

HEIGHT OF BUILDINGS (AMENDMENT) ACT.

Act No. 12, 1957.

Elizabeth II, No. 12, 1957. An Act to make further provisions as to the height of buildings; to constitute a Height of Buildings Advisory Committee; for these and other purposes to amend the Height of Buildings Act, 1912-1952; and for purposes connected therewith. [Assented to, 8th April, 1957.]

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
and
citation.

1. (1) This Act may be cited as the "Height of Buildings (Amendment) Act, 1957".

(2) The Height of Buildings (Metropolitan Police District) Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Height of Buildings Act, 1912-1957.

Amendment
of Act
No. 58, 1912.

2. The Height of Buildings Act, 1912-1952, is amended—

Subst.
sec. 2.

(a) by omitting section two and by inserting in lieu thereof the following section:—

Inter-
pretation.

2. (1) In this Act unless inconsistent with the context or subject matter—

"Building" includes part of a building.

"Committee" means the Height of Buildings Advisory Committee appointed under this Act.

"Panel" means the Height of Buildings Advisory Panel appointed under this Act.

(2)

(2) In this Act "height"— No. 12, 1957.

(a) in relation to a building which has a frontage to a public road means the measurement taken from the mean level of the frontage at the street alignment immediately in front of the face of the building to the top of the highest portion of the building which is intended to be occupied or used or which is occupied or used by any person for any purpose; Definition of "height".

(b) in relation to a building the fronts of which abut the street alignments of two parallel public roads or two public roads which although not parallel follow generally the same direction and the distance between such roads at the street alignments immediately in front of the faces of the building measured between the closest points is more than eighty feet means—

(i) in respect of any part of the building which extends from the front thereof at the lower of such public roads to a line drawn across the building at a point not less than half the distance between such public roads measured between the closest points the measurement taken from the mean level of the frontage at the street alignment of the public road which is the lower immediately in front of the face of the building to the top of the highest portion of the aforesaid part of the building which is intended to be occupied or used or which is occupied or used by any person for any purpose;

(ii)

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- (ii) in respect of the part of such building other than that to which subparagraph (i) of this paragraph applies the measurement taken from the mean level of the frontage at the street alignment of the public road which is the higher immediately in front of the face of the building to the top of the highest portion of the building which is intended to be occupied or used or which is occupied or used by any person for any purpose;
- (c) in relation to a building the fronts of which abut the street alignments of two parallel public roads or two public roads which although not parallel follow generally the same direction and the distance between such roads at the street alignments immediately in front of the faces of the building measured between the closest points is not more than eighty feet means the measurement taken from the mean level of the frontage at the street alignment of the public road which is the higher immediately in front of the face of the building to the top of the highest portion of the building which is intended to be occupied or used or which is occupied or used by any person for any purpose;
- (d) in relation to a building which has no frontage to a public road means the measurement from the mean level before excavation of the ground upon which the building is erected to the top of the highest portion of the building which

which is intended to be occupied or used or which is occupied or used by any person for any purpose; No. 12, 1957.

- (e) in relation to a building in respect of which the height cannot be determined in accordance with any of the foregoing provisions of this subsection means the height as determined in accordance with such method as the Minister on the recommendation of the Committee prescribes.

In this subsection "public road" means a road, street or other public thoroughfare not less than twenty-one feet in width.

The following classes of structure shall not, if constructed in conformity with a design approved by the Minister be taken into account in determining the height of any building:—

- (a) water tanks or reservoirs or air conditioning, ventilating, lift or elevator machinery or other machinery whatsoever upon the top of such building and any structures enclosing such tanks, reservoirs or machinery;
- (b) wireless towers upon the top of a building occupied only during reasonable periods for maintenance purposes and not used for advertising signs of any description.

- (b) (i) by inserting at the end of paragraph (b) of subsection one of section four the words Sec. 4.
(Height of buildings.)
"unless the skyline and the plans of such building have been approved by the Minister upon the recommendation of the Committee";

(ii)

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- (ii) by inserting at the end of paragraph (b) of subsection two of the same section the words “unless the skyline and the plans of such building as so rebuilt, reconstructed or increased have been approved by the Minister upon the recommendation of the Committee”;
- (iii) by inserting at the end of subsection four of the same section the following paragraph:—

Such conditions shall in the case of a building erected of, or rebuilt, reconstructed or increased to a greater height than one hundred and fifty feet include conditions—

- (a) specifying the ratio which the total floor space of the building shall bear to the area of the site of the building to the intent that the number of persons to be accommodated shall not exceed the number which would have been accommodated had the building been erected in all parts to a height of one hundred and fifty feet;
- (b) specifying the area of the site of the building and the location thereof to be set aside for the loading or unloading of goods.

New secs.
4B-4E.

- (c) by inserting next after section 4A the following new sections:—

Height of
Buildings
Advisory
Committee.

4B. (1) There shall be a Height of Buildings Advisory Committee which shall consist of eleven members appointed by the Governor.

(2) Of the members so appointed—

- (a) one shall be appointed upon the nomination of the Minister and shall be an officer of the Chief Secretary's Department;

(b)

- (b) one shall be appointed upon the nomination of the Secretary for Public Works and shall be an architect of the Public Works Department; No. 12, 1957.
- (c) one shall be appointed upon the nomination of the Minister for Local Government and shall be an officer of the Department of Local Government;
- (d) one shall be appointed upon the nomination of the Minister and shall be a person who is an expert on traffic matters;
- (e) one shall be the City Building Surveyor of the City of Sydney or the person for the time being acting in that position;
- (f) one shall be the Director of Civil Defence or the person for the time being acting in that position;
- (g) one shall be appointed upon the nomination of the Board of Fire Commissioners of New South Wales;
- (h) one shall be appointed upon the nomination of the Local Government Association of New South Wales;
- (i) one shall be appointed upon the nomination of the New South Wales Chapter of the Royal Australian Institute of Architects;
- (j) one shall be appointed upon the nomination of the Institution of Engineers, Australia (Sydney Division);
- (k) one shall be appointed upon the nomination of the Australian Planning Institute (Sydney Division).

(3) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of a member of the Committee and a member

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member shall not, in his capacity as such member, be subject to the provisions of the Public Service Act, 1902, or any Act amending that Act.

(4) (a) Each member of the Committee shall, subject to this section, hold office for a term of five years and shall, if otherwise qualified, be eligible for reappointment upon the expiration of his term of office: Provided that a person appointed to fill the vacant office of a member shall hold office only for the residue of his predecessor's term of office, but shall if otherwise qualified be eligible for reappointment.

(b) A member shall be deemed to have vacated his office if he—

(i) dies;

(ii) resigns his office in writing under his hand addressed to the Governor;

(iii) being one of the members referred to in subparagraphs (a) to (f) inclusive of subsection two of this section, ceases to hold the qualification by virtue of which he was appointed; or

(iv) is removed from office by the Governor.

(c) The Governor may, for any cause which appears to him sufficient, remove any member from office.

(5) The person referred to in paragraph (a) of subsection two of this section shall be chairman of the Committee.

(6) The Committee shall annually elect one of its members to be deputy chairman.

(7)

(7) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto, be as determined by the Committee. No. 12, 1957.

(8) At any meeting of the Committee five members shall form a quorum and any meeting at which a quorum is present shall have all the powers, authorities, duties and functions conferred or imposed upon the Committee.

(9) (a) At any meeting of the Committee the chairman, or in his absence the deputy chairman, shall preside.

(b) If the chairman and deputy chairman are both absent from any meeting the members present may elect one of their number to preside at the meeting; and the member so elected while so presiding shall have the powers, authorities, duties and functions of the chairman.

(10) (a) At any meeting of the Committee the decision of a majority of the members present shall be the decision of the Committee.

(b) The chairman or deputy chairman or member presiding shall have a deliberative vote and, where the members present at any meeting are equally divided in opinion upon any matter, shall have a second or casting vote.

(11) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the offices of members.

(12) Each member of the Committee shall be entitled to receive such fees and travelling expenses as may from time to time be fixed by the Governor.

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Powers and
functions
of
Committee.

4c. The Committee shall—

- (a) examine and report upon all applications for approvals under this Act to erect a building of a greater height than one hundred and fifty feet or to rebuild, reconstruct or increase a building to a greater height than one hundred and fifty feet and make recommendations to the Minister as to whether or not such approvals should be given.

In its examination of such applications the Committee shall have regard to the following matters:—

- (i) the proposed use and occupancy of the building;
- (ii) the total floor plan area of the building in relation to the area of the site of the building;
- (iii) the number of persons likely to occupy the building;
- (iv) the adequacy of natural light and air to the building;
- (v) the adequacy of natural light and air to adjoining sites and adjacent public roads or other thoroughfares;
- (vi) the traffic likely to be generated by the use and occupancy of the building;
- (vii) the provision for the loading and unloading of goods in or from the building;
- (viii)

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(viii) the provision of off-street car parking facilities in the building; No. 12, 1957.

(ix) the area of the site of the building at street level available for pedestrian movement;

(x) the likely fire hazards and provisions for detecting and fighting fires in connection with the building;

(xi) the appearance of the building;

(xii) any other matters of public safety and convenience relating to or associated with the building;

(xiii) any matters relating to the building or the site of the building specially submitted by the council of the area in which the building is located;

(b) report on any matter affecting the administration of this Act or the regulations thereunder which may be referred to it by the Minister.

4D. (1) A member of the Committee shall be disqualified from acting and shall not act as a member on any matter before the Committee relating to any building in respect of which he is in any manner directly or indirectly interested or associated as an architect or engineer. Disqualification of certain members.

(2) Where a member is disqualified under this section his place on the Committee when such matter is being dealt with by the Committee shall be taken by a deputy or temporary member of the same profession or calling

as

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as the member so disqualified to be selected by the Minister from the members of the panel hereinafter constituted.

A deputy or temporary member when taking the place of a member as aforesaid shall be deemed to be a member of the Committee.

**Height of
Buildings
Advisory
Panel.**

4E. (1) There shall be a Height of Buildings Advisory Panel which shall consist of six members appointed by the Minister.

(2) Of the members so appointed—

- (a) two shall be appointed upon the nomination of the New South Wales Chapter of the Royal Australian Institute of Architects;
- (b) two shall be appointed upon the nomination of the Institution of Engineers, Australia (Sydney Division);
- (c) two shall be appointed upon the nomination of the Australian Planning Institute (Sydney Division).

**Sec. 6.
(Regulations.)**

(d) by inserting at the end of subsection one of section six the following new paragraphs:—

- (d) prescribing the procedure for the calling of meetings of the Committee and the conduct of the business at such meetings;
- (e) prescribing the information or particulars to be sent to the Committee in connection with applications in respect of which the Committee is to make examinations, reports and recommendations.

SUPREME