

BUILDING CONTROL

Table of Contents

Page

Principal

Building Control Act 2025

Table of Provisions	760,201
Table of Amendments	760,401
Building Control Act 2025	760,601

[The next page is 760,201]

Building Control Act 2025

TABLE OF PROVISIONS

<i>Section</i>	<i>Title</i>
PART 1 — PRELIMINARY	
1	Short title
2	Commencement
3	Objectives of this Act
4	Interpretation
PART 2 — ADMINISTRATION	
5	Establishment of the Building Control Committee
6	Functions of the Committee
7	Powers of the Committee
8	Director of Building Control
9	Functions of the Director
10	Powers of the Director
PART 3 — NATIONAL BUILDING CODE	
11	National Building Code
12	Manual
PART 4 — REGISTRATION OF BUILDING CONSTRUCTORS	
13	Prohibition of carrying out building work without registering as a building constructor
14	Registrar of Building Constructors
15	Functions of the Registrar
16	Powers of the Registrar
17	Register of Building Constructors
18	Qualifications of registered building constructors
19	Application for registration
20	Consideration of granting of Certificate of Registration
21	Duration of the Certificate of Registration
22	Renewal of registration
23	Variation of particulars
24	Suspension and revocation of registration
25	Continuing professional development
26	Record Keeping requirements
27	Offence of misrepresentation

Section

Title

PART 5 — COMPLAINTS AND GRIEVANCES

28 Complaints and grievances procedure and form

PART 6 — REQUIREMENTS FOR BUILDING AND BUILDING WORK

29 Prohibition to build without a building permit
 30 Circumstances where a building permit is not required
 31 Application for a building permit
 32 Committee may require certified documents
 33 Consideration of applications by the Committee
 34 Committee to grant building permit
 35 Duration of building permit
 36 Extension
 37 Variation to the plans or conditions
 38 Procedure for considering an application for extension or variation
 39 Suspension of a building permit
 40 Cancellation of a building permit
 41 Prohibition from using asbestos in any building or building work

PART 7 — BUILDING INSPECTORS

42 Appointment of building inspectors
 43 Functions of the building inspectors
 44 Powers of a building inspector
 45 Inspections of building and building work
 46 Certificate of Completion
 47 Certificate of Occupancy
 48 Powers of the building inspector in relation to inspections

PART 8 — PROHIBITION RELATING TO MODULAR CONSTRUCTION OR BUILDING

49 Prohibition on importation of modular construction or building

PART 9 — COMPLIANCE AND ENFORCEMENT

50 Search Warrant
 51 Appointment of authorised officers
 52 Stop work notice
 53 Notice for remedial action
 54 Condemn notices
 55 Demolition notice
 56 Infringement notices
 57 Offences under this Act
 58 Defence to prosecution

PART 10 — MISCELLANEOUS

59 Protection from liability

<i>Section</i>	<i>Title</i>
60	Jurisdiction of the District Court
61	Appeal to the Minister
62	Confidentiality
63	Regulations
64	Transitional provisions
65	Existing building work and its plans not to be affected where construction has commenced
66	Building constructors to register within 6 months

[The next page is 760,401]

Building Control Act 2025

TABLE OF AMENDMENTS

The Building Control Act 2025 No 12 was certified and commenced on 9 April 2025.

Amending Legislation	Certified	Date of Commencement
----------------------	-----------	----------------------

[The next page is 760,601]

An Act relating to the building and construction of buildings in the Republic.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *Building Control Act 2025*.

2 Commencement

This Act commences on the date it is certified by the Speaker.

3 Objectives of this Act

The objectives of this Act are to:

- (a) establish a Building Control Committee and provide for its functions and powers for the purposes of the construction of building in accordance with the National Building Code;
- (b) provide for the Building Control Committee to implement and enforce this Act;
- (c) establish the office of the Director of Building Control to assist the Committee in the implementation of this Act and manage the Register of Building Constructors;
- (d) enable the prescription of the National Building Code to prescribe technical specifications to be complied with by building constructors, for a building and building work to ensure such building or building work are safe and structurally fit for the health and safety of the people;
- (e) provide manuals and other guides to supplement the National Building Code and facilitate compliance with this Act to the building constructors and the public;
- (f) provide for the registration of building constructors and maintain a Register of Building Constructors;
- (g) provide for a complaint and grievance mechanism for the public in relation to the conduct or work quality of and the performance of the agreement with a building constructor;
- (h) provide for requirements for building and building work, which includes the following:
 - (i) procedure for the granting of a building permit; and
 - (ii) that building constructors must not carry out building work without a Certificate of Registration;
- (i) provide for the appointment and role of building inspectors; and
- (j) provide for prohibition relating to modular construction or building.

4 Interpretation

In this Act:

‘approved plans’ means plans approved by the Committee in accordance with the National Building Code and any other requirements;

‘authorised officer’ means a person appointed under Section 51;

‘building’ includes a structure on or attached to land which includes:

- (a) an extension to a building;
- (b) a structure attached to a building;
- (c) a plumbing, electrical and sanitation system; and
- (d) part of a building;

‘building code or National Building Code’ refers to the National Building Code under Section 11;

‘building constructor’ means a person who carries out building work;

‘building inspector’ means a person appointed under Section 42 and includes an authorised officer appointed under the Act;

‘building permit’ means a building permit granted under Section 34;

‘building standards’ means documents, established by a consensus of building or construction experts and approved by a recognised body, that provide guidance on the design, use or performance of materials, products, processes, services, systems or persons relating to construction and building work;

‘building work’ includes any structural or architectural works of a building, including excavation for foundations, sanitary installations, plumbing, electrical, joinery, air conditioning or demolition;

‘class of use’ means classes of use of buildings specified in the building code;

‘Committee’ means the Committee established under Section 5;

‘Director’ means a person appointed under Section 8;

‘exempt building work’ means building work on an exempt structure;

‘exempt structure’ means a structure which may be prescribed;

‘land owner’ means:

- (a) if land is the subject of a lease with a term of 20 years or more, the lessee of that land; and
- (b) in any other case, the owner of the land;

‘legal entity’ refers to a corporation, partnership or trust registered under the *Corporations Act 1972*, *Partnership Act 2018* or *Trusts Act 2018* respectively;

‘Minister’ means the Minister responsible for this Act;

‘minor repairs’ means building works which may be prescribed;

‘recognised body’ includes a national, regional or international building standards developing organisation;

‘Register’ means the Register established under Section 17;

‘registered building constructor’ means a person who is registered under Part 4; and

‘Secretary’ means Secretary responsible for building work.

[The next page is 761,101]

PART 2 — ADMINISTRATION

5 Establishment of the Building Control Committee

- (1) The Building Control Committee is established.
- (2) The Committee shall be responsible to the Minister.
- (3) The members of the Committee shall consist of the following 3 members:
 - (a) the Secretary, who shall be the Chairperson;
 - (b) a person who has qualifications and experience in construction of buildings; and
 - (c) a representative from the community.
- (4) The members whose appointment are provided under subsection (3)(b) and (c) shall be appointed by Cabinet on the advice of the Minister.
- (5) The Committee may invite persons to provide technical assistance, in civil, mechanical or electrical engineering, sanitation, plumbing, electrical, and health and safety advice in the Committee's meetings.
- (6) A person invited under subsection (5) has no right to vote in the Committee's meetings.

6 Functions of the Committee

The functions of the Committee are to:

- (a) advise the Cabinet and Minister in relation to construction of buildings in the Republic;
- (b) make policies relating to construction of buildings in the Republic;
- (c) make recommendations to the Cabinet to create or adopt a National Building Code;
- (d) issue manuals and guides to supplement the National Building Code in relation to any regulatory matter or generally for the betterment of the construction industry;
- (e) approve registration of building constructors;
- (f) grant building permits;
- (g) grant Certificate of Completion of building work;
- (h) grant Certificate of Occupancy;
- (i) appoint building inspectors;
- (j) issue stop work notices, notices for remedial action, condemn notices and demolition notices;
- (k) assist the building practitioners, land owners, owners of buildings, building occupiers and others to comply with this Act;
- (l) make recommendations to the Cabinet for the purposes of the *Derelict Sites Management Act 2017*;
- (m) recommend the importation of type or modular construction or building to the Minister; and
- (n) such other functions as may be prescribed or conferred under this Act and regulations.

7 Powers of the Committee

The Committee has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

8 Director of Building Control

- (1) There shall be established the office of the Director of Building Control.
- (2) The Director of Building Control shall be appointed by the Chief Secretary on the recommendation of the Secretary.
- (3) The terms and conditions of appointment of the Director shall be in accordance with the *Public Service Act 2016*.
- (4) Where the Director is unable to perform the functions of the office for any reason including any official travel, recreation leave or medical leave, the Chief Secretary shall on the advice of the Secretary appoint another person to act as the Director for such period as may be necessary.
- (5) The Director shall report to the Committee in relation to any matter contained in this Act.
- (6) The Director shall for the purposes of administrative matters relating to his or her employment report to the Secretary.

9 Functions of the Director

The functions of the Director are to:

- (a) process the registration of the building constructors after approval granted by the Committee;
- (b) assist and provide administrative support to the Committee;
- (c) keep and maintain the records of the applications and other documents required in:
 - (i) the performance of the Committee's or his or her functions; and
 - (ii) the exercise of the Committee's or his or her powers;
- (d) ensure that the Act, regulations, building code, manual, policies and any other publication for the purposes of this Act is readily available for access by a person requesting a copy;
- (e) provide technical advice in relation to any matter under this Act; and
- (f) such other functions as may be prescribed or conferred under this Act or any other written law.

10 Powers of the Director

The Director has the power to do all things necessary or convenient to be done for the performance of his or her functions under this Act or any other written law.

[The next page is 761,501]

PART 3 — NATIONAL BUILDING CODE

11 National Building Code

- (1) The Cabinet may by regulations prescribe a National Building Code on the recommendation of the Committee.
- (2) The National Building Code shall provide for:
 - (a) minimum standards and technical provisions for the design and construction of buildings;
 - (b) minimum architectural and structural standards to carry out building work;
 - (c) incorporation of building standards recognised nationally, regionally and internationally by a recognised body;
 - (d) the construction of building shall protect or maintain the natural environment as much as possible;
 - (e) different classes, types or uses of buildings; and
 - (f) such other matters as may be directed by the Committee for the purposes of the improvement of the quality and safety of buildings and building work.

12 Manual

- (1) The Committee shall issue a Manual to supplement the National Building Code for the purposes of this Act.
- (2) The Committee may amend, vary or revoke the Manual as it deems fit.

[The next page is 762,001]

PART 4 — REGISTRATION OF BUILDING CONSTRUCTORS

13 Prohibition of carrying out building work without registering as a building constructor

- (1) No person shall commence or carry out any building work without being granted a Certificate of Registration as a building constructor under this Act.
- (2) A person who contravenes subsection (1), commits an offence and shall be liable to a fine not exceeding \$20,000, or to a term of imprisonment not exceeding 24 months or both.

14 Registrar of Building Constructors

- (1) There shall be a Registrar of Building Constructors.
- (2) The Registrar shall be the Director.

15 Functions of the Registrar

The Registrar shall:

- (a) keep and maintain the Register;
- (b) keep and maintain the records of applications and other documents required to be lodged or filed by persons seeking registration of or have registered under this Act;
- (c) upon the approval of the Committee issue a Certificate of Registration; and
- (d) such other matters as may be provided under this Act or any other written law.

16 Powers of the Registrar

The Registrar has the power to do all things necessary or convenient to be done for the performance of his or her functions under this Act or any other written law.

17 Register of Building Constructors

- (1) There shall be a Register of Building Constructors.
- (2) The Register shall contain:
 - (a) the personal details including the name, birth date, residence and contact details of a building constructor;
 - (b) a copy of a building constructor's application;
 - (c) a copy of the prescribed qualification;
 - (d) in a case of a legal entity, in addition to the details of the registration of the legal entity, provide the details of a natural person who has the ultimate control and management of the legal entity; and
 - (e) such other matters as may be prescribed.
- (3) Upon the payment of prescribed fees:
 - (a) the Register shall be made available for inspection by any person during business hours; and
 - (b) certified copies of the entries in the Register shall be provided.
- (4) The particulars registered in the Register and the records kept and

maintained by the Registrar shall be evidence of the record of the building constructor kept and maintained by the Registrar.

- (5) A copy of or extract from any document contained in the Register certified to be a true copy or extract under the hand and seal of the Registrar is admissible as evidence in any legal proceedings, as if it were the original document or a part of the document as extracted.
- (6) In any legal proceedings, a Certificate issued under the hand and seal of the Registrar is *prima facie* evidence of the fact that the requirements of this Act specified in the Certificate:
 - (a) had or had not been complied with at a date or within a period specified in the Certificate; or
 - (b) had been complied with, but at a date other than that specified in the Certificate.
- (7) The Registrar may refuse to accept any document lodged and request that the document be rectified and re-lodged or a new document be lodged, if he or she is of the opinion that the document:
 - (a) contains matters contrary to law;
 - (b) by reason of any omission or misdescription has not been duly completed;
 - (c) does not comply with the requirements of this Act; or
 - (d) contains any error, alteration or erasure.

18 Qualifications of registered building constructors

A person shall meet the prescribed qualification and experience, in order to be eligible for registration as a building constructor.

19 Application for registration

- (1) A person who intends to carry out building work may apply to the Registrar to be registered as a building constructor under this Act.
- (2) An application for registration shall:
 - (a) be in the prescribed form;
 - (b) provide the prescribed information;
 - (c) provide copies of documents required for registration;
 - (d) be declared and signed by the applicant; and
 - (e) accompanied by the prescribed fee.
- (3) The Registrar may require and the applicant shall provide such further information.

20 Consideration of granting of Certificate of Registration

- (1) In deciding whether to register a building constructor, the Committee may take into consideration the following matters:
 - (a) whether the applicant has the required qualification to be a registered building constructor;
 - (b) whether the applicant has knowledge of the National Building Code or any other manual issued by the Committee;
 - (c) the applicant shall have or demonstrate evidence that he or she has registered or will register a business or legal entity to carry out the business of building construction and obtain a valid business licence; and

- (d) such other relevant information in relation to the applicant or application as may be prescribed.
- (2) Where the Committee is satisfied that an application for registration complies with all the requirements of this Act, it shall grant the Certificate of Registration and direct the Registrar to issue a Certificate of Registration.
- (3) The Committee may where it considers appropriate, impose conditions on a Certificate of Registration.
- (4) Where the Committee has rejected an application, the Registrar shall notify the applicant in writing of the Committee's decision and state the reasons for such decision.

21 Duration of the Certificate of Registration

A Certificate of Registration is valid for 12 months from the date the Certificate was granted.

22 Renewal of registration

- (1) Applications for the renewal of Certificates of Registration shall:
 - (a) be made at least 1 month prior to the expiry date of the Certificate;
 - (b) be in the prescribed form;
 - (c) be accompanied with a copy of the business or legal entity's current business licence; and
 - (d) be accompanied with the prescribed fees.
- (2) A registered building constructor is not liable for prosecution, if he or she has:
 - (a) lodged an application for the renewal within 1 month of the expiration of his or her licence;
 - (b) in the case of an application for renewal, he or she has lodged an application in less than 30 days of the expiry of a licence, and has paid the prescribed late application fee; or
 - (c) in the case of an application made after the expiry of a licence, he or she has paid the prescribed late application fee and the late penalty fee of \$5,000.

23 Variation of particulars

- (1) A building constructor shall apply to the Registrar for the registration of a variation of particulars relating to his or her registration, in the prescribed form and within 14 days of any such variation occurring.
- (2) Where the Registrar is satisfied that the variation of the particulars comply with the requirement of this Act or any other written law, he or she shall upon receipt of the notice in subsection (1) amend the particulars contained in the Register.
- (3) Where the Registrar requires any further information in respect of the application for registration of any variation of particulars:
 - (a) he or she shall in writing require the building constructor to provide such information;
 - (b) the building constructor shall provide the details requested in paragraph (a) within 7 days or any other period as specified by the Registrar; and

- (c) he or she shall make a determination on the registration of the variation of the particulars after the expiry of the period in paragraph (b).
- (4) Where the variation is in respect of the Certificate of Registration, name, or address, the Registrar shall issue an amended Certificate of Registration accordingly.
- (5) Where the Registrar declines the application for variation under subsection (1), he or she shall provide the reasons for such decision in writing.
- (6) A building constructor who fails to comply with subsection (1), commits an offence and upon conviction is liable to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or to both.

24 Suspension and revocation of registration

- (1) The Committee may suspend or cancel a Certificate of Registration of a building constructor where the:
 - (a) building constructor has made a false or misleading statement in his or her application for registration;
 - (b) Committee considers that the building constructor is not qualified to retain registration;
 - (c) building constructor has requested the Committee to do so; or
 - (d) building constructor does not comply with any other requirement provided under this Act.
- (2) Where the Committee has suspended or cancelled the Certificate of Registration of a building constructor, the Registrar shall advise him or her in writing of a decision of the Committee and the reasons for such decision.

25 Continuing professional development

- (1) The Committee may make arrangements for the continuing professional training and development of registered building constructors.
- (2) The Committee may:
 - (a) refuse to renew the registration of a building constructor where he or she has failed to undertake continuing professional training and development in accordance with the regulations; or
 - (b) take into consideration, when deciding whether to suspend or cancel a Certificate of Registration of a building constructor, whether building constructor has undertaken continuing professional training and development.
- (3) The Committee shall require building constructors to attend special training on the National Building Code.

26 Record Keeping requirements

- (1) The Registrar shall keep a record of all matters required to be registered.
- (2) The records shall be kept and maintained in:
 - (a) electronic form or digital form; and
 - (b) manual Register or in case of electronic or digital form, capable of being produced in printed form.
- (3) The Registrar shall keep and maintain the records for a period of at least 7 years from the date of registration.

- (4) The Registrar shall not disclose or share information with any third party except where it is required for a law enforcement agency, for any other official purpose, by the Republic or any proceedings.

27 Offence of misrepresentation

- (1) A person shall not knowingly or unknowingly represent or present him or herself as a registered building constructor.
- (2) A person who contravenes subsection (1) commits an offence and shall be liable to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both.
- (3) For the purposes of an offence under subsections (1) and (2), it is not material that the person is able to secure or enter into a contract or agreement for building work.

[The next page is 762,501]

PART 5 — COMPLAINTS AND GRIEVANCES

28 Complaints and grievances procedure and form

- (1) The Registrar shall ensure that a system for receiving and dealing with complaints and grievances is prescribed for the following:
 - (a) any complaints against building constructors;
 - (b) any issue of unethical or incompetent behaviour by a building constructor;
 - (c) any significant incident that occurred during the course of the building work;
 - (d) the use or misuse of funds, records and information concerning the building constructor's clients; or
 - (e) such other matters which may be concerning or related to building constructors and any building works carried out by a building constructor.
- (2) The Committee shall have the jurisdiction or power to hear and determine a complaint.
- (3) The procedure for hearing and determining complaints shall be as prescribed.

[The next page is 763,001]

PART 6 — REQUIREMENTS FOR BUILDING AND BUILDING WORK

29 Prohibition to build without a building permit

- (1) Subject to Section 30, a person is prohibited from commencing or carrying out any building work without a building permit under this Act.
- (2) A person who contravenes subsection (1), commits an offence and shall be liable to:
 - (a) in the case of an individual a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both; or
 - (b) in the case of a legal entity, to a fine not exceeding \$100,000.

30 Circumstances where a building permit is not required

A building permit is not required:

- (a) for exempt building work; or
- (b) for minor repairs to building without changing the structure or making extensions.

31 Application for a building permit

- (1) An application for a building permit may be made by:
 - (a) a person who intends to construct a building; or
 - (b) a registered building constructor duly authorised by the person who is intending to construct a building.
- (2) An application for a building permit shall:
 - (a) be in the prescribed form;
 - (b) provide the prescribed information;
 - (c) be declared and signed by the applicant; and
 - (d) accompanied by the prescribed fee.
- (3) The Committee may require and the applicant shall provide such further information.
- (4) An applicant shall not make a false or misleading statement in the application.
- (5) A person who contravenes subsection (4) commits an offence and shall be liable to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both.

32 Committee may require certified documents

- (1) The Committee may require an applicant to provide the following certified documents:
 - (a) the building permit application form;
 - (b) documents submitted with the application;
 - (c) compliance with standards relevant to the proposed building work; and
 - (d) documents as may be certified.
- (2) The certification of documents under subsection (1) shall be by a suitably qualified person as may be prescribed.
- (3) An applicant shall not provide a certification which is false or misleading.

- (4) A person who contravenes subsection (3), commits an offence and shall be liable to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both.

33 Consideration of applications by the Committee

- (1) When considering an application for a building permit, the Committee shall take into consideration the following:
- (a) whether the proposed building work complies with the building code; and
 - (b) any advice provided by a person invited by the Committee under Section 5(5) of this Act.
- (2) The Committee may:
- (a) request the applicant to provide additional information in relation to the application; or
 - (b) request that the applicant make amendments to the application or supporting documents.
- (3) The Committee is not required to take further action in relation to an application:
- (a) unless the applicant has:
 - (i) supplied the requested additional information; and
 - (ii) amended the application or provided the supporting documents as requested; or
 - (b) where in writing, the applicant has declined to make the amendments.

34 Committee to grant building permit

- (1) Where the Committee is satisfied that an application for a building permit complies with all the requirements of this Act, it shall grant a building permit to the applicant.
- (2) The Committee may impose the following conditions on a building permit granted under subsection (1):
- (a) the building work shall comply with the requirements of the Act;
 - (b) the building work shall conform to the description set out in the building permit application;
 - (c) the building work shall comply with the approved plans; and
 - (d) any other conditions specified in writing by the Committee, including conditions:
 - (i) which address concerns raised by persons under Section 5(5);
 - (ii) relating to the conduct of the proposed building work; or
 - (iii) relating to the proposed building.
- (3) Where the Committee has rejected an application, the Committee shall notify the applicant in writing of its decision and state the reasons for the decision.

35 Duration of building permit

A building permit is valid for 24 months from the date the building permit is granted.

36 Extension

A holder of a building permit shall make an application to the Committee for an extension of the period of the building permit within 1 month of the lapse of the specified period.

37 Variation to the plans or conditions

- (1) A holder of an approved plan for building or building permit shall make an application to the Committee for the variation of the conditions of the building permit, in the prescribed form and accompanied by the prescribed fee.
- (2) An application for variation under subsection (1) shall be made prior to carrying out any variation to the building work.
- (3) A person who contravenes subsection (2) commits an offence and shall be liable to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both.

38 Procedure for considering an application for extension or variation

- (1) In considering an application under Sections 36 and 37, the Committee shall follow the procedure provided under Section 33 of this Act.
- (2) Where the Committee is satisfied that an application complies with all the requirements of this Act, the Committee shall grant an extension of a building permit or a variation of the conditions of the building permit.
- (3) Where the Committee has rejected an application, the Committee shall notify the applicant in writing of its decision and state the reasons for the decision.

39 Suspension of a building permit

- (1) The Committee may suspend a building permit, where it is satisfied that the building or building work does not comply with the building code, building plan or the building permit.
- (2) In deciding whether to suspend a building permit the Committee shall take into consideration:
 - (a) any report by a building inspector relevant to the decision; and
 - (b) whether a notice under Part 9 to comply has been issued, and, if so, whether the notice was complied with.
- (3) Where the Committee suspends a building permit, the Committee shall serve on the holder of the building permit a notice of suspension which sets out:
 - (a) a statement that the building permit has been suspended;
 - (b) that all work to which the building permit applies shall immediately cease; and
 - (c) a statement of the reasons for the decision.
- (4) The Committee may revoke a suspension notice where it considers that the suspension notice is no longer required.

40 Cancellation of a building permit

- (1) The Committee may cancel a building permit.
- (2) In deciding whether to cancel a building permit, the Committee shall take into consideration:
 - (a) any report by a building inspector relevant to the decision; and
 - (b) the grounds for a notice of suspension issued under Section 39 have not been remedied.

- (3) Where the Committee cancels a building permit, the Committee shall serve on the holder of the building permit a notice of cancellation setting out:
 - (a) a statement that the building permit has been cancelled;
 - (b) that all building work to which the building permit applies shall immediately cease;
 - (c) a statement of the reasons for the decision; and
 - (d) a statement that the holder of the building permit may appeal against the Committee's decision to the Minister pursuant to Section 61.

41 Prohibition from using asbestos in any building or building work

- (1) A person is prohibited from using any asbestos for the construction of a building or in any building work.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable:
 - (a) in the case of an individual to a fine not exceeding \$30,000 or to a term of imprisonment not exceeding 3 years or both; or
 - (b) in the case of a legal entity, to a fine not exceeding \$150,000.

[The next page is 763,501]

PART 7 — BUILDING INSPECTORS

42 Appointment of building inspectors

- (1) The Secretary may:
 - (a) appoint a suitably qualified person to be a building inspector; or
 - (b) engage a suitably qualified person to be a building inspector for the purposes of this Act.
- (2) The terms and conditions of appointment of building inspectors under subsection (1)(a) shall be in accordance with the *Public Service Act 2016*.
- (3) The building inspectors shall report to the Director, unless specifically required by the Act to report directly to the Committee.
- (4) The qualification for building inspectors may be prescribed by the Cabinet on the recommendation of the Minister.

43 Functions of the building inspectors

The functions of the building inspectors are to:

- (a) inspect buildings including existing building and building work;
- (b) provide report of inspections to the Committee;
- (c) recommend to the Committee to grant a Certificate of Completion;
- (d) recommend to the Committee to grant a Certificate of Occupancy;
- (e) issue and serve infringement notices;
- (f) serve compliance notices on a holder of a building permit or any other person;
- (g) give reasonable directions;
- (h) carry out any other responsibilities given by the Committee; and
- (i) such other functions as may be prescribed or conferred under this Act and regulations.

44 Powers of a building inspector

A building inspector has the power to do all things necessary or convenient to be done for the performance of his or her functions under this Act or any other written law.

45 Inspections of building and building work

- (1) A building inspector may carry out an inspection of a building or building work where an inspection:
 - (a) is required under this Act or the regulations; or
 - (b) is requested by the Committee.
- (2) An inspection shall be carried out for a building work not less than 7 days prior to each of the following stages:
 - (a) the intended commencement of the building work;
 - (b) the intended covering up or closing of any of the following:
 - (i) excavation for a foundation;
 - (ii) reinforcing steel for a foundation; and
 - (iii) drainage, plumbing or electrical work; and

- (c) the intended commencement of any building work for which a building Inspection Certificate is required as a condition of the permit.
- (3) A building inspector may, following an inspection with the approval of the Director, issue an Inspection Certificate, certifying that building work is in compliance with the building code and the building permit.
- (4) The Director shall provide copies of certificates issued by inspectors under subsection (3) to the Committee for final endorsement of the building work in its meeting.
- (5) Where the building inspector finds that the work is not in compliance with this Act and the building permit, the inspector shall notify the Director in writing of such finding.
- (6) A building inspector may recommend to the Committee to grant a Certificate of Completion, if satisfied that the building work complies with the Act and the building permit.

46 Certificate of Completion

Where the Committee:

- (a) has received a recommendation from the building inspector to grant a Certificate of Completion under Section 45(6); and
- (b) is satisfied that the building complies with the requirements of this Act, the Committee may grant a Certificate of Completion.

47 Certificate of Occupancy

- (1) Where the Committee:
 - (a) has granted a Certificate of Completion; and
 - (b) is satisfied that the building is fit to occupy, the Committee may grant a Certificate of Occupancy.
- (2) A person shall not use, or permit the use, of a building, other than as permitted by a Certificate of Occupancy and the conditions provided under the Certificate of Occupancy.
- (3) A Certificate of Occupancy:
 - (a) shall specify the class or classes of use for which the building may be used;
 - (b) shall be for an unlimited period unless any such period is provided by the Committee as a condition;
 - (c) is subject to the following conditions:
 - (i) the building shall not be used other than for the use permitted for that class or those classes of building; and
 - (ii) any other conditions as may be prescribed or specified in the Certificate of Occupancy.
- (4) The owner or an occupier may apply to the Committee for amendment of the Certificate of Occupancy:
 - (a) to alter the class or classes of use permitted for that building; or
 - (b) to vary a condition in the permit.
- (5) A person who contravenes subsection (2) commits an offence and shall be liable to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both.

48 Powers of the building inspector in relation to inspections

- (1) A building inspector shall give at least 48 hours prior notice before conducting an inspection of a building which is in use as a dwelling.
- (2) A building inspector where conducting an inspection may:
 - (a) require a person to provide the person's name and address;
 - (b) examine and search the premises and any equipment, structures or other items on the premises; and
 - (c) take photographs and other recordings.
- (3) A building inspector may, orally or in writing, require a person:
 - (a) to answer questions; or
 - (b) to provide information or records.
- (4) A person shall not:
 - (a) withhold the person's name and address when required by a building inspector;
 - (b) obstruct a building inspector who is conducting an inspection or exercising powers under this Section;
 - (c) fail to answer questions or to provide information or records required under this Section;
 - (d) directly or indirectly offer or give a building inspector a gift, reward, bribe or any other gratuitous services or payment; or
 - (e) impersonate a building inspector.
- (5) A building inspector shall not whether directly or indirectly asks for, agrees to take or takes or receive any gift, reward, bribe or any other gratuitous services or payment in the performance of his or her functions or exercise of his or her powers under this Act.
- (6) A person or building inspector who contravenes subsections (4) and (5), commits an offence and shall be liable to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both.
- (7) Notwithstanding, subsection (6), disciplinary action may be issued against the inspector, before or after completion of a proceeding under subsection (6).

[The next page is 764,001]

PART 8 — PROHIBITION RELATING TO MODULAR CONSTRUCTION OR BUILDING

49 Prohibition on importation of modular construction or building

- (1) A person shall not import a modular construction or building except with the approval of the Committee.
- (2) A person who contravenes subsection (1) commits an offence and shall be liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 3 years or both.
- (3) Notwithstanding subsection (2), where the owner of a building imports a modular construction or building on the advice or recommendation by a building constructor, the building constructor shall reimburse or compensate the owner with any money paid in respect of the importation of any modular construction or building.
- (4) Any contrary import under this Section shall be seized by Nauru Customs Services and destroyed.

[The next page is 764,501]

PART 9 — COMPLIANCE AND ENFORCEMENT

50 Search Warrant

- (1) Where a building inspector has reasonable grounds to believe that a contravention of this Act has occurred, is occurring or is likely to occur, the building inspector may apply to the court, for a search warrant.
- (2) Where the court is of the opinion that a search warrant is necessary, the court may issue a search warrant to:
 - (a) enter the premises at any time specified in the warrant;
 - (b) use such force as necessary to enter a premises;
 - (c) acquire such assistance as the building inspector considers reasonable or necessary to execute the warrant including from the Nauru Police Force; or
 - (d) exercise any powers under this Section or any other powers as provided in the warrant.
- (3) The search warrant may allow a building inspector to exercise any other power the court considers appropriate for the purposes of this Act.

51 Appointment of authorised officers

- (1) The Secretary may appoint authorised officers for the purposes of this Act.
- (2) The terms and conditions of appointment of authorised officers shall be in accordance with the *Public Service Act 2016*.
- (3) The authorised officers shall report to the Director.
- (4) The Secretary or Director shall delegate any such functions or powers to authorised officers to carry out those functions or powers under the Act.
- (5) The authorised officers may assist the building inspector when required for the enforcement of this Act and may perform any other functions as may be prescribed or conferred under this Act and regulations.

52 Stop work notice

- (1) The Committee may issue a stop work notice to the owner of the building or to the holder of a building permit, where:
 - (a) there is a contravention of the building code or the building permit and it is likely to continue to occur;
 - (b) the access to or inspection of the site of the building work by a building inspector is rendered difficult or impossible; or
 - (c) the building permit had been issued on the basis of false or misleading representation.
- (2) The stop work notice shall be served by the building inspector to the owner of the building or the holder of a building permit.
- (3) The holder of a building permit shall comply with a stop work notice.

53 Notice for remedial action

- (1) The Committee may issue a notice for remedial action to the owner of the building or to the holder of a building permit:

- (a) where it appears that the building:
 - (i) is not structurally sufficient, safe and stable for its intended use; or
 - (ii) poses a hazard to persons or property; or
 - (b) where the building work on a building site contravenes the building code or the building permit.
- (2) A notice for remedial action shall be issued within 7 days of the issuance of a notice under Section 52.
 - (3) The notice for remedial action shall be served by the building inspector or authorised officer to the owner of the building or the holder of a building permit.
 - (4) A person who has been issued a notice for remedial action shall comply with the notice by no later than the date specified in the notice or any extensions.
 - (5) The notice granted for remedial action shall specify the action necessary to bring the building or the work into compliance with the building code or building permit.
 - (6) A notice for remedial action shall not suspend any construction of the building that is unrelated to the work specified in the notice and may continue to be constructed.
 - (7) A person who has been served with a notice for remedial action may after complying with the notice, request the Committee for a re-inspection of the building.
 - (8) Where a re-inspection is conducted under subsection (7), the building inspector may recommend to the Committee to revoke the notice for remedial action and where the Committee is satisfied that the notice for remedial action has been complied with shall revoke the notice for remedial action.

54 **Condemn notices**

- (1) The Committee may issue a condemn notice to the owner of the building or to the holder of a building permit, where it appears that the building:
 - (a) is structurally or architecturally not compliant with the building code;
 - (b) poses health hazard including presence of mold, asbestos, lead paint or pest infestations; or
 - (c) has irreparable damage.
- (2) The condemn notice shall be served by the building inspector or authorised officer to the owner of the building or the holder of a building permit.
- (3) A person who has been issued a condemn notice shall comply with the notice no later than the date specified in the notice.
- (4) The condemn notice shall specify the action necessary to bring the building into compliance.
- (5) A person who has been served with a condemn notice may after complying with the notice, request the Committee for a re-inspection of the building.
- (6) Where a re-inspection is conducted under subsection (5), the Committee may revoke the condemn notice, where the Committee is satisfied that the building is no longer subject to any of the conditions provided under subsection (1).
- (7) No person shall enter or occupy a building issued with a condemn notice, unless:

- (a) the condemn notice has been revoked under subsection (6); or
 - (b) where the person enters the building, for the purposes of carrying out work to repair or clean the building to bring it to compliance.
- (8) Where the Committee issues a condemn notice under subsection (1)(c), the Committee may also recommend to the Cabinet that the building be declared a derelict site under the *Derelict Sites Management Act 2017*.

55 Demolition notice

- (1) The Committee may issue a demolition notice to the owner of the building or to the holder of a building permit, within 30 days of the issuance of a condemn notice under Section 54, where the notice is not complied with.
- (2) The demolition notice shall be served by the building inspector or authorised officer to the owner of the building or the holder of a building permit.
- (3) No person shall enter or occupy a building which is subject to a demolition notice, unless the person is entering the building to carry out works to demolish the building.
- (4) A person who contravenes subsection (3) commits an offence and shall be liable to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both.

56 Infringement notices

- (1) A building inspector may serve an infringement notice on a person who does not comply with a notice issued under this Act.
- (2) An infringement notice shall specify:
 - (a) the place, date and time of alleged offence;
 - (b) the name and address of the person to whom the notice is issued;
 - (c) the date, time and place the fixed penalty shall be paid;
 - (d) that the amount of the penalty shall be paid within 21 days; and
 - (e) in the event of failure to pay the fixed penalty, legal proceedings shall be instituted without any further notice.
- (3) In case of default in payment within the time specified in the notice, the court shall, if the person is found guilty by the court, impose a penalty which is more than the fixed penalty for the offence and the costs for legal proceedings.
- (4) The Cabinet may make regulations prescribing:
 - (a) an offence for which fixed penalties shall be imposed;
 - (b) a penalty for each corresponding prescribed fixed penalty offence;
 - (c) the infringement notice which an authorised officer may serve to an offender for an offence for which a fixed penalty is prescribed;
 - (d) a time frame for the payment of a fixed penalty;
 - (e) procedure for the prosecution of and additional penalty to be imposed by the court on offenders defaulting to pay the prescribed penalty in accordance with the infringement notice;
 - (f) procedures for dealing with an infringement notice; and
 - (g) such other matters necessary for the effective enforcement of infringement notices.
- (5) A building inspector may issue an infringement notice to a person who commits an offence under this Act.

- (6) The fixed penalty for any offence shall not exceed 50 percent of the maximum penalty provided under this Act.
- (7) Where the person has paid the prescribed penalty within the time specified in the infringement notice, no person is liable to any further proceedings for the alleged offence.
- (8) The payment of a fixed penalty shall not be deemed as an admission of liability, and shall not affect any civil proceeding arising out of the same occurrence.

57 Offences under this Act

- (1) A person who commits an offence under this Act, where no penalty is provided, is liable to:
 - (a) in the case of an individual to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both; or
 - (b) in the case of a legal entity, to a fine not exceeding \$100,000.
- (2) Where an offence has been committed by a legal entity, a person who at the time of the commission of the offence was a director, manager, secretary, officer, or partner of a legal entity or was purporting to act in such capacity, commits an offence and is liable under subsection (1)(a) where the following is deemed to have occurred:
 - (a) the act or omission constituting the offence took place with the actual knowledge or reckless disregard of the director, manager, secretary, officer or partner; and
 - (b) the director, manager, secretary, officer or partner, by act or omission, gave his or her authority, permission or consent to the act or omission constituting the offence.
- (3) A person to whom subsection (2) applies may be subject to any proceedings whether or not proceedings have been taken against the legal entity.

58 Defence to prosecution

It is a defence to a prosecution under this Act that:

- (a) the conduct giving rise to the offence was authorised or required by:
 - (i) a building permit or a document forming part of that permit;
 - (ii) a direction or request of a building inspector; or
 - (iii) a compliance notice;
- (b) the person being prosecuted:
 - (i) did not knowingly or intentionally cause or allow the offence; and
 - (ii) could not reasonably have known that the offence was occurring; or
- (c) the conduct giving rise to the offence was reasonably necessary to deal with an emergency involving a serious threat to human life or property.

[The next page is 765,001]

PART 10 — MISCELLANEOUS

59 Protection from liability

The Minister, Secretary, Committee, Director, Registrar, building inspectors or any authorised officer are not liable for any loss or damage arising from or be subject to any criminal prosecution and civil claim, for the performance of a function or exercise of a power, in good faith under this Act or any other written law.

60 Jurisdiction of the District Court

- (1) The District Court shall have jurisdiction to hear, try and determine any proceedings instituted in respect of any contravention, offence or other matter arising under this Act.
- (2) A civil proceeding shall be filed in the Supreme Court relating to any disputes between a building constructor or owner of the building.

61 Appeal to the Minister

- (1) A person who is aggrieved by a decision of the Committee may appeal to the Minister for a review of the decision of the Committee.
- (2) An appeal under subsection (1) shall be made within 14 days of the notification of the decision to the person.
- (3) The appeal shall be made in writing to the Minister.
- (4) The Minister shall consider the appeal and:
 - (a) dismiss the appeal in its entirety or only part of the decision; or
 - (b) allow the appeal in entirety or only part of the decision.
- (5) The Minister shall give his or her decision in writing and provide reasons for his or her decisions.
- (6) The Cabinet may prescribe such rules for the purposes of this Section.

62 Confidentiality

- (1) A member of the Committee, Director, member of the staff, authorised officer or building inspector shall keep information he or she accesses in the course of performing his or her functions or exercise of his or her powers under this Act, confidential.
- (2) Upon authorisation by the Secretary, information may be disclosed for the purpose of furthering the objectives of this Act, required by a law enforcement agency or required by an order of the court.

63 Regulations

- (1) The Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed to give effect to this Act.
- (2) Without limiting subsection (1), the Cabinet may make regulations to provide for:
 - (a) exempt building work;
 - (b) minor repairs;

- (c) forms required for the purposes of this Act;
- (d) the procedure for application for building permits;
- (e) the procedure and requirements for registration of building constructors;
- (f) requirements for verification of information supplied in an application;
- (g) fees in relation to an application for registration;
- (h) arrangements relating to continuing professional development;
- (i) prescribing matters relating to fixed penalties as follows:
 - (i) offences for which fixed penalties shall be imposed;
 - (ii) penalties for each corresponding prescribed fixed penalty offences;
 - (iii) infringement notice which an authorised officer may serve to an offender for an offence for which a fixed penalty is prescribed;
 - (iv) a time frame for the payment of prescribed fixed penalty;
 - (v) procedure for the prosecution of and additional penalties to be imposed by the court on offenders defaulting to pay prescribed penalty in accordance with the infringement notice;
 - (vi) procedures for dealing with infringement notices; and
 - (vii) any other matters in relation to the effective enforcement of the infringement notices;
- (j) procedures for complaints and grievances;
- (k) procedures for importation of modular construction or building; and
- (l) appeal procedures.

64 Transitional provisions

- (1) In this Section:

‘existing IL 4 building’ means a building or structure in existence immediately before the commencement of this Act that is designated in the building code as importance level 4;

‘existing building’ means a building or structure in existence immediately before the commencement of this Act, including existing IL 4 building; and

‘significant alteration’ means a significant alteration within the meaning of the building code.

- (2) A land owner or owner of an existing IL 4 building, shall ensure that any existing IL 4 building on the land is inspected and upgraded to the extent necessary to comply with the building code by no later than 1 year from the commencement of this Act.
- (3) Subject to subsection (4), a land owner or owner of an existing building, shall ensure that any existing building complies with the building code, where one or more of the following occurs:
- (a) the class of use changes;
 - (b) the importance level changes;
 - (c) the building complexity changes; or
 - (d) there is a significant alteration of the existing building.
- (4) Notwithstanding subsection (3), a land owner or an owner of an existing building, shall ensure that any existing building used for commercial purposes on the land, is inspected and upgraded to the extent necessary to comply with the building code by no later than 1 year from the commencement of this Act.

- (5) The Committee may grant an extension of the time specified under subsection (2) and (4) upon a request from the land owner or owner of the existing IL 4 building or existing building used for commercial purposes, where the Committee is satisfied on reasonable grounds to grant an extension to comply with requirements of the building code.

65 Existing building work and its plans not to be affected where construction has commenced

- (1) Subject to subsection (2), the provisions of this Act shall not affect any building work or its plans currently being carried out before the coming into effect of this Act.
- (2) The Committee may direct an owner to alter or vary any building work and its plans to meet the requirements of the Act:
 - (a) where it is a mandatory requirement which may be enforced in future requiring changes; and
 - (b) the construction for the offending part of the building had not been constructed or in future is not capable of being altered or varied.

66 Building constructors to register within 6 months

- (1) Where a building constructor is already in the business of constructing building work, he or she shall register as a building constructor within 6 months of the coming into effect of this Act.
- (2) Any contract between a person and a building constructor shall not be rendered void on the grounds that the building constructor fails to register under this Act as a building constructor.
- (3) A building constructor shall not terminate or abandon any building contract in force at the time of the coming into force of this Act, for the reason that he or she cannot secure a registration under this Act.
- (4) The Committee may grant an exemption to the building constructor to complete any projects for which he or she was in the process of building at the time of the coming to effect of the Act.
- (5) A person who contravenes subsection (3) commits an offence and shall be liable to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 24 months or both.

