REPUBLIC OF VANUATU

CONSOLIDATION OF THE FRENCH AND ENGLISH TEXTS OF THE LAWS OF VANUATU ACT [CAP 295]

Approval of the English Text of the Building Consolidation Edition 2025 Order No. 145 of 2025

In exercise of the powers conferred on me by subsection 9(1) of the Consolidation of the French and English Texts of the Laws of Vanuatu Act [CAP 295], I, the Honourable JOB SAM ANDY, Minister of Youth, Justice and Community Services, make the following Order:

1 Approval of the English Text of the Building Consolidation Edition 2025

The English Text of the Building Consolidation Edition 2025 is approved.

2 Appointed day

The appointed day for the coming into operation of the Building Consolidation Edition 2025 is the day on which this Order is made.

3 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 23 **day of** July **, 2025.**

REPUBLIC OF VANUATU Ministry of Justice & Community Service MINISTER Ministère de la Justice et des services du Commonwealth REPUBLIQUE DE VANUATU

Honourable JOB SAM ANDY
Minister of Youth, Justice and Community Services

Commencement: 17 January 2022

BUILDING ACT NO. 36 OF 2013

Act 36 of 2013
Act 24 of 2024

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BUILDING ACT NO. 36 OF 2013

An Act to provide for a National Building Code to ensure proper quality of the construction of buildings or facilities intended for use by the public and for related purposes.

PART 1 – PRELIMINARY

1. Interpretation

In this Act, unless the contrary intention appears:

"Approval Authority" means:

(a) a local government council; or

(b) a municipal council; or

(c) the Ministry of Infrastructure and Public Utilities; or

(d) a person appointed by the Minister under section 6;

"approved form" means a prescribed form approved by the Director General for the purposes of the relevant section of the Act;

"building" means any structure designed for use by people, animals, machinery or chattels, whether the structure is temporary, permanent, moveable or immovable, and includes the following:

(a) any services or systems attached to and forming part of the structure;

(b) any building in, on or over the foreshore as defined by the Foreshore Development Act [CAP 90];

"building certifier" means a person approved to certify a building under this Act;

"building consent" means an approval given by the Director of Public Works Department for a building solution;

"building inspector" means a person approved as a building inspector under section 28;

"building permit" means a building permit issued under section 11, and includes a temporary residential building permit;

"building solution" means an alternative solution that may allow for innovation or uniqueness and that demonstrates compliance with the National Building Code;

"cancellation notice" means a notice issued under section 19;

"completion certificate" means a certificate issued section 21;

"construction" in relation to a building means any work of a structural nature to the building, and includes any excavation for foundations, sanitary installations or plumbing;

"Director General" means the Director General of the Ministry of Internal Affairs;

"Director General MIPU" means the Director General responsible for the Ministry of Infrastructure and Public Works;

"fitness to occupy certificate" means a certificate issued under section 22;

"inspection certificate" means a certificate issued for the purposes of inspecting a building under section 15;

"local government council" means a local government council established under section 4 of the Decentralization Act [CAP 230] ;

"local government region" means a local government region established under section 3 of the Decentralization Act[CAP 230] ;

"Minister" means the Minister of Internal Affairs;

"municipal council" means a municipal council established under section 3 of the Municipalities Act [CAP 126];

"municipality" means a municipality declared under section 2 of the Municipalities Act [CAP 126];

"Code" means the National Building Code prescribed under Part 2 of this Act;

"notice to make good" means a notice issued under paragraph 17(1)(a);

"permit holder" means the person named in a building permit issued under section 11;

"person" includes any statutory body, company or association or body of persons corporate or unincorporated;

"Physical Planning Area" means an area declared to be a Physical Planning Area under section 2 of the Physical Planning Act [CAP 193];

"regulations" mean the regulations made under this Act;

"renovation" means any structural change to an existing building;

"suspension notice" means a notice issued under section 18;

"temporary building" means any structure intended to be used as a residence and constructed in a municipality or a Physical Planning Area that is not intended as a permanent structure and does not have a footing;

"temporary building permit" means a building permit issued for a temporary building.

2. Buildings to which this Act applies

(1) Subject to section 3, this Act applies to the construction of the following:

(a) building owned in whole or in part by the State in any local government region;

(b) building in any municipality;

(c) building in any Physical Planning Area;

(d) type or class of public building prescribed by the regulations in any local government region;

(e) such other particular buildings as the Minister may determine by order.

(2) A reference in this section to a building includes a part of a building.

3. Existing buildings not affected by the Act

(1) This Act does not apply to a building if on the commencement of this Act:

(a) the construction of the building is either completed or is substantially completed; or

(b) in any other case, all permits, approvals, authorities or permissions required by or under any law for the construction of the building have been obtained.

(2) In this section "substantially completed" means the construction of a building has progressed beyond site preparation and earthworks, and has been active in the 6 months prior to the commencement of this Act.

3A. Application of the Act to public private partnerships

To avoid doubt, this Act applies to the construction of a building that operates as a public private partnership as defined under the Public Private Partnerships Act No. 23 of 2024.

PART 2 – BUILDING CODE

4. Building Code

(1) The Minister may by Order prescribe a code establishing the standards for construction work on buildings and facilities intended for use by the public including their vicinity.

(2) The Code is to be maintained by the Ministry of Infrastructure and Public Utilities with the assistance of the Public Works Department.

(3) The Code is to provide for the following:

(a) a classification of a building;

(b) the descriptive function of the requirements of the building;

(c) the specific standards for the building;

(d) the requirements of the building process including its quality requirements.

(4) A building under its relevant classification must:

(a) comply with the relevant provisions of the Code for that classification; or

(b) comply with all the relevant provisions of the Code if the building is classified under more than 1 classification Code.

(5) Any building permit issued must, be made according with requirements as set out in the Code.

(6) Despite subsections (1) and (3), a proposal suitable for a new building solution for the use of a new method of construction, design or materials, must be considered and approved by the Director of the Public Works Department.

(7) Subject to subsection (6), if the Director of Public Works considers the proposal to be suitable, a building may be issued.

(8) The Director of the Public Works Department may grant building consent subject to a waiver or modification of the National Building Code.

5. Application of Code to a temporary residential building

(1) The following provisions of the Code apply to a temporary residential building:

(a) the provisions dealing with sanitary plumbing and drainage;

(b) such other provisions as are prescribed by the regulations.

(2) A temporary residential building ceases to be a temporary residential building for the purposes of this Act at the expiry of the relevant temporary residential building permit, including any extensions of the permit.

(3) The provisions of this Act, the regulations and the Code apply to a building when it ceases to be a temporary residential building.

PART 3 – BUILDING PERMITS

6. Appointment of person as an Approval Authority

(1) The Minister may appoint a person as an Approval Authority.

(2) A person is eligible to be appointed as an Approval Authority under subsection (1) if he or she is a person who has:

(a) a suitable qualification or experience; and

(b) has given his or her written consent to the Minister for the appointment.

7. Permit requirement to build

(1) A person must not construct a building without obtaining a permit issued under this Part for that building.

(2) The person must construct the building according to a building permit issued by an Approval Authority.

(3) Despite section 3 if a person constructs a building on the commencement of this Act, he or she may continue to construct that building after the commencement of this Act for a period of 6 months without obtaining a building permit from the Approval Authority, however he or she must obtain a permit to build after the 6 months period is lapsed.

8. Application for a permit to build

(1) A person may apply in writing to the relevant Approval Authority for a building permit.

(2) The application must:

(a) be made in writing by the person or his or her agent who wishes to construct the building; and

(b) be in the prescribed form; and

(c) be accompanied by the following:

(i) the documents showing the ownership of the land or the registered lessee of the land on which the building is located; and

(ii) a site plan showing the location of the proposed construction of the building; and

(iii) construction drawings relating to the relevant parts of the Code; and

(iv) a prescribed certificate issued by a building certifier certifying that the proposed building complies with the Code; and

(v) the prescribed fee.

9. Application for a permit to construct temporary residential building

(1) A person may apply in writing to the relevant Approval Authority for a permit to construct a temporary residential building.

(2) The application must be in the prescribed form and be accompanied by the following:

(a) a site plan showing the location of the proposed construction of the building; and

(b) the prescribed fee; and

(c) a prescribed certificate issued by the relevant building certifier certifying that the proposed building complies with the Code.

(3) The permit issued under this section is valid only for a period of 1 year and may extend for another period of 1 year if the applicant demonstrates his or her compliance with the Code.

(4) The extension of the permit under subsection (3) is only for 3 periods.

(5) The permit must include a condition requiring the upgrading or demolition of any part of the building that does not comply with the Code if the permit issued comes to an end.

10. Determination of application for a permit

(1) Upon receipt of the application the Approval Authority must consider the application and either:

(a) consider approving the application with terms and conditions; or;

(b) require the applicant to provide additional information or documents; or

(c) reject the application.

(2) The Approval Authority must make its decision under subsection (1) within 1 month after receiving of the application.

(3) If the Approval Authority requires further information under paragraph (1)(b), the requirement of 1 month period under subsection (2) does not apply until the Authority receives the additional documents or information.

(4) If the Approval Authority rejects an application under paragraph (1)(c), it must notify the applicant in writing of its decision and the reasons for that decision.

11. Issuance of permit

(1) If the Approval Authority considers and approves an application, it must issue a building permit in the prescribed form to the applicant.

(2) The building permit other than a temporary residential building permit is to be issued for the period being a period of not less than 2 years and not more than 5 years from the date of issue of the permit.

(3) The permit issued under subsection (1) must include the following conditions:

(a) a condition requiring compliance with all relevant provisions of the Code;

(b) a condition permitting the Approval Authority entry to the site at all times during construction for the purposes of verifying compliance with:

(i) the requirements of the Code; and

(ii) the conditions of the building permit; and

(iii) such other conditions as the Approval Authority determines are appropriate and are included in the building permit;

(c) such other conditions as prescribed by the regulations.

(4) A building permit must not include a condition that is inconsistent with the Code.

(5) Subject to the written approval of the Approval Authority and the payment of the prescribed fee, a building permit is transferable.

12. Registration of permit

An Approval Authority is to maintain a register of a building permit issued including the transfer of such building permit.

13. Extension of permit and change of conditions

(1) Subject to subsection 9(4), the holder of a building permit may apply to the relevant Approval Authority for an extension of period.

(2) An application under subsection (1) must:

(a) be made in the prescribed form; and

(b) be accompanied by the prescribed fee.

(3) The relevant Approval Authority must follow the procedures outlined under section 10 and 11 when considering the application.

(4) Subject to section 19, the construction of a building may continue until such time the Approval Authority determines the application for an extension of the permit.

(5) The holder of a permit may apply to the Approval Authority for a change of conditions of that permit.

(6) An application under subsection (5) must be in the prescribed form and accompanied by the prescribed fee.

PART 4 – INSPECTIONS AND ENFORCEMENT

14. Building inspections

(1) An Approval Authority is to inspect buildings.

(2) Subjected to subsections (3) and (4) an Approval Authority is to inspect the construction of a building on a regular basis.

(3) A permit holder must apply to the Approval Authority for an inspection of his or her constructed building.

(4) The application must be made 7 days prior to:

(a) the intended commencement of constructing the building; and

(b) the intended covering up or closing in of any of the following:

(i) excavation for a foundation; or

(ii) reinforcing steel for a foundation; or

(iii) drainage, plumbing, or electrical work; and

(c) undertaking any other construction of the building for which a building inspection certificate is required as a condition of the permit.

(5) An application under subsection (2) is to be in the prescribed form and be accompanied by the prescribed fee.

(6) The procedure to apply for an inspection under this section does not affect the construction of the building if the building is not inspected within the 7 day period set out under subsection (5).

15. Issuance of inspection certificate

(1) An Approval Authority is to consider an application under section 14 and may issue a building inspection certificate to a holder of the permit if it is satisfied that the constructing building complies with the Code and the permit.

(2) The Approval Authority is to:

(a) accept any building inspection certificate issued by a building inspector; and

(b) maintain a registry of all building inspection certificates issued.

(3) If the building inspector finds that the work on the building violates the building permit, he or she must immediately notify the Approval Authority in writing of the violation.

16. Inspection reports

A building inspector must within 3 days after the inspection produce a report in written to the Approval Authority relating to the construction of the building.

17. Notice to make good

(1) If the Approval Authority receives a written notice from the building inspector under subsection 15(3), it must issue to the permit holder:

(a) a notice to make good; or

(b) a suspension notice under paragraph 18(1)(a).

(2) The notice to make good must identify the work necessary to upgrade the building in compliance with the Code and permit.

(3) To avoid doubt, the notice to make good of a building does not suspend any construction of that building that is unrelated to the work specified in the notice.

18. Suspension of a building permit

(1) An Approval Authority may suspend a building permit by issuing a suspension notice to the holder of the permit if it is satisfied that:

(a) the nature of any non-compliance with a term or condition of the permit gives sufficient cause for concern about health matters or safety of the building; or

(b) the notice to make good is not complied with.

(2) If the Approval Authority issues a suspension notice, it must give the permit holder written reasons for its decision.

(3) If a building permit is suspended and a suspension notice is issued:

(a) the construction of the building must stop as soon as the building site is safely secured; and

(b) the construction of the building must not resume until the Approval Authority is satisfied that the construction will comply in all respects with the building permit.

(4) An Approval Authority must withdraw a suspension notice if it is satisfied that the construction of the building will comply in all respects with the building permit.

(5) If the Approval Authority suspends a building permit, no liability for damages or costs arising lie against the Authority for the proper exercise of its powers in suspending the permit.

19. Cancellation of building permit

(1) If, following the suspension of a building permit under section 18, the Approval Authority determines that the construction is not able to comply with the building permit,

the Approval Authority may issue a cancellation notice to the holder of the building permit.

(2) If the Approval Authority issues a cancellation notice, it must give the permit holder written reasons for the decision.

(3) If a building permit is cancelled:

(a) the construction must stop as soon as the building site is safely secured; and

(b) no further work can be undertaken in relation to the building.

(4) If the Approval Authority cancels a building permit, no liability for damages or costs arising lie against the Authority for the proper exercise of its powers in cancelling the permit.

20. Application for re inspection

(1) The holder of a building permit must apply to the Approval Authority for a re-inspection if:

(a) the holder complies with a notice to make good; or

(b) a suspension notice is withdrawn.

(2) The application for re-inspection must be in the approved form and be accompanied by the prescribed fee.

(3) If, after re- inspecting the building, the Approval Authority is satisfied that:

(a) the notice to make good has been complied with; or

(b) the suspension notice has been correctly withdrawn,

the Approval Authority must, in writing, advise the holder of the building permit accordingly.

(4) If the Approval Authority is not satisfied that the requirements under subsection (3) have been met, it must:

(a) advise the holder of the building permit in writing of the work that is required to be done in order for the notice to make good to be complied with; or

(b) issue another suspension notice under section 18.

21. Issue of completion certificate

(1) A building inspector may issue a completion certificate if he or she is satisfied that the building permit complies with the building permit.

(2) A building inspector who issues a completion certificate must provide a copy of the certificate to the Approval Authority within 7 days after issuing it.

(3) On receiving an application, the Approval Authority must:

(a) inspect the building; and

(b) issue a completion certificate to the permit holder if it is satisfied that the building complies with the building permit that has been issued and the Code.

(4) If the Approval Authority is not satisfied that the building complies with the Code or the building permit , it must advise the permit holder in writing of the work that is required to be done in order for the building to so comply.

(5) If the work mentioned in subsection (4) is completed, the permit holder may apply for a completion certificate according to this section.

22. Issue of Fitness to Occupy certificate

(1) A building or any part of a building must not be occupied or reoccupied unless the Approval Authority has issued a fitness to occupy certificate.

(2) The owner of the building must apply to the Approval Authority in the approved form for a fitness to occupy certificate.

(3) An application must be accompanied by the prescribed fee.

(4) The Approval Authority is to issue a fitness to occupy certificate if it is satisfied that the building complies with the Code.

(5) A fitness to occupy certificate can be issued at the same time as or after a completion certificate is issued.

(6) However, a fitness to occupy certificate must not be issued before a completion certificate is issued.

(7) If the Approval Authority rejects an application for a fitness to occupy certificate, it must advise:

(a) the applicant in writing of the reasons for that decision; and

(b) the permit holder in writing of the work that is required to be done in order for the building to comply with the Code.

(8) If the work mentioned in paragraph (7)(b) is completed, an application for a fitness to occupy certificate may be made according to this section.

PART 5 – ADMINISTRATION

23. Functions and powers of the Minister

The Minister has such functions and powers as are conferred on him or her by this Act.

24. Functions of the Director-General

(1) The Director General is responsible for the administration of this Act.

(2) In performing the general functions outlined in subsection (1), the Director General must do the following:

(a) advise the Minister on matters relating to building control;

(b) oversee periodic reviews of the Code;

(c) approve documents for use in establishing compliance with the Code;

(d) oversee reviews of the operation of Approval Authorities in relation to their functions under this Act;

(e) disseminate information and provide educational programs on matters relating to building control.

(3) In carrying out his or her functions, the Director General must consult with the Chief Fire Officer of the Vanuatu Fire Service and the Director General MIPU on any matters relating to their functions.

25. Functions of the Director General of Infrastructure and Public Utilities

The Director General MIPU has the following functions:

(a) to establish and administer a process for the approval of building inspectors;

(b) to maintain a registry of approved building inspectors;

(c) to provide technical advice and assistance to Approval Authorities in relation to their functions under this Act;

(d) to establish and administer a process for the accreditation of building products and processes;

(e) to establish and maintain processes for approval of building certifiers and building inspectors;

(f) to maintain a register of building certifiers and building inspectors.

26. Appointment of Building Certifiers

(1) The Director General may, in accordance with the Regulations, appoint a person to be a building certifier.

(2) A person appointed to be a building certifier must have prescribed qualifications and experience.

(3) The Director General must keep a register of building certifiers.

27. Application for approval as building inspector

(1) A person may apply to the Director General MIPU for approval as a building inspector.

(2) An application must be in the approved form and specify the provisions of the Code in respect of which the applicant wishes to be approved as a building inspector.

(3) An application must include:

(a) information that will enable the Director General MIPU to decide whether or not the applicant has appropriate qualifications, adequate relevant experience and sufficient knowledge of the Code; and

(b) evidence of the scheme of insurance that is to apply in respect of any insurable civil liability of the applicant that might arise out of the issuing of a building inspection certificate; and

(c) such other information as is prescribed.

(4) An application must be accompanied by the prescribed fee.

28. Processing applications for approval as building inspector

(1) The Director General MIPU may require an applicant under section 27 to provide further information in support of the application.

(2) The Director General MIPU must consider any application as soon as practicable.

(3) The Director General MIPU must approve an application if he or she is satisfied of the following:

(a) the applicant has:

(i) appropriate qualifications; and

(ii) adequate relevant experience; and

(iii) sufficient knowledge of the Code; and

(b) the applicant has complied with any other prescribed requirements; and

(c) the applicant is a fit and proper person; and

(d) the scheme of insurance that is to apply in respect of any insurable civil liability of the applicant that might arise out of the issuing of a building inspection certificate complies with industry standards.

(4) If the Director General MIPU approves an application, he or she must notify the applicant in writing.

(5) If the Director General MIPU rejects an application, he or she must notify the applicant in writing specifying the reasons for the decision.

29. Register of approved building inspectors

(1) The Director General MIPU must establish and maintain a register of approved building inspectors.

(2) If the Director General MIPU approves a person as a building inspector, he or she must enter the following on the register:

(a) the date of the approval;

(b) the name and address of the person approved;

(c) the specific provisions of the Code in respect of which the person is approved;

(d) any limitations on the matters in respect of which the person may certify compliance with the Code.

(3) After completing the entry in the register, the Director General MIPU must issue to the applicant a certificate of registration as an approved building inspector.

(4) An annual registration fee is payable by a registered builder to the Director General MIPU.

(5) The amount of the fee and the due date for payment are to be prescribed by the regulations.

(6) A person's approval as a building inspector remains in force until the person's name is removed from the register.

(7) The Director General MIPU must remove a person's name from the register if the person is convicted of an offence against this Act or the person fails to pay the fee mentioned in subsection (4) on or before the due date for payment.

30. Suspension and cancellation of appointments

(1) The Director General may suspend or cancel the registration of a building certifier or building inspector if he or she is satisfied that:

(a) a material misrepresentation was made in the application for registration; or

(b) the registered person has failed to perform the functions of building certifier or building inspector diligently and competently.

(2) Before taking action under subsection (1) the Director General must give the registered person opportunity to make a submission about the proposed suspension or cancellation.

31. Certification of building products and processes

(1) The owner of a building product or process may apply to the Director General MIPU for the certification of the building product or process.

(2) An application must be in the approved form and must identify the following:

(a) the product or process to be appraised and its application under the Code;

(b) the particulars of the manufacturer or proprietor and nature of the product or process;

(c) the technical specifications of the product or process to be assessed.

(3) An application must include information that will enable the Director General MIPU to determine whether the product or process to be appraised meets the technical requirements and specifications of the Code.

(4) An application must be accompanied by the prescribed fee.

(5) The Director General MIPU may require an applicant to:

(a) provide further information in support of the application; or

(b) submit, at the applicant's expense, the product or process for testing or technical appraisal.

(6) An application for certification must be considered as soon as practicable.

(7) The Director General MIPU must approve certification if satisfied that the product or process complies with the relevant provisions of the Code if used under the conditions specified in the appraisal.

(8) If the Director General MIPU approves a building product or process for certification, he or she must issue the applicant with a certificate confirming that the building product or process complies with the Code.

(9) If the Director General MIPU rejects an application, he or she must notify the applicant in writing, specifying the reasons for that decision.

32. Approval Authority for Government buildings and projects

The Approval Authority for all Government buildings and projects is the Ministry of Infrastructure and Public Utilities.

33. Exemption from fees and charges

All Government buildings and projects are exempt from paying the fees or charges prescribed under this Act.

PART 6 – OFFENCES AND PENALTIES

34. Offences and Penalties

(1) A person who:

(a) does a building work or commences a construction, or permits another person to do any building work or construction, otherwise than in accordance with a building permit; or

(b) changes the use of a building from one classification to another, or permits an other person to change the use of the building, otherwise than in accordance with a building permit; or

(c) does any building work in contravention of a notice to make good; or

(d) does any building work in contravention of a suspension notice or a cancellation notice; or

(e) fails to do any act that is required to be done by this Act, the regulations or the Code; or

(f) does any act or makes an omission that is contrary to the Code; or

(g) impersonates a building inspector; or

(h) falsifies a building inspection certificate, a fitness to occupy certificate or a completion certificate, or a report issued under this Act; or

(i) obstructs, hinders, or interferes with a person in execution of the powers conferred on that person by or under this Act or the regulations; or

(j) makes any false or misleading statement in any document required to be supplied by or under this Act or the regulations,

is guilty of an offence punishable upon conviction to a fine not exceeding VT10, 000, 000 or to imprisonment for a period of not more than 1 year, or both.

35. Penalty Notice

(1) An Approval Authority may serve a penalty notice on a person if it appears to the Authority that the person has committed an offence under any provision of this Act or the regulations.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time and to a person specified in the notice the amount of penalty prescribed by the regulations for the offence if dealt with under this section.

(3) A penalty notice may be served personally or by post.

(4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.

(6) The regulations may:

(a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and

(b) prescribe the amount of penalty payable for the offence if dealt with under this section; and

(c) prescribe different amounts of penalties for different offences or classes of offences.

(7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty prescribed under this Act.

(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

36. Liability of directors etc

If a body corporate commits an offence under this Act, and whether or not it is prosecuted or convicted, any officer, director, employee or agent of the body corporate who directed, authorised, assented to, acquiesced in or participated in the commission of the offence:

(a) is a party to and guilty of any such offence; and

(b) is personally liable to the punishment provided for by the offence upon conviction.

PART 7 – MISCELLANEOUS

37. Appeal to the Supreme Court

(1) A person may appeal to the Supreme Court against a decision to do all or any of the following:

(a) the refusal to issue a building permit;

(b) the imposition of conditions of a building permit;

(c) changing the conditions of a building permit;

(d) the refusal to extend the period of a building permit;

(e) the issuance of a notice to make good;

(f) the issuance of a suspension notice;

(g) the issuance of a cancellation notice;

(h) the refusal to issue a completion certificate;

(i) the refusal to issue a fitness to occupy certificate;

(j) rejection of an application made under section 28;

(k) any decision prescribed by the regulations as a decision in respect of which an appeal can be made.

(2) An appeal must be brought, by originating application, not more than 28 days after the date on which the appellant is notified of the decision appealed against.

(3) The Supreme Court may:

(a) confirm, reverse or modify the decision appealed against, and make such orders and give such directions to the Minister, Director General, or Approval Authority as may be necessary to give effect to the Court's decision; or

(b) refer the matter back to the Minister, Director General, or Approval Authority with directions to reconsider the whole or any specified part of the matter.

38. Savings provision

(1) A building permit in force immediately before the commencement of this Act, is to continue in force as if this Act had not commenced.

(2) A building constructed under a building permit referred to in subsection (1) must comply with all relevant requirements in force immediately before the commencement of this Act.

39. Protection of officers and others

An individual is not liable to an action or other proceeding for damages for or in respect to an act done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of a power, function or duty conferred on him or her by this Act.

40. Regulations

(1) The Minister may make regulations:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), the regulations may deal with the following matters:

(a) fees and charges in respect of matters under this Act;

(b) prescribing types or classes of buildings to which this Act applies;

(c) establishing processes or procedures for the testing or certifying building materials or processes;

41. Bye-laws

(1) A local government council or a municipal council may make bye-laws in respect of all matters necessary for the purpose of giving effect to the requirements of this Act.

(2) A bye-law must be consistent with the provisions of this Act, the regulations and the Code.

(3) To avoid doubt, a local government council or a municipal council must not make any bye-law that permits a lower performance standard than one contained in the Code.

Table of Amendments

3A Inserted by Act 24 of 2024