sec. 24.
(Delegation.)
- 20 (ii) by omitting from the same subsection the words “this Act” and by inserting in lieu thereof the words “Part II or Part III or this Part of this Act”;
- (iii) by inserting at the end of the same section the following new subsection:—
- 25 (3) Where, under Part II or Part III of this Part of this Act, the exercise of any power or function by the Minister is dependent upon the opinion or belief of the Minister in relation to any matter that
- 30 power or function may be exercised by the delegate upon the opinion or belief of that delegate.
- (p) by inserting next after section twenty-four the following new section:— New sec.
24A.
- 35 24A. In any prosecution for an offence against this Act or any breach of the regulations made thereunder— Evidence.
- (a) an instrument in writing purporting to be a delegation under section twenty-four or section 17v of this Act and to
- 40 be

Building Operations and Building Materials Control (Amendment).

be signed by the Minister shall be evidence that such delegation was duly made, without proof of the Minister's signature;

- 5 (b) an instrument in writing purporting to be issued under the authority of this Act and to be signed by the Minister or by a delegate appointed under section twenty-four or section 17v of this Act shall be evidence that such instrument was duly issued under the authority of this Act without proof of the signature of the Minister or of such delegate as the case may be.

- 15 (q) by omitting Schedule Two and by inserting in lieu thereof the following Schedules:—

Substituted
Schedule
Two and
new
Schedules
Three, Four
and Five.
Sec. 4.

SCHEDULE TWO.

- | | | |
|----|--|--|
| 20 | Asbestos cement products. | Flat steel bars and angle steel bars. |
| | Bath heaters. | Galvanised iron sheets, and black iron sheets. |
| | Baths. | Guttering, ridging and down-piping. |
| | Bitumen products. | Gypsum. |
| | Bolts and nuts. | Heating and cooking appliances. |
| | Builders' hardware. | Hot water systems. |
| 25 | Builders' tools of trade. | Joinery. |
| | Building papers and felts. | Lime. |
| | Caneite. | Linseed oil. |
| | Cement tubs. | Manufacturers' sheet steel. |
| 30 | Clay and shale. | Masonite. |
| | Concrete and reinforced concrete pipes and fittings. | Mechanical and electrical equipment. |
| | Cooking stoves. | Meters—water, gas and electricity. |
| | Coppers. | Oxide. |
| 35 | Crushed rock and crushed stone. | Paints and paint components. |
| | Dimension stone. | Pedestal pans. |
| | Electrical accessories. | Plaster. |
| | Electrical cables. | |
| | Electrical conduits. | |
| 40 | Ferrous castings for building purposes. | |
| | Fibrous plaster sheeting. | |

SCHEDULE

Building Operations and Building Materials Control (Amendment).

SCHEDULE TWO—continued.

	Plaster wallboard.	Timber.
	Portland cement.	Vitreous bricks (including brickettes).
	Plumbers' brassware.	Wall boards (whether for internal or external use).
5	Roofing tiles and shingles.	Water and gas pipes and fittings, including steel, brass, copper, and cast iron pipes and fittings.
	Sand.	Welding gas.
	Sanitary earthenware.	White lead.
	Sheet lead.	Window glass.
10	Sheet steel, sheet copper, sheet brass, and sheet muntz metal.	Wire and wire products.
	Sinks and basins.	Wood screws.
	Stoneware pipes.	
15	Structural and reinforcing steel.	
	Tiles—wall and floor.	

SCHEDULE THREE.

	Baths.	Roofing tiles and shingles. Sec. 16.
20	Gas and electric cooking stoves, but not including gas rings or stovettes.	Sinks and basins.
		Vitreous bricks.
		Pedestal pans.

SCHEDULE FOUR.

Asbestos cement sheets.	Galvanised iron.	Sec. 16.
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SCHEDULE

Building Operations and Building Materials Control (Amendment).

SCHEDULE FIVE.

Sec. 5.

COUNTIES OF:

	Ashburnham	Drake
	Argyle	Denham
5	Arrawatta	Darling
	Auckland	Dudley
	Buller	Durham
	Burnett	Dampier
10	Benarba	Dowling
	Baradine	Denison
	Buckland	Ewenmar
	Bligh	Fitzroy
	Brisbane	Flinders
15	Booroondarra	Forbes
	Blaxland	Franklin
	Bathurst	Finch
	Bland	Gough
	Buccleuch	Gresham
	Beresford	Gregory
20	Bourke	Gloucester (except that
	Boyd	portion which is in-
	Clive	cluded within the
	Courallie	boundaries of the city
25	Clarence	of Greater Newcastle).
	Clarke	Gordon
	Clyde	Georgiana
	Cunningham	Goulburn
	Cowper	Gipps
30	Cook (except the city of	Gunderbooka
	Blue Mountains).	Gowen
	Camden (except the	Hardinge
	parish of Wollongong,	Hawes
	the parish of Woonona,	Hunter
35	the Municipalities of	Harden
	Camden, Bowral and	Hume
	Kiama, and the town-	Inglis
	ships of Picton, Mitta-	Jamison
	gong and Moss Vale).	King
	Clarendon	Kilfera
40	Cowley	Killara
	Cooper	Kennedy
	Caira	Leichhardt
	Cadell	Lincoln
	Canbellego	

SCHEDULE

Building Operations and Building Materials Control (Amendment).

SCHEDULE FIVE—continued.

COUNTIES OF—continued.

	Livingstone	Stapylton
	Landsborough	Sandon
5	Murchison	St. Vincent
	Macquarie	Selwyn
	Mouramba	Sturt
	Mossgiel	Taila
	Monteagle	Townsend
10	Murray	Tara
	Monara	Tandora
	Mitchell	Urana
	Menindie	Vernon
	Nandewar	White
15	Napier	Wellington
	Narromine	Werunda
	Nicholson	Woore
	Narran	Westmoreland
	Oxley	Wynyard
20	Pottinger	Wallace
	Parry	Wellesley
	Phillip	Wentworth
	Perry	Waljeers
	Rous	Waradgery
25	Richmond	Wakool
	Raleigh	Windeyer
	Rankin	Yanda
	Robinson	Young
	Roxborough	

30 3. The Principal Act is further amended—

Further
amendment
of Act
No. 12, 1946.

- (a) by inserting in subsection three of section one next after the matter relating to Part III, the following new matter:—

Sec. 1 (3).
(Division
into Parts.)

35 PART IIIA.—GENERAL POWERS AND FUNCTIONS
OF THE MINISTER.

- (b) by inserting next after section seventeen the following new Part:—

New Part
IIIA.

PART IIIA.—GENERAL POWERS AND FUNCTIONS
OF THE MINISTER.

40 DIVISION 1.—*Construction of Part.*

17A. The generality of any provision of this Part shall not be limited or affected by anything contained in Part II or Part III or Part IV of this Act.

Construc-
tion.

DIVISION

Building Operations and Building Materials Control (Amendment).

DIVISION 2.—*Corporation sole.*

17B. For the purposes of this Part the Minister is hereby constituted a corporation sole under the name of "The Minister for Building Materials of New South Wales." Any reference to the Minister in any provision of this Part other than this section shall be construed as a reference to the Minister in his corporate capacity as a corporation sole.

Constitution of Minister as corporation sole.

The said corporation sole shall have perpetual succession and an official seal and may in the corporate name sue and be sued and shall be capable of purchasing, holding, granting, demising, disposing of and alienating real and personal property and of doing and suffering all such other acts and things as a body corporate may by law do and suffer.

Where any property real or personal or interest therein or charge thereon is vested in or is acquired by the said corporation sole, the same shall, unless otherwise disposed of by the said corporation sole, pass to and devolve on and vest in its successors.

The seal of the corporation sole shall not be affixed to any instrument or writing except in the presence of the Minister, and he shall attest by his signature the fact and date of the seal being so affixed.

DIVISION 3.—*Powers and functions of the Minister.*

17c. (1) The powers and functions of the Minister shall include the taking of such action as in his opinion is necessary or desirable—

Powers and functions of the Minister.

- (a) to ensure that building materials are produced in such quantities and with such regularity as will meet the requirements of the State;
- (b) to ensure that the resources of the State in respect of the production of building materials are conserved, developed,

Building Operations and Building Materials Control (Amendment).

developed, worked and used to the best advantage in the public interest;

- 5 (c) to ensure that building materials produced in the State are distributed and used in such manner, quantities, classes and grades and at such prices as are calculated best to serve the public interest and secure the economical use of building materials and the main-
10 tenance of essential services, industrial activities, and public utility under- takings.

(2) In particular, without limiting the generality of the provisions of subsection one
15 of this section, the Minister shall have power to make provision for and with respect to—

- (a) the manufacture production and treat-
ment of building materials;
(b) the conservation of building materials;
20 (c) the introduction, modification, replace- ment and operation of machinery, plant and equipment for use in connection with the manufacture, production and treatment of building materials, and the
25 manufacture, procurement, improve- ment and standardisation of such machinery, plant and equipment;
(d) the classification and grading of building materials;
30 (e) the effective and economical distribu- tion of building materials including their purchase, sale, marketing, acquisi- tion, disposal, supply, storage, reserva- tion, pooling, transport, carriage,
35 conveyance, delivery, handling, loading, discharge and reception;
(f) the efficient and economical use of building materials; and
40 (g) the regulation of prices for the sale, purchase or resale of building materials.

(3)

Building Operations and Building Materials Control (Amendment).

- 5 (3) The Minister shall have authority to make such orders, take such measures, give such directions and do such things as are, in his opinion, necessary for or incidental to the effective exercise of his powers and functions, and in particular, without limiting the generality of the foregoing provisions of this subsection—
- 10 (a) to enter into and carry out contracts and transactions, to incur expenditure and to acquire and dispose of any property or rights;
- 15 (b) to require the keeping and production of accounts, books and records and the compilation and furnishing of statistics, returns and other information in such form and relating to such matters as he may specify in the requirement;
- 20 (c) to acquire any building materials, sell any building materials acquired by or vested in him, impose conditions under which any other person or authority may acquire, purchase, sell or dispose of building materials, and enter into arrangements and agreements with
- 25 other persons and authorities as to the sale or distribution of building materials;
- 30 (d) to assume control of the management and operation of any factory or works used or designed for use for the manufacture, production or treatment of any building materials;
- 35 (e) to acquire any factory or works used or designed for use for the manufacture, production or treatment of any building materials, and to operate any factory or works acquired by or vested in him;
- 40 (f) to acquire, procure, erect, construct, requisition the use of and operate plant, machinery and equipment; (g)

Building Operations and Building Materials Control (Amendment).

- 5 (g) to establish and operate, or assist others to establish and operate, factories and works and other undertakings or enterprises for the manufacture, production or treatment of building materials;
- 10 (h) to terminate, suspend, vary or modify any contract or agreement relating to or affecting the production, treatment, supply or distribution of any building materials, including sale, transportation, loading, discharge, delivery, storage and use.
- 15 (4) The Minister shall have power at any time to rescind, terminate or vary any order, direction or requirement made or given by him under this Part.

DIVISION 4.—Control of factories or works.

- 20 17D. (1) Where in the opinion of the Minister it is desirable, with a view to maintaining or increasing the production of any building materials, that any factory or works in or at which any building materials are manufactured, produced or treated should be operated under the control of the Minister, the Minister may, by written order, authorise any person (in this Part referred to as an "authorised controller") to exercise such functions of control and to do such things on behalf of the Minister, but subject to any directions of the Minister, with respect to such factory or works as the authorised controller thinks necessary for the purpose of maintaining or increasing the manufacture, production or treatment of building materials in or at such factory or works and the authorised controller may exercise those functions and do those things accordingly.
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- 30
- 35

Control of
factories
or works.

- (2) So long as there is in force an order under subsection one of this section with respect to

Building Operations and Building Materials Control (Amendment).

5 to any factory or works, the factory or works shall be operated in accordance with the provisions of the order and the owner and every person concerned with the management or conduct of the factory or works shall comply with any directions given by the authorised controller.

10 (3) Upon making any order under subsection one of this section the Minister shall cause notice of the effect of the order to be given as soon as practicable in such manner as he thinks necessary for bringing it to the notice of the owner of the factory or works and to the notice of such other persons, if any, as should in the opinion of the Minister have notice of the order.

15 17E. (1) The manager or person in charge of any controlled factory or works, and all persons employed or usually employed in an administrative, executive or clerical capacity and all persons otherwise employed or usually employed, in or about such factory or works shall be officers and employees of the Minister.

20 (2) For the purposes of any law relating to workers' compensation applying to persons employed by the Minister in or about the controlled factory or works, those persons shall be deemed to be employed by the owner of the factory or works.

25 17F. The terms and conditions of service of persons who are officers or employees of the Minister in pursuance of this Division of this Part shall—

30 (a) in the case of those persons who were, prior to the factory or works becoming a controlled factory or works, employed or usually employed in or about the factory or works by the owner thereof —the terms and conditions on which

they

Service in
controlled
factory or
works.

Terms and
conditions of
employment
by the
Minister.

Building Operations and Building Materials Control (Amendment).

they were employed immediately prior to the factory or works becoming a controlled factory or works; and

- 5 (b) in the case of those persons who are otherwise employed by or on behalf of the Minister—the same terms and conditions which would in accordance with any law or any award or industrial agreement apply to them if they were
10 employed by the owner of the factory or works, or, if the terms and conditions of employment are not prescribed by any such law, award or agreement, such terms and conditions as the Minister
15 determines.

17G. It shall be the responsibility of the owner of any controlled factory or works to pay the remuneration of all persons employed in or about the factory or works as officers and employees of the Minister and the expenses incurred by the authorised controller of the factory or works with respect to the operation of such factory or works.

Payments to be made by owner of controlled factory or works.

25 17H. The owner of any controlled factory or works who suffers loss (including loss of profits) or damage, by reason of anything done in pursuance of an order under subsection one of section 17D of this Act in respect of such factory or works, shall be entitled to such compensation as is determined by agreement between the Minister and such owner, or, in the absence of agreement, as is determined by an action by the owner against the Minister in any court of competent jurisdiction.

Compensation.

35 DIVISION 5.—*Acquisition of land, building materials, factories and works.*

17I. In this Division "land" includes not only an estate in fee simple in land, but also any other

Definition.

Building Operations and Building Materials Control (Amendment).

other estate or interest in land (legal or equitable) and any easement, hereditament, right or privilege in, over, or affecting land.

5 17J. The Minister may establish, maintain, manage, conduct and operate factories and works for the manufacture, production or treatment of building materials, and for these purposes may establish new factories or works, or may reopen any factory or works which is or has been closed
10 or abandoned, or may acquire any existing factory or works used or designed for use for the manufacture, production or treatment of any building materials.

The Minister may establish factories and works.

15 17K. (1) The Minister may acquire land for any purposes of this Part—

Acquisition of land.

(a) by agreement or arrangement with any person (including the Crown); or

(b) by appropriation or resumption under this Division of this Part.

20 (2) The power to acquire land conferred by this Part of this Act shall include power to acquire any particular estate or interest in land (legal or equitable) or any easement, hereditament, right or privilege in, over, or affecting
25 land.

30 17L. (1) Where the Minister proposes to acquire land by appropriation or resumption he may make application in that behalf to the Governor.

Method of appropriation or resumption.

(2) The Governor may authorise the appropriation or resumption of the land.

(3) Thereupon the Governor may—

35 (a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and

(b) notify that the land is vested in the Minister.

(4)

Building Operations and Building Materials Control (Amendment).

(4) Thereupon the land shall vest in the Minister.

5 (5) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

10 (6) For the purposes of this Part, the Public Works Act, 1912, as amended by subsequent Acts, shall be deemed to be amended—

(a) by inserting after section 4A the following new section:—

15 4B. The provisions of this Act relating to the acquisition of land shall also apply to the acquisition of any particular estate or interest in land (legal or equitable), and of any hereditament, right or privilege in, over, or affecting land.

20 (b) by omitting sections one hundred and forty-one to one hundred and forty-nine (both inclusive).

25 (7) Where any land upon or in which any factory or works used or designed for use for the manufacture, production or treatment of any building materials is situated, or upon or in which any works used or capable of being used for or in connection with the operation of such factory or works are situated, is resumed
30 under this section, any plant, equipment, machinery, vehicles and other fixed or movable appliances or works of any description in or upon such land at the date of such resumption used or capable of being used for or in con-
35 nection with the operation of such factory or works shall vest in the Minister.

The compensation payable in respect of any resumption under this section shall include the value as at the date of resumption, of plant,
equipment

Building Operations and Building Materials Control (Amendment).

equipment, machinery, vehicles, appliances and works vested in the Minister pursuant to this subsection. Such value shall be the value agreed upon between the Minister and the owner and in default of agreement the value determined by the Land and Valuation Court.

The Land and Valuation Court shall have jurisdiction to hear and determine any matter under this subsection and its determination shall be final and conclusive.

17m. (1) For all or any of the purposes specified in paragraphs (a), (b) and (c) of subsection one of section 17c of this Act the Minister may—

Acquisition
and requisition of
building
materials
and
equipment.

(a) issue a direction declaring that any building materials specified or described in the direction are acquired by the Minister; or

(b) issue a direction declaring that any equipment of whatever kind (not being a fixture or part of the soil) used or capable of being used in the manufacture, production, treatment, handling or distribution of building materials and specified in the declaration is acquired by the Minister; or

(c) require any person who is the owner of any equipment of whatever kind (whether as a fixture or part of the soil or not) which is specified or described in the requirement and is used or capable of being used in the production, treatment, handling or distribution of any building materials, to make the equipment available to the Minister;

and for any building materials or equipment so acquired or required to be made available, or for the use of any equipment so made available, compensation shall be payable by the Minister as provided in this section to the owner of the building materials or equipment. (2)

Building Operations and Building Materials Control (Amendment).

5 (2) Any direction or requirement issued
or made under subsection one of this section
shall be served in the manner prescribed by
subsection two of section 17o of this Act upon
the owner of the building materials or equip-
ment specified or described in the direction or
requirement, or where the owner is unknown
and cannot with reasonable diligence be ascer-
tained, shall be served upon the person for the
10 time being in possession of the building
materials or equipment or upon the occupier of
the land upon which the same is situated.

15 (3) Any person on whom a requirement
under paragraph (c) of subsection one of this
section is served shall, within such time as is
specified in the requirement, make the equip-
ment available accordingly.

20 (4) Where any building material or
equipment is acquired or any equipment is made
available under this section, the general or
special property therein shall pass to the Minis-
ter freed from all mortgages, charges, liens,
pledges, interests and trusts affecting the build-
ing material or equipment and the rights and
25 interests of any person in that building material
or equipment shall, by virtue of this section, be
converted into a claim for compensation to be
satisfied out of the compensation payable to the
owner of the building material or equipment.

30 (5) The compensation payable by the
Minister for any building materials acquired
under this section shall be a sum equivalent to
the price payable for the building materials as at
the date of acquisition in accordance with the
35 current price determination as made by any
authority authorised by law to make such deter-
mination, and applicable to the building
materials; and where no such determination has
been made or is in force or is applicable to the
40 building materials, such compensation shall be
determined

Building Operations and Building Materials Control (Amendment).

5 determined by agreement between the Minister and the owner of the building materials, and in default of agreement shall be determined by the Land and Valuation Court in accordance with rules of court.

The Land and Valuation Court shall have jurisdiction to hear and determine any matter under this subsection, and its determination shall be final and conclusive.

10 (6) The compensation payable by the Minister for any equipment acquired or required to be made available or for the use of any equipment made available, under this section shall include compensation for loss of profits and
15 other consequential losses and shall be determined by agreement between the Minister and the owner of the equipment, and in default of agreement shall be determined by the Land and Valuation Court, in accordance with rules of
20 court.

The Land and Valuation Court shall have jurisdiction to hear and determine any matter under this subsection, and its determination shall be final and conclusive.

25 DIVISION 6.—*Miscellaneous.*

17N. (1) If any person claims that he has sustained any loss or damage by reason of an exercise by the Minister of the power referred to in paragraph (h) of subsection three of section 17C of this Act, he may, within three months after the exercise of the power, lodge with the Minister a claim in writing setting out full particulars of the loss or damage, and the question whether any and, if any, what amount of compensation should in all the circumstances of the case be paid to that person shall be settled by agreement between him and the Minister, or failing any such agreement, by an action by him against the Minister in any court of competent jurisdiction.

Compensation for loss resulting from suspension of contract, etc.

(2)

Building Operations and Building Materials Control (Amendment).

5 (2) Any person who shall suffer loss or
damage by reason of the wrongful act neglect or
default of the Minister or of any person acting
or purporting to act under this Part or in pur-
10 suance thereof, or by reason of any invalid or
unauthorised order, provision, direction or deter-
mination made or given by the Minister, or any-
thing done in pursuance of any such order, pro-
vision, direction or determination shall be
15 entitled to such compensation as is determined
by agreement between such person and the
Minister or in the absence of agreement as is
determined by an action by such person against
the Minister in any court of competent juris-
diction.

(3) Nothing in this section shall entitle
any person to compensation by reason of the
performance of any obligation imposed by or
under any other Act.

20 17o. (1) Where any order, direction or re-
quirement made or given under this Part is
published in the Gazette it shall be deemed to
have been sufficiently served upon, or brought to
the notice of all persons concerned or affected
25 thereby.

Manner of
serving
order.

(2) Any order, direction or requirement
made or given under this Part may be made or
given so as to apply to any particular person and
may be served upon that person by delivering
30 a copy thereof to him by hand or by sending it
to him by registered post, or in the case of a
direction or requirement may be given orally or
by telegram.

35 17P (1) Any person thereto authorised in writ-
ing by the Minister shall, for the purposes of this
Part, at all times have full and free access to all
premises, buildings, places, books, documents
and other papers used or kept for or in connec-
tion with the manufacture, production, treat-
40 ment, distribution or use of any building
materials

Access to
premises,
books etc.

Building Operations and Building Materials Control (Amendment).

5 materials and for those purposes may make extracts from or copies of any such books, documents and papers and may interview any person employed in or in connection with such manufacture, production, treatment, distribution or use.

10 (2) Any person who obstructs delays or hinders a person authorised pursuant to subsection one of this section in the exercise of his powers under that subsection or who fails to comply with any requirement lawfully made by a person so authorised, shall be guilty of an offence against this Act and shall be liable for a first offence to a penalty not exceeding fifty pounds, and for a second offence to a penalty of not less than thirty pounds and not exceeding one hundred pounds.

20 17Q. Any person who is affected by any order, direction or requirement made or given or deemed to be made or given by the Minister in the exercise of any power or function vested in him by this Part or who falls within the intended application or operation of any such order, direction or requirement shall observe and comply with the order, direction or requirement or shall cause it to be observed and complied with.

Persons to
comply with
orders.

30 17R. (1) Where any person fails, wholly or in part, to comply with any order, direction or requirement made or given by the Minister in the exercise of any power or function vested in him by this Part, the Minister shall have power, by his officers, employees or agents, to do all things which that person by his failure has omitted to do.

Power of
Minister to
perform
work.

35 (2) Anything done by the Minister in pursuance of this section shall, so far as necessary, be deemed to have been duly authorised by the person who failed to comply with the order, direction or requirement.

(3)

Building Operations and Building Materials Control (Amendment).

5 (3) The Minister may recover, in any court of competent jurisdiction, as a debt due to him from the person who so failed to comply with the order, direction or requirement, the cost incurred by the Minister in doing anything in pursuance of this section.

10 17s. Any person who refuses or fails to comply with any order, direction or requirement made or given by the Minister or any authority in exercise of any power or function conferred by this Part or who otherwise contravenes or fails to comply with any of the provisions of this Part shall be guilty of an offence against this Act, and shall, in the case of a company, be liable to a penalty not exceeding one thousand pounds and, in addition, to a penalty not exceeding one hundred pounds for each day during which the offence continues, and in the case of an individual, be liable to a 20 penalty not exceeding five hundred pounds or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Offences.

25 17t. The regulations may make provision for or in relation to any matter within the powers and functions vested by this Part in the Minister and generally for regulating the exercise of those powers and functions and for carrying into effect any action taken by the Minister or any other authority in the exercise of any such 30 power or function.

Regulations.

35 17u. All expenditure incurred by the Minister in the exercise of the powers and functions vested in him by this Part shall be paid out of moneys provided by Parliament.

Expenses of Minister.

40 17v. (1) The Minister may in relation to any particular matter or class of matters, by writing under his seal, delegate to any person or authority all or any of his powers or functions under this Part (except this power of delegation), so that the delegated powers or functions may

Delegation.

Building Operations and Building Materials Control (Amendment).

may be exercised by the person or authority with respect to the matters or class of matters or the part of the State specified in the instrument of delegation.

- 5 (2) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Minister.

- 10 4. The Principal Act is further amended by omitting section twenty-six, and by inserting in lieu thereof the following section:—

Further amendment of Act No. 12, 1946. Substituted sec. 26.

26. Parts II and III of this Act shall remain in force until the thirty-first day of December, one thousand nine hundred and fifty:

Duration of Parts II and III of Act.

- 15 Provided that the Governor may from time to time by regulations extend the period during which those Parts shall remain in force for such further period as he thinks fit. Any such period of extension shall not exceed twelve months at any one time.

Building Operations and Building Materials Control (Amendment) Bill, 1947.

EXPLANATORY NOTE.

THE main object of this Bill is to confer and impose on the Minister certain powers and functions which are designed to ensure that building materials shall be produced in such quantities and with such regularity as will meet the requirements of the State, that the resources of the State in respect of the production of building materials shall be developed and worked to the best advantage in the public interest, and that building materials shall be distributed in a manner which is calculated best to serve the public interest. For these purposes a new Part IIIA is inserted in the Building Operations and Building Materials Control Act, 1945, and that Part contains detailed provisions conferring and imposing the abovementioned powers and functions.

The Bill also amends the Building Operations and Building Materials Control Act, 1945, in certain other respects which include, inter alia—

- (a) provisions for clarifying and extending the exemptions from the requirements of section five, which section requires the consent of the Minister to the commencement or continuance of certain building operations;
- (b) provisions for curtailing the distribution and use of certain specified building materials which are in short supply;
- (c) provisions enabling the Minister to extend the scope of exemptions from certain requirements of the Act and remove certain restrictions imposed by the Act, and to exercise these powers from time to time;
- (d) provisions for imposing a minimum penalty for a second offence against certain provisions of the Act;
- (e) certain amendments of a machinery character which are designed to improve or facilitate the administration of the Act.

No. , 1947.

A BILL

To amend the Building Operations and Building Materials Control Act, 1945, in certain respects; and for purposes connected therewith.

[MR. MATTHEWS;—19 November, 1947.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

1. (1) This Act may be cited as the “Building Operations and Building Materials Control (Amendment) Act, 1947.”

Short title,
citation,
and
commence-
ment.

(2) The Building Operations and Building
10 Materials Control Act, 1945, is in this Act referred to as the Principal Act.

Building Operations and Building Materials Control (Amendment).

(3) The Principal Act as amended by this Act, may be cited as the Building Operations and Building Materials Control Act, 1945-1947.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment
of Act No.
12, 1946,
s. 4.
(Definitions.)

(a) (i) by inserting in subsection one of section four immediately before the definition of “Building materials” the following new definition:—

“Bedroom” means room designed primarily for use as a sleeping room.

(ii) by omitting from the definition of “Cost” in the same subsection all words following the words “services rendered in connection with the building operation” and by inserting in lieu thereof the words “and includes the time or labour of the person for whom the building operation is carried out, to the extent to which such time or labour is expended by him thereon”;

(iii) by inserting in the same subsection next after the definition of “Cost” the following new definition:—

“Director” means the Director of the Department of Building Materials.

(iv) by inserting in the same subsection at the end of the definition of “Dwelling-house” the words “or a building which is not used or is not intended to be used for permanent and continuous human habitation”;

(v) by omitting from the same subsection the definition of “Minister” and by inserting in lieu thereof the following definition:—

“Minister” means Minister for Building Materials.

(vi)

Building Operations and Building Materials Control (Amendment).

- (vi) by inserting in the same subsection next after the definition of "Minister" the following new definition:—
- "Prescribed" means prescribed by this Act or by the regulations.
- (vii) by inserting in the same subsection next after the definition of "Primary production" the following new definition:—
- "Regulations" means regulations made under this Act.
- (viii) by inserting after the word "gate" in the definition of "Structure" in the same subsection the words "hoarding, display board";
- (ix) by omitting from the same subsection the definition of "The financial year";
- (x) by omitting from the same subsection the definition of "Under Secretary";
- (xi) by inserting in subsection two of the same section after the word "may" the words "from time to time";
- (b) (i) by omitting subsection two of section five and by inserting in lieu thereof the following subsections:—
- (2) The provisions of subsection one of this section shall not apply to—
- (a) the erection of any dwelling-house within any portion of the State not included within any area set forth in Schedule One to this Act, and used or intended to be used on completion as a permanent residence by any person;
- (b) the erection of any dwelling-house within any area set forth in Schedule Five to this Act, where—
- (i) such dwelling-house is used or intended to be used on completion

Sec. 5.
(Restrictions on building operations—exemptions.)

Building Operations and Building Materials Control (Amendment).

- completion as a permanent residence by any person, and
- 5 (ii) the gross area of the dwelling-house does not exceed one thousand four hundred square feet, and
- (iii) at least one hundred square feet of such gross area comprises verandah space;
- 10 (c) the erection of any dwelling-house within any area set forth in Schedule One to this Act, where—
- 15 (i) such dwelling-house is used or intended to be used on completion as a permanent residence by any person, and
- (ii) the gross area of the dwelling-house does not exceed one thousand three hundred square feet, and
- 20 (iii) the dwelling-house contains at least two bedrooms;
- (d) the erection of any dwelling-house within any area set forth in
- 25 Schedule One to this Act, where—
- (i) such dwelling-house is used or intended to be used on completion as a permanent residence by any person, and
- 30 (ii) the gross area of the dwelling-house does not exceed one thousand one hundred square feet;
- (e) any structure which—
- 35 (i) is erected by or on behalf of a person who is engaged in primary production or in the

Building Operations and Building Materials Control (Amendment).

the storage, treating or processing of a primary product, and

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(ii) is situated in or upon the premises on which such person is so engaged, and

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(iii) is used or intended to be used by such person for or in connection with the primary production or the storage, treating or processing of a primary product in which such person is so engaged.

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But this paragraph shall not operate to permit any such person to erect on the same premises during the period of three years immediately following the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947, any structure or structures the total cost of which exceeds five hundred pounds;

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(f) the installation or extension by a public utility undertaking of mains or connections for the provision of water, gas, electricity, sewerage or drainage;

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(g) any work for the provision in or on any structure or in or on any land immediately appurtenant thereto of water, gas, electricity, sewerage or drainage but only in so far as such work is ordered by a local governing authority or is reasonably necessary for the purposes for which the structure is primarily used or intended to be used;

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(h)

Building Operations and Building Materials Control (Amendment).

- 5 (h) the carrying out of any building operations on or within the area appurtenant to a dwelling-house which was erected before the fourth day of February, one thousand nine hundred and forty-six.

10 This paragraph shall not operate to permit the carrying out on the same dwelling-house or within the area appurtenant thereto during the period of three years immediately following the commencement of the Building Operations and Building Materials Control
15 (Amendment) Act, 1947, of any building operations the total cost of which exceeds two hundred pounds;

- 20 (i) the carrying out of any building operations in the nature of maintenance work on or in relation to a dwelling-house which was erected at any time after the fourth day of February, one thousand nine hundred and forty-six (whether before
25 or after the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947), but only to the extent to which such building operations are necessary to preserve the dwelling-house in a reasonable state of repair.

35 This paragraph shall not operate to permit the carrying out on or in relation to the same dwelling-house during the period of three years immediately following the commencement of the Building
40 Operations and Building Materials Control

Building Operations and Building Materials Control (Amendment).

Control (Amendment) Act, 1947, of any building operations the total cost of which exceeds two hundred pounds;

- 5 (j) the carrying out of any building operations in the nature of maintenance work on or in relation to any structure (other than a dwelling-house) erected either before or
10 after the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947, but only to the extent to which such building operations are
15 necessary to preserve the structure in a reasonable state of repair.

For the purposes of this paragraph "building operations" does not include painting, colouring or
20 whitewashing;

- (k) the painting, colouring or whitewashing of any structure (other than a dwelling-house) erected either before or after the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947.
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This paragraph shall not operate to permit any painting, whitewashing or colouring of the same structure during the period of three years immediately following the commencement of the Building Operations and Building Materials Control (Amendment) Act, 1947, the total cost of which exceeds three hundred pounds;
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- (l) work in the nature of operational maintenance of railway works, or of roads or bridges, or of works for
40 the

Building Operations and Building Materials Control (Amendment).

the provision of water, gas, electricity, sewerage, or drainage, or of hydraulic pressure works, or of tramway works, or of wharves, jetties, docks or canals;

(m) any building operation which the Minister may from time to time by notice published in the Gazette declare to be exempt from the provisions of subsection one of this section.

A notice under this paragraph may apply to or in respect of—

(i) any particular building operation specified in the notice; or

(ii) building operations of a particular class or description specified in the notice; or

(iii) building operations other than those of a particular class or description specified in the notice; or

(iv) building operations the cost of which does not exceed a sum specified in the notice, or the cost of which during a stated period does not exceed a sum so specified.

A notice under this paragraph may provide that any exemption declared in the notice shall be subject to the observance of any terms or conditions specified therein.

A notice under this paragraph may be rescinded or may from time to time be amended or varied by the Minister by notice published in the Gazette.

Without

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Building Operations and Building Materials Control (Amendment).

the main entrance of the dwelling-house or steps necessary for such access, but only to the extent to which such area exceeds fifty square feet.

(b) Where the dwelling-house comprises more than one floor, the area referred to in subparagraph (i) of paragraph (a) of this subsection shall be disregarded and in its place the total of the areas of all floors shall be counted in ascertaining the gross area of the dwelling-house.

But where a garage or other room or space is contained within the foundation walls of a dwelling-house and beneath the ground floor thereof, and the ground floor level of the dwelling-house is not elevated more than eighteen inches above the natural level at the highest point of the ground which is covered by the dwelling-house, such garage, room or space shall not, except to the extent to which it includes any habitable room, be deemed to be a separate floor of the dwelling-house.

(c) The areas referred to in subparagraphs (i) and (ii) of paragraph (a) and in paragraph (b) of this subsection shall be calculated by measurements taken to the outer face of all external walls, piers, posts and the like of the dwelling-house or building, and in the case of openings in or between such external walls, piers, posts and the like by measurements taken to the line indicating the outer face of the same.

(d) In this subsection "habitable room" means any living room and includes any room intended or adapted to be used for the purpose of sleeping or eating or the cooking of food.

(ii)

Building Operations and Building Materials Control (Amendment).

- (ii) by inserting in subsection three of the same section after the word "may" the words "from time to time";
- 5 (iii) by inserting next after subsection three of the same section the following new subsection:—
- (3A) The Governor may from time to time by proclamation published in the Gazette amend Schedule Five of this Act by adding thereto or omitting therefrom the name or description of any area. Schedule Five to this Act as so amended shall be deemed to be Schedule Five of this Act.
- 10
- 15 (c) by inserting in section six after the word "directs" the words "or as may be prescribed"; Sec. 6.
(Application for consent.)
- (d) by omitting section twelve; Sec. 12.
(Repeal.)
- (e) by inserting next after section thirteen the following new section:— New sec.
13A.
- 20 13A. A local governing authority or a public utility undertaking shall not approve of plans or specifications or grant a permit for or in connection with any building operations in respect of which the consent of the Minister is required under this Part of this Act, unless the consent of the Minister to the carrying out of such building operations has been first obtained. Certain approvals and permits not to be granted.
- 25
- 30 (f) by inserting in section fourteen immediately before the words "The Minister" where firstly occurring the words "Without prejudice to the generality of any other provision of this Part of this Act"; Sec. 14.
(Co-operation of governmental, etc., authorities.)
- (g) by omitting section fifteen and by inserting in lieu thereof the following section:— Substituted sec. 15.
- 35 15. (1) Where any building operations are being carried out on any land or premises, or at any time after the fourth day of February, one thousand nine hundred and forty-six, have been or shall be completed on any land or premises, Power of entry and inquiry.
- any

Building Operations and Building Materials Control (Amendment).

any person authorised in that behalf by writing under the hand of the Minister may exercise either alone or with such assistance as the person so authorised may deem necessary, all or any of the following powers and authorities that is to say:—

5

(a) to enter on and inspect the land or premises;

10

(b) to require the production of any or every consent granted by the Minister under this Part of this Act in respect of the building operations;

15

(c) to require the production of any or every time or wages sheet of persons employed in or in connection with the building operations;

20

(d) to require the production of any or every contract, agreement, book, invoice, receipt, delivery-note, document or record relating to the building operations, or to the work done or to be done or to the materials used or to be used in connection therewith;

25

(e) to inspect any matter or thing referred to in paragraphs (b), (c) or (d) of this subsection and to make copies of or extracts from the same;

30

(f) to make such inquiries and investigations as may be necessary or expedient to enable him to determine whether or not the provisions of this Act are being or have been contravened.

35

(2) Any person who obstructs, delays or hinders a person authorised pursuant to subsection one of this section in the exercise of his powers or authorities under that subsection, or who fails to comply with any requirement lawfully made by a person so authorised, shall be guilty of an offence against this Act and shall be

liable

Building Operations and Building Materials Control (Amendment).

liable for a first offence to a penalty not exceeding fifty pounds, and for a second or any subsequent offence to a penalty of not less than thirty pounds and not exceeding one hundred pounds.

- 5 (h) by omitting from Part III the sub-heading "DIVISION 1.—Control of Bricks" and by inserting in lieu thereof the sub-heading "DIVISION 1.—Use of Certain Building Materials." Part III.
(Sub-heading.)

- 10 (i) by omitting section sixteen and by inserting in lieu thereof the following section:— Substituted
sec. 16.

15 16. (1) A person shall not use, or cause or permit to be used in or in connection with any building operations within any part of the State, building materials of any of the classes specified in Schedule Three to this Act for any purpose other than— Use of
certain
building
materials.

- 20 (a) the erection and equipment of any structure for the erection of which the consent of the Minister has been obtained;
- 25 (b) the erection and equipment of any dwelling-house which, pursuant to paragraphs (a), (b), (c) or (d) of subsection two of section five of this Act, is exempted from the provisions of subsection one of that section; or
- (c) a purpose approved by the Minister or prescribed in the regulations.

- 30 (2) A person shall not use or cause or permit to be used in or in connection with any building operations within any part of the State, building materials of any of the classes specified in Schedule Four to this Act for any purpose other than a purpose approved by the Minister or prescribed in the regulations.
- 35

- 40 (3) Any approval of the Minister referred to in subsection one or subsection two of this section may be given unconditionally or without limitation, or subject to such conditions or limitations as he thinks fit.

(4)

Building Operations and Building Materials Control (Amendment).

5 (4) The Governor may from time to time by proclamation published in the Gazette amend Schedule Three or Schedule Four to this Act by adding thereto or omitting therefrom the name of any building material and any such proclamation shall have effect according to its tenor.

10 (5) (a) A person shall not sell building materials of any of the classes specified in Schedule Three or Schedule Four to this Act unless—

15 (i) written application in or to the effect of the form prescribed has been made to him by or on behalf of the purchaser, and

20 (ii) the application is accompanied by the prescribed documents signifying that the purposes for which the purchaser proposes to use the building materials are purposes for which the same may lawfully be used under this section, together with such further written particulars and information as may be prescribed.

25 (b) The regulations may require that any documents, particulars or information required by this subsection or the regulations to be furnished by or on behalf of the purchaser, shall be verified by a statutory declaration.

30 (c) Paragraph (a) of this subsection shall not apply to or in respect of the sale of any building materials referred to in that paragraph where—

35 (i) the sale is made to a person who carries on the business of selling building materials as a retail trader, and

(ii) the seller has reasonable grounds for believing and does in fact believe that the purchaser requires the building materials

Building Operations and Building Materials Control (Amendment).

materials for sale by retail in the ordinary course of his business as a retail trader.

- 5 (d) Every person who sells any building materials referred to in paragraph (a) of this subsection shall keep such records in relation to the same as the Minister may direct or as may be prescribed by the regulations.
- 10 (j) by omitting from subsection one of section seven-
 teen the words "as to priority" wherever occurring; Sec. 17.
(Require-
ments by
Minister.)
- 15 (k) (i) by omitting from subsection one of section
 eighteen the words "by the Under Secretary" and by inserting in lieu thereof
 the words "in writing by the Minister or the Director"; Sec. 18.
(Entry and
inspection.)
- (ii) by omitting from subsection two of the same section the words "section fifteen of this Act or";
- 20 (iii) by omitting from the same subsection the word "refuses" and by inserting in lieu thereof the word "fails";
- 25 (iv) by omitting from the same subsection the words "to a penalty not exceeding fifty pounds" and by inserting in lieu thereof the words "for a first offence to a penalty not exceeding fifty pounds, and for a second or any subsequent offence to a penalty of not less than thirty pounds and not
- 30 exceeding one hundred pounds";
- (l) by inserting next after section eighteen the following new section:— New sec.
18A.
- 35 18A. No person shall commence or continue to carry out any building operations which involve the erection of a new structure on any land situated within any area set forth in Schedule One to this Act unless a notice board is conspicuously displayed on such land. Notice
board.

The

Building Operations and Building Materials Control (Amendment).

5 The notice board shall contain the name of the builder who is engaged in carrying out the building operations and, where those operations are carried out with the consent of the Minister granted under section seven of this Act, the official serial number of that consent.

(m) by omitting section twenty and by inserting in lieu thereof the following section:—

Substituted
sec. 20.

20. (1) Any person who—

Offences.

- 10 (a) contravenes or fails to comply with any provision of this Act; or
- (b) contravenes or fails to comply with any condition or limitation of any consent or approval granted under this Act; or
- 15 (c) makes any statement which is false in any material particular—
- (i) in any application made to the Minister or to any person or authority under this Act or the regulations, or
- 20 (ii) in any document or writing furnished by him in pursuance of any order requirement request or direction made or given under
- 25 this Act or the regulations,
- shall be guilty of an offence against this Act.

30 (2) Any person who is guilty of an offence against this Act for which no other penalty or punishment is expressly provided in this Act shall—

- 35 (a) in the case of a company—be liable to a penalty not exceeding one thousand pounds, and, in addition, to a daily penalty not exceeding one hundred pounds for each day during which the offence continues,
- (b) in the case of an individual—be liable for a first offence to a penalty not exceeding

Building Operations and Building Materials Control (Amendment).

- 5 exceeding five hundred pounds, or to a term of imprisonment not exceeding twelve months, and for a second or any subsequent offence to a penalty of not less than one hundred pounds and not exceeding five hundred pounds, or to imprisonment for a term not exceeding twelve months.
- 10 (n) by inserting at the end of section twenty-one the following new subsection:— Sec. 21.
(Proceedings.)
- (3) An information charging an offence against this Act may be laid at any time within twelve months from the time when the matter of the information arose.
- 15 (o) (i) by inserting in subsection one of section twenty-four after the word "delegate" where firstly occurring the words "to any person or authority"; Sec. 24.
(Delegation.)
- 20 (ii) by omitting from the same subsection the words "this Act" and by inserting in lieu thereof the words "Part II or Part III or this Part of this Act";
- (iii) by inserting at the end of the same section the following new subsection:—
- 25 (3) Where, under Part II or Part III or this Part of this Act, the exercise of any power or function by the Minister is dependent upon the opinion or belief of the Minister in relation to any matter that
- 30 power or function may be exercised by the delegate upon the opinion or belief of that delegate.
- (p) by inserting next after section twenty-four the following new section:— New sec.
24A.
- 35 24A. In any prosecution for an offence against this Act or any breach of the regulations made thereunder— Evidence.
- (a) an instrument in writing purporting to be a delegation under section twenty-four or section 17v of this Act and to
- 40 be

Building Operations and Building Materials Control (Amendment).

be signed by the Minister shall be evidence that such delegation was duly made, without proof of the Minister's signature;

- 5 (b) an instrument in writing purporting to be issued under the authority of this Act and to be signed by the Minister or by a delegate appointed under section twenty-four or section 17v of this Act shall be evidence that such instrument was duly issued under the authority of this Act without proof of the signature of the Minister or of such delegate as the case may be.

- 15 (q) by omitting Schedule Two and by inserting in lieu thereof the following Schedules:—

Substituted
Schedule
Two and
new
Schedules
Three, Four
and Five.

SCHEDULE TWO.

	Asbestos cement products.	Flat steel bars and angle steel bars.	Sec. 4.
	Bath heaters.		
20	Baths.	Galvanised iron sheets, and black iron sheets.	
	Bitumen products.	Guttering, ridging and down-piping.	
	Bolts and nuts.	Gypsum.	
	Builders' hardware.	Heating and cooking appliances.	
25	Builders' tools of trade.	Hot water systems.	
	Building papers and felts.	Joinery.	
	Caneite.	Lime.	
	Cement tubs.	Linseed oil.	
	Clay and shale.	Manufacturers' sheet steel.	
30	Concrete and reinforced concrete pipes and fittings.	Masonite.	
	Cooking stoves.	Mechanical and electrical equipment.	
	Coppers.	Meters—water, gas and electricity.	
35	Crushed rock and crushed stone.	Oxide.	
	Dimension stone.	Paints and paint components.	
	Electrical accessories.	Pedestal pans.	
	Electrical cables.	Plaster.	
	Electrical conduits.		
40	Ferrous castings for building purposes.		
	Fibrous plaster sheeting.		

SCHEDULE

Building Operations and Building Materials Control (Amendment).

SCHEDULE TWO—continued.

	Plaster wallboard.	Timber.
	Portland cement.	Vitreous bricks (including brickettes).
	Plumbers' brassware.	Wall boards (whether for internal or external use).
5	Roofing tiles and shingles.	Water and gas pipes and fittings, including steel, brass, copper, and cast iron pipes and fittings.
	Sand.	Welding gas.
	Sanitary earthenware.	White lead.
	Sheet lead.	Window glass.
10	Sheet steel, sheet copper, sheet brass, and sheet muntz metal.	Wire and wire products.
	Sinks and basins.	Wood screws.
	Stoneware pipes.	
15	Structural and reinforcing steel.	
	Tiles—wall and floor.	

SCHEDULE THREE.

	Baths.	Roofing tiles and shingles. Sec. 16.
20	Gas and electric cooking stoves, but not including gas rings or stovettes.	Sinks and basins.
		Vitreous bricks.
		Pedestal pans.

SCHEDULE FOUR.

Asbestos cement sheets.	Galvanised iron.	Sec. 16.
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SCHEDULE

Building Operations and Building Materials Control (Amendment).

SCHEDULE FIVE.

Sec. 5.

COUNTIES OF:

	Ashburnham	Drake
	Argyle	Denham
5	Arrawatta	Darling
	Auckland	Dudley
	Buller	Durham
	Burnett	Dampier
	Benarba	Dowling
10	Baradine	Denison
	Buckland	Ewenmar
	Bligh	Fitzroy
	Brisbane	Flinders
15	Booroondarra	Forbes
	Blaxland	Franklin
	Bathurst	Finch
	Bland	Gough
	Buccleuch	Gresham
	Beresford	Gregory
20	Bourke	Gloucester (except that
	Boyd	portion which is in-
	Clive	cluded within the
	Courallie	boundaries of the city
	Clarence	of Greater Newcastle).
25	Clarke	Gordon
	Clyde	Georgiana
	Cunningham	Goulburn
	Cowper	Gipps
30	Cook (except the city of	Gunderbooka
	Blue Mountains).	Gowen
	Camden (except the	Hardinge
	parish of Wollongong,	Hawes
	the parish of Woonona,	Hunter
35	the Municipalities of	Harden
	Camden, Bowral and	Hume
	Kiama, and the town-	Inglis
	ships of Picton, Mitta-	Jamison
	gong and Moss Vale).	King
	Clarendon	Kilfera
40	Cowley	Killara
	Cooper	Kennedy
	Caira	Leichhardt
	Cadell	Lincoln
	Canbellego	

SCHEDULE

Building Operations and Building Materials Control (Amendment).

SCHEDULE FIVE—continued.

COUNTIES OF—continued.

	Livingstone	Stapylton
	Landsborough	Sandon
5	Murchison	St. Vincent
	Macquarie	Selwyn
	Mouramba	Sturt
	Mossgiel	Taila
10	Monteagle	Townsend
	Murray	Tara
	Monara	Tandora
	Mitchell	Urana
	Menindie	Vernon
15	Nandewar	White
	Napier	Wellington
	Narromine	Werunda
	Nicholson	Woore
	Narran	Westmoreland
	Oxley	Wynyard
20	Pottinger	Wallace
	Parry	Wellesley
	Phillip	Wentworth
	Perry	Waljeers
	Rous	Waradgery
25	Richmond	Wakool
	Raleigh	Windeyer
	Rankin	Yanda
	Robinson	Young
	Roxborough	

30 3. The Principal Act is further amended—

Further
amendment
of Act
No. 12, 1946.

- (a) by inserting in subsection three of section one next after the matter relating to Part III, the following new matter:—

Sec. 1 (3).
(Division
into Parts.)

35 PART IIIA.—GENERAL POWERS AND FUNCTIONS
OF THE MINISTER.

- (b) by inserting next after section seventeen the following new Part:—

New Part
IIIA.

PART IIIA.—GENERAL POWERS AND FUNCTIONS
OF THE MINISTER.

40 DIVISION 1.—*Construction of Part.*

17A. The generality of any provision of this Part shall not be limited or affected by anything contained in Part II or Part III or Part IV of this Act.

Construc-
tion.

DIVISION

*Building Operations and Building Materials Control (Amendment).*DIVISION 2.—*Corporation sole.*

17B. For the purposes of this Part the Minister is hereby constituted a corporation sole under the name of "The Minister for Building Materials of New South Wales." Any reference to the Minister in any provision of this Part other than this section shall be construed as a reference to the Minister in his corporate capacity as a corporation sole.

Constitution
of Minister
as corpora-
tion sole.

The said corporation sole shall have perpetual succession and an official seal and may in the corporate name sue and be sued and shall be capable of purchasing, holding, granting, demising, disposing of and alienating real and personal property and of doing and suffering all such other acts and things as a body corporate may by law do and suffer.

Where any property real or personal or interest therein or charge thereon is vested in or is acquired by the said corporation sole, the same shall, unless otherwise disposed of by the said corporation sole, pass to and devolve on and vest in its successors.

The seal of the corporation sole shall not be affixed to any instrument or writing except in the presence of the Minister, and he shall attest by his signature the fact and date of the seal being so affixed.

DIVISION 3.—*Powers and functions of the Minister.*

17c. (1) The powers and functions of the Minister shall include the taking of such action as in his opinion is necessary or desirable—

Powers and
functions of
the Minister.

(a) to ensure that building materials are produced in such quantities and with such regularity as will meet the requirements of the State;

(b) to ensure that the resources of the State in respect of the production of building materials are conserved, developed,

Building Operations and Building Materials Control (Amendment).

developed, worked and used to the best advantage in the public interest;

- 5 (c) to ensure that building materials produced in the State are distributed and used in such manner, quantities, classes and grades and at such prices as are calculated best to serve the public interest and secure the economical use of building materials and the main-
10 tenance of essential services, industrial activities, and public utility under- takings.

15 (2) In particular, without limiting the generality of the provisions of subsection one of this section, the Minister shall have power to make provision for and with respect to—

- (a) the manufacture production and treat-
ment of building materials;
20 (b) the conservation of building materials;
(c) the introduction, modification, replace-
ment and operation of machinery, plant
and equipment for use in connection
with the manufacture, production and
25 treatment of building materials, and the
manufacture, procurement, improve-
ment and standardisation of such
machinery, plant and equipment;
(d) the classification and grading of
building materials;
30 (e) the effective and economical distribu-
tion of building materials including
their purchase, sale, marketing, acquisi-
tion, disposal, supply, storage, reserva-
35 tion, pooling, transport, carriage,
conveyance, delivery, handling, loading,
discharge and reception;
(f) the efficient and economical use of
building materials; and
45 (g) the regulation of prices for the sale,
purchase or resale of building
materials. (3)

Building Operations and Building Materials Control (Amendment).

5 (3) The Minister shall have authority to make such orders, take such measures, give such directions and do such things as are, in his opinion, necessary for or incidental to the effective exercise of his powers and functions, and in particular, without limiting the generality of the foregoing provisions of this subsection—

10 (a) to enter into and carry out contracts and transactions, to incur expenditure and to acquire and dispose of any property or rights;

15 (b) to require the keeping and production of accounts, books and records and the compilation and furnishing of statistics, returns and other information in such form and relating to such matters as he may specify in the requirement;

20 (c) to acquire any building materials, sell any building materials acquired by or vested in him, impose conditions under which any other person or authority may acquire, purchase, sell or dispose of building materials, and enter into arrangements and agreements with
25 other persons and authorities as to the sale or distribution of building materials;

30 (d) to assume control of the management and operation of any factory or works used or designed for use for the manufacture, production or treatment of any building materials;

35 (e) to acquire any factory or works used or designed for use for the manufacture, production or treatment of any building materials, and to operate any factory or works acquired by or vested in him;

40 (f) to acquire, procure, erect, construct, requisition the use of and operate plant, machinery and equipment; (g)

Building Operations and Building Materials Control (Amendment).

5 (g) to establish and operate, or assist others to establish and operate, factories and works and other undertakings or enterprises for the manufacture, production or treatment of building materials;

10 (h) to terminate, suspend, vary or modify any contract or agreement relating to or affecting the production, treatment, supply or distribution of any building materials, including sale, transportation, loading, discharge, delivery, storage and use.

15 (4) The Minister shall have power at any time to rescind, terminate or vary any order, direction or requirement made or given by him under this Part.

DIVISION 4.—*Control of factories or works.*

20 17D. (1) Where in the opinion of the Minister it is desirable, with a view to maintaining or increasing the production of any building materials, that any factory or works in or at which any building materials are manufactured, produced or treated should be operated under the control of the Minister, the Minister may, by written order, authorise any person (in this Part referred to as an "authorised controller") to exercise such functions of control and to do such things on behalf of the Minister, but subject to any directions of the Minister, with respect to such factory or works as the authorised controller thinks necessary for the purpose of maintaining or increasing the manufacture, production or treatment of building materials in or at such factory or works and the authorised controller may exercise those functions and do those things accordingly.

Control of
factories
or works.

(2) So long as there is in force an order under subsection one of this section with respect to

Building Operations and Building Materials Control (Amendment).

to any factory or works, the factory or works shall be operated in accordance with the provisions of the order and the owner and every person concerned with the management or conduct of the factory or works shall comply with any directions given by the authorised controller.

(3) Upon making any order under subsection one of this section the Minister shall cause notice of the effect of the order to be given as soon as practicable in such manner as he thinks necessary for bringing it to the notice of the owner of the factory or works and to the notice of such other persons, if any, as should in the opinion of the Minister have notice of the order.

17E. (1) The manager or person in charge of any controlled factory or works, and all persons employed or usually employed in an administrative, executive or clerical capacity and all persons otherwise employed or usually employed, in or about such factory or works shall be officers and employees of the Minister.

(2) For the purposes of any law relating to workers' compensation applying to persons employed by the Minister in or about the controlled factory or works, those persons shall be deemed to be employed by the owner of the factory or works.

17F. The terms and conditions of service of persons who are officers or employees of the Minister in pursuance of this Division of this Part shall—

(a) in the case of those persons who were, prior to the factory or works becoming a controlled factory or works, employed or usually employed in or about the factory or works by the owner thereof—the terms and conditions on which

they

Building Operations and Building Materials Control (Amendment).

they were employed immediately prior to the factory or works becoming a controlled factory or works; and

- 5 (b) in the case of those persons who are otherwise employed by or on behalf of the Minister—the same terms and conditions which would in accordance with any law or any award or industrial agreement apply to them if they were
10 employed by the owner of the factory or works, or, if the terms and conditions of employment are not prescribed by any such law, award or agreement, such terms and conditions as the Minister
15 determines.

- 17g. It shall be the responsibility of the owner of any controlled factory or works to pay the remuneration of all persons employed in or about the factory or works as officers and employees of the Minister and the expenses incurred by the authorised controller of the factory or works with respect to the operation of such factory or works.
- 20
- Payments to be made by owner of controlled factory or works.

- 17h. The owner of any controlled factory or works who suffers loss (including loss of profits) or damage, by reason of anything done in pursuance of an order under subsection one of section 17d of this Act in respect of such factory or works, shall be entitled to such compensation as is determined by agreement between the Minister and such owner, or, in the absence of agreement, as is determined by an action by the owner against the Minister in any court of competent jurisdiction.
- 25
- 30
- Compensation.

35 DIVISION 5.—*Acquisition of land, building materials, factories and works.*

- 17i. In this Division “land” includes not only an estate in fee simple in land, but also any other
- Definition.

Building Operations and Building Materials Control (Amendment).

other estate or interest in land (legal or equitable) and any easement, hereditament, right or privilege in, over, or affecting land.

5 17J. The Minister may establish, maintain, manage, conduct and operate factories and works for the manufacture, production or treatment of building materials, and for these purposes may establish new factories or works, or may reopen any factory or works which is or has been closed or abandoned, or may acquire any existing factory or works used or designed for use for the manufacture, production or treatment of any building materials.

The Minister may establish factories and works.

10 17K. (1) The Minister may acquire land for any purposes of this Part—

Acquisition of land.

(a) by agreement or arrangement with any person (including the Crown); or

(b) by appropriation or resumption under this Division of this Part.

20 (2) The power to acquire land conferred by this Part of this Act shall include power to acquire any particular estate or interest in land (legal or equitable) or any easement, hereditament, right or privilege in, over, or affecting land.

25 17L. (1) Where the Minister proposes to acquire land by appropriation or resumption he may make application in that behalf to the Governor.

Method of appropriation or resumption.

30 (2) The Governor may authorise the appropriation or resumption of the land.

(3) Thereupon the Governor may—

35 (a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and

(b) notify that the land is vested in the Minister.

(4)

Building Operations and Building Materials Control (Amendment).

(4) Thereupon the land shall vest in the Minister.

5 (5) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

10 (6) For the purposes of this Part, the Public Works Act, 1912, as amended by subsequent Acts, shall be deemed to be amended—

(a) by inserting after section 4A the following new section:—

15 4B. The provisions of this Act relating to the acquisition of land shall also apply to the acquisition of any particular estate or interest in land (legal or equitable), and of any hereditament, right or privilege in, over, or affecting land.

20 (b) by omitting sections one hundred and forty-one to one hundred and forty-nine (both inclusive).

25 (7) Where any land upon or in which any factory or works used or designed for use for the manufacture, production or treatment of any building materials is situated, or upon or in which any works used or capable of being used for or in connection with the operation of such factory or works are situated, is resumed under this section, any plant, equipment, machinery, vehicles and other fixed or movable appliances or works of any description in or upon such land at the date of such resumption used or capable of being used for or in connection with the operation of such factory or works shall vest in the Minister.

35 The compensation payable in respect of any resumption under this section shall include the value as at the date of resumption, of plant, equipment

Building Operations and Building Materials Control (Amendment).

equipment, machinery, vehicles, appliances and works vested in the Minister pursuant to this subsection. Such value shall be the value agreed upon between the Minister and the owner and in default of agreement the value determined by the Land and Valuation Court.

The Land and Valuation Court shall have jurisdiction to hear and determine any matter under this subsection and its determination shall be final and conclusive.

17M. (1) For all or any of the purposes specified in paragraphs (a), (b) and (c) of subsection one of section 17c of this Act the Minister may—

Acquisition
and requisition
of
building
materials
and
equipment.

(a) issue a direction declaring that any building materials specified or described in the direction are acquired by the Minister; or

(b) issue a direction declaring that any equipment of whatever kind (not being a fixture or part of the soil) used or capable of being used in the manufacture, production, treatment, handling or distribution of building materials and specified in the declaration is acquired by the Minister; or

(c) require any person who is the owner of any equipment of whatever kind (whether as a fixture or part of the soil or not) which is specified or described in the requirement and is used or capable of being used in the production, treatment, handling or distribution of any building materials, to make the equipment available to the Minister;

and for any building materials or equipment so acquired or required to be made available, or for the use of any equipment so made available, compensation shall be payable by the Minister as provided in this section to the owner of the building materials or equipment. (2).

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5 (2) Any direction or requirement issued
or made under subsection one of this section
shall be served in the manner prescribed by
subsection two of section 170 of this Act upon
the owner of the building materials or equip-
ment specified or described in the direction or
requirement, or where the owner is unknown
and cannot with reasonable diligence be ascer-
tained, shall be served upon the person for the
10 time being in possession of the building
materials or equipment or upon the occupier of
the land upon which the same is situated.

15 (3) Any person on whom a requirement
under paragraph (c) of subsection one of this
section is served shall, within such time as is
specified in the requirement, make the equip-
ment available accordingly.

20 (4) Where any building material or
equipment is acquired or any equipment is made
available under this section, the general or
special property therein shall pass to the Minis-
ter freed from all mortgages, charges, liens,
pledges, interests and trusts affecting the build-
ing material or equipment and the rights and
25 interests of any person in that building material
or equipment shall, by virtue of this section, be
converted into a claim for compensation to be
satisfied out of the compensation payable to the
owner of the building material or equipment.

30 (5) The compensation payable by the
Minister for any building materials acquired
under this section shall be a sum equivalent to
the price payable for the building materials as at
the date of acquisition in accordance with the
35 current price determination as made by any
authority authorised by law to make such deter-
mination, and applicable to the building
materials; and where no such determination has
been made or is in force or is applicable to the
40 building materials, such compensation shall be
determined

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determined by agreement between the Minister and the owner of the building materials, and in default of agreement shall be determined by the Land and Valuation Court in accordance with rules of court.

The Land and Valuation Court shall have jurisdiction to hear and determine any matter under this subsection, and its determination shall be final and conclusive.

(6) The compensation payable by the Minister for any equipment acquired or required to be made available or for the use of any equipment made available, under this section shall include compensation for loss of profits and other consequential losses and shall be determined by agreement between the Minister and the owner of the equipment, and in default of agreement shall be determined by the Land and Valuation Court, in accordance with rules of court.

The Land and Valuation Court shall have jurisdiction to hear and determine any matter under this subsection, and its determination shall be final and conclusive.

DIVISION 6.—*Miscellaneous.*

17N. (1) If any person claims that he has sustained any loss or damage by reason of an exercise by the Minister of the power referred to in paragraph (h) of subsection three of section 17c of this Act, he may, within three months after the exercise of the power, lodge with the Minister a claim in writing setting out full particulars of the loss or damage, and the question whether any and, if any, what amount of compensation should in all the circumstances of the case be paid to that person shall be settled by agreement between him and the Minister, or failing any such agreement, by an action by him against the Minister in any court of competent jurisdiction.

Compensation
for loss
resulting
from suspension of
contract, etc.

(2)

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5 (2) Any person who shall suffer loss or
damage by reason of the wrongful act neglect or
default of the Minister or of any person acting
or purporting to act under this Part or in pur-
suance thereof, or by reason of any invalid or
unauthorised order, provision, direction or deter-
mination made or given by the Minister, or any-
thing done in pursuance of any such order, pro-
vision, direction or determination shall be
10 entitled to such compensation as is determined
by agreement between such person and the
Minister or in the absence of agreement as is
determined by an action by such person against
the Minister in any court of competent juris-
15 diction.

(3) Nothing in this section shall entitle
any person to compensation by reason of the
performance of any obligation imposed by or
under any other Act.

20 17o. (1) Where any order, direction or re-
quirement made or given under this Part is
published in the Gazette it shall be deemed to
have been sufficiently served upon, or brought to
the notice of all persons concerned or affected
25 thereby.

Manner of
serving
order.

(2) Any order, direction or requirement
made or given under this Part may be made or
given so as to apply to any particular person and
may be served upon that person by delivering
30 a copy thereof to him by hand or by sending it
to him by registered post, or in the case of a
direction or requirement may be given orally or
by telegram.

35 17P (1) Any person thereto authorised in writ-
ing by the Minister shall, for the purposes of this
Part, at all times have full and free access to all
premises, buildings, places, books, documents
and other papers used or kept for or in connec-
tion with the manufacture, production, treat-
ment, distribution or use of any building
40 materials

Access to
premises,
books etc.

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materials and for those purposes may make extracts from or copies of any such books, documents and papers and may interview any person employed in or in connection with such manufacture, production, treatment, distribution or use.

(2) Any person who obstructs delays or hinders a person authorised pursuant to subsection one of this section in the exercise of his powers under that subsection or who fails to comply with any requirement lawfully made by a person so authorised, shall be guilty of an offence against this Act and shall be liable for a first offence to a penalty not exceeding fifty pounds, and for a second offence to a penalty of not less than thirty pounds and not exceeding one hundred pounds.

17Q. Any person who is affected by any order, direction or requirement made or given or deemed to be made or given by the Minister in the exercise of any power or function vested in him by this Part or who falls within the intended application or operation of any such order, direction or requirement shall observe and comply with the order, direction or requirement or shall cause it to be observed and complied with.

Persons to
comply with
orders.

17R. (1) Where any person fails, wholly or in part, to comply with any order, direction or requirement made or given by the Minister in the exercise of any power or function vested in him by this Part, the Minister shall have power, by his officers, employees or agents, to do all things which that person by his failure has omitted to do.

Power of
Minister to
perform
work.

(2) Anything done by the Minister in pursuance of this section shall, so far as necessary, be deemed to have been duly authorised by the person who failed to comply with the order, direction or requirement.

(3)

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(3) The Minister may recover, in any court of competent jurisdiction, as a debt due to him from the person who so failed to comply with the order, direction or requirement, the cost incurred by the Minister in doing anything in pursuance of this section.

17s. Any person who refuses or fails to comply with any order, direction or requirement made or given by the Minister or any authority in exercise of any power or function conferred by this Part or who otherwise contravenes or fails to comply with any of the provisions of this Part shall be guilty of an offence against this Act, and shall, in the case of a company, be liable to a penalty not exceeding one thousand pounds and, in addition, to a penalty not exceeding one hundred pounds for each day during which the offence continues, and in the case of an individual, be liable to a penalty not exceeding five hundred pounds or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

17t. The regulations may make provision for or in relation to any matter within the powers and functions vested by this Part in the Minister and generally for regulating the exercise of those powers and functions and for carrying into effect any action taken by the Minister or any other authority in the exercise of any such power or function.

17u. All expenditure incurred by the Minister in the exercise of the powers and functions vested in him by this Part shall be paid out of moneys provided by Parliament.

17v. (1) The Minister may in relation to any particular matter or class of matters, by writing under his seal, delegate to any person or authority all or any of his powers or functions under this Part (except this power of delegation), so that the delegated powers or functions may

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may be exercised by the person or authority with respect to the matters or class of matters or the part of the State specified in the instrument of delegation.

5 (2) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Minister.

10 (3) Where under this Part the exercise of any power or function by the Minister is dependent upon the opinion or belief of the Minister in relation to any matter, that power or function may be exercised by the delegate upon the opinion or belief of that delegate.

15 4. The Principal Act is further amended by omitting section twenty-six, and by inserting in lieu thereof the following section:—

Further amendment of Act No. 12, 1946. Substituted sec. 26.

20 26. Parts II and III of this Act shall remain in force until the thirty-first day of December, one thousand nine hundred and fifty:

Duration of Parts II and III of Act.

25 Provided that the Governor may from time to time by regulations extend the period during which those Parts shall remain in force for such further period as he thinks fit. Any such period of extension shall not exceed twelve months at any one time.