

FIRST PRINT

BUILDERS LICENSING (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Building Services Corporation Bill 1987.

The object of this Bill is to amend the Builders Licensing Act 1971 in order to abolish the Builders Licensing Board and confer and impose its present functions on the Corporation to be constituted by the proposed Building Services Corporation Act 1987.

With the exception of the provisions referred to below, the proposed amendments are consequential on the transfer of functions from the Board to the Corporation.

Clause 1 specifies the short title of the proposed Act.

Clause 2, with minor exceptions, provides for the proposed Act to commence at the same time as the proposed Building Services Corporation Act 1987.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Clause 4 makes a consequential amendment to some uncommenced provisions of the Builders Licensing (Amendment) Act 1984.

Schedule 1 (4) effects the abolition of the Builders Licensing Board by repealing Part II of the Builders Licensing Act 1971 which provides for the constitution of the Board.

Schedule 1 (7) requires that, if the holding of an inquiry under the amended Act is delegated by the Building Services Corporation to a committee, the Corporation must appoint one of its members to preside at meetings of the committee.

Builders Licensing (Amendment) 1987

Schedule 1 (9) provides for appeals against determinations under the amended Act to be made to the Commercial Tribunal instead of the District Court.

Schedule 1 (12) repeals and replaces Part VII of the Principal Act dealing with financial matters. The effect is to reduce from 6 to 2 the accounts (other than a trust account which is to be continued) and funds required to be maintained for expenditure under the amended Act. All other financial matters are dealt with by the proposed Building Services Corporation Act 1987.

BUILDERS LICENSING (AMENDMENT) BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 16, 1971
4. Amendment of Act No. 107, 1984

SCHEDULE 1—AMENDMENTS TO THE BUILDERS LICENSING ACT 1971



BUILDERS LICENSING (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Builders Licensing Act 1971 and the Builders Licensing (Amendment) Act 1984 as a consequence of the enactment of the Building Services Corporation Act 1987; and for other purposes.

Builders Licensing (Amendment) 1987

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 Short title

1. This Act may be cited as the "Builders Licensing (Amendment) Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on the commencement of the Building Services Corporation Act 1987.

Amendment of Act No. 16, 1971

3. The Builders Licensing Act 1971 is amended in the manner set forth
15 in Schedule 1.

Amendment of Act No. 107, 1984

4. The Builders Licensing (Amendment) Act 1984 is amended by omitting from Schedule 4 the word "Board" wherever occurring and by inserting instead the word "Corporation".

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SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE BUILDERS LICENSING ACT 1971**(1) Long title—**

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Omit "to make provisions for the constitution of a Board to be called the Builders Licensing Board," insert instead "to confer and impose functions on the Building Services Corporation with respect to".

*Builders Licensing (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued(2) Section 2 (**Division of Act**)—

Omit the section.

(3) Section 3 (**Interpretation**)—

(a) Definition of “Board”—

5 Omit the definition.

(b) Definition of “Chairman”—

Omit the definition.

(c) Definitions of “Commercial Tribunal”, “Corporation”—

Before the definition of “council”, insert:

10 “Commercial Tribunal” means the Commercial Tribunal of
New South Wales constituted by the Commercial Tribunal
Act 1984;“Corporation” means the Building Services Corporation
constituted by the Building Services Corporation Act 1987;

15 (d) Definition of “Deputy Chairman”—

Omit the definition.

(e) Definition of “General Manager”—

After the definition of “full licence”, insert:

20 “General Manager” means the person for the time being
holding or acting in the office of General Manager of the
Corporation;

(f) Definition of “member”—

Omit the definition.

(4) Part II (**Constitution of the Builders Licensing Board**)—

25 Omit the Part.

*Builders Licensing (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

- (5) Sections 9, 10–13A, 13C–13H, 14A, 15, 15AA, 15A, 15B, 16–19, 21, 22, 24–26, 29, 30, 30A, 30B, 32–37, 38A–38C, 51, 52, 52A, 55, 55A, 59, 62—

Omit “Board” wherever occurring, insert instead “Corporation”.

- 5 (6) Section 27 (**Procedure on complaints**)—

- (a) Section 27 (1), (1A), (2), (3), (6)—

Omit “Board” wherever occurring, insert instead “Corporation”.

- (b) Section 27 (6)—

10 Omit “cause an inquiry to be held”, insert instead “hold an inquiry”.

- (7) Section 28 (**Inquiries—how held**)—

- (a) Section 28 (1), (1A)—

Omit the subsections, insert instead:

(1) An inquiry under this Part shall be held as in open court.

15 (1A) If the Corporation delegates to a committee the holding of an inquiry—

(a) it shall appoint to preside at a meeting of the committee held for the purpose of the inquiry a member of the committee who is also a member of the Corporation; and

20 (b) at such a meeting, the person so appointed has a deliberative vote and, if there is an equality of votes, a second or casting vote.

- (b) Section 28 (2)—

Omit the subsection.

- 25 (c) Section 28 (3), (3A), (4)—

Omit “Board” wherever occurring, insert instead “Corporation”.

*Builders Licensing (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

- (d) Section 28 (3) (b)—
Omit “members” where firstly occurring, insert instead “committee”.
- (e) Section 28 (3) (b) (ii)—
5 Omit “those members”, insert instead “the committee”.
- (f) Section 28 (3A), (4)—
Omit “members” wherever occurring, insert instead “committee”.
- (8) Sections 29 (1), (3) (a), 30 (3) (a), 35 (1), 38c (5) (b)—
Omit “Board’s”, insert instead “Corporation’s”.
- 10 (9) Section 31 (**Appeals**)—
(a) Omit “Board” wherever occurring, insert instead “Corporation”.
(b) Omit “District Court” wherever occurring, insert instead “Commercial Tribunal”.
- (10) Section 34 (**Insurance of house purchasers**)—
- 15 (a) Section 34 (2) (g)—
Omit “Board’s” insert instead “Corporation’s”.
- (b) Section 34 (3A) (a)—
Omit “Chairman or Deputy Chairman”, insert instead “General Manager”.
- 20 (11) Section 34A (**Trade indemnity insurance**)—
(a) Section 34A (2) (g)—
Omit “Board’s”, insert instead “Corporation’s”.
- (b) Section 34A (7) (a)—
25 Omit “Chairman or Deputy Chairman”, insert instead “General Manager”.

*Builders Licensing (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued(12) Part VII (**Finance**)—

Omit the Part, insert instead:

PART VII

FINANCE

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DIVISION 1—*Education Fund***Education Fund**

39. (1) The Corporation shall establish in its books a Licensed Builders Education Fund consisting of—

10

(a) the amount in the Licensed Builders Education and Research Fund established under this section as in force before the commencement of the Building Services Corporation Act 1987; and

(b) amounts paid to the Fund under section 11 of that Act.

15

(2) The Corporation may make payments from the Education Fund towards—

(a) encouraging, by subsidy or otherwise, apprenticeship in the building industry;

(b) assisting education or research related to the building industry; or

20

(c) assisting any public purpose connected with the building industry.

DIVISION 2—*Insurance Fund***Insurance Fund**

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40. (1) The Corporation shall establish in the books of the Corporation the Building Services Insurance Fund consisting of the amounts paid to the Fund under section 11 of the Building Services Corporation Act 1987.

*Builders Licensing (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

(2) The Corporation shall, from the Insurance Fund, discharge any liability on its part to make—

- 5 (a) payments under house purchasers' agreements referred to in section 34 and trade indemnity agreements under section 34A;
- (b) payments to underwriters; and
- (c) refunds under section 38A or 38B.

DIVISION 3—*Building Services Corporation Trust Account***Building Services Corporation Trust Account**

10 41. (1) The Corporation shall establish in a bank in New South Wales a Building Services Corporation Trust Account and shall deposit in the account—

- 15 (a) the amount in the Builders Licensing Board Trust Account established under this Division as in force before the commencement of the Building Services Corporation Act 1987;
- (b) the amounts directed to be paid to the Corporation under section 30B (1); and
- (c) the income from investments made under subsection (2).

20 (2) The Trust Account may be used—

- (a) to make payments under section 30B (2) or (3); and
- (b) for investment by deposit with a bank in New South Wales.

(13) Section 49 (**General powers of the Board**)—

25 (a) Section 49 (1), (1A), (2), (4)—

Omit "Board" wherever occurring, insert instead "Corporation".

Builders Licensing (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

(b) Section 49 (1)—

After “regulations”, insert “and, with the approval of the Treasurer, may borrow money for that purpose”.

(14) Sections 50, 53, 54, 56, 57, 60, 61—

5 Omit the sections.

(15) Section 62 (**Regulations**)—

Section 62 (1) (e)—

Omit “and the hearing of appeals under Part V”.

BUILDERS LICENSING (AMENDMENT) ACT 1987 No. 60

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 16, 1971
4. Amendment of Act No. 107, 1984

SCHEDULE 1—AMENDMENTS TO THE BUILDERS LICENSING ACT 1971



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BUILDERS LICENSING (AMENDMENT) ACT 1987 No. 60

NEW SOUTH WALES



Act No. 60, 1987

An Act to amend the Builders Licensing Act 1971 and the Builders Licensing (Amendment) Act 1984 as a consequence of the enactment of the Building Services Corporation Act 1987; and for other purposes. [Assented to 3 June 1987]

Builders Licensing (Amendment) 1987

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 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the commencement of the Building Services Corporation Act 1987.

Amendment of Act No. 16, 1971

3. The Builders Licensing Act 1971 is amended in the manner set forth in Schedule 1.

Amendment of Act No. 107, 1984

4. The Builders Licensing (Amendment) Act 1984 is amended by omitting from Schedule 4 the word "Board" wherever occurring and by inserting instead the word "Corporation".

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE BUILDERS LICENSING ACT 1971

(1) Long title—

Omit "to make provisions for the constitution of a Board to be called the Builders Licensing Board," insert instead "to confer and impose functions on the Building Services Corporation with respect to".

Builders Licensing (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

(2) Section 2 (**Division of Act**)—

Omit the section.

(3) Section 3 (**Interpretation**)—

(a) Definition of “Board”—

Omit the definition.

(b) Definition of “Chairman”—

Omit the definition.

(c) Definitions of “Commercial Tribunal”, “Corporation”—

Before the definition of “council”, insert:

“Commercial Tribunal” means the Commercial Tribunal of New South Wales constituted by the Commercial Tribunal Act 1984;

“Corporation” means the Building Services Corporation constituted by the Building Services Corporation Act 1987;

(d) Definition of “Deputy Chairman”—

Omit the definition.

(e) Definition of “General Manager”—

After the definition of “full licence”, insert:

“General Manager” means the person for the time being holding or acting in the office of General Manager of the Corporation;

(f) Definition of “member”—

Omit the definition.

(4) Part II (**Constitution of the Builders Licensing Board**)—

Omit the Part.

Builders Licensing (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

- (5) Sections 9, 10–13A, 13C–13H, 14A, 15, 15AA, 15A, 15B, 16–19, 21, 22, 24–26, 29, 30, 30A, 30B, 32–37, 38A–38C, 51, 52, 52A, 55, 55A, 59, 62—

Omit “Board” wherever occurring, insert instead “Corporation”.

- (6) Section 27 (**Procedure on complaints**)—

- (a) Section 27 (1), (1A), (2), (3), (6)—

Omit “Board” wherever occurring, insert instead “Corporation”.

- (b) Section 27 (6)—

Omit “cause an inquiry to be held”, insert instead “hold an inquiry”.

- (7) Section 28 (**Inquiries—how held**)—

- (a) Section 28 (1), (1A)—

Omit the subsections, insert instead:

(1) An inquiry under this Part shall be held as in open court.

(1A) If the Corporation delegates to a committee the holding of an inquiry—

(a) it shall appoint to preside at a meeting of the committee held for the purpose of the inquiry a member of the committee who is also a member of the Corporation; and

(b) at such a meeting, the person so appointed has a deliberative vote and, if there is an equality of votes, a second or casting vote.

- (b) Section 28 (2)—

Omit the subsection.

- (c) Section 28 (3), (3A), (4)—

Omit “Board” wherever occurring, insert instead “Corporation”.

*Builders Licensing (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

- (d) Section 28 (3) (b)—
Omit “members” where firstly occurring, insert instead “committee”.
- (e) Section 28 (3) (b) (ii)—
Omit “those members”, insert instead “the committee”.
- (f) Section 28 (3A), (4)—
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- (8) Sections 29 (1), (3) (a), 30 (3) (a), 35 (1), 38C (5) (b)—
Omit “Board’s”, insert instead “Corporation’s”.
- (9) Section 31 (**Appeals**)—
 - (a) Omit “Board” wherever occurring, insert instead “Corporation”.
 - (b) Omit “District Court” wherever occurring, insert instead “Commercial Tribunal”.
- (10) Section 34 (**Insurance of house purchasers**)—
 - (a) Section 34 (2) (g)—
Omit “Board’s” insert instead “Corporation’s”.
 - (b) Section 34 (3A) (a)—
Omit “Chairman or Deputy Chairman”, insert instead “General Manager”.
- (11) Section 34A (**Trade indemnity insurance**)—
 - (a) Section 34A (2) (g)—
Omit “Board’s”, insert instead “Corporation’s”.
 - (b) Section 34A (7) (a)—
Omit “Chairman or Deputy Chairman”, insert instead “General Manager”.

Builders Licensing (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

(12) Part VII (**Finance**)—

Omit the Part, insert instead:

PART VII

FINANCE

DIVISION 1—*Education Fund*

Education Fund

39. (1) The Corporation shall establish in its books a Licensed Builders Education Fund consisting of—

(a) the amount in the Licensed Builders Education and Research Fund established under this section as in force before the commencement of the Building Services Corporation Act 1987; and

(b) amounts paid to the Fund under section 11 of that Act.

(2) The Corporation may make payments from the Education Fund towards—

(a) encouraging, by subsidy or otherwise, apprenticeship in the building industry;

(b) assisting education or research related to the building industry; or

(c) assisting any public purpose connected with the building industry.

DIVISION 2—*Insurance Fund*

Insurance Fund

40. (1) The Corporation shall establish in the books of the Corporation the Building Services Insurance Fund consisting of the amounts paid to the Fund under section 11 of the Building Services Corporation Act 1987.

Builders Licensing (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

(2) The Corporation shall, from the Insurance Fund, discharge any liability on its part to make—

- (a) payments under house purchasers' agreements referred to in section 34 and trade indemnity agreements under section 34A;
- (b) payments to underwriters; and
- (c) refunds under section 38A or 38B.

DIVISION 3—*Building Services Corporation Trust Account*

Building Services Corporation Trust Account

41. (1) The Corporation shall establish in a bank in New South Wales a Building Services Corporation Trust Account and shall deposit in the account—

- (a) the amount in the Builders Licensing Board Trust Account established under this Division as in force before the commencement of the Building Services Corporation Act 1987;
- (b) the amounts directed to be paid to the Corporation under section 30B (1); and
- (c) the income from investments made under subsection (2).

(2) The Trust Account may be used—

- (a) to make payments under section 30B (2) or (3); and
- (b) for investment by deposit with a bank in New South Wales.

(13) Section 49 (**General powers of the Board**)—

- (a) Section 49 (1), (1A), (2), (4)—

Omit "Board" wherever occurring, insert instead "Corporation".

Builders Licensing (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUILDERS LICENSING ACT 1971—
continued

(b) Section 49 (1)—

After “regulations”, insert “and, with the approval of the Treasurer, may borrow money for that purpose”.

(14) Sections 50, 53, 54, 56, 57, 60, 61—

Omit the sections.

(15) Section 62 (**Regulations**)—

Section 62 (1) (e)—

Omit “and the hearing of appeals under Part V”.



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