

## **BUILDERS LICENSING (AMENDMENT) BILL, 1979**

### **EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Statutory and Other Offices Remuneration (Builders Licensing Board) Amendment Bill, 1979, is cognate with this Bill.

Schedule 1 to the Bill amends the Builders Licensing Act, 1971 ("the Principal Act") with respect to the constitution of the Builders Licensing Board ("the Board") by enabling the appointment to the Board of—

- (a) a Deputy Chairman of the Board (Schedule 1 (2) (b)); and
- (b) a person nominated by the Building Industry Specialist Contractors Organisation of New South Wales (Schedule 1 (2) (c)).

Schedule 2 amends Part III and certain other provisions of the Principal Act, the objects being—

- (a) to re-state and extend the offences that may be committed under the Principal Act in connection with the carrying out of unlicensed building work or unlicensed trade work (Schedule 2 (4) (a), (11) (c) and (d) and (21));
- (b) to create an offence if the holder of a full licence fails to comply with any condition for the time being imposed by the Board on his licence (Schedule 2 (5));
- (c) to provide that application may be made for a full licence which authorises only the carrying out of building work of a kind specified in the application and that the Board may grant such a licence (Schedule 2 (6) (a), (7) (a) and (8) (a));
- (d) to make further provision with respect to the granting under that Part of subsidiary full licences and subsidiary restricted licences by—
  - (i) requiring that an employee on whose behalf any such licence is granted shall be a full-time employee of the holder of the licence (Schedule 2 (6) (b)–(d) and (13) (b)–(d));
  - (ii) providing that more than one of those licences may be granted to the holder of a full licence or of a restricted licence (Schedule 2 (6) (e) and (13) (e));

- (iii) requiring that there will be sufficient of those licences held by the holder of a full licence or of a restricted licence for all of the building work or trade work carried out by him to be controlled and supervised by persons on whose behalf those licences will be held (Schedule 2 (9) (c) and (16) (a)); and
- (iv) providing that a subsidiary full licence may not be granted on behalf of the holder of a restricted licence and that a subsidiary restricted licence may not be granted on behalf of the holder of a full licence or of any restricted licence (Schedule 2 (9) (e) and (16) (c));
- (e) to specify what authority a licence granted under the Principal Act confers on the holder of the licence (Schedule 2 (7) (k), (8) (i), (9) (g), (14) (f), (15) (e) and (16) (d));
- (f) to make further provision with respect to the granting under that Part of licences held by a person on his own behalf and with respect to any such licences so granted, by providing—
  - (i) that the Board, when granting a full licence, may impose such conditions as it thinks fit on the licence and that any conditions prescribed by the regulations in respect of a class of licences are imposed on all licences granted of that class (Schedule 2 (18)); and
  - (ii) that the Board may revoke or vary the conditions, if any, imposed for the time being by it on the licence or impose new conditions on the licence (Schedule 2 (19)); and
- (g) to provide that the Board, when disqualifying a person from being the holder of a licence or a person on whose behalf a licence may be held, may specify, by reference to a class of licences, which kind of licence the person may not hold or which kind of licence may not be held on that person's behalf and to enable any person so disqualified to hold a licence of another class or to be a person on whose behalf any such other licence may be held (Schedule 2 (7) (e), (8) (c), (14) (b) and (15) (b)).

Schedule 3 amends Part VII of the Principal Act which relates to the Board's finance, the objects being—

- (a) to require the establishment by the Board of a Builders Licensing Board Insurance Account and a Builders Licensing Board Trust Account and the creation by the Board of two funds, referred to in that Part, as proposed to be amended, as the General Insurance Fund and the Special Insurance Fund (Schedule 3 (5) and (9));
- (b) to provide that the Builders Licensing Board Insurance Account and the Builders Licensing Board Trust Account are to be separate from the Builders Licensing Board Account in the Special Deposits Account at the Treasury (Schedule 3 (3) (a));

- (c) to provide that the General Insurance Fund consists of the moneys previously credited to the Builders Licensing Board Insurance Account (Schedule 3 (6) and clause 1 (3) (a) of Schedule 6);
- (d) to provide that the Special Insurance Fund consists of a prescribed proportion of fees paid in connection with certain restricted licences under the Principal Act (Schedule 3 (7) and clause 1 (2) and (3) (b) of Schedule 6);
- (e) to provide that the Board may invest moneys held in the Insurance Funds in the same manner as the State Superannuation Fund may be invested under the Superannuation Act, 1916 (Schedule 3 (7));
- (f) to provide that the Builders Licensing Board Trust Account consists of all moneys paid to the Board pursuant to a direction specified in an order made by the Board under section 30A (1) of the Principal Act requiring a purchaser to pay moneys to it for the purpose of their being applied towards the cost of certain building work and all proceeds of investment of moneys so paid (Schedule 3 (9)); and
- (g) to divide that Part into Divisions, and to make a consequential rearrangement of the order in which certain provisions appear in that Part (Schedule 3).

Schedule 4 effects miscellaneous amendments to the Principal Act, the objects being—

- (a) to make the exercise and discharge by the Board of its powers, authorities, duties and functions subject to the control and direction of the Minister (Schedule 4 (3));
- (b) to enable the Board to grant successive permits to an applicant to enable the carrying out of owner-builder's work upon land on which the applicant has at any time previously been authorised to carry out related owner-builder's work under a permit, and to extend from 2 to 5 years the period during which successive permits will not otherwise be granted to any one person, except in what the Board considers to be special circumstances (Schedule 4 (5));
- (c) to empower the Board, in certain circumstances, to refund a part of a fee paid to it in connection with an application for a licence under the Principal Act (Schedule 4 (6) (c));
- (d) to empower the Board, by a direction specified in an order made under section 30A (1) of the Principal Act, to require a purchaser to pay moneys to it for the purpose of their being applied by the Board towards the cost of—
  - (i) certain building work; and
  - (ii) the materials to be provided in connection with the carrying out of that work,
 before that work will be required to be carried out by the order (Schedule 4 (8));

- (e) in certain circumstances, to relieve the holders of licences under the Principal Act of their present obligation to notify the Board of the date of commencement of building work carried out by them (Schedule 4 (9) (a));
- (f) to empower the Board to have inspections of dwellings carried out and to provide an applicant for any such inspection with a report on the condition of the dwelling inspected (Schedule 4 (12));
- (g) to prevent the delegation by the Board of the power referred to in paragraph (j) and to limit the delegation by the Board of the power referred to in paragraph (h) (Schedule 4 (13) (b) and (c));
- (h) to empower the Board to authorise the examination of the financial records of the holder of a licence against whom a complaint has been made under section 24 (b2) of the Principal Act and to make provisions with respect to the exercise of that power (Schedule 4 (15));
- (i) to extend the provisions of the Principal Act relating to the service of certain documents (Schedule 4 (17));
- (j) in certain circumstances, to empower the Board to make an order for substituted service of certain documents that are to be served on holders or former holders of licences or permits or persons on whose behalf licences are or have been held (Schedule 4 (18)); and
- (k) to empower the making of regulations with respect to the display of signs by the holders of permits under the Principal Act (Schedule 4 (19)).

Schedule 5 contains saving and transitional provisions relating to licences. This Schedule empowers the Board to grant licences under the Principal Act to certain persons who were disqualified from holding any licence under that Act prior to the commencement of the Schedule, but only where the Board considers that the particular circumstances of each case so warrant.

Schedule 6 contains other saving and transitional provisions and validates certain matters. This Schedule—

- (a) validates the creation of, and certain operations upon, a Builders Licensing Board Special Insurance Fund before the commencement of this Schedule;
- (b) validates certain refunds made by the Board; and
- (c) validates the Board's renewal of an Agreement known as the Special Contingency Reinsurance Agreement and a subsequent variation of that Agreement.

The proposed Act also makes other provisions of a minor or ancillary nature.

# **BUILDERS LICENSING (AMENDMENT) BILL, 1979**

No. , 1979.

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## **A BILL FOR**

An Act to amend the Builders Licensing Act, 1971, with respect to the constitution of the Builders Licensing Board, the scheme of licensing under that Act, the accounts and funds of that Board and other matters; to validate certain matters; and for other purposes.

[MR EINFELD—6 November, 1979.]

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See also Statutory and Other Offices Remuneration (Builders Licensing Board) Amendment Bill, 1979.

*Builders Licensing (Amendment).*

**BE** it enacted by the Queen'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 the same, as follows :—

5    **1.** This Act may be cited as the "Builders Licensing Short  
(Amendment) Act, 1979". title.

**2.** (1) Except as provided in subsections (2)–(4), this Act Commence-  
shall commence on the date of assent to this Act. ment.

          (2) Section 5 shall, in its application to a provision of  
10 Schedules 1–4, commence or be deemed to have commenced on  
the day on which the provision commences or is deemed to have  
commenced, as the case may require.

          (3) Schedule 1, and section 6 and Schedules 2 and 5, shall  
commence on such day or days as may be appointed or respectively  
15 appointed by the Governor in respect thereof and as may be  
notified by proclamation published in the Gazette.

          (4) Schedule 4 (1) (b) and (12) shall be deemed to have  
commenced on 1st February, 1977.

**3.** The Builders Licensing Act, 1971, is referred to in this Act Principal  
20 as the Principal Act. Act.

**4.** This Act contains the following Schedules :— Schedules.

**SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO CONSTITUTION OF THE BUILDERS  
LICENSING BOARD.**

*Builders Licensing (Amendment).*

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO LICENCES.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO FINANCE.

5 SCHEDULE 4.—MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT.

SCHEDULE 5.—SAVING AND TRANSITIONAL PROVISIONS  
RELATING TO LICENCES.

10 SCHEDULE 6.—VALIDATIONS AND OTHER SAVING AND  
TRANSITIONAL PROVISIONS.

5. The Principal Act is amended in the manner set forth in  
Schedules 1–4. Amendment  
of Act No.  
16, 1971.

6. Schedule 5 has effect. Saving and  
transitional  
provisions  
relating to  
licences.

7. Schedule 6 has effect. Validations  
and other  
saving and  
transitional  
provisions.

15 SCHEDULE 1. Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD.

(1) Section 3 (1), definition of “Deputy Chairman”—

After the definition of “Crown lands”, insert :—

20 “Deputy Chairman” means the person holding office as  
Deputy Chairman of the Board;

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*Builders Licensing (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(2) (a) Section 4 (2)—

5 Omit “six”, insert instead “8”.

(b) Section 4 (2) (a1)—

After section 4 (2) (a), insert :—

10 (a1) one shall be nominated by the Minister and  
shall, in and by the instrument of his appoint-  
ment or by a subsequent instrument executed  
by the Governor, be appointed as the Deputy  
Chairman of the Board;

(c) Section 4 (2) (d1)—

After section 4 (2) (d), insert :—

15 (d1) one shall be nominated by the Minister from  
a panel of three persons nominated by the  
Building Industry Specialist Contractors  
Organisation of New South Wales within such  
20 period as may from time to time be fixed by  
the Minister and notified by him to that body;

(d) Section 4 (3)—

Omit “paragraph (b), (c) or (d) of subsection (2)”,  
insert instead “subsection (2) (b), (c), (d) or (d1)”.

(e) Section 4 (7) (a)—

25 After “Chairman”, insert “or Deputy Chairman”.

(f) Section 4 (9)—

Omit “paragraph (b), (c), (d) or (f) of subsection  
(2)”, insert instead “subsection (2) (b), (c), (d),  
(d1) or (f)”.

*Builders Licensing (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(g) Section 4 (9)—

- 5           Omit “paragraph (b), (c) or (d) of subsection (2)”,  
insert instead “subsection (2) (b), (c), (d) or (d1)”.

(h) Section 4 (11)—

Omit the subsection, insert instead :—

- 10           (11) The Chairman and the Deputy Chairman  
shall devote the whole of their time to the duties of  
their offices.

(i) Section 4 (11A)—

Omit “is”, insert instead “and the Deputy Chairman  
are”.

15           (j) Section 4 (11A) (b)—

Omit “him”, insert instead “each of them”.

(k) Section 4 (12)—

After “Chairman”, insert “or Deputy Chairman”.

(l) Section 4 (13)—

- 20           After “Chairman”, insert “or Deputy Chairman”.

(m) Section 4 (14)—

After “Chairman”, insert “or Deputy Chairman”.

(n) Section 4 (15)—

Omit “1902”, insert instead “1979”.

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*Builders Licensing (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(o) Section 4 (15)—

5           After “Chairman”, insert “or Deputy Chairman”.

(3) Section 5 (1)—

After “Chairman” wherever occurring, insert “or Deputy  
Chairman”.

(4) (a) Section 6 (1)—

10           After “Chairman” where firstly, secondly and fourthly  
             occurring, insert “or Deputy Chairman”.

(b) Section 6 (1)—

15           Omit “continuously been the Chairman and”, insert  
             instead “, since that appointment, continuously held  
             office as the Chairman or Deputy Chairman or has  
             held office as the Chairman for each period since that  
             appointment during which period he was not holding  
             office as the Deputy Chairman and, in either case,”.

(c) Section 6 (1)—

20           Omit “office”, insert instead “position”.

(d) Section 6—

Before “(Superannuation)” wherever occurring, insert  
“and Other Authorities”.

(e) Section 6 (2)—

25           After “Chairman” wherever occurring, insert “or  
             Deputy Chairman”.

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*Builders Licensing (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(f) Section 6 (3)—

- 5       Omit “The Chairman shall not”, insert instead  
      “Neither the Chairman nor the Deputy Chairman  
      shall”.

(g) Section 6 (4)—

- 10       After “Chairman” wherever occurring, insert “or  
      Deputy Chairman”.

(5) Section 7 (2)—

Omit the subsection, insert instead :—

- 15       (2) The Chairman or, in his absence, the Deputy  
      Chairman, shall preside at all meetings of the Board at  
      which he is present and, if the Chairman and Deputy  
      Chairman are absent from any meeting, a member elected  
      by the members present shall preside at the meeting.

(6) Section 50 (1A)—

- 20       After “Chairman”, insert “or Deputy Chairman, or to each  
      of them,”.

(7) Section 57—

After “Chairman”, insert “or Deputy Chairman”.

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*Builders Licensing (Amendment).*

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING  
TO LICENCES.

(1) (a) Section 2, matter relating to Division 1 of Part III—

5 After "*Licences*", insert "*and Subsidiary Full Licences*".

(b) Section 2, matter relating to Division 2 of Part III—

After "*Licences*", insert "*and Subsidiary Restricted Licences*".

10 (2) Section 3 (1B)—

After section 3 (1A), insert :—

(1B) In this Act, a reference to a full-time employee of  
a person is a reference to an employee who is required, by  
the terms of his employment by that person, to work for  
15 that person otherwise than on a casual or temporary basis.

(3) Part III, Division 1, heading—

After "*Licences*", insert "*and Subsidiary Full Licences*".

(4) (a) Section 9 (1), (2)—

Omit the subsections, insert instead :—

20 (1) A person (either by himself or as a member  
of a partnership)—

(a) shall not—

25 (i) by any statement made to any  
person, indicate, expressly or  
impliedly, that he is willing or  
prepared to carry out, under a  
contract with any person, any  
building work;

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

- 5                   (ii) by any statement made in an advertisement, indicate, expressly or impliedly, that he is willing or prepared to carry out any building work; or
- 10                   (iii) carry out any building work, unless he is the holder of a full licence authorising him to carry out that building work; and
- 15           (b) shall not, by any statement made to any person or made in an advertisement, indicate, expressly or impliedly, that he is the holder—
- 20                   (i) of a full licence, unless he is the holder of a full licence;
- (ii) of a subsidiary full licence, unless he is the holder of a subsidiary full licence;
- 25                   (iii) of a full licence authorising him to carry out building work of a particular kind, unless he is the holder of a full licence authorising him to carry out that kind of building work; or
- 30                   (iv) of a subsidiary full licence authorising him to carry out building work of a particular kind, unless he is the holder of a subsidiary full licence authorising him to carry out that kind of building work.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

Penalty : \$2,000 and, in the case of a continuing offence, \$200 for each day the offence continues.

(2) A person who is the holder of a full licence, other than a qualified full licensee, shall not do any of the things referred to in subsection (1) (a) (i), (ii) or (iii) in respect of any kind of building work unless—

(a) where that holder is an individual and does not do that thing as a member of a partnership, he is the holder of at least one subsidiary full licence authorising him to carry out that kind of building work granted to him on behalf of one of his full-time employees;

(b) where that holder does that thing as a member of a partnership, another member of the partnership is a qualified full licensee or he or another member of the partnership holds at least one subsidiary full licence authorising him to carry out that kind of building work granted to him on behalf of a full-time employee of the partnership; or

(c) where that holder is a corporation and does not do that thing as a member of a partnership, it is the holder of at least one subsidiary full licence authorising it to carry out that kind of building work granted to it on behalf of a director of the corporation or one of its full-time employees.

Penalty : \$2,000 and, in the case of a continuing offence, \$200 for each day the offence continues.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(b) Section 9 (4) (a)—

- 5           Omit “person;”, insert instead “person who is the  
holder of a licence or a permit;”.

(c) Section 9 (4) (a1)—

Omit “or a subsidiary restricted licence”.

(d) Section 9 (4) (a1)—

- 10           After “work”, insert “of a kind”.

(e) Section 9 (4) (b)—

Before “building work” where firstly occurring, insert  
“any kind of”.

(f) Section 9 (4) (b)—

- 15           After “licence” where lastly occurring, insert  
“authorising the holder to carry out that kind of  
building work”.

(g) Section 9 (4A)—

- 20           Omit “(1),”, insert instead “(1) in respect of any kind  
of building work,”.

(h) Section 9 (4A)—

After “licence”, insert “authorising the holder to carry  
out that kind of building work”.

*Builders Licensing (Amendment).*

SCHEDULE 2—continued.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—continued.

(5) Section 9A—

5 After section 9, insert :—

9A. The holder of a full licence shall comply with any conditions imposed on the licence for the time being under this Act. Breach of  
conditions  
of full  
licence.

10 Penalty : \$1,000 and, in the case of a continuing offence,  
\$100 for each day the offence continues.

(6) (a) Section 10 (1)—

Omit “behalf.”, insert instead :—

behalf authorising him to carry out—

(a) all kinds of building work; or

15 (b) building work of the kind specified in his  
application, other than building work con-  
sisting solely of work of one class or  
description that is prescribed for the  
20 purposes of paragraph (a) or (b) of the  
definition of “trade work” in section 3 (1).

(b) Section 10 (1A) (a)—

Omit “one of his”, insert instead “any one of his  
full-time”.

(c) Section 10 (1A) (b)—

25 Omit “an employee”, insert instead “any one of the  
full-time employees”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(d) Section 10 (1A) (c)—

- 5           Omit “a director of the corporation or one of its employees”, insert instead “any one of its directors or full-time employees”.

(e) Section 10 (1B)—

After section 10 (1A), insert:—

- 10           (1B) A person eligible to make an application under subsection (1A) may make separate applications under that subsection in respect of different full-time employees or directors, as the case may require.

(7) (a) Section 11 (1)—

- 15           Omit “behalf,”, insert instead “behalf authorising him to carry out building work of a kind specified in the application,”.

(b) Section 11 (1) (b)—

Omit “a full”, insert instead “the”.

20           (c) Section 11 (1) (c)—

After “out”, insert “that kind of”.

(d) Section 11 (1) (d)—

Before “building”, insert “that kind of”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(e) Section 11 (1) (f)—

5 Omit the paragraph, insert instead :—

(f) that he is not disqualified from holding a  
licence of the kind for which he has applied or  
a person holding a licence suspended under  
Part IV that is of the same kind as the licence  
10 for which he has applied,

(f) Section 11 (1) (g)—

Omit the paragraph, insert instead :—

(g) that, unless he is exempted under subsection  
15 (1A), he holds the qualification or qualifica-  
tions prescribed for the purposes of this  
paragraph, and that, for a period of at least 2  
years, or such shorter period as the Board may,  
in any particular case, determine, during the 3  
years immediately preceding his application,  
20 he has been employed in, or has been a  
contractor for, the carrying out of building  
work of such a kind as in the opinion of the  
Board fits him to be the holder of the full  
licence; or

25 (g) Section 11 (1) (h)—

Omit “an employee of that individual who is to”,  
insert instead “one or more of his full-time employees  
who will”.

(h) Section 11 (1) (h)—

30 After “work”, insert “of that kind”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(i) Section 11 (1A)—

- 5 Omit “qualifications referred to in subsection (1) (g) (ii)”, insert instead “qualification or qualifications referred to in subsection (1) (g)”.

(j) Section 11 (2)—

- 10 Omit “appropriate matter or matters specified in paragraph (g) of subsection (1)”, insert instead “matters specified in subsection (1) (g)”.

(k) Section 11 (3)—

After section 11 (2), insert :—

- 15 (3) A full licence granted under subsection (1) authorises the holder of the licence to carry out—

- (a) except as provided in paragraph (b)—all kinds of building work; or  
20 (b) where the licence specifies a kind of building work as the kind of building work that he is authorised to carry out—only that kind of building work,

and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

25 (8) (a) Section 12—

Omit “behalf,”, insert instead “behalf authorising it to carry out building work of a kind specified in the application,”.

(b) Section 12 (a) (ii)—

- 30 Omit “a full”, insert instead “the”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(c) Section 12 (a) (iii)—

5 Omit the subparagraph, insert instead :—

(iii) is not disqualified from holding a licence  
authorising the carrying out of the same kind  
of building work as that which would be  
authorised to be carried out by the licence  
10 applied for if it were granted and is not a  
person holding a licence suspended under Part  
IV that would, if it were in force, authorise the  
carrying out of that kind of building work;

(d) Section 12 (b)—

15 After “out”, insert “that kind of”.

(e) Section 12 (c)—

Before “building” wherever occurring, insert “that  
kind of”.

(f) Section 12 (d)—

20 Omit “an employee or director of the corporation,  
being the employee or director who is to”, insert  
instead “one or more of the directors or full-time  
employees of the corporation who will”.

(g) Section 12 (d)—

25 After “work”, insert “of that kind”.

(h) Section 12 (f)—

Omit the paragraph, insert instead :—

(f) that the corporation is not disqualified from  
holding a licence of the kind for which it has  
30 applied or a person holding a licence

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

5                   suspended under Part IV that is of the same  
kind as the licence for which it has applied.

(i) Section 12 (2)—

At the end of section 12, insert :—

(2) A full licence granted under subsection (1)  
authorises the holder of the licence to carry out—

10           (a) except as provided in paragraph (b)—all  
kinds of building work; or

                 (b) where the licence specifies a kind of building  
work as the kind of building work that it is  
authorised to carry out—only that kind of  
15           building work,

and to do so subject to the conditions, if any, imposed  
on the licence for the time being under this Act.

(9) (a) Section 13—

20           Omit “licence,” insert instead “licence authorising the  
holder to carry out building work of a kind specified  
in the application,”.

(b) Section 13 (a)—

After “behalf”, insert “authorising him or it to carry  
out that kind of building work”.

25           (c) Section 13 (b) (i), (ii)—

Omit the subparagraphs, insert instead :—

(i) a full-time employee of an individual referred  
to in section 10 (1A) (a) or a director or a  
full-time employee of a corporation referred

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

5 to in section 10 (1A) (c), that sufficient  
persons on whose behalf the individual or  
corporation, as the case may be, is to hold  
10 subsidiary full licences will have the control  
and supervision of all building work of that  
kind to be carried out by that individual or  
corporation; or

15 (ii) a full-time employee of a partnership referred  
to in section 10 (1A) (b), that sufficient full-  
time employees of the partnership will have  
the control and supervision of all building  
work of that kind to be carried out by that  
partnership; and

(d) Section 13 (c)—

Omit “employee or”, insert instead “full-time employee  
or the”.

20 (e) Section 13 (c) (i)—

Omit the subparagraph, insert instead :—

(i) is not the holder of a full licence or a restricted  
licence; and

(f) Section 13 (c) (ii)—

25 After “licence” where secondly occurring, insert  
“, authorising him to carry out that kind of building  
work,”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(g) Section 13 (2)—

5       At the end of section 13, insert :—

(2) A subsidiary full licence granted under sub-section (1) authorises the holder of the licence to carry out—

10       (a) except as provided in paragraph (b)—all kinds of building work; or

(b) where the licence specifies a kind of building work as the kind of building work that he is authorised to carry out—only that kind of building work,

15       and to do so subject to—

(c) his being the holder of the appropriate full licence; and

(d) the conditions, if any, imposed on that full licence for the time being under this Act.

20 (10) Part III, Division 2, heading—

After “*Licences*”, insert “*and Subsidiary Restricted Licences*”.

(11) (a) Section 13A (1)—

25       Omit “, after the expiration of three months after the commencement of the Builders Licensing (Amendment) Act, 1976” wherever occurring.

(b) Section 13A (1) (a)—

Omit “or” where lastly occurring, insert instead “and”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(c) Section 13A (1) (b) (i)–(iv)—

Omit section 13A (1) (b) (i) and (ii), insert  
instead :—

(i) of a restricted licence, unless he is the holder  
of a restricted licence;

(ii) of a subsidiary restricted licence, unless he is  
the holder of a subsidiary restricted licence;

(iii) of a restricted licence authorising him to carry  
out trade work of a particular kind, unless he is  
the holder of a restricted licence authorising  
him to carry out that kind of trade work; or

(iv) of a subsidiary restricted licence authorising  
him to carry out trade work of a particular  
kind, unless he is the holder of a subsidiary  
restricted licence authorising him to carry out  
that kind of trade work.

(d) Section 13A (2)—

Omit the subsection, insert instead :—

(2) A person who is the holder of a restricted  
licence, other than a qualified restricted licensee, shall  
not do any of the things referred to in subsection (1)

(a) (i), (ii) or (iii) in respect of any kind of trade  
work unless—

(a) where that holder is an individual and does  
not do that thing as a member of a partner-  
ship, he is the holder of at least one  
subsidiary restricted licence authorising him  
to carry out that kind of trade work granted  
to him on behalf of one of his full-time  
employees;

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

5 (b) where that holder does that thing as a  
member of a partnership, another member  
of the partnership is a qualified restricted  
licensee or he or another member of the  
partnership holds at least one subsidiary  
restricted licence authorising him to carry  
10 out that kind of trade work granted to him  
on behalf of a full-time employee of the  
partnership; or

15 (c) where that holder is a corporation and does  
not do that thing as a member of a partner-  
ship, it is the holder of at least one sub-  
sidiary restricted licence authorising it to  
carry out that kind of trade work granted  
to it on behalf of a director of the  
20 corporation or one of its full-time  
employees.

Penalty : \$2,000 and, in the case of a continuing  
offence, \$200 for each day the offence continues.

(e) Section 13A (4) (a)—

25 Omit “person;”, insert instead “person who is the  
holder of a licence or a permit;”.

(f) Section 13A (4) (b)—

Omit section 13A (4) (b) (ii), insert instead :—

(ii) from carrying out trade work, of a kind that  
he is authorised by that licence to carry out;

30 (g) Section 13A (5)—

Omit “(1),”, insert instead “(1) in respect of any  
kind of trade work,”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(h) Section 13A (5)—

- 5 After "licence", insert "authorising the holder to carry out that kind of trade work".

(12) Section 13B—

- 10 Omit "subject to which the licence was issued", insert instead "imposed on the licence for the time being under this Act".

(13) (a) Section 13c (1)—

Omit "the" where lastly occurring, insert instead "his".

(b) Section 13c (2) (a)—

- 15 Omit "one of his", insert instead "any one of his full-time".

(c) Section 13c (2) (b)—

Omit "an employee", insert instead "any one of the full-time employees".

20 (d) Section 13c (2) (c)—

Omit "a director of the corporation or one of its employees", insert instead "any one of its directors or full-time employees".

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (e) Section 13C (2A)—

5 After section 13C (2), insert :—

(2A) A person eligible to make an application under subsection (2) may make separate applications under that subsection in respect of different full-time employees or directors, as the case may require.

## 10 (14) (a) Section 13D (1) (b)—

Omit “a restricted”, insert instead “the”.

## (b) Section 13D (1) (f)—

Omit the paragraph, insert instead :—

15 (f) that he is not disqualified from holding a licence of the kind for which he has applied or a person holding a licence suspended under Part IV that is of the same kind as the licence for which he has applied,

## (c) Section 13D (1) (g)—

20 Before “qualifications”, insert “qualification or”.

## (d) Section 13D (1) (h)—

Omit “an employee of that individual who is to”, insert instead “one or more of his full-time employees who will”.

## 25 (e) Section 13D (2)—

Omit “appropriate matter or matters”, insert instead “matter”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(f) Section 13D (3)—

5 Omit the subsection, insert instead :—

(3) A restricted licence granted under subsection  
(1) authorises the holder of the licence to carry out  
trade work of the kind specified in the licence and to  
do so subject to the conditions, if any, imposed on the  
10 licence for the time being under this Act.

(15) (a) Section 13E (1) (a) (ii)—

Omit “a restricted”, insert instead “the”.

(b) Section 13E (1) (a) (iii)—

Omit the subparagraph, insert instead :—

15 (iii) is not disqualified from holding a licence  
authorising the carrying out of the same kind  
of trade work as that which would be  
authorised to be carried out by the licence  
applied for if it were granted and is not a  
20 person holding a licence suspended under Part  
IV that would, if it were in force, authorise  
the carrying out of that kind of trade work;

(c) Section 13E (1) (d)—

25 Omit “an employee or director of the corporation,  
being the employee or director who is to”, insert  
instead “one or more of the directors or full-time  
employees of the corporation who will”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(d) Section 13E (1) (f)—

5 Omit the paragraph, insert instead :—

- (f) that the corporation is not disqualified from holding a licence of the kind for which it has applied or a person holding a licence suspended under Part IV that is of the same kind as the licence for which it has applied.

(e) Section 13E (2)—

Omit the subsection, insert instead :—

- (2) A restricted licence granted under subsection (1) authorises the holder of the licence to carry out trade work of the kind specified in the licence and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

(16) (a) Section 13F (b) (i), (ii)—

Omit the subparagraphs, insert instead :—

- (i) a full-time employee of an individual referred to in section 13C (2) (a) or a director or a full-time employee of a corporation referred to in section 13C (2) (c), that sufficient persons on whose behalf the individual or corporation, as the case may be, is to hold subsidiary restricted licences will have the control and supervision of all trade work of that kind to be carried out by that individual or corporation; or
- (ii) a full-time employee of a partnership referred to in section 13C (2) (b), that sufficient full-time employees of the partnership will have

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

5                   the control and supervision of all trade work  
                  of that kind to be carried out by that  
                  partnership; and

(b) Section 13F (c)—

Omit “employee or”, insert instead “full-time employee  
or the”.

10               (c) Section 13F (c) (i)—

Omit the subparagraph, insert instead :—

(i) is not the holder of a full licence or a restricted  
licence; and

(d) Section 13F (2)—

15               At the end of section 13F, insert :—

(2) A subsidiary restricted licence granted under  
subsection (1) authorises the holder of the licence to  
carry out trade work of the kind specified in the  
licence and to do so subject to—

20               (a) his being the holder of the appropriate  
                  restricted licence; and

(b) the conditions, if any, imposed on that  
restricted licence for the time being under  
this Act.

25 (17) Section 13H—

Omit “an employee or director” where firstly and secondly  
occurring, insert instead “a director or full-time employee”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(18) Section 14A—

5 After section 14, insert :—

14A. (1) When the Board grants a licence under section 11, 12, 13D or 13E it may impose on the licence such conditions as it thinks fit. Conditions on certain licences.

10 (2) Where a condition is prescribed, for the purposes of this section, in respect of a class of licences, the condition shall be deemed to be imposed on each licence of that class.

(3) A condition imposed on a licence under subsection (1) shall be specified in the licence.

15 (19) Section 15AA—

After section 15, insert :—

15AA. The Board may, by notice in writing served on the holder of a licence granted under section 11, 12, 13D or 13E— Variation, etc., of conditions on certain licences.

- 20 (a) revoke or vary any condition imposed on the licence for the time being by the Board; or
- (b) impose on the licence such new conditions as it thinks fit.

(20) (a) Section 16 (1) (a)—

25 Before “employee”, insert “full-time”.

(b) Section 16 (1) (b)—

After “some other”, insert “full-time”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(c) Section 16 (1) (c)—

5 Omit the paragraph, insert instead:—

- (c) where the applicant is a corporation and that other person is a director or an employee of the corporation—the name of some other director or full-time employee of the corporation.

(d) Section 16 (3)—

Omit “paragraph (a)” wherever occurring, insert instead “subsection (1) (a)”.

(21) Section 21 (1) (a)—

15 Omit the paragraph, insert instead :—

- (a) except with the approval in writing of the Board, knowingly assist in any way—
- (i) a person who is not the holder of a licence to carry on the business of carrying out building work;
  - (ii) a person who is the holder of a full licence to carry on the business of carrying out building work other than building work of a particular kind authorised to be carried out by that full licence; or
  - (iii) a person who is the holder of a restricted licence to carry on the business of carrying out building work other than trade work of a particular kind authorised to be carried out by that restricted licence;

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(22) (a) Section 30 (1) (d)—

5 Omit “from holding a licence, or from being a person  
on whose behalf a licence may be held; or”, insert  
instead :—

from—

10 (i) holding a licence of the class (or of  
any of the classes) of licences specified  
in the determination or a licence other  
than of the class (or of any of the  
classes) of licences so specified; or

15 (ii) being a person on whose behalf any  
such licence may be held; or

(b) Section 30 (1) (e)—

Omit “from holding a licence or from being a person  
on whose behalf a licence may be held,”, insert  
instead :—

20 from—

25 (iii) holding a licence of the class (or of  
any of the classes) of licences specified  
in the determination or a licence other  
than of the class (or of any of the  
classes) of licences so specified; or

(iv) being a person on whose behalf any  
such licence may be held,

(c) Section 30 (2)—

30 Omit “A determination”, insert instead “Subject to  
subsection (2A), a determination”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(d) Section 30 (2A)—

5 After section 30 (2), insert :—

(2A) Where the Board has made a determination under subsection (1) (c), (d) or (e), the Board may refuse to grant any licence under section 11, 12, 13D or 13E to the defendant during the period for which the determination would, if this subsection had not been enacted, have had no force or effect by reason of subsection (2).

(e) Section 30 (3)—

Omit the subsection, insert instead :—

15 (3) Where the Board determines that a licence be suspended or cancelled and—

(a) no appeal against the Board's determination has been made within the time limited for appealing against it; or

20 (b) an appeal against that determination has been so made but has been withdrawn,

the holder of the licence shall, forthwith after the expiration of that time or the withdrawal of that appeal, as the case may be, lodge the licence with the Board.

25 Penalty : \$500.

(f) Section 30 (3A) (c)—

After "defendant" where firstly occurring, insert "on his own behalf or held on behalf of the defendant".

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(23) (a) Section 31 (1)—

5 Omit the subsection, insert instead :—

(1) Any—

10 (a) applicant for a licence or permit or for the  
restoration or variation of a licence who is  
aggrieved by any determination of the  
Board in relation to his application;

(b) defendant under Part IV who is aggrieved  
by any determination of the Board made  
under section 30 upon the inquiry at which  
he was the defendant; or

15 (c) holder of a full licence or a restricted licence  
who is aggrieved by any determination of  
the Board to impose a condition on the  
licence or to vary or revoke a condition  
imposed on the licence for the time being  
20 by the Board,

may, within 21 days after notice of the determination  
is served on him or, in the case of a determination  
referred to in subsection (6), within 21 days after the  
date on which that determination is deemed to have  
25 been made, appeal against the determination to the  
District Court.

(b) Section 31 (5A) (a)—

Omit “(1A)”, insert instead “(1B)”.

(c) Section 31 (5A) (c)—

30 After “defendant” where firstly occurring, insert “on  
his own behalf or held on behalf of the defendant”.

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(24) (a) Section 32 (1)—

5 Omit “a licence”, insert instead “a full licence or a restricted licence”.

(b) Section 32 (1) (a), (b)—

Omit the paragraphs, insert instead :—

10 (a) who enters into a contract undertaking to carry out, by himself or by others, any kind of building work or trade work, as the case may be, which he is authorised by that licence to carry out; or

15 (b) who, otherwise than pursuant to such a contract, commences any kind of building work or trade work, as the case may be, which he is authorised by that licence to carry out.

(c) Section 32 (1A)—

Omit the subsection, insert instead :—

20 (1A) A reference in subsection (1)—

(a) to building work, does not include a reference to—

25 (i) trade work undertaken by the holder of a restricted licence under a contract with the holder of a full licence or with the holder of a permit; or

30 (ii) any other building work of a class or description prescribed for the purposes of this subparagraph; or

*Builders Licensing (Amendment).*

SCHEDULE 2—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(b) to trade work, does not include a reference  
to—

(i) trade work referred to in paragraph  
(a) (i); or

(ii) any other trade work of a class or  
description prescribed for the  
purposes of this subparagraph.

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FINANCE.

(1) Section 2—

Omit the matter relating to Part VII, insert instead :—

PART VII.—FINANCE—ss. 39–44.

DIVISION 1.—*Builders Licensing Board Account,  
and Associated Funds*—ss. 39–40A.

DIVISION 2.—*Builders Licensing Board Insurance  
Account, and Associated Funds*—ss. 40B–  
41B.

DIVISION 3.—*Builders Licensing Board Trust  
Account*—s. 42AA.

DIVISION 4.—*General*—ss. 42A–44.

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*Builders Licensing (Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

(2) Part VII, Division 1, heading—

5 Before section 39, insert :—

DIVISION 1.—*Builders Licensing Board Account, and  
Associated Funds.*

(3) (a) Section 39 (1)—

10 Omit “Board and from which shall be paid all amounts  
required to meet expenditure incurred in accordance  
with the provisions of this Act”, insert instead “Board,  
other than moneys required by this Act to be deposited  
in the Builders Licensing Board Insurance Account or  
the Builders Licensing Board Trust Account”.

15 (b) Section 39 (1A)—

After section 39 (1), insert :—

20 (1A) The Builders Licensing Board Account may  
be applied to meet expenditure incurred in accordance  
with the provisions of this Act, other than expenditure  
for any of the purposes to which the moneys in the  
Builders Licensing Board Insurance Account or  
Builders Licensing Board Trust Account may be  
applied.

(c) Section 39 (2)—

25 After “shall”, insert “, in relation to the Builders  
Licensing Board Account,”.

*Builders Licensing (Amendment).*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

- (d) Section 39 (2) (a)—

5       After “the General Fund;”, insert “and”.
- (e) Section 39 (2) (b)—

      Omit the paragraph.
- (f) Section 39 (3) and (4)—

      Omit the subsections.
- 10   (4) (a) Section 40 (1) (a)—

      After “Act”, insert “other than moneys forming part  
      of the Special Insurance Fund”.
- (b) Section 40 (1) (c)—

15       Before “Insurance”, insert “Builders Licensing Board  
      Trust Account, the General Insurance Fund, the  
      Special”.
- (c) Section 40 (1) (d)—

      Omit “subsection (3) of section 39”, insert instead  
      “section 43B (1)”.
- 20   (d) Section 40 (2) (c)—

      Omit “paragraph (a) of subsection (1) of section  
      42”, insert instead “section 40A (1) (a)”.
- (e) Section 40 (2) (d)—

25       Before “Insurance”, insert “Builders Licensing Board  
      Trust Account, to the General”.

*Builders Licensing (Amendment).*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

(5) Section 40A and Part VII, Division 2—

5 After section 40, insert :—

40A. (1) The Education Fund shall consist of—

Education  
Fund.

(a) such moneys in the General Fund as the  
Treasurer may from time to time direct to be  
allocated to the Education Fund; and

10 (b) all moneys received by the Board under section  
43B (1) and allocated by the Board to the  
Education Fund.

15 (2) The Board may, from time to time, appropri-  
ate any part of the moneys in the Education Fund for or  
towards the encouragement of apprenticeship in the  
building industry by subsidy or otherwise, or the assistance  
of education or research in, or any public purpose  
connected with, the building industry.

20 DIVISION 2.—*Builders Licensing Board Insurance Account,  
and Associated Funds.*

25 40B. (1) There shall be established in a bank in New  
South Wales a Builders Licensing Board Insurance Account  
into which shall be deposited all moneys that are received  
by the Board and form part of the General Insurance Fund  
or Special Insurance Fund.

Builders  
Licensing  
Board  
Insurance  
Account.

(2) The Builders Licensing Board Insurance  
Account may be applied to meet expenditure for the  
purposes to which the General Insurance Fund or the  
Special Insurance Fund may be applied.

*Builders Licensing (Amendment).*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

- 5 (3) In the books of the Board there shall, in relation to the Builders Licensing Board Insurance Account, be created the following funds :—
- (a) the Builders Licensing Board General Insurance Fund, in this Part referred to as the General Insurance Fund; and
- 10 (b) the Builders Licensing Board Special Insurance Fund, in this Part referred to as the Special Insurance Fund.
- (6) (a) Section 41—
- 15 Before “Insurance” wherever occurring, insert “General”.
- (b) Section 41 (1) (c)—
- Omit “and”.
- (c) Section 41 (1) (d)–(f)—
- Omit section 41 (1) (d), insert instead :—
- 20 (d) all moneys received by the Board under section 43B (1) and allocated by the Board to the General Insurance Fund;
- (e) all investments of moneys in the General Insurance Fund made under section 41B; and
- 25 (f) all moneys received by the Board as proceeds of investment of the General Insurance Fund under section 41B.
- (d) Section 41 (2) (c)—
- Omit “and”.

*Builders Licensing (Amendment).*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

(e) Section 41 (2) (d)—

5 Omit “38B.”, insert instead “38B; and”.

(f) Section 41 (2) (e)—

After section 41 (2) (d), insert :—

10 (e) making such investments under section 41B of  
the moneys in the General Insurance Fund as  
the Board thinks fit.

(7) Sections 41A, 41B—

After section 41, insert :—

41A. (1) The Special Insurance Fund shall consist of—

15 (a) the prescribed proportion of all moneys received  
by the Board as fees for restricted licences of a  
prescribed class of restricted licences or for the  
renewal or restoration of restricted licences of  
any such class;

20 (b) all investments of moneys in the Special  
Insurance Fund made under section 41B; and

(c) all moneys received by the Board as proceeds of  
investment of moneys in the Special Insurance  
Fund made under section 41B.

(2) In subsection (1)—

25 “prescribed class of restricted licences” means—

(a) the class of restricted licences prescribed  
for the purposes of that subsection; or

*Builders Licensing (Amendment).*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

- 5 (b) where no class of licences is so prescribed  
—restricted licences for which fees of  
\$100 are payable;

“prescribed proportion” means—

- 10 (a) the proportion prescribed for the  
purposes of that subsection; or  
(b) where no proportion is so prescribed—  
50 per cent.

(3) The Special Insurance Fund may be applied  
to either or both of the following purposes :—

- 15 (a) making refunds under section 18A of so much of  
any fees for restricted licences as forms part of  
the Special Insurance Fund to applicants for or  
holders of restricted licences in respect of their  
applications for restricted licences or their  
restricted licences;  
20 (b) making such investments under section 41B of  
the moneys in the Special Insurance Fund as the  
Board thinks fit.

25 41B. The provisions of the Superannuation Act, 1916,  
with respect to the investment of the State Superannuation  
Fund apply to and in respect of the Board and the  
investment of the General Insurance Fund and the Special  
Insurance Fund as if the Board and the Fund referred to  
in those provisions were the Board and those funds.

Power to  
invest  
Insurance  
Funds.

*Builders Licensing (Amendment).*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

(8) Section 42—

5 Omit the section.

(9) Part VII, Division 3 and Part VII, Division 4, heading—

Before section 42A, insert :—

DIVISION 3.—*Builders Licensing Board Trust Account.*

10 42AA. (1) There shall be established in a bank in New South Wales a Builders Licensing Board Trust Account into which shall be deposited— **Builders  
Licensing  
Board Trust  
Account.**

- (a) all moneys paid to the Board pursuant to a direction referred to in section 30B (1); and
- 15 (b) all moneys received by the Board as proceeds of investment of the moneys referred to in paragraph (a).

(2) The Builders Licensing Board Trust Account may be applied to the following purposes :—

- 20 (a) making payments for the purposes for which the moneys in that account may be applied pursuant to section 30B (2) and (3); and
- (b) making such investments by way of deposit of the moneys in that account with a bank in New South Wales as the Board thinks fit.

25 DIVISION 4.—*General.*

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*Builders Licensing (Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

(10) Section 43 (1)—

- 5       After “fund”, insert “and the Builders Licensing Board Trust Account”.

(11) Section 43B—

After section 43A, insert :—

- 10       43B. (1) The Treasurer may advance such moneys to the Board, upon such terms and conditions as to repayment and interest as may be agreed upon. Miscellaneous provisions.

(2) The funds and the Builders Licensing Board Trust Account created under this Part shall each be separate and distinct.

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SCHEDULE 4.

Sec. 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 2, matter relating to Part IVA—

Omit “s. 30A”, insert instead “ss. 30A, 30B”.

(b) Section 2—

- 20       After the matter relating to Part VI, insert :—

PART VIA.—INSPECTIONS AND REPORTS—s. 38C.

*Builders Licensing (Amendment).*

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(2) Section 3 (1), definition of “building work”—

- 5 From paragraph (a), omit “or in the making of alterations or additions to”, insert instead “the making of alterations or additions to, or the repairing, renovation, decoration or painting of”.

(3) Section 4 (1B)—

- 10 After section 4 (1A), insert :—

(1B) In the exercise and discharge of the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act (except in relation to the content of a report or recommendation made by it to the Minister), the Board shall be subject to the control and direction of the Minister.

(4) (a) Section 8 (1)—

After “officers and”, insert “temporary”.

(b) Section 8 (1)—

- 20 Omit “1902”, insert instead “1979”.

(c) Section 8 (2)—

After “officers or”, insert “temporary”.

(5) (a) Section 13G (3) (c)—

- 25 Omit “except where the Board considers that special circumstances exist”, insert instead “subject to subsection (4)”.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(b) Section 13G (3) (c)—

5 Omit “two”, insert instead “5”.

(c) Section 13G (4)—

After section 13G (3), insert :—

(4) Subsection (3) (c) does not apply in respect  
of an applicant for a permit where the Board—

10 (a) is satisfied that the permit is required to  
authorise the applicant to carry out owner-  
builder’s work that is—

(i) to be carried out on land on which  
the applicant has been authorised  
15 to carry out owner-builder’s work;  
and

(ii) to be used in connection with the  
building work authorised to be  
carried out by the applicant,

20 by a permit previously granted under  
subsection (3); or

(b) considers that special circumstances exist.

(6) (a) Section 18A (1) (a)—

After “permit”, insert “was or”.

25 (b) Section 18A (1)—

After “licence” where secondly, thirdly and fourthly  
occurring, insert “was or”.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(c) Section 18A (1A)—

5           After section 18A (1), insert :—

(1A) Where, before, on or after the date of assent  
to the Builders Licensing (Amendment) Act, 1979—

- (a) a licence was or is granted to the applicant  
therefor; and
- 10           (b) after the licence was or is granted, the fee  
prescribed in respect of an application for  
a licence of the class to which the licence  
belongs has been or is reduced to a lesser  
fee,
- 15           the Board may refund to the applicant or the holder  
of the licence, or to any other person who appears to  
the Board to be entitled thereto, the difference between  
the firstmentioned and secondmentioned fees.

(d) Section 18A (2)—

20           After “subsection (1)”, insert “or (1A)”.

(7) (a) Section 29 (3)—

Omit “obeying”, insert instead “complying with the  
requirements set forth in”.

(b) Section 29 (3)—

25           Omit “a District”, insert instead “the District”.

*Builders Licensing (Amendment).*

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(8) Section 30B—

5 After section 30A, insert :—

30B. (1) Directions specified pursuant to section 30A  
 (2) in an order made by the Board under section 30A (1) with respect to building work carried out under a contract by the holder of a licence may include a direction requiring the purchaser concerned to pay moneys to the Board for the purpose of their being applied by the Board towards the cost of the building work carried out for, and materials supplied to, that purchaser under that contract by the holder.

Deposit of  
moneys as  
security.

15 (2) Where moneys have been paid by any person to the Board pursuant to a direction referred to in subsection (1), they may be applied by the Board, at such time or times and to such extent as the Board thinks fit, for the purpose referred to in that subsection.

20 (3) Any moneys paid by any person to the Board pursuant to a direction referred to in subsection (1) and any moneys representing interest accrued thereon shall be repaid by the Board to that person to the extent, if any, that those moneys are not applied by the Board for the purpose referred to in that subsection.

(9) (a) Section 32 (1) (c)—

Omit the paragraph, insert instead :—

30 (c) in the case of a contract referred to in paragraph (a), within one month after entering into the contract, serve on the Board notice of the contract;

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(b) Section 32 (1) (e)—

5 Omit “(i)”.

(10) (a) Section 36 (a) (i)—

Omit “subparagraph (i) of paragraph (c) of subsection (1) of section 32”, insert instead “section 32 (1) (c)”.

10 (b) Section 36 (b) (i)—

Omit the subparagraph, insert instead :—

15 (i) where notice of commencement of that building work has been served on the Board in accordance with section 32 (1) (d) and the date of commencement is not determined by the Board as referred to in subparagraph (ii), the date of commencement shown in that notice; or

(11) (a) Section 37 (1)—

20 Omit “subparagraph (i) of paragraph (c) of subsection (1) of section 32”, insert instead “section 32 (1) (c)”.

(b) Section 37 (2)—

25 Omit “within one month”, insert instead “as soon as practicable”.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(c) Section 37 (3)—

5 Omit the subsection, insert instead :—

(3) Where notice of commencement of any  
building work has not been—

(a) specified in a notice served on the Board in  
accordance with section 32 (1) (c); or

10 (b) served on the Board in accordance with  
section 32 (1) (d),

the Board may determine the date of commencement  
of the building work.

(d) Section 37 (4)—

15 Omit “so served”, insert instead “specified in a notice  
served in accordance with section 32 (1) (c) or  
served in accordance with section 32 (1) (d)”.

(e) Section 37 (4) (a)—

20 Omit “within one month”, insert instead “as soon as  
practicable”.

(12) Part VIA—

After Part VI, insert :—

PART VIA.

INSPECTIONS AND REPORTS.

25 38c. (1) The Board may, on application made in a form approved by the Board, and subject to such conditions as are approved by the Board and specified in the application, cause inspections of, and reports on the condition of, dwellings to be made. Inspections  
and reports  
on  
dwellings.

*Builders Licensing (Amendment).*

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(2) An application under this section shall be accompanied by the fee determined by the Board in relation to applications of the class to which the application belongs, which fee shall be refunded by the Board to the applicant or to any other person who appears to the Board to be entitled thereto if the Board rejects the application.

(3) The Board—

(a) may reject an application under this section for any reason it thinks fit; and

(b) shall be deemed to have rejected an application if it fails to make available to the applicant the report for which he applied by—

(i) the time notified to the applicant under subsection (4); or

(ii) where the applicant agrees with the Board upon a later time—that time.

(4) When the Board receives an application under this section, it shall cause the applicant to be notified of the time by which the report should be available to him.

(5) Where the Board causes a report under this section to be made available to the applicant, the Board is not liable, in respect of anything included in or omitted from the report—

(a) to any person other than the applicant; or

(b) to the applicant, if each of the Board's servants involved in the inspection or the preparation of the report has, in being so involved, acted in good faith, with reasonable care and in

*Builders Licensing (Amendment).*

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

5 accordance with the conditions, if any, specified  
in the application, as referred to in subsection  
(1).

(6) Nothing in subsection (5) affects the  
operation of section 7 (7).

10 (7) Section 51 does not apply to or in respect of  
an inspection for the purposes of this section.

(8) An inspection of and report on the condition  
of a dwelling may be made under this section in relation  
to the whole or a part or parts of the dwelling and may be  
made whether construction of the dwelling was commenced  
15 before, on or after the date of assent to this Act.

(13) (a) Section 50 (1)—

Omit “subsection (1A)”, insert instead “subsections  
(1A) and (1B)”.

(b) Section 50 (1)—

20 After “under this Act”, insert “(other than section  
55A)”.

(c) Section 50 (1B)—

After section 50 (1A), insert :—

25 (1B) The Board may delegate to the Chairman or  
Deputy Chairman, or to each of them, the exercise  
or performance of the Board’s powers under section  
52A (2) and (3), but shall not otherwise delegate the  
exercise or performance of the Board’s powers under  
those subsections.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(d) Section 50 (3) (a)—

5 After “13”, insert “, 13D, 13E, 13F, 13G”.

(e) Section 50 (3) (a)—

After “licence or”, insert “permit or for”.

(14) Section 51 (1)—

After “authorised”, insert “under this subsection”.

10 (15) Section 52A—

After section 52, insert :—

52A. (1) In this section, “authorised officer” means a person authorised by the Board under subsection (2). Power to inspect books, etc.

15 (2) The Board may, by order in writing, authorise—

(a) a servant of the Board; or

(b) any officer, servant or employee of whose services the Board makes use pursuant to this Act,

20 to examine the business records of holders of licences in respect of whom complaints have been made to the Board under section 24 (b2).

*Builders Licensing (Amendment).*

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

5 (3) Where the Board is of the opinion that the  
circumstances of the case so require, the Board may, by  
notice in writing served on the holder of a licence in  
respect of whom a complaint has been made to the Board  
under section 24 (b2), require the holder—

10 (a) to appear before an authorised officer for the  
purpose of his being examined with respect to  
his financial position; and

15 (b) to produce to an authorised officer such of the  
records relating to the financial position of the  
holder as are within the holder's possession or  
subject to his control,

at—

(c) a time and date, being a date occurring not less  
than 21 days after the date of service of the  
notice; and

20 (d) a place, being an office of the Board or the place  
last notified to the Board as his principal place  
of business in New South Wales,

specified in the notice.

25 (4) Where the holder of a licence on whom a  
notice under subsection (3) has been served notifies the  
Board in writing not less than 14 days before the date  
specified in the notice under subsection (3) (c) that he  
wishes to substitute a different place from that which was  
30 specified in the notice under subsection (3) (d), the dif-  
ferent place shall be deemed to have been specified in the  
notice under that paragraph if—

35 (a) the different place is an office of the Board or  
is the place last notified to the Board (whether  
or not in the notification given for the purpose  
of this subsection) as the principal place of  
business in New South Wales of the holder; or

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

- 5 (b) the Board, by an instrument in writing served on the holder not less than 7 days before the date specified in the notice under subsection (3) (c), consents to the substitution of the different place for the place specified in the notice under subsection (3) (d).
- 10 (5) Where the holder of a licence appears before an authorised officer pursuant to a requirement made under subsection (3) (a), the authorised officer may—
- 15 (a) require the holder to answer any question that is reasonably related to the ascertainment of the financial position of the holder by the authorised officer; and
- 20 (b) examine, or take copies of, or extracts or notes from, any record relating to the financial position of the holder that is produced by him to the authorised officer.
- (6) A person shall not—
- (a) neglect or fail to comply with a requirement made of him by—
- 25 (i) the Board, under subsection (3); or
- (ii) an authorised officer, under subsection (5) (a),
- except to the extent, if any, that he is not able to comply with the requirement;
- 30 (b) in purported compliance with a requirement made of him by the Board under subsection (3) (b), produce a record that he knows to be false or misleading in a material particular;

*Builders Licensing (Amendment).*

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

- 5 (c) make a statement that he knows to be false or misleading in a material particular when he is appearing before an authorised officer; or
- (d) wilfully obstruct or delay an authorised officer exercising or attempting to exercise any of his powers under subsection (5) (b).

10 Penalty : \$500.

15 (7) Where a person answers a question in compliance with a requirement made of him under subsection (5) (a) by an authorised officer and the answer tends to incriminate the person, neither the question nor the answer may be used in criminal proceedings against that person except proceedings under subsection (6) in respect of making a false or misleading statement in answer to the question.

20 (8) Subsection (7) applies whether the person objects to answering the question or not.

(16) Section 53 (c)—

Omit “section 52”, insert instead “sections 52 (3) and 52A (7)”.

(17) (a) Section 55 (b)—

25 Omit the paragraph, insert instead :—

(b) where it is addressed to the holder or former holder of a licence or permit—

30 (i) by delivering it to any place shown on the application for the licence or permit as the holder's or former

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

5 holder's place of abode or business (or  
to the last place of abode or business  
of the holder or former holder known  
to the Board) and by leaving it there  
with some person for that holder or  
former holder; or

10 (ii) by posting it by pre-paid mail in an  
envelope addressed to the holder or  
former holder at any place shown on  
the application for the licence or per-  
mit as the holder's or former holder's  
15 place of abode or business (or at the  
last place of abode or business of the  
holder or former holder known to the  
Board),

(b) Section 55 (2), (3)—

20 At the end of section 55, insert :—

(2) Subsection (1) does not affect the operation  
of—

(a) section 351 or 362 of the Companies Act,  
1961, with respect to service of a notice,  
25 order or certificate referred to in that  
subsection; or

(b) section 31 of the Business Names Act, 1962,  
with respect to service of a notice, order,  
certificate or subpoena so referred to,

30 and, for the purposes of section 351 of the Companies  
Act, 1961, a notice, order or certificate under this  
Act addressed to a foreign company, within the mean-  
ing of that Act, shall be deemed to be required to be  
served on the foreign company.

*Builders Licensing (Amendment).*

SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(3) In this section, a reference—

- 5 (a) to the holder or former holder of a licence,  
being a subsidiary full licence or a sub-  
sidiary restricted licence, includes a  
reference to any person on whose behalf the  
licence is, or formerly was, held; or
- 10 (b) to a licence or permit, includes a reference  
to a licence or permit that is not in force.

(18) Section 55A—

After section 55, insert :—

15 55A. (1) In this section, “prescribed instrument” means **Order for substituted service.**  
a notice or an order under this Act, other than an order  
under this section.

20 (2) Upon being satisfied on oath that it is  
impracticable, otherwise than pursuant to an order under  
this subsection, to effect service of a prescribed instrument  
on the holder or former holder of a licence or permit, the  
Board may order that the carrying into effect of procedures  
specified in the order, being procedures intended to have  
the effect of bringing the prescribed instrument to the notice  
of the holder or former holder, as the case may require,  
25 shall—

- (a) forthwith upon their being carried into effect,  
constitute service of the prescribed instrument for  
the purposes of this Act; or
- 30 (b) at the expiration of a period of time specified in  
the order or on the occurrence of an event so  
specified, constitute that service.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(3) When—

- 5           (a) the procedures specified in an order made under  
              subsection (2) with respect to the service of a  
              prescribed instrument on a person have been  
              carried into effect; and
- 10           (b) the period of time, if any, specified under sub-  
              section (2) (b) in the order has expired or the  
              event, if any, so specified has occurred,

the prescribed instrument shall be deemed to have been  
served on the person for the purposes of this Act.

- 15           (4) Section 55 (3) applies in respect of a  
              reference in this section to the holder or former holder of a  
              licence or to a licence or permit in the same way as it  
              applies in respect of any such reference in section 55.

(19) Section 62 (1) (c)—

After “licences”, insert “or permits”.

SAVING AND TRANSITIONAL PROVISIONS RELATING TO LICENCES.

1. A licence granted under the Principal Act before the commencement of this Schedule shall be deemed to have been granted under the Principal Act, as amended by this Act.

Saving of  
certain  
licences.

*Builders Licensing (Amendment).*

SCHEDULE 5—*continued.*

SAVING AND TRANSITIONAL PROVISIONS RELATING TO  
LICENCES—*continued.*

2. (1) Notwithstanding sections 11 (3), 12 (2) and 13 (2) of the  
5 Principal Act, as amended by this Act, any—
- (a) full licence granted under the Principal Act before the commence-  
ment of this Schedule that, when it was so granted, bore an  
endorsement stating that the licence was issued for a particular  
purpose; or
- 10 (b) subsidiary full licence granted under the Principal Act before or  
after that commencement to the holder of any such full licence  
by reason of his having been the applicant for the full licence,
- shall, on and from that commencement, be deemed to be a full licence or  
subsidiary full licence, as the case may be, authorising the holder to carry  
15 out only building work of a kind that would enable the holder of the  
licence to achieve that purpose.
- (2) Nothing in subclause (1) of this clause affects the power of the  
Board under section 15AA of the Principal Act, as amended by this Act, to  
impose a condition on a full licence referred to in that subclause.
- 20 3. Any determination made by the Board under section 30 (1) (d) or  
(e) of the Principal Act before the commencement of this Schedule—
- (a) to disqualify a person, either permanently or for a period that  
expires after the commencement of this Schedule, from being the  
holder of a licence under that Act—shall be deemed to have been  
25 a determination to disqualify the person from being the holder of  
any licence under that Act, as amended by this Act; or
- (b) to disqualify a person, either permanently or for a period that  
expires after the commencement of this Schedule, from being a  
person on whose behalf a licence may be held under that Act—  
30 shall be deemed to have been a determination to disqualify the  
person from being a person on whose behalf any licence may be  
held under that Act, as amended by this Act.
4. Notwithstanding clause 3 or any provision of Division 1 or 2 of  
Part III of the Principal Act, as amended by this Act, where—
- 35 (a) a person applies for a licence under that Act, as so amended, after  
the commencement of this Schedule; and

Authority  
conferred  
by certain  
licences  
limited.

Effect of  
certain  
determina-  
tions by  
Board.

Power to  
grant  
licences  
in certain  
cases.

*Builders Licensing (Amendment).*

SCHEDULE 5—*continued.*

SAVING AND TRANSITIONAL PROVISIONS RELATING TO  
LICENCES—*continued.*

- 5 (b) the person is not entitled to be granted the licence by reason only that—
- (i) he is a person disqualified from holding the licence for which he has applied by reason of a determination under section 30 (1) (d) or (e) of the Principal Act made by the Board before that commencement; or
- 10 (ii) a person on whose behalf the licence, if granted, would be held is disqualified from being a person on whose behalf the licence may be held by reason of a determination referred to in subparagraph (i),
- the Board may, if it considers that the particular circumstances of the  
15 case so warrant, grant the licence.

SCHEDULE 6.

Sec. 7.

VALIDATIONS AND OTHER SAVING AND TRANSITIONAL PROVISIONS.

1. (1) The creation in the books of the Board of a Builders Licensing Board Special Insurance Fund before the commencement of this Schedule  
20 is validated. Validation and transitional provisions in respect of funds.
- (2) The crediting before the commencement of this Schedule of 50 per cent of moneys received by the Board as fees for restricted licences (being restricted licences for which fees of \$100 were payable) or for the renewal or restoration of those restricted licences, to the fund referred to in  
25 subclause (1) of this clause, instead of to the Builders Licensing Board General Fund referred to in section 39 (2) (a) of the Principal Act, is validated.
- (3) All moneys held immediately before the commencement of this Schedule in the Builders Licensing Board Account in the Special Deposits  
30 Account in the Treasury and credited to—
- (a) the Builders Licensing Board Insurance Fund referred to in section 39 (2) (b) of the Principal Act shall be paid to the Board and shall form part of the Builders Licensing Board General Insurance Fund created under section 40B of the Principal Act, as amended  
35 by this Act; or

*Builders Licensing (Amendment).*

SCHEDULE 6—*continued.*

VALIDATIONS AND OTHER SAVING AND TRANSITIONAL  
PROVISIONS—*continued.*

- 5 (b) the fund referred to in subclause (1) of this clause shall be paid to the Board and shall form part of the Builders Licensing Board Special Insurance Fund created under section 40B of that Act, as so amended.
- (4) Upon the moneys credited to the fund referred to in subclause (1) of this clause being paid to the Board in accordance with subclause 10 (3) (b) of this clause, that fund is abolished.
- (5) Any moneys advanced to the Board under section 39 (3) of the Principal Act before the commencement of this Schedule shall be deemed to have been advanced under section 43B (1) of the Principal Act, as amended by this Act.
- 15 2. Any refund made by the Board before the commencement of this Validation Schedule which would have been validly made had section 18A (1A) of the of certain Principal Act, as amended by this Act, been in force at the time of the refunds. making of that refund shall be deemed to have been validly made.
- 20 35 3. The Governor shall be deemed to have approved, under section Certain (1) of the Principal Act, of the Board— approvals deemed to have been given.
- (a) on 24th June, 1976, entering into a contract for the renewal of the Special Contingency Reinsurance Agreement, the approval of the entry into which by the Board was confirmed by the Governor on 7th March, 1973; and
- 25 (b) on 22nd June, 1978, entering into a further contract providing for the variation of the Agreement referred to in paragraph (a).

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES, 1979

[\$1.20]



**BUILDERS LICENSING (AMENDMENT) ACT, 1979,  
No. 182**

**New South Wales**



ANNO VICESIMO OCTAVO

**ELIZABETHÆ II REGINÆ**

\* \* \* \* \*

**Act No. 182, 1979.**

An Act to amend the Builders Licensing Act, 1971, with respect to the constitution of the Builders Licensing Board, the scheme of licensing under that Act, the accounts and funds of that Board and other matters; to validate certain matters; and for other purposes. [Assented to, 18th December, 1979.]

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See also Statutory and Other Offices Remuneration (Builders Licensing Board) Amendment Act, 1979.

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*Builders Licensing (Amendment).*

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**BE** it enacted by the Queen'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 the same, as follows :—

Short  
title.

**1.** This Act may be cited as the "Builders Licensing (Amendment) Act, 1979".

Commence-  
ment.

**2.** (1) Except as provided in subsections (2)–(4), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–4, commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced, as the case may require.

(3) Schedule 1, and section 6 and Schedules 2 and 5, shall commence on such day or days as may be appointed or respectively appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Schedule 4 (1) (b) and (12) shall be deemed to have commenced on 1st February, 1977.

Principal  
Act.

**3.** The Builders Licensing Act, 1971, is referred to in this Act as the Principal Act.

Schedules.

**4.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO CONSTITUTION OF THE BUILDERS  
LICENSING BOARD.

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*Builders Licensing (Amendment).*

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SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO LICENCES.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO FINANCE.

SCHEDULE 4.—MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT.

SCHEDULE 5.—SAVING AND TRANSITIONAL PROVISIONS  
RELATING TO LICENCES.

SCHEDULE 6.—VALIDATIONS AND OTHER SAVING AND  
TRANSITIONAL PROVISIONS.

5. The Principal Act is amended in the manner set forth in  
Schedules 1–4. Amendment  
of Act No.  
16, 1971.

6. Schedule 5 has effect.

Saving and  
transitional  
provisions  
relating to  
licences.

7. Schedule 6 has effect.

Validations  
and other  
saving and  
transitional  
provisions.

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SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD.

(1) Section 3 (1), definition of “Deputy Chairman”—

After the definition of “Crown lands”, insert :—

“Deputy Chairman” means the person holding office as  
Deputy Chairman of the Board;

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*Builders Licensing (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

## (2) (a) Section 4 (2)—

Omit “six”, insert instead “8”.

## (b) Section 4 (2) (a1)—

After section 4 (2) (a), insert :—

(a1) one shall be nominated by the Minister and shall, in and by the instrument of his appointment or by a subsequent instrument executed by the Governor, be appointed as the Deputy Chairman of the Board;

## (c) Section 4 (2) (d1)—

After section 4 (2) (d), insert :—

(d1) one shall be nominated by the Minister from a panel of three persons nominated by the Building Industry Specialist Contractors Organisation of New South Wales within such period as may from time to time be fixed by the Minister and notified by him to that body;

## (d) Section 4 (3)—

Omit “paragraph (b), (c) or (d) of subsection (2)”, insert instead “subsection (2) (b), (c), (d) or (d1)”.

## (e) Section 4 (7) (a)—

After “Chairman”, insert “or Deputy Chairman”.

## (f) Section 4 (9)—

Omit “paragraph (b), (c), (d) or (f) of subsection (2)”, insert instead “subsection (2) (b), (c), (d), (d1) or (f)”.

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*Builders Licensing (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(g) Section 4 (9)—

Omit “paragraph (b), (c) or (d) of subsection (2)”,  
insert instead “subsection (2) (b), (c), (d) or (d1)”.

(h) Section 4 (11)—

Omit the subsection, insert instead :—

(11) The Chairman and the Deputy Chairman  
shall devote the whole of their time to the duties of  
their offices.

(i) Section 4 (11A)—

Omit “is”, insert instead “and the Deputy Chairman  
are”.

(j) Section 4 (11A) (b)—

Omit “him”, insert instead “each of them”.

(k) Section 4 (12)—

After “Chairman”, insert “or Deputy Chairman”.

(l) Section 4 (13)—

After “Chairman”, insert “or Deputy Chairman”.

(m) Section 4 (14)—

After “Chairman”, insert “or Deputy Chairman”.

(n) Section 4 (15)—

Omit “1902”, insert instead “1979”.

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*Builders Licensing (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

## (o) Section 4 (15)—

After "Chairman", insert "or Deputy Chairman".

## (3) Section 5 (1)—

After "Chairman" wherever occurring, insert "or Deputy Chairman".

## (4) (a) Section 6 (1)—

After "Chairman" where firstly, secondly and fourthly occurring, insert "or Deputy Chairman".

## (b) Section 6 (1)—

Omit "continuously been the Chairman and", insert instead ", since that appointment, continuously held office as the Chairman or Deputy Chairman or has held office as the Chairman for each period since that appointment during which period he was not holding office as the Deputy Chairman and, in either case,".

## (c) Section 6 (1)—

Omit "office", insert instead "position".

## (d) Section 6—

Before "(Superannuation)" wherever occurring, insert "and Other Authorities".

## (e) Section 6 (2)—

After "Chairman" wherever occurring, insert "or Deputy Chairman".

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*Builders Licensing (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
CONSTITUTION OF THE BUILDERS LICENSING BOARD—*continued.*

(f) Section 6 (3)—

Omit “The Chairman shall not”, insert instead  
“Neither the Chairman nor the Deputy Chairman  
shall”.

(g) Section 6 (4)—

After “Chairman” wherever occurring, insert “or  
Deputy Chairman”.

(5) Section 7 (2)—

Omit the subsection, insert instead :—

(2) The Chairman or, in his absence, the Deputy  
Chairman, shall preside at all meetings of the Board at  
which he is present and, if the Chairman and Deputy  
Chairman are absent from any meeting, a member elected  
by the members present shall preside at the meeting.

(6) Section 50 (1A)—

After “Chairman”, insert “or Deputy Chairman, or to each  
of them,”.

(7) Section 57—

After “Chairman”, insert “or Deputy Chairman”.

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*Builders Licensing (Amendment).*

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## Sec. 5.

## SCHEDULE 2.

AMENDMENTS TO THE PRINCIPAL ACT RELATING  
TO LICENCES.

- (1) (a) Section 2, matter relating to Division 1 of Part III—

After "*Licences*", insert "*and Subsidiary Full Licences*".

- (b) Section 2, matter relating to Division 2 of Part III—

After "*Licences*", insert "*and Subsidiary Restricted Licences*".

- (2) Section 3 (1B)—

After section 3 (1A), insert :—

(1B) In this Act, a reference to a full-time employee of a person is a reference to an employee who is required, by the terms of his employment by that person, to work for that person otherwise than on a casual or temporary basis.

- (3) Part III, Division 1, heading—

After "*Licences*", insert "*and Subsidiary Full Licences*".

- (4) (a) Section 9 (1), (2)—

Omit the subsections, insert instead :—

(1) A person (either by himself or as a member of a partnership)—

(a) shall not—

- (i) by any statement made to any person, indicate, expressly or impliedly, that he is willing or prepared to carry out, under a contract with any person, any building work;

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

- (ii) by any statement made in an advertisement, indicate, expressly or impliedly, that he is willing or prepared to carry out any building work; or
  - (iii) carry out any building work,  
unless he is the holder of a full licence authorising him to carry out that building work; and
- (b) shall not, by any statement made to any person or made in an advertisement, indicate, expressly or impliedly, that he is the holder—
- (i) of a full licence, unless he is the holder of a full licence;
  - (ii) of a subsidiary full licence, unless he is the holder of a subsidiary full licence;
  - (iii) of a full licence authorising him to carry out building work of a particular kind, unless he is the holder of a full licence authorising him to carry out that kind of building work; or
  - (iv) of a subsidiary full licence authorising him to carry out building work of a particular kind, unless he is the holder of a subsidiary full licence authorising him to carry out that kind of building work.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

Penalty : \$2,000 and, in the case of a continuing offence, \$200 for each day the offence continues.

(2) A person who is the holder of a full licence, other than a qualified full licensee, shall not do any of the things referred to in subsection (1) (a) (i), (ii) or (iii) in respect of any kind of building work unless—

- (a) where that holder is an individual and does not do that thing as a member of a partnership, he is the holder of at least one subsidiary full licence authorising him to carry out that kind of building work granted to him on behalf of one of his full-time employees;
- (b) where that holder does that thing as a member of a partnership, another member of the partnership is a qualified full licensee or he or another member of the partnership holds at least one subsidiary full licence authorising him to carry out that kind of building work granted to him on behalf of a full-time employee of the partnership; or
- (c) where that holder is a corporation and does not do that thing as a member of a partnership, it is the holder of at least one subsidiary full licence authorising it to carry out that kind of building work granted to it on behalf of a director of the corporation or one of its full-time employees.

Penalty : \$2,000 and, in the case of a continuing offence, \$200 for each day the offence continues.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(b) Section 9 (4) (a)—

Omit “person;”, insert instead “person who is the holder of a licence or a permit;”.

(c) Section 9 (4) (a1)—

Omit “or a subsidiary restricted licence”.

(d) Section 9 (4) (a1)—

After “work”, insert “of a kind”.

(e) Section 9 (4) (b)—

Before “building work” where firstly occurring, insert “any kind of”.

(f) Section 9 (4) (b)—

After “licence” where lastly occurring, insert “authorising the holder to carry out that kind of building work”.

(g) Section 9 (4A)—

Omit “(1),”, insert instead “(1) in respect of any kind of building work,”.

(h) Section 9 (4A)—

After “licence”, insert “authorising the holder to carry out that kind of building work”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (5) Section 9A—

After section 9, insert :—

Breach of  
conditions  
of full  
licence.

9A. The holder of a full licence shall comply with any conditions imposed on the licence for the time being under this Act.

Penalty : \$1,000 and, in the case of a continuing offence, \$100 for each day the offence continues.

## (6) (a) Section 10 (1)—

Omit “behalf.”, insert instead :—

behalf authorising him to carry out—

(a) all kinds of building work; or

(b) building work of the kind specified in his application, other than building work consisting solely of work of one class or description that is prescribed for the purposes of paragraph (a) or (b) of the definition of “trade work” in section 3 (1).

## (b) Section 10 (1A) (a)—

Omit “one of his”, insert instead “any one of his full-time”.

## (c) Section 10 (1A) (b)—

Omit “an employee”, insert instead “any one of the full-time employees”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(d) Section 10 (1A) (c)—

Omit “a director of the corporation or one of its employees”, insert instead “any one of its directors or full-time employees”.

(e) Section 10 (1B)—

After section 10 (1A), insert:—

(1B) A person eligible to make an application under subsection (1A) may make separate applications under that subsection in respect of different full-time employees or directors, as the case may require.

(7) (a) Section 11 (1)—

Omit “behalf,”, insert instead “behalf authorising him to carry out building work of a kind specified in the application,”.

(b) Section 11 (1) (b)—

Omit “a full”, insert instead “the”.

(c) Section 11 (1) (c)—

After “out”, insert “that kind of”.

(d) Section 11 (1) (d)—

Before “building”, insert “that kind of”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (e) Section 11 (1) (f)—

Omit the paragraph, insert instead :—

- (f) that he is not disqualified from holding a licence of the kind for which he has applied or a person holding a licence suspended under Part IV that is of the same kind as the licence for which he has applied,

## (f) Section 11 (1) (g)—

Omit the paragraph, insert instead :—

- (g) that, unless he is exempted under subsection (1A), he holds the qualification or qualifications prescribed for the purposes of this paragraph, and that, for a period of at least 2 years, or such shorter period as the Board may, in any particular case, determine, during the 3 years immediately preceding his application, he has been employed in, or has been a contractor for, the carrying out of building work of such a kind as in the opinion of the Board fits him to be the holder of the full licence; or

## (g) Section 11 (1) (h)—

Omit “an employee of that individual who is to”, insert instead “one or more of his full-time employees who will”.

## (h) Section 11 (1) (h)—

After “work”, insert “of that kind”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(i) Section 11 (1A)—

Omit “qualifications referred to in subsection (1) (g) (ii)”, insert instead “qualification or qualifications referred to in subsection (1) (g)”.

(j) Section 11 (2)—

Omit “appropriate matter or matters specified in paragraph (g) of subsection (1)”, insert instead “matters specified in subsection (1) (g)”.

(k) Section 11 (3)—

After section 11 (2), insert :—

(3) A full licence granted under subsection (1) authorises the holder of the licence to carry out—

(a) except as provided in paragraph (b)—all kinds of building work; or

(b) where the licence specifies a kind of building work as the kind of building work that he is authorised to carry out—only that kind of building work,

and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

(8) (a) Section 12—

Omit “behalf,”, insert instead “behalf authorising it to carry out building work of a kind specified in the application,”.

(b) Section 12 (a) (ii)—

Omit “a full”, insert instead “the”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (c) Section 12 (a) (iii)—

Omit the subparagraph, insert instead :—

(iii) is not disqualified from holding a licence authorising the carrying out of the same kind of building work as that which would be authorised to be carried out by the licence applied for if it were granted and is not a person holding a licence suspended under Part IV that would, if it were in force, authorise the carrying out of that kind of building work;

## (d) Section 12 (b)—

After “out”, insert “that kind of”.

## (e) Section 12 (c)—

Before “building” wherever occurring, insert “that kind of”.

## (f) Section 12 (d)—

Omit “an employee or director of the corporation, being the employee or director who is to”, insert instead “one or more of the directors or full-time employees of the corporation who will”.

## (g) Section 12 (d)—

After “work”, insert “of that kind”.

## (h) Section 12 (f)—

Omit the paragraph, insert instead :—

(f) that the corporation is not disqualified from holding a licence of the kind for which it has applied or a person holding a licence

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

suspended under Part IV that is of the same kind as the licence for which it has applied.

(i) Section 12 (2)—

At the end of section 12, insert :—

(2) A full licence granted under subsection (1) authorises the holder of the licence to carry out—

- (a) except as provided in paragraph (b)—all kinds of building work; or
- (b) where the licence specifies a kind of building work as the kind of building work that it is authorised to carry out—only that kind of building work,

and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

(9) (a) Section 13—

Omit “licence,”, insert instead “licence authorising the holder to carry out building work of a kind specified in the application,”.

(b) Section 13 (a)—

After “behalf”, insert “authorising him or it to carry out that kind of building work”.

(c) Section 13 (b) (i), (ii)—

Omit the subparagraphs, insert instead :—

- (i) a full-time employee of an individual referred to in section 10 (1A) (a) or a director or a full-time employee of a corporation referred

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

to in section 10 (1A) (c), that sufficient persons on whose behalf the individual or corporation, as the case may be, is to hold subsidiary full licences will have the control and supervision of all building work of that kind to be carried out by that individual or corporation; or

- (ii) a full-time employee of a partnership referred to in section 10 (1A) (b), that sufficient full-time employees of the partnership will have the control and supervision of all building work of that kind to be carried out by that partnership; and

(d) Section 13 (c)—

Omit “employee or”, insert instead “full-time employee or the”.

(e) Section 13 (c) (i)—

Omit the subparagraph, insert instead :—

- (i) is not the holder of a full licence or a restricted licence; and

(f) Section 13 (c) (ii)—

After “licence” where secondly occurring, insert “, authorising him to carry out that kind of building work,”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(g) Section 13 (2)—

At the end of section 13, insert :—

(2) A subsidiary full licence granted under subsection (1) authorises the holder of the licence to carry out—

- (a) except as provided in paragraph (b)—all kinds of building work; or
- (b) where the licence specifies a kind of building work as the kind of building work that he is authorised to carry out—only that kind of building work,

and to do so subject to—

- (c) his being the holder of the appropriate full licence; and
- (d) the conditions, if any, imposed on that full licence for the time being under this Act.

(10) Part III, Division 2, heading—

After “*Licences*”, insert “*and Subsidiary Restricted Licences*”.

(11) (a) Section 13A (1)—

Omit “, after the expiration of three months after the commencement of the Builders Licensing (Amendment) Act, 1976” wherever occurring.

(b) Section 13A (1) (a)—

Omit “or” where lastly occurring, insert instead “and”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (c) Section 13A (1) (b) (i)–(iv)—

Omit section 13A (1) (b) (i) and (ii), insert instead :—

- (i) of a restricted licence, unless he is the holder of a restricted licence;
- (ii) of a subsidiary restricted licence, unless he is the holder of a subsidiary restricted licence;
- (iii) of a restricted licence authorising him to carry out trade work of a particular kind, unless he is the holder of a restricted licence authorising him to carry out that kind of trade work; or
- (iv) of a subsidiary restricted licence authorising him to carry out trade work of a particular kind, unless he is the holder of a subsidiary restricted licence authorising him to carry out that kind of trade work.

## (d) Section 13A (2)—

Omit the subsection, insert instead :—

(2) A person who is the holder of a restricted licence, other than a qualified restricted licensee, shall not do any of the things referred to in subsection (1) (a) (i), (ii) or (iii) in respect of any kind of trade work unless—

- (a) where that holder is an individual and does not do that thing as a member of a partnership, he is the holder of at least one subsidiary restricted licence authorising him to carry out that kind of trade work granted to him on behalf of one of his full-time employees;

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

- (b) where that holder does that thing as a member of a partnership, another member of the partnership is a qualified restricted licensee or he or another member of the partnership holds at least one subsidiary restricted licence authorising him to carry out that kind of trade work granted to him on behalf of a full-time employee of the partnership; or
- (c) where that holder is a corporation and does not do that thing as a member of a partnership, it is the holder of at least one subsidiary restricted licence authorising it to carry out that kind of trade work granted to it on behalf of a director of the corporation or one of its full-time employees.

Penalty : \$2,000 and, in the case of a continuing offence, \$200 for each day the offence continues.

(e) Section 13A (4) (a)—

Omit “person;”, insert instead “person who is the holder of a licence or a permit;”.

(f) Section 13A (4) (b)—

Omit section 13A (4) (b) (ii), insert instead :—

- (ii) from carrying out trade work, of a kind that he is authorised by that licence to carry out;

(g) Section 13A (5)—

Omit “(1),”, insert instead “(1) in respect of any kind of trade work,”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (h) Section 13A (5)—

After “licence”, insert “authorising the holder to carry out that kind of trade work”.

## (12) Section 13B—

Omit “subject to which the licence was issued”, insert instead “imposed on the licence for the time being under this Act”.

## (13) (a) Section 13c (1)—

Omit “the” where lastly occurring, insert instead “his”.

## (b) Section 13c (2) (a)—

Omit “one of his”, insert instead “any one of his full-time”.

## (c) Section 13c (2) (b)—

Omit “an employee”, insert instead “any one of the full-time employees”.

## (d) Section 13c (2) (c)—

Omit “a director of the corporation or one of its employees”, insert instead “any one of its directors or full-time employees”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(e) Section 13C (2A)—

After section 13C (2), insert :—

(2A) A person eligible to make an application under subsection (2) may make separate applications under that subsection in respect of different full-time employees or directors, as the case may require.

(14) (a) Section 13D (1) (b)—

Omit “a restricted”, insert instead “the”.

(b) Section 13D (1) (f)—

Omit the paragraph, insert instead :—

(f) that he is not disqualified from holding a licence of the kind for which he has applied or a person holding a licence suspended under Part IV that is of the same kind as the licence for which he has applied,

(c) Section 13D (1) (g)—

Before “qualifications”, insert “qualification or”.

(d) Section 13D (1) (h)—

Omit “an employee of that individual who is to”, insert instead “one or more of his full-time employees who will”.

(e) Section 13D (2)—

Omit “appropriate matter or matters”, insert instead “matter”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (f) Section 13D (3)—

Omit the subsection, insert instead :—

(3) A restricted licence granted under subsection (1) authorises the holder of the licence to carry out trade work of the kind specified in the licence and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

## (15) (a) Section 13E (1) (a) (ii)—

Omit “a restricted”, insert instead “the”.

## (b) Section 13E (1) (a) (iii)—

Omit the subparagraph, insert instead :—

(iii) is not disqualified from holding a licence authorising the carrying out of the same kind of trade work as that which would be authorised to be carried out by the licence applied for if it were granted and is not a person holding a licence suspended under Part IV that would, if it were in force, authorise the carrying out of that kind of trade work;

## (c) Section 13E (1) (d)—

Omit “an employee or director of the corporation, being the employee or director who is to”, insert instead “one or more of the directors or full-time employees of the corporation who will”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(d) Section 13E (1) (f)—

Omit the paragraph, insert instead :—

- (f) that the corporation is not disqualified from holding a licence of the kind for which it has applied or a person holding a licence suspended under Part IV that is of the same kind as the licence for which it has applied.

(e) Section 13E (2)—

Omit the subsection, insert instead :—

- (2) A restricted licence granted under subsection (1) authorises the holder of the licence to carry out trade work of the kind specified in the licence and to do so subject to the conditions, if any, imposed on the licence for the time being under this Act.

(16) (a) Section 13F (b) (i), (ii)—

Omit the subparagraphs, insert instead: —

- (i) a full-time employee of an individual referred to in section 13C (2) (a) or a director or a full-time employee of a corporation referred to in section 13C (2) (c), that sufficient persons on whose behalf the individual or corporation, as the case may be, is to hold subsidiary restricted licences will have the control and supervision of all trade work of that kind to be carried out by that individual or corporation; or
- (ii) a full-time employee of a partnership referred to in section 13C (2) (b), that sufficient full-time employees of the partnership will have

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

the control and supervision of all trade work  
of that kind to be carried out by that  
partnership; and

## (b) Section 13F (c)—

Omit “employee or”, insert instead “full-time employee  
or the”.

## (c) Section 13F (c) (i)—

Omit the subparagraph, insert instead :—

- (i) is not the holder of a full licence or a restricted  
licence; and

## (d) Section 13F (2)—

At the end of section 13F, insert :—

(2) A subsidiary restricted licence granted under  
subsection (1) authorises the holder of the licence to  
carry out trade work of the kind specified in the  
licence and to do so subject to—

- (a) his being the holder of the appropriate  
restricted licence; and  
(b) the conditions, if any, imposed on that  
restricted licence for the time being under  
this Act.

## (17) Section 13H—

Omit “an employee or director” where firstly and secondly  
occurring, insert instead “a director or full-time employee”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(18) Section 14A—

After section 14, insert :—

14A. (1) When the Board grants a licence under section 11, 12, 13D or 13E it may impose on the licence such conditions as it thinks fit. Conditions on certain licences.

(2) Where a condition is prescribed, for the purposes of this section, in respect of a class of licences, the condition shall be deemed to be imposed on each licence of that class.

(3) A condition imposed on a licence under subsection (1) shall be specified in the licence.

(19) Section 15AA—

After section 15, insert :—

15AA. The Board may, by notice in writing served on the holder of a licence granted under section 11, 12, 13D or 13E— Variation, etc., of conditions on certain licences.

- (a) revoke or vary any condition imposed on the licence for the time being by the Board; or
- (b) impose on the licence such new conditions as it thinks fit.

(20) (a) Section 16 (1) (a)—

Before “employee”, insert “full-time”.

(b) Section 16 (1) (b)—

After “some other”, insert “full-time”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (c) Section 16 (1) (c)—

Omit the paragraph, insert instead:—

- (c) where the applicant is a corporation and that other person is a director or an employee of the corporation—the name of some other director or full-time employee of the corporation.

## (d) Section 16 (3)—

Omit “paragraph (a)” wherever occurring, insert instead “subsection (1) (a)”.

## (21) Section 21 (1) (a)—

Omit the paragraph, insert instead :—

- (a) except with the approval in writing of the Board, knowingly assist in any way—
  - (i) a person who is not the holder of a licence to carry on the business of carrying out building work;
  - (ii) a person who is the holder of a full licence to carry on the business of carrying out building work other than building work of a particular kind authorised to be carried out by that full licence; or
  - (iii) a person who is the holder of a restricted licence to carry on the business of carrying out building work other than trade work of a particular kind authorised to be carried out by that restricted licence;

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(22) (a) Section 30 (1) (d)—

Omit “from holding a licence, or from being a person on whose behalf a licence may be held; or”, insert instead :—

from—

- (i) holding a licence of the class (or of any of the classes) of licences specified in the determination or a licence other than of the class (or of any of the classes) of licences so specified; or
- (ii) being a person on whose behalf any such licence may be held; or

(b) Section 30 (1) (e)—

Omit “from holding a licence or from being a person on whose behalf a licence may be held,”, insert instead :—

from—

- (iii) holding a licence of the class (or of any of the classes) of licences specified in the determination or a licence other than of the class (or of any of the classes) of licences so specified; or
- (iv) being a person on whose behalf any such licence may be held,

(c) Section 30 (2)—

Omit “A determination”, insert instead “Subject to subsection (2A), a determination”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (d) Section 30 (2A)—

After section 30 (2), insert :—

(2A) Where the Board has made a determination under subsection (1) (c), (d) or (e), the Board may refuse to grant any licence under section 11, 12, 13D or 13E to the defendant during the period for which the determination would, if this subsection had not been enacted, have had no force or effect by reason of subsection (2).

## (e) Section 30 (3)—

Omit the subsection, insert instead :—

(3) Where the Board determines that a licence be suspended or cancelled and—

(a) no appeal against the Board's determination has been made within the time limited for appealing against it; or

(b) an appeal against that determination has been so made but has been withdrawn,

the holder of the licence shall, forthwith after the expiration of that time or the withdrawal of that appeal, as the case may be, lodge the licence with the Board.

Penalty : \$500.

## (f) Section 30 (3A) (c)—

After "defendant" where firstly occurring, insert "on his own behalf or held on behalf of the defendant".

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

(23) (a) Section 31 (1)—

Omit the subsection, insert instead :—

(1) Any—

- (a) applicant for a licence or permit or for the restoration or variation of a licence who is aggrieved by any determination of the Board in relation to his application;
- (b) defendant under Part IV who is aggrieved by any determination of the Board made under section 30 upon the inquiry at which he was the defendant; or
- (c) holder of a full licence or a restricted licence who is aggrieved by any determination of the Board to impose a condition on the licence or to vary or revoke a condition imposed on the licence for the time being by the Board,

may, within 21 days after notice of the determination is served on him or, in the case of a determination referred to in subsection (6), within 21 days after the date on which that determination is deemed to have been made, appeal against the determination to the District Court.

(b) Section 31 (5A) (a)—

Omit “(1A)”, insert instead “(1B)”.

(c) Section 31 (5A) (c)—

After “defendant” where firstly occurring, insert “on his own behalf or held on behalf of the defendant”.

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

## (24) (a) Section 32 (1)—

Omit “a licence”, insert instead “a full licence or a restricted licence”.

## (b) Section 32 (1) (a), (b)—

Omit the paragraphs, insert instead :—

- (a) who enters into a contract undertaking to carry out, by himself or by others, any kind of building work or trade work, as the case may be, which he is authorised by that licence to carry out; or
- (b) who, otherwise than pursuant to such a contract, commences any kind of building work or trade work, as the case may be, which he is authorised by that licence to carry out,

## (c) Section 32 (1A)—

Omit the subsection, insert instead :—

## (1A) A reference in subsection (1)—

- (a) to building work, does not include a reference to—
  - (i) trade work undertaken by the holder of a restricted licence under a contract with the holder of a full licence or with the holder of a permit; or
  - (ii) any other building work of a class or description prescribed for the purposes of this subparagraph; or

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*Builders Licensing (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued.*

- (b) to trade work, does not include a reference to—
- (i) trade work referred to in paragraph (a) (i); or
  - (ii) any other trade work of a class or description prescribed for the purposes of this subparagraph.

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SCHEDULE 3.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FINANCE.

(1) Section 2—

Omit the matter relating to Part VII, insert instead :—

PART VII.—FINANCE—ss. 39–44.

DIVISION 1.—*Builders Licensing Board Account, and Associated Funds*—ss. 39–40A.

DIVISION 2.—*Builders Licensing Board Insurance Account, and Associated Funds*—ss. 40B–41B.

DIVISION 3.—*Builders Licensing Board Trust Account*—s. 42AA.

DIVISION 4.—*General*—ss. 42A–44.

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*Builders Licensing (Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

## (2) Part VII, Division 1, heading—

Before section 39, insert :—

DIVISION 1.—*Builders Licensing Board Account, and  
Associated Funds.*

## (3) (a) Section 39 (1)—

Omit “Board and from which shall be paid all amounts required to meet expenditure incurred in accordance with the provisions of this Act”, insert instead “Board, other than moneys required by this Act to be deposited in the Builders Licensing Board Insurance Account or the Builders Licensing Board Trust Account”.

## (b) Section 39 (1A)—

After section 39 (1), insert :—

(1A) The Builders Licensing Board Account may be applied to meet expenditure incurred in accordance with the provisions of this Act, other than expenditure for any of the purposes to which the moneys in the Builders Licensing Board Insurance Account or Builders Licensing Board Trust Account may be applied.

## (c) Section 39 (2)—

After “shall”, insert “, in relation to the Builders Licensing Board Account,”.

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*Builders Licensing (Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

(d) Section 39 (2) (a)—

After “the General Fund;”, insert “and”.

(e) Section 39 (2) (b)—

Omit the paragraph.

(f) Section 39 (3) and (4)—

Omit the subsections.

(4) (a) Section 40 (1) (a)—

After “Act”, insert “other than moneys forming part of the Special Insurance Fund”.

(b) Section 40 (1) (c)—

Before “Insurance”, insert “Builders Licensing Board Trust Account, the General Insurance Fund, the Special”.

(c) Section 40 (1) (d)—

Omit “subsection (3) of section 39”, insert instead “section 43B (1)”.

(d) Section 40 (2) (c)—

Omit “paragraph (a) of subsection (1) of section 42”, insert instead “section 40A (1) (a)”.

(e) Section 40 (2) (d)—

Before “Insurance”, insert “Builders Licensing Board Trust Account, to the General”.

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*Builders Licensing (Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

## (5) Section 40A and Part VII, Division 2—

After section 40, insert :—

Education  
Fund.

40A. (1) The Education Fund shall consist of—

- (a) such moneys in the General Fund as the Treasurer may from time to time direct to be allocated to the Education Fund; and
- (b) all moneys received by the Board under section 43B (1) and allocated by the Board to the Education Fund.

(2) The Board may, from time to time, appropriate any part of the moneys in the Education Fund for or towards the encouragement of apprenticeship in the building industry by subsidy or otherwise, or the assistance of education or research in, or any public purpose connected with, the building industry.

DIVISION 2.—*Builders Licensing Board Insurance Account,  
and Associated Funds.*Builders  
Licensing  
Board  
Insurance  
Account.

40B. (1) There shall be established in a bank in New South Wales a Builders Licensing Board Insurance Account into which shall be deposited all moneys that are received by the Board and form part of the General Insurance Fund or Special Insurance Fund.

(2) The Builders Licensing Board Insurance Account may be applied to meet expenditure for the purposes to which the General Insurance Fund or the Special Insurance Fund may be applied.

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*Builders Licensing (Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

(3) In the books of the Board there shall, in relation to the Builders Licensing Board Insurance Account, be created the following funds :—

- (a) the Builders Licensing Board General Insurance Fund, in this Part referred to as the General Insurance Fund; and
- (b) the Builders Licensing Board Special Insurance Fund, in this Part referred to as the Special Insurance Fund.

(6) (a) Section 41—

Before “Insurance” wherever occurring, insert “General”.

(b) Section 41 (1) (c)—

Omit “and”.

(c) Section 41 (1) (d)–(f)—

Omit section 41 (1) (d), insert instead :—

- (d) all moneys received by the Board under section 43B (1) and allocated by the Board to the General Insurance Fund;
- (e) all investments of moneys in the General Insurance Fund made under section 41B; and
- (f) all moneys received by the Board as proceeds of investment of the General Insurance Fund under section 41B.

(d) Section 41 (2) (c)—

Omit “and”.

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*Builders Licensing (Amendment).*


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**SCHEDULE 3—continued.**


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**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—continued.**

(e) Section 41 (2) (d)—

Omit “38B.”, insert instead “38B; and”.

(f) Section 41 (2) (e)—

After section 41 (2) (d), insert :—

- (e) making such investments under section 41B of the moneys in the General Insurance Fund as the Board thinks fit.

(7) Sections 41A, 41B—

After section 41, insert :—

Special  
Insurance  
Fund.

41A. (1) The Special Insurance Fund shall consist of—

- (a) the prescribed proportion of all moneys received by the Board as fees for restricted licences of a prescribed class of restricted licences or for the renewal or restoration of restricted licences of any such class;
- (b) all investments of moneys in the Special Insurance Fund made under section 41B; and
- (c) all moneys received by the Board as proceeds of investment of moneys in the Special Insurance Fund made under section 41B.

(2) In subsection (1)—

“prescribed class of restricted licences” means—

- (a) the class of restricted licences prescribed for the purposes of that subsection; or

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*Builders Licensing (Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

- (b) where no class of licences is so prescribed  
—restricted licences for which fees of  
\$100 are payable;

“prescribed proportion” means—

- (a) the proportion prescribed for the  
purposes of that subsection; or  
(b) where no proportion is so prescribed—  
50 per cent.

(3) The Special Insurance Fund may be applied  
to either or both of the following purposes :—

- (a) making refunds under section 18A of so much of  
any fees for restricted licences as forms part of  
the Special Insurance Fund to applicants for or  
holders of restricted licences in respect of their  
applications for restricted licences or their  
restricted licences;  
(b) making such investments under section 41B of  
the moneys in the Special Insurance Fund as the  
Board thinks fit.

41B. The provisions of the Superannuation Act, 1916,  
with respect to the investment of the State Superannuation  
Fund apply to and in respect of the Board and the  
investment of the General Insurance Fund and the Special  
Insurance Fund as if the Board and the Fund referred to  
in those provisions were the Board and those funds.

Power to  
invest  
Insurance  
Funds.

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*Builders Licensing (Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

## (8) Section 42—

Omit the section.

## (9) Part VII, Division 3 and Part VII, Division 4, heading—

Before section 42A, insert :—

DIVISION 3.—*Builders Licensing Board Trust Account.*

Builders  
Licensing  
Board Trust  
Account.

42AA. (1) There shall be established in a bank in New South Wales a Builders Licensing Board Trust Account into which shall be deposited—

- (a) all moneys paid to the Board pursuant to a direction referred to in section 30B (1); and
- (b) all moneys received by the Board as proceeds of investment of the moneys referred to in paragraph (a).

(2) The Builders Licensing Board Trust Account may be applied to the following purposes :—

- (a) making payments for the purposes for which the moneys in that account may be applied pursuant to section 30B (2) and (3); and
- (b) making such investments by way of deposit of the moneys in that account with a bank in New South Wales as the Board thinks fit.

DIVISION 4.—*General.*

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*Builders Licensing (Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
FINANCE—*continued.*

(10) Section 43 (1)—

After “fund”, insert “and the Builders Licensing Board Trust Account”.

(11) Section 43B—

After section 43A, insert :—

43B. (1) The Treasurer may advance such moneys to the Board, upon such terms and conditions as to repayment and interest as may be agreed upon. Miscellaneous provisions.

(2) The funds and the Builders Licensing Board Trust Account created under this Part shall each be separate and distinct.

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SCHEDULE 4.

Sec. 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 2, matter relating to Part IVA—

Omit “s. 30A”, insert instead “ss. 30A, 30B”.

(b) Section 2—

After the matter relating to Part VI, insert :—

PART VIA.—INSPECTIONS AND REPORTS—s. 38C.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

- (2) Section 3 (1), definition of “building work”—

From paragraph (a), omit “or in the making of alterations or additions to”, insert instead “the making of alterations or additions to, or the repairing, renovation, decoration or painting of”.

- (3) Section 4 (1B)—

After section 4 (1A), insert :—

(1B) In the exercise and discharge of the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act (except in relation to the content of a report or recommendation made by it to the Minister), the Board shall be subject to the control and direction of the Minister.

- (4) (a) Section 8 (1)—

After “officers and”, insert “temporary”.

- (b) Section 8 (1)—

Omit “1902”, insert instead “1979”.

- (c) Section 8 (2)—

After “officers or”, insert “temporary”.

- (5) (a) Section 13G (3) (c)—

Omit “except where the Board considers that special circumstances exist”, insert instead “subject to subsection (4)”.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(b) Section 13G (3) (c)—

Omit “two”, insert instead “5”.

(c) Section 13G (4)—

After section 13G (3), insert :—

(4) Subsection (3) (c) does not apply in respect of an applicant for a permit where the Board—

(a) is satisfied that the permit is required to authorise the applicant to carry out owner-builder’s work that is—

(i) to be carried out on land on which the applicant has been authorised to carry out owner-builder’s work; and

(ii) to be used in connection with the building work authorised to be carried out by the applicant,

by a permit previously granted under subsection (3); or

(b) considers that special circumstances exist.

(6) (a) Section 18A (1) (a)—

After “permit”, insert “was or”.

(b) Section 18A (1)—

After “licence” where secondly, thirdly and fourthly occurring, insert “was or”.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

## (c) Section 18A (1A)—

After section 18A (1), insert :—

(1A) Where, before, on or after the date of assent to the Builders Licensing (Amendment) Act, 1979—

- (a) a licence was or is granted to the applicant therefor; and
- (b) after the licence was or is granted, the fee prescribed in respect of an application for a licence of the class to which the licence belongs has been or is reduced to a lesser fee,

the Board may refund to the applicant or the holder of the licence, or to any other person who appears to the Board to be entitled thereto, the difference between the firstmentioned and secondmentioned fees.

## (d) Section 18A (2)—

After “subsection (1)”, insert “or (1A)”.

## (7) (a) Section 29 (3)—

Omit “obeying”, insert instead “complying with the requirements set forth in”.

## (b) Section 29 (3)—

Omit “a District”, insert instead “the District”.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(8) Section 30B—

After section 30A, insert :—

30B. (1) Directions specified pursuant to section 30A (2) in an order made by the Board under section 30A (1) with respect to building work carried out under a contract by the holder of a licence may include a direction requiring the purchaser concerned to pay moneys to the Board for the purpose of their being applied by the Board towards the cost of the building work carried out for, and materials supplied to, that purchaser under that contract by the holder.

Deposit of  
moneys as  
security.

(2) Where moneys have been paid by any person to the Board pursuant to a direction referred to in subsection (1), they may be applied by the Board, at such time or times and to such extent as the Board thinks fit, for the purpose referred to in that subsection.

(3) Any moneys paid by any person to the Board pursuant to a direction referred to in subsection (1) and any moneys representing interest accrued thereon shall be repaid by the Board to that person to the extent, if any, that those moneys are not applied by the Board for the purpose referred to in that subsection.

(9) (a) Section 32 (1) (c)—

Omit the paragraph, insert instead :—

(c) in the case of a contract referred to in paragraph (a), within one month after entering into the contract, serve on the Board notice of the contract;

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

## (b) Section 32 (1) (e)—

Omit “(i)”.

## (10) (a) Section 36 (a) (i)—

Omit “subparagraph (i) of paragraph (c) of subsection (1) of section 32”, insert instead “section 32 (1) (c)”.

## (b) Section 36 (b) (i)—

Omit the subparagraph, insert instead :—

- (i) where notice of commencement of that building work has been served on the Board in accordance with section 32 (1) (d) and the date of commencement is not determined by the Board as referred to in subparagraph (ii), the date of commencement shown in that notice; or

## (11) (a) Section 37 (1)—

Omit “subparagraph (i) of paragraph (c) of subsection (1) of section 32”, insert instead “section 32 (1) (c)”.

## (b) Section 37 (2)—

Omit “within one month”, insert instead “as soon as practicable”.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(c) Section 37 (3)—

Omit the subsection, insert instead :—

(3) Where notice of commencement of any building work has not been—

(a) specified in a notice served on the Board in accordance with section 32 (1) (c); or

(b) served on the Board in accordance with section 32 (1) (d),

the Board may determine the date of commencement of the building work.

(d) Section 37 (4)—

Omit “so served”, insert instead “specified in a notice served in accordance with section 32 (1) (c) or served in accordance with section 32 (1) (d)”.

(e) Section 37 (4) (a)—

Omit “within one month”, insert instead “as soon as practicable”.

(12) Part VIA—

After Part VI, insert :—

PART VIA.

INSPECTIONS AND REPORTS.

38c. (1) The Board may, on application made in a form approved by the Board, and subject to such conditions as are approved by the Board and specified in the application, cause inspections of, and reports on the condition of, dwellings to be made. Inspections  
and reports  
on  
dwellings.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(2) An application under this section shall be accompanied by the fee determined by the Board in relation to applications of the class to which the application belongs, which fee shall be refunded by the Board to the applicant or to any other person who appears to the Board to be entitled thereto if the Board rejects the application.

## (3) The Board—

- (a) may reject an application under this section for any reason it thinks fit; and
- (b) shall be deemed to have rejected an application if it fails to make available to the applicant the report for which he applied by—
  - (i) the time notified to the applicant under subsection (4); or
  - (ii) where the applicant agrees with the Board upon a later time—that time.

(4) When the Board receives an application under this section, it shall cause the applicant to be notified of the time by which the report should be available to him.

(5) Where the Board causes a report under this section to be made available to the applicant, the Board is not liable, in respect of anything included in or omitted from the report—

- (a) to any person other than the applicant; or
- (b) to the applicant, if each of the Board's servants involved in the inspection or the preparation of the report has, in being so involved, acted in good faith, with reasonable care and in

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

accordance with the conditions, if any, specified in the application, as referred to in subsection (1).

(6) Nothing in subsection (5) affects the operation of section 7 (7).

(7) Section 51 does not apply to or in respect of an inspection for the purposes of this section.

(8) An inspection of and report on the condition of a dwelling may be made under this section in relation to the whole or a part or parts of the dwelling and may be made whether construction of the dwelling was commenced before, on or after the date of assent to this Act.

(13) (a) Section 50 (1)—

Omit “subsection (1A)”, insert instead “subsections (1A) and (1B)”.

(b) Section 50 (1)—

After “under this Act”, insert “(other than section 55A)”.

(c) Section 50 (1B)—

After section 50 (1A), insert :—

(1B) The Board may delegate to the Chairman or Deputy Chairman, or to each of them, the exercise or performance of the Board’s powers under section 52A (2) and (3), but shall not otherwise delegate the exercise or performance of the Board’s powers under those subsections.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(d) Section 50 (3) (a)—

After “13”, insert “, 13D, 13E, 13F, 13G”.

(e) Section 50 (3) (a)—

After “licence or”, insert “permit or for”.

(14) Section 51 (1)—

After “authorised”, insert “under this subsection”.

(15) Section 52A—

After section 52, insert :—

Power to  
inspect  
books, etc.

52A. (1) In this section, “authorised officer” means a person authorised by the Board under subsection (2).

(2) The Board may, by order in writing, authorise—

(a) a servant of the Board; or

(b) any officer, servant or employee of whose services the Board makes use pursuant to this Act,

to examine the business records of holders of licences in respect of whom complaints have been made to the Board under section 24 (b2).

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(3) Where the Board is of the opinion that the circumstances of the case so require, the Board may, by notice in writing served on the holder of a licence in respect of whom a complaint has been made to the Board under section 24 (b2), require the holder—

- (a) to appear before an authorised officer for the purpose of his being examined with respect to his financial position; and
- (b) to produce to an authorised officer such of the records relating to the financial position of the holder as are within the holder's possession or subject to his control,

at—

- (c) a time and date, being a date occurring not less than 21 days after the date of service of the notice; and
- (d) a place, being an office of the Board or the place last notified to the Board as his principal place of business in New South Wales,

specified in the notice.

(4) Where the holder of a licence on whom a notice under subsection (3) has been served notifies the Board in writing not less than 14 days before the date specified in the notice under subsection (3) (c) that he wishes to substitute a different place from that which was specified in the notice under subsection (3) (d), the different place shall be deemed to have been specified in the notice under that paragraph if—

- (a) the different place is an office of the Board or is the place last notified to the Board (whether or not in the notification given for the purpose of this subsection) as the principal place of business in New South Wales of the holder; or

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

- (b) the Board, by an instrument in writing served on the holder not less than 7 days before the date specified in the notice under subsection (3) (c), consents to the substitution of the different place for the place specified in the notice under subsection (3) (d).

(5) Where the holder of a licence appears before an authorised officer pursuant to a requirement made under subsection (3) (a), the authorised officer may—

- (a) require the holder to answer any question that is reasonably related to the ascertainment of the financial position of the holder by the authorised officer; and
- (b) examine, or take copies of, or extracts or notes from, any record relating to the financial position of the holder that is produced by him to the authorised officer.

(6) A person shall not—

- (a) neglect or fail to comply with a requirement made of him by—
  - (i) the Board, under subsection (3); or
  - (ii) an authorised officer, under subsection (5) (a),except to the extent, if any, that he is not able to comply with the requirement;
- (b) in purported compliance with a requirement made of him by the Board under subsection (3) (b), produce a record that he knows to be false or misleading in a material particular;

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

- (c) make a statement that he knows to be false or misleading in a material particular when he is appearing before an authorised officer; or
- (d) wilfully obstruct or delay an authorised officer exercising or attempting to exercise any of his powers under subsection (5) (b).

Penalty : \$500.

(7) Where a person answers a question in compliance with a requirement made of him under subsection (5) (a) by an authorised officer and the answer tends to incriminate the person, neither the question nor the answer may be used in criminal proceedings against that person except proceedings under subsection (6) in respect of making a false or misleading statement in answer to the question.

(8) Subsection (7) applies whether the person objects to answering the question or not.

(16) Section 53 (c)—

Omit “section 52”, insert instead “sections 52 (3) and 52A (7)”.

(17) (a) Section 55 (b)—

Omit the paragraph, insert instead :—

- (b) where it is addressed to the holder or former holder of a licence or permit—
  - (i) by delivering it to any place shown on the application for the licence or permit as the holder’s or former

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

holder's place of abode or business (or to the last place of abode or business of the holder or former holder known to the Board) and by leaving it there with some person for that holder or former holder; or

- (ii) by posting it by pre-paid mail in an envelope addressed to the holder or former holder at any place shown on the application for the licence or permit as the holder's or former holder's place of abode or business (or at the last place of abode or business of the holder or former holder known to the Board),

(b) Section 55 (2), (3)—

At the end of section 55, insert :—

(2) Subsection (1) does not affect the operation of—

- (a) section 351 or 362 of the Companies Act, 1961, with respect to service of a notice, order or certificate referred to in that subsection; or

- (b) section 31 of the Business Names Act, 1962, with respect to service of a notice, order, certificate or subpoena so referred to,

and, for the purposes of section 351 of the Companies Act, 1961, a notice, order or certificate under this Act addressed to a foreign company, within the meaning of that Act, shall be deemed to be required to be served on the foreign company.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

(3) In this section, a reference—

- (a) to the holder or former holder of a licence, being a subsidiary full licence or a subsidiary restricted licence, includes a reference to any person on whose behalf the licence is, or formerly was, held; or
- (b) to a licence or permit, includes a reference to a licence or permit that is not in force.

(18) Section 55A—

After section 55, insert :—

55A. (1) In this section, “prescribed instrument” means a notice or an order under this Act, other than an order under this section. Order for substituted service.

(2) Upon being satisfied on oath that it is impracticable, otherwise than pursuant to an order under this subsection, to effect service of a prescribed instrument on the holder or former holder of a licence or permit, the Board may order that the carrying into effect of procedures specified in the order, being procedures intended to have the effect of bringing the prescribed instrument to the notice of the holder or former holder, as the case may require, shall—

- (a) forthwith upon their being carried into effect, constitute service of the prescribed instrument for the purposes of this Act; or
- (b) at the expiration of a period of time specified in the order or on the occurrence of an event so specified, constitute that service.

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*Builders Licensing (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT—*continued.*

## (3) When—

- (a) the procedures specified in an order made under subsection (2) with respect to the service of a prescribed instrument on a person have been carried into effect; and
- (b) the period of time, if any, specified under subsection (2) (b) in the order has expired or the event, if any, so specified has occurred,

the prescribed instrument shall be deemed to have been served on the person for the purposes of this Act.

(4) Section 55 (3) applies in respect of a reference in this section to the holder or former holder of a licence or to a licence or permit in the same way as it applies in respect of any such reference in section 55.

## (19) Section 62 (1) (c)—

After “licences”, insert “or permits”.

## Sec. 6.

## SCHEDULE 5.

## SAVING AND TRANSITIONAL PROVISIONS RELATING TO LICENCES.

Saving of  
certain  
licences.

1. A licence granted under the Principal Act before the commencement of this Schedule shall be deemed to have been granted under the Principal Act, as amended by this Act.

*Builders Licensing (Amendment).*SCHEDULE 5—*continued.*SAVING AND TRANSITIONAL PROVISIONS RELATING TO  
LICENCES—*continued.*

2. (1) Notwithstanding sections 11 (3), 12 (2) and 13 (2) of the Principal Act, as amended by this Act, any—

Authority  
conferred  
by certain  
licences  
limited.

- (a) full licence granted under the Principal Act before the commencement of this Schedule that, when it was so granted, bore an endorsement stating that the licence was issued for a particular purpose; or
- (b) subsidiary full licence granted under the Principal Act before or after that commencement to the holder of any such full licence by reason of his having been the applicant for the full licence,

shall, on and from that commencement, be deemed to be a full licence or subsidiary full licence, as the case may be, authorising the holder to carry out only building work of a kind that would enable the holder of the licence to achieve that purpose.

(2) Nothing in subclause (1) of this clause affects the power of the Board under section 15AA of the Principal Act, as amended by this Act, to impose a condition on a full licence referred to in that subclause.

3. Any determination made by the Board under section 30 (1) (d) or (e) of the Principal Act before the commencement of this Schedule—

Effect of  
certain  
determina-  
tions by  
Board.

- (a) to disqualify a person, either permanently or for a period that expires after the commencement of this Schedule, from being the holder of a licence under that Act—shall be deemed to have been a determination to disqualify the person from being the holder of any licence under that Act, as amended by this Act; or
- (b) to disqualify a person, either permanently or for a period that expires after the commencement of this Schedule, from being a person on whose behalf a licence may be held under that Act—shall be deemed to have been a determination to disqualify the person from being a person on whose behalf any licence may be held under that Act, as amended by this Act.

4. Notwithstanding clause 3 or any provision of Division 1 or 2 of Part III of the Principal Act, as amended by this Act, where—

Power to  
grant  
licences  
in certain  
cases.

- (a) a person applies for a licence under that Act, as so amended, after the commencement of this Schedule; and

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*Builders Licensing (Amendment).*


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SCHEDULE 5—*continued.*SAVING AND TRANSITIONAL PROVISIONS RELATING TO  
LICENCES—*continued.*

- (b) the person is not entitled to be granted the licence by reason only that—
- (i) he is a person disqualified from holding the licence for which he has applied by reason of a determination under section 30 (1) (d) or (e) of the Principal Act made by the Board before that commencement; or
  - (ii) a person on whose behalf the licence, if granted, would be held is disqualified from being a person on whose behalf the licence may be held by reason of a determination referred to in subparagraph (i),

the Board may, if it considers that the particular circumstances of the case so warrant, grant the licence.

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## Sec. 7.

## SCHEDULE 6.

## VALIDATIONS AND OTHER SAVING AND TRANSITIONAL PROVISIONS.

Validation  
and  
transitional  
provisions  
in respect  
of funds.

1. (1) The creation in the books of the Board of a Builders Licensing Board Special Insurance Fund before the commencement of this Schedule is validated.

(2) The crediting before the commencement of this Schedule of 50 per cent of moneys received by the Board as fees for restricted licences (being restricted licences for which fees of \$100 were payable) or for the renewal or restoration of those restricted licences, to the fund referred to in subclause (1) of this clause, instead of to the Builders Licensing Board General Fund referred to in section 39 (2) (a) of the Principal Act, is validated.

(3) All moneys held immediately before the commencement of this Schedule in the Builders Licensing Board Account in the Special Deposits Account in the Treasury and credited to—

- (a) the Builders Licensing Board Insurance Fund referred to in section 39 (2) (b) of the Principal Act shall be paid to the Board and shall form part of the Builders Licensing Board General Insurance Fund created under section 40B of the Principal Act, as amended by this Act; or

*Builders Licensing (Amendment).*

SCHEDULE 6—*continued.*

VALIDATIONS AND OTHER SAVING AND TRANSITIONAL  
PROVISIONS—*continued.*

- (b) the fund referred to in subclause (1) of this clause shall be paid to the Board and shall form part of the Builders Licensing Board Special Insurance Fund created under section 40B of that Act, as so amended.
- (4) Upon the moneys credited to the fund referred to in subclause (1) of this clause being paid to the Board in accordance with subclause (3) (b) of this clause, that fund is abolished.
- (5) Any moneys advanced to the Board under section 39 (3) of the Principal Act before the commencement of this Schedule shall be deemed to have been advanced under section 43B (1) of the Principal Act, as amended by this Act.
- 2. Any refund made by the Board before the commencement of this Validation Schedule which would have been validly made had section 18A (1A) of the of certain Principal Act, as amended by this Act, been in force at the time of the refunds. making of that refund shall be deemed to have been validly made.
- 3. The Governor shall be deemed to have approved, under section Certain approvals deemed to have been given.  
35 (1) of the Principal Act, of the Board—
  - (a) on 24th June, 1976, entering into a contract for the renewal of the Special Contingency Reinsurance Agreement, the approval of the entry into which by the Board was confirmed by the Governor on 7th March, 1973; and
  - (b) on 22nd June, 1978, entering into a further contract providing for the variation of the Agreement referred to in paragraph (a).

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
Governor.

Government House,  
Sydney, 18th December, 1979.

