MALDIVES NATIONAL BUILDING ACT

2010

SECOND DRAFT

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MINISTRY OF HOUSING TRANSPORT AND ENVIRONMENT
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PART I

PRELIMINARY

1. Short title and Purpose
(1) This Act may be cited as the Maldives Building Act (MBA)
(2) The purpose of MBCA is to provide for the regulation of building work, the establishment of a
licensing regime for building practitioners, and the setting of performance standards for buildings, to
ensure that—
(a) people who use buildings can do so safely and without endangering their health; and
(b) buildings have attributes that contribute appropriately to the health, physical independence,
and well-being of the people who use them; and
(c) people who use a building can escape from the building if it is on fire; and
(d) buildings are designed, constructed, and able to be used in ways that promote sustainable
development.

2. Interpretation.
(1) In this Act, unless the context otherwise requires
acceptable solution means a solution that must be accepted as complying with the building code
alter in relation to a building, includes to rebuild, re-erect, repair, enlarge, and extend the building
amendment plans means the plans showing any deviation from, or any amendment or addition
to, any plan of building works subject to the approval of the Commissioner of Building Control under
section 68 1;
building contractor means
(a) any person who undertakes, whether exclusively or in conjunction with any other business, to
carry out any building works on behalf of another person.
(b) any person licenced under National Contractors Registration (NCR)
building contractor license means the licensing given under NCR
building means
(a) a temporary or permanent movable or immovable structure (including a structure intended
for occupation by people, animals, machinery, or chattels); and
(b) includes—
(i) a mechanical, electrical, or other system; and
(ii) a vehicle or motor vehicle that is immovable and is occupied by people on a
permanent or longterm basis; and
(iii) a mast pole or a telecommunication aerial that is on, or forms part of, a building
and that is more than 7 m in height above the point of its attachment or base support
(except a dish aerial that is less than 2 m wide); and
(c) includes any 2 or more buildings that, on completion of building work, are intended to be
managed as one building with a common use and a common set of ownership arrangements;
(d) Subsection (1)(b)(i) only applies if—
(i) the mechanical, electrical, or other system is attached to the structure referred to in
subsection (1)(a); and
(ii) the system —
(a) is required by the building code; or
(b) if installed, is required to comply with the building code.
(e) Subsection (1)(c) only applies in relation to—
(i) a building consent; and
(ii) a code compliance certificate; and / or
(iii) a compliance schedule.
(f) hut, shed or roofed enclosure;
(g) an earth retaining or stabilising structure, whether permanent or temporary;

1 MBA 5 (3)
(h) a floating structure, not being a boat or vessel, constructed or to be constructed on flotation system that —
   (i) is or is to be supported by water;
   (ii) is not intended for or useable in navigation; and
   (iii) is or is to be permanently moored;
(j) a culvert, crossing, bridge, underpass or tunnel;
(k) a sewage treatment plant, sewer, drain, swimming pool or any non proprietary type of concrete tank for the storage of any solid, liquid or gaseous product;
(i) a shelter; and
(l) such other erection or structure (whether permanent or temporary) as the Minister may, by order published in the Gazette, declare to be a building;

building does not mean
(a) a utility system, or part of a utility system, that—
   (i) is or is to be connected to, or is intended to be connected to, the building to provide for the successful functioning of the utility system in accordance with the system’s intended design and purpose; and
   (ii) is not a mast pole or a telecommunication aerial that is on, or forms part of, a building; or
   (ab) a pylon, free-standing communication tower, power pole, or telephone pole that is a utility system or part of a utility system; or
(b) cranes; or
(c) any stand-alone machinery systems whether or not incorporated within another structure:
(d) any description of vessel, boat, ferry, or craft used in navigation—
   (i) whether or not it has a means of propulsion; and
   (ii) regardless of what that means of propulsion is; or
(f) scaffolding used in the course of the construction process; or
(g) falsework

building code means the regulations made under section 64 2;
code compliance certificate means a certificate issued by a building consent authority under section 58\(^9\);

Commissioner of Building Control, in relation to this Act or any Part or provision of this Act, means any Commissioner of Building Control appointed under section 3\(^{10}\) to be responsible for the operation of this Act or that Part or provision, as the case may be;

compliance document has the meaning given to it by section 23\(^{11}\)

compliance schedule means a document issued by a building consent authority for a public and commercial building if it contains any specified systems as required under section 60\(^{12}\)

determination means a determination made by the chief executive under subpart 1 of Part 3

developer means a person who, in trade, does any of the following things in relation to a building for the purpose of selling the building:

(a) builds the building; or
(b) arranges for the building to be built; or
(c) acquires the building from a person who built it or arranged for it to be built

earth retaining structure means any structure, structural system or other means used to maintain the shape of excavation during construction, earth filling or cutting;

energy work means—

(a) gasfitting; or
(b) prescribed electrical work

estimated value, in relation to building work, means the estimated aggregate of all goods and services to be supplied for the building work

estimated value, in relation to any building works, means—

(a) for any underground building works, the total cost to be expended in carrying out those building works estimated at the time of, and contained in, the application under section 5 for approval of the plans of those building works, including any goods and services tax payable in relation to the supply of the work; or

(b) for any other building works, the total cost to be expended in carrying out the building works (including the foundations, basements, structural frame, finishes and the installation of building services) estimated at the time of, and contained in, the application under section 68\(^{13}\) for approval of the plans of the building works, including any goods and services tax payable in relation to the supply of the work;

exterior feature, in relation to any building, means any of the following features that is permanent and is installed on, forms part of or projects outwards from the roof or exterior of the building:

(a) any air conditioning unit, including any window air conditioning unit and any condensing equipment of an air conditioning unit;
(b) any window, with or without movable parts;
(c) any grille or shutter, with or without movable parts;
(d) any tile, cladding, curtain wall, siding, plaster, bracket or cornice;
(e) any gutter, rainwater down pipe, or part of the roof;
(f) any awning or sun shading device;

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\(^8\) MBA 12
\(^9\) NZBA 95
\(^10\) MBA 3 (1)
\(^11\) NZBA 22
\(^12\) NZBA100
\(^13\) MBA 5
such other feature that is permanent and is installed on, forms part of or projects outwards from the roof or exterior of any building as the Minister may, by notification in the Gazette, declare to be an exterior feature for the purposes of this Act;

falsework, in relation to building work or the maintenance of a building,—
(a) means any temporary structure or framework used to support materials, equipment, or an assembly; and
(b) includes steel tubes, adjustable steel props, proprietary frames, or other means used to support a permanent structure until it becomes self-supporting; but
(c) does not include scaffolding or cranes used for support

fire hazard means the danger of potential harm and degree of exposure arising from—
(a) the start and spread of fire; and
(b) the smoke and gases that are generated by the start and spread of fire

functional requirements, in relation to a building, means those functions that the building is required to perform for the purposes of this Act

general building contracting works means works listed in NCR as general building contracting works and general civil contracting works GC01 and GC02

gerotechnical aspects, in relation to any underground building works, means—
(a) an analysis of the geological structure and earth materials of the site of the underground building works and its influence on the underground building works;
(b) an analysis of the groundwater regime and its influence on the wall stability and integrity of the underground building works over time; and
(c) such other applications of earth sciences to and engineering aspects of the underground building works as may be prescribed;

immediate supervision, in relation to any building works or part thereof, means personally and directly exercising oversight, control and inspection of the carrying out of the building works or part thereof;

insignificant building works means such building works as are prescribed under section 4 (d);

household unit
(a) means a building or group of buildings, or part of a building or group of buildings, that is—
(i) used, or intended to be used, only or mainly for residential purposes; and
(ii) occupied, or intended to be occupied, exclusively as the home or residence of not more than 1 household; but
(b) does not include a hostel, boardinghouse, or other specialised accommodation

intended use, in relation to a building,
(a) includes any or all of the following:
(i) any reasonably foreseeable occasional use that is not incompatible with the intended use:
(ii) normal maintenance:
(iii) activities undertaken in response to fire or any other reasonably foreseeable emergency; but
(b) does not include any other maintenance and repairs or rebuilding

large building works means such building works as are prescribed for the purposes of section 70

major building works means building works other than minor building works;

means of escape from fire, in relation to a building that has a floor area,—
(a) means continuous unobstructed routes of travel from any part of the floor area of that building to a place of safety; and
(b) includes all active and passive protection features required to warn people of fire and to assist in protecting people from the effects of fire in the course of their escape from the fire

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14 MBA 7 (1)(b):
Minister means the Minister of Housing Transport and Environment, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act.

Ministry means the Minister of Housing Transport and Environment, with the authority of the Prime Minister, is responsible for the administration of this Act.

minor building works means building works (not being underground building works) that are prescribed in the building regulations as building works the plans of which do not require a certification from an accredited professional for the purposes of section 44 or 6815.

natural hazard has the meaning given to it by section 5316.

network utility operator means a person who—
(a) undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or
(b) operates or proposes to operate a network for the purpose of—
(i) telecommunication
(ii) radiocommunications
(c) is an electricity operator or electricity distributor for the purpose of line function services; or
(d) undertakes or proposes to undertake the distribution of water for supply; or
(e) undertakes or proposes to undertake a drainage or sewerage system.

NUO system means a system owned or controlled by a network utility operator.

occupier, in relation to any building, means the person in occupation of the building or having the charge, management or control thereof, either on his own account or as agent of another, but does not include any lodger within the building.

owner, in relation to—
(a) any premises or building, means the person for the time being receiving the rent of the premises or building, whether on his own account or as agent or trustee or as receiver, or who would receive the same if the premises or building were let to a tenant and includes a mortgagee in possession;
(b) the common property of any subdivided building, includes the management corporation having control of the building, or the person receiving any rent or charge for the maintenance of that common property;
(c) the limited common property of any subdivided building, or the person receiving any rent or charge for the maintenance of that limited common property;
(d) the common property of residential and commercial property in any housing estate of the Housing and Development Corporation, means that Board; and
(e) the common property of any building which is not subdivided, includes any person receiving any rent or charge for the maintenance and management of that common property;

performance criteria, in relation to a building, means qualitative or quantitative criteria that the building is required to satisfy in performing its functional requirements.

person responsible, in relation to an exterior feature of a building, means—
(a) the owner of the building which the exterior feature is installed on, forms part of or projects outwards from, unless otherwise provided by paragraph (b) or (c);
(b) subject to paragraph (c), where the exterior feature is part of—
(i) the common property of any housing estate of the Housing and Development Board; or

15 MBA 5 or 5A
16 NZBA71
(ii) the common property or limited common property of any other land (whether or not comprised in a strata title plan) — the owner thereof, unless otherwise provided by paragraph (d);

(c) where the exterior feature is a window, grille or shutter that is part of a flat — in the case flat — the owner of that flat; or

plans and specifications, in relation to any building works —
(a) means the drawings, specifications, and other documents according to which a building is proposed to be constructed, altered, demolished, or removed; and
(b) if prepared in electronic form, includes the medium in which the plans of building works have been stored;
(c) includes the proposed procedures for inspection during the construction, alteration, demolition, or removal of a building; and
(d) in the case of the construction or alteration of a building, also includes—
(i) the intended use of the building; and
(ii) the specified systems that the applicant for building consent considers will be required to be included in a compliance schedule required under section 60\(^{17}\); and
(iii) the proposed procedures for inspection and routine maintenance for the purposes of the compliance schedule for those specified systems

premises includes buildings, lands, easements and hereditaments of any tenure;
prescribed fee includes a fee calculated in accordance with a rate or method prescribed for this purpose in regulations made under this Act

product certification accreditation body means the person referred to in section 77(2)\(^{18}\)

registered building practitioner means a person who is registered under NBPAR and NDR provisions

property —
(a) includes land, buildings, and goods; but
(b) does not include incorporeal forms of property

publicly notify means publish a notice—
(a) in 1 or more daily newspapers circulating in each of the cities of .....; and
(b) in the Gazette; and
(c) on the Internet in an electronic form that is publicly accessible at all reasonable times

regional authority means—
(a) an intermediate level of Government\(^{19}\); or
(b) a unitary authority

Registrar has the meaning given to it by section 89\(^{20}\)

regulations means regulations in force under this Act

property developer means a person who, in trade, does any of the following things in relation to a household unit for the purpose of selling the household unit:
(a) builds the household unit; or
(b) arranges for the household unit to be built; or
(c) acquires the household unit from a person who built it or arranged for it to be built

restricted building work—
(a) means building work that is—

\(^{17}\) NZBA 100
\(^{18}\) NZBA 261(2)
\(^{19}\) To be specified as per Maldives administrative framework.
\(^{20}\) NZBA 282
(i) critical to the integrity of a building, for example, its envelope and structure; and
(ii) of a kind declared by the Minister to be building work that must be carried out or
supervised by a licensed building practitioner who is licensed to carry out or supervise
that work; and that may relate, without limitation, to certain types or categories of
buildings, or parts of buildings as specified in NDR and/or NBPAR; and
(b) includes design work (relating to building work) that is design work of a kind declared by the
Minister to be restricted building work for the purposes of this Act; and
(c) does not include any building work for which, in accordance with section 41, a building
consent is not required

**retrofit**, in relation to an exterior feature, means to modify or re-install the exterior feature as if
installing the exterior feature for the first time;

**rules** means any rules made under section 114

**scaffolding used in the course of the construction process**—
(a) means a structure, framework, swinging stage, suspended scaffolding, or boatswain’s chair, that is of a temporary nature and that is used or intended to be used for—
(i) the support or protection of workers engaged in, or in connection with, construction
work for the purpose of carrying out the work; or
(ii) the support of materials used in connection with the work; and
(b) includes any plank, coupling, fastening, fitting, or device used in connection with the
construction, erection, or use of scaffolding

**scope of accreditation**, in relation to a building consent authority that is not a territorial authority,
means the scope of technical competence for which the building consent authority is accredited by a
building consent accreditation body in accordance with section 76

**short lived materials** means any building materials which are, in the absence of special care, liable
to rapid deterioration or are otherwise unsuitable for use in the construction of permanent
buildings;

**site supervisor** means a person appointed (whether alone or as a member of a team of site
supervisors) under section 85 to be a site supervisor in respect of any small-scale or large building
works;

**sitework** means work on a building site, including earthworks, preparatory to, or associated with, the
construction, alteration, demolition, or removal of a building

**specialist building works** means the following types of building works:
(a) piling works comprising installation and testing of pre-cast reinforced concrete or
prestressed concrete piles, steel piles, bored cast in place reinforced concrete piles,
caissons and special pile types like micro piles, barrettes piles and composite piles,
embedded retaining wall piles like diaphragm walls, contiguous bored piles or secant piles;
(b) ground support and stabilisation works, including installation and testing of ground
anchors, soil nails, rock bolts, ground treatment like chemical grouting and jet grouting,
reinforced earth, shotcreting and tunnel supports;
(c) site investigation work comprising field investigations, exploratory drilling or boring,
logging, sampling, coring, in situ plate loading tests, pressure meter tests, penetration
tests, vane shear tests, probing tests, permeability tests, geological mapping and
geophysical surveys, and installation and monitoring of instruments measuring forces,
def ormation, displacements, pore and earth pressures, and ground water levels;
(d) structural steelwork comprising—
(i) fabrication of structural elements;
(ii) erection work like site cutting, site welding and site bolting; and
(iii) installation of steel supports for underground building works;
(e) pre-cast concrete work comprising fabrication of pre-cast structural elements;

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21 NZBA 353
22 NZBA 252
23 MBA 10
(f) in situ post tensioning work comprising setting out of tendon profiles, laying of conduits, anchorages and bursting reinforcement, pulling or stressing of cables, pressure grouting of conduits;

(g) such other building works as the Minister may, by order published in the Gazette, declare to be specialist building works;

**specified system**—

(a) means a system or feature that—

(i) is contained in a building; and

(ii) contributes to the proper functioning of the building (for example, an automatic sprinkler system); and

(iii) is declared by Minister to be a specified system for the purposes of this Act; and

(b) includes mechanical installations for access

**statutory authority** means an authority or organisation that has the statutory power to classify or register land or buildings for any purpose

**structural elements** means those parts or elements of a building which resist forces and moments, and includes foundations, beams, columns, shear cores, structural walls, struts, ground anchors, slabs, trusses, staircases, load bearing walls and all other elements designed to resist forces and moments but does not include doors, windows and non load bearing walls;

**structural works** means works undertaken to build the structural elements of the building;

**supervise**, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work—

(a) is performed competently; and

(b) complies with the building consent under which it is carried out

**temporary building** means any building or structure constructed of short lived materials or permitted to be used by the Commissioner of Building Control for a period not exceeding 36 months or such other period as may be prescribed;

**temporary occupation permit** means a temporary occupation permit granted under section 87 (3) 24 (3);

**territorial authority** means a city council or district council named in …of the Local Government Act 25, and—

(a) in relation to land within the district of a territorial authority, or a building on or proposed to be built on any such land, means that territorial authority; and

(b) in relation to any part of a coastal marine area that is not under the responsibility of the Ministry

**trade** means any trade, business, industry, profession, occupation, activity of commerce, or undertaking relating to—

(a) the supply or acquisition of goods or services; or

(b) the acquisition of household units or any interest in land

**unauthorised**, in relation to a building or building works, means any building erected, or any building works commenced or carried out, in contravention of any provision of this Act or the building regulations;

**underground building works** means any of the following building works, the carrying out of which starts on or after the date to be specified by the Minister by order in the Gazette:

(a) any excavation or other building works to make—

(i) a tunnel with a diameter, width or height of more than 2 metres; or

(ii) a caisson, cofferdam, trench, ditch, shaft or well with a depth of more than 6 metres;

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24 MBA 12

25 To be amended as appropriate to Maldives law
(b) any building works for constructing, altering or repairing any earth retaining structure in
or for a trench, ditch, shaft or well with a depth or height of more than 6 metres; or

(c) such type of foundation works as the Minister may prescribe in the building regulations
for buildings of 30 10 or more storeys;

unitary authority cover towns or cities which are large enough to function independently of other
regional administration (i.e. Male, Hulumale and Vilingili).26

ventilating system means a mechanical system for introducing or exhausting air.

verification method means a method by which compliance with the building code may be verified

(2) In this Act, unless the context otherwise requires, any reference to a building includes a reference
to a part of a building.

(3) The Minister may, by notification published in the Gazette, vary any of the following referred to
in the definition of underground building works in subsection (1):
(a) the diameter, width or height of any tunnel;
(b) the depth of any caisson, cofferdam, trench, ditch, shaft or well;
(c) the depth or height of any earth retaining structure in or for a trench, ditch, shaft or well;
or
(d) the number of storeys in a building.

(4) Any reference in this Act to a person being an associate of a developer or building contractor of
building works shall be a reference to any of the following persons:
(a) any partner of the developer or building contractor;
(b) any body corporate in which the developer or building contractor is a substantial
shareholder;
(c) if the developer or building contractor is a body corporate —
   (i) a person who is a substantial shareholder of that body corporate; or
   (ii) a director, secretary or similar executive officer of the body corporate;
(d) any body corporate of which the developer or building contractor is a director, secretary or
   similar executive officer;
(e) where the developer or building contractor is a trustee — a beneficiary or an object of the
discretionary trust;
(f) any employer or employee of the developer or building contractor.

(5) Where —
(a) by or under any provision of this Act or any subsidiary legislation made thereunder an
act or thing is required or directed to be done within a particular period or before a
particular time;
(b) failure to do that act or thing within the period or before the time referred to in
paragraph (a) constitutes an offence; and
(c) that act or thing is not done within the period or before the time referred to in
paragraph (a), the obligation to do that act or thing shall continue, notwithstanding that that
period has expired or that time has passed, until that act or thing is done; and if the failure to
do that act or thing within the period or before the time referred to in paragraph (a) is an
offence, a person shall be guilty of a separate offence in respect of each day (including the of a
conviction for any such offence or any later day) or part thereof during which the person
continues to refuse or fail to comply with that requirement or direction.

26 MM note Sometimes they consist of national sub-divisions (i.e. Island, Atoll?) which are distinguished from
others in the same country by having no lower level of administration.
3. Outline of Regulatory Roles under this Act

(1) The Minister may, by notification in the Gazette, appoint such person or persons as he thinks fit to be the Commissioner of Building Control responsible for the operation of this Act, either generally or for any particular Part or provision of this Act or for any particular regulations made under this Act, and may in the notification specify the extent of and manner in which that responsibility is to be exercised.

4. Application to building works

Except as otherwise expressly provided, this Part shall apply to all building works except —
(a) building works for a temporary building or the occupation of any such building;
(b) retrofitting of exterior features referred to in Part III;
(c) building works that are exempted under section 190, or are in relation to a building that is so exempted; and
(d) building works that are prescribed in the building regulations to be minor works.

5. Incorporation of material by reference into regulations, certain Orders in Council, and compliance document

(1) The following material may be incorporated by reference into any instrument:
(a) standards, requirements, or recommended practices of national or international organisations:
(b) any other written material that, in the opinion of the Minister or, as appropriate, the Commissioner of Building Control, is too large or is impractical to include in, or print as part of, the instrument concerned.

(2) Material may be incorporated by reference in an instrument—
(a) in whole or in part; and
(b) with modifications, additions, or variations specified in the instrument.

(3) The incorporated material—
(a) is the material as it exists at the time that the instrument is made or issued; and
(b) forms part of the instrument for all purposes and has legal effect accordingly.

(4) In this section and in sections 6, 70 and 10, instrument means—
(a) any regulations; and
(b) any compliance document; and
(c) any Order in Council made under section 29 or 91.

6. Effect of amendments to, or replacement of, material incorporated by reference

An amendment to, or replacement of, material incorporated by reference in an instrument has legal effect as part of the instrument only if—
(a) the amendment or replacement material is made by the person or organisation originating the incorporated material; and
(b) the amendment or replacement material is of the same general character as the material amended or replaced; and
(c) either,—
(i) in the case of material incorporated in regulations, regulations are made that state that the particular amendment or replacement has that effect; or
(ii) in the case of material incorporated in a compliance document, the Commissioner of Building Control, by notice in the Gazette, adopts the amendment or replacement.

7. Proof of material incorporated by reference

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27 MBA 30
28 To be amended as appropriate to Maldives administrative rules
29 NZBA 406, 410
30 To be amended as appropriate to Maldives administrative rules
31 NZBA 41 or 285
(1) A copy of material incorporated by reference in an instrument, including any amendment to, or replacement of, the material (material), must be—
   (a) certified as a correct copy of the material by the Minister or, as appropriate, the Commissioner of Building Control; and
   (b) retained by the Minister or, as appropriate, the Commissioner of Building Control.

(2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the instrument of the material.

8. Effect of expiry of material incorporated by reference
Material incorporated by reference in an instrument that expires or that is revoked or that ceases to have effect ceases to have legal effect as part of the instrument only if the Minister or, as appropriate, the Commissioner of Building Control, by notice in the Gazette, states that the material ceases to have legal effect.

9. Requirement to consult
(1) This section applies if—
   (a) the Minister proposes to make a recommendation for—
      (i) regulations to be made under this Act that incorporate material by reference; or
      (ii) regulations under section 406(c)(i) that state that an amendment to, or replacement of, material incorporated by reference in regulations has legal effect as part of the regulations; or
   (b) the Commissioner of Building Control proposes to—
      (i) issue a compliance document that incorporates material by reference; or
      (ii) publish, under section 406(c)(ii), a notice in the Gazette that adopts an amendment to, or replacement of, material incorporated by reference in a compliance document.

(2) Before doing any of the things referred to in subsection (1), the Minister or, as the case may be, the Commissioner of Building Control must—
   (a) make copies of the material proposed to be incorporated by reference or the proposed amendment to, or replacement of, material incorporated by reference (proposed material) available for inspection during working hours for a reasonable period, free of charge, at the Ministry’s office in (appropriate jurisdiction); and
   (b) make copies of the proposed material available for purchase at a reasonable price at the Ministry’s office in (appropriate jurisdiction); and
   (c) give notice in the Gazette stating that—
      (i) the proposed material is available for inspection during working hours, free of charge, the place at which it can be inspected, and the period during which it can be inspected; and
      (ii) copies of the proposed material can be purchased and the place at which they can be purchased; and
   (d) allow a reasonable opportunity for persons to comment on the proposal to incorporate the proposed material by reference; and
   (f) consider any comments they make.

(2A) Before doing any of the things referred to in subsection (1), the Minister or, as the case may be, the Commissioner of Building Control—
   (a) may make copies of the proposed material available in any other way that he or she considers appropriate in the circumstances (for example, on an Internet website); and
   (b) must, if paragraph (a) applies, give notice in the Gazette stating that the proposed material is available in other ways and details of where or how it can be accessed or obtained.

(3) The reference in subsections (2) and (2A) to the proposed material includes, if the material is not in an official Maldives Language, an accurate translation in an official Maldives language of the material.

(4) A failure to comply with this section does not invalidate an instrument that incorporates material by reference.

10. Access to material incorporated by reference
(1) The Commissioner of Building Control—
(a) must make the material referred to in subsection (2) (material) available for inspection during working hours free of charge at the Ministry’s office and
(b) must make copies of the material available for purchase at a reasonable price at all of the Ministry’s offices; and
(c) must make so much of the material as relates to the following matters available for inspection during working hours, free of charge, at all of the Ministry’s offices:
(i) the use of timber, concrete, concrete masonry, glass, and plaster coating in the construction of buildings; and
(ii) the design of buildings using timber, concrete, concrete masonry, and steel; and
(iii) plumbing installation; and
(iv) access for persons with disabilities; and
(v) energy efficiency in buildings; and
(d) may make copies of the material available in any other way that the Commissioner of Building Control considers appropriate in the circumstances (for example, on an Internet website); and
(e) must give notice in the Gazette stating that—
(i) the material is incorporated in an instrument and the date on which the instrument was made; and
(ii) the material is available for inspection during working hours, free of charge, at the Ministry’s office in (appropriate jurisdiction) and the location of that office; and
(iii) copies of the material can be purchased at all of the Ministry’s offices and the location of those offices; and
(iv) the material referred to in paragraph (c) is available for inspection during working hours, free of charge, at all of the Ministry’s offices and the location of those offices; and
(v) if copies of the material are made available under paragraph (d), the material is available in other ways and details of where or how it can be accessed or obtained.

(1A) Subsection (1)(c) does not apply to any material that relates only to product standards or product testing standards.

(2) The material is—
(a) material incorporated by reference in an instrument:
(b) any amendment to, or replacement of, that material that is incorporated in the instrument or the material referred to in paragraph (a) with the amendments or replacement material incorporated:
(c) if the material referred to in paragraph (a) or paragraph (b) is not in an official Maldives language, as well as the material itself, an accurate translation in an official Maldives language of the material.

(3) A failure to comply with this section does not invalidate an instrument that incorporates material by reference.

11. Role of Commissioner of Building Control
(1) Under this Act, Commissioner of Building Control—
(a) issues compliance documents and reviews those documents; and
(b) warns against, or bans the use of, particular building methods or products; and
(c) specifies the kinds of applications for a building consent that must be copied to the MNDF Fire Service under section 35; and
(d) monitors and reports annually to the Minister in accordance with section 72; and
(e) publishes guidance information on the requirements of this Act and the building code; and
(f) registers building consent authorities that have been accredited to allow them to perform functions under Division 2 and Division 3; and

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32 NZBA 46
33 NZBA 169
34 NZBA Part 2 and 3
(g) reviews the operation of territorial authorities, regional authorities, and building consent authorities in relation to their functions under this Act; and
(h) grants and revokes accreditation of building consent authorities or appoints a building consent accreditation body to do so; and
(i) appoints a product certification accreditation body under section 77 and 78; and
(j) disseminates information and provides educational programmes on matters relating to building control; and
(k) takes enforcement action (including taking proceedings for offences under this Act) if the Commissioner of Building Control considers that it is desirable to do so—
   (i) to establish or clarify any matter of principle relating to building or the interpretation of this Act; or
   (ii) in cases where 1 or more territorial authorities are unwilling or unable to take enforcement action; and
(l) establishes and maintains the following registers
   (i) a register of building consent authorities for the purposes of section 15;
   (ii) a register of accredited product certification bodies under section 79;
   (iii) a register of accredited professional under section 149;
   (iv) a register of registered contractors under NCR;
(m) appoints the Registrar under section 104; and
(n) prepares proposed rules under section 149; and
(o) carries out any other functions and duties specified in this Act; and
(p) carries out any functions that are incidental and related to, or consequential upon, the functions set out in paragraphs (a) to (o).

(2) The Commissioner of Building Control may, on the application of a person made in accordance with section 194, enter the person’s name in the register of building consent authorities kept under section 55(1)(a) if he is satisfied that—
   (a) the person holds a current accreditation from a building consent accreditation body appointed under section 74; and
   (b) the person meets the prescribed criteria and standards for registration; and
   (c) in the case of a person who wishes to be registered as a building consent authority but who is not a territorial authority or a regional authority, the person has adequate means to cover any civil liabilities that may arise in the performance of the functions of a building consent authority.

12. Role of building consent authority
(1) Under this Act, a building consent authority—
   (a) issues building consents, but not if a building consent is required to be subject to a waiver or modification of the building code; and
   (b) inspects building work for which it has granted a building consent; and
   (c) issues notices to fix; and
   (d) issues code compliance certificates; and
   (e) issues compliance schedules.

13. Roles of territorial authority.
Under this Act, a territorial authority—
   (a) performs the functions of a building consent authority set out in subsection (1)(a) (including the issue of building consents subject to a waiver or modification of the building code) if—
      (i) the territorial authority is also a building consent authority; and
      (ii) an owner applies to the territorial authority for a building consent; and
   (b) issues project information memoranda; and
(c) grants exemptions under section 43; and
(d) grants waivers and modifications of the building code; and
(e) issues certificates of acceptance; and
(f) issues and amends compliance schedules; and
(g) administers annual building warrants of fitness; and
(h) enforces the provisions relating to annual building warrants of fitness; and
(i) decides the extent to which buildings must comply with the building code when—
   (i) they are altered; or
   (ii) their use is changed; or
   (iii) their specified intended life changes; and
(j) performs functions relating to dangerous, earthquake-prone, or insanitary buildings; and
(k) carries out any other functions and duties specified in this Act; and
(l) carries out any functions that are incidental and related to, or consequential upon, the
   functions set out in paragraphs (a) to (k).

14. Role of regional authority
(1) Under this Act, a regional authority—
   (a) performs the functions of a building consent authority to the extent that those functions
       relate to harbours (including the issue of building consents subject to a waiver or modification
       of the building code); and
   (b) considers and approves harbours classifications; and
   (c) considers and approves harbours safety assurance programmes; and
   (d) administers the provisions of this Act relating to—
       (i) harbours classifications; and
       (ii) harbours safety assurance programmes; and
       (iii) harbours compliance certificates; and
   (e) enforces the provisions of the building code and this Act and regulations that relate to
       harbours; and
   (f) adopts a policy on dangerous harbours; and
   (g) carries out any other functions and duties specified in this Act; and
   (h) carries out any functions that are incidental and related to, or consequential upon, the
       functions set out in paragraphs (a) to (g).

(2) Subject to the directions of the Minister the powers conferred and the
duties imposed on the Commissioner of Building Control under this Act and the building regulations
may be exercised and carried out by—
   (a) any public officer; and
   (b) any registered building practitioner who is in the employment of—
      (i) the Housing and Development Corporation;
      (ii) such other public authority constituted by any written law as the Minister may
           approve for the purpose, generally or specially authorised by name or office by the
           Commissioner of Building Control.
   (c) any registered professional accredited as a building consent authority for the certification of:
       Building Code compliance

(3) Any registered building practitioner who is generally or specially authorised under subsection (2) to
exercise the powers or to carry out the duties of the Commissioner of Building Control under this Act
shall
   (a) be deemed to be public officers for the purposes of this Act; and
   (b) be public servants.

15. Commissioner of Building Control may enter person’s name in register of building consent
authorities
The Commissioner of Building Control may, on the application of a person made in accordance with
section 16B, enter the person’s name in the register of building consent authorities kept under
section 69(1)(a).

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44 Schedule 1
45 NZBA 194
46 NZBA 273(1)(a)
16. Criteria for registration
(1) Before entering a person’s name in the register of building consent authorities, the Commissioner of Building Control must be satisfied that—
   (a) the person holds a current accreditation from a building consent accreditation body appointed under section 74; and
   (b) the person meets the prescribed criteria and standards for registration; and
   (c) in the case of a person who wishes to be registered as a building consent authority but who is not a territorial authority or a regional authority, the person has adequate means to cover any civil liabilities that may arise in the performance of the functions of a building consent authority.

(2) In considering whether a person has adequate means to cover any civil liabilities under subsection (1)(c), the Commissioner of Building Control may have regard to whether the person—
   (a) holds an insurance policy that meets the minimum terms and conditions prescribed by regulations made under section 66; or
   (b) holds an insurance policy under a scheme of insurance approved by regulations made under section 66; or
   (c) has put in place any arrangements that provide for effective consumer protection (for example, by giving a bond or having a guarantor).

16A. Effect of registration
(1) A person whose name is entered in the register of building consent authorities may perform the functions of a building consent authority under this Part.

(2) However, a person whose name is entered in the register of building consent authorities but who is not a territorial authority or a regional authority may perform only those functions that correspond with, or are within, the person’s scope of accreditation.

16B. Application for registration
An application for registration under section 15 must—
   (a) be made in writing to the Commissioner of Building Control; and
   (b) be given in the prescribed manner (if any); and
   (c) contain the prescribed information (if any); and
   (d) be accompanied by the prescribed fee (if any).

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47 NZBA 248
48 NZBA 402
49 NZBA 402
50 NZBA Part and Part 2.
51 NZBA 191
PART II

CONTROL OF BUILDING WORKS

Division 1 — Application

17. Building code: purpose
The building code prescribes functional requirements for buildings and the performance criteria with which buildings must comply in their intended use.
(1) The Minister may on the recommendation of the Commissioner of Building Control, make regulations, to be called the building code, that prescribe—
(a) functional requirements for buildings; and
(b) the performance criteria that buildings must comply with in their intended use.
(c) acceptable solutions or verification methods, or both, that must be used to comply with the building code; and
(d) the particular circumstances in which those acceptable solutions or verification methods, or both, must be used; and
(e) the circumstances in which building methods or products that have a current product certificate issued under section 269 must be used.

(2) Any regulations made under subsection (1) may prescribe that the functional requirements for buildings and the performance criteria with which buildings must comply in their intended use apply—
(a) generally throughout of Maldives or in particular regions of Maldives only; and
(b) generally over a range of circumstances or in particular circumstances only.

18. All building work must comply with building code
All building work must comply with the building code to the extent required by this Act, whether or not a building consent is required in respect of that building work.

19. Building work not required to achieve performance criteria additional to or more restrictive than building code
(1) A person who carries out any building work is not required by this Act to—
(a) achieve performance criteria that are additional to, or more restrictive than, the performance criteria prescribed in the building code in relation to that building work; or
(b) take any action in respect of that building work if it complies with the building code.

(2) Subsection (1) is subject to any express provision to the contrary in any Act.

20. How compliance with building code is established
(1) A building consent authority must accept any or all of the following as establishing compliance with the building code:
(a) compliance with regulations referred to in section 21
(b) compliance with the provisions of a compliance document:
(c) a determination to that effect made by the Commissioner of Building Control under subpart 1 of Part 3:
(d) a current product certificate issued under section 269, if every relevant condition in that product certificate is met:

52 NZBA 20
53 NZBA 269
(e) to the extent that compliance with a requirement imposed by regulations made under the Electricity Act 54 is compliance with any particular provisions of the building code, a certificate issued under any of those regulations to the effect that any energy work complies with those requirements.

(2) In considering whether something complies with the building code, a building consent authority or, as the case may be, a regional authority—
   (a) must have regard to any relevant warning issued, and ban declared, under section 47 (2) 55; and
   (b) may have regard to any guidance information published by the Commissioner of Building Control under section 73 56.

21. Regulations may specify that there is only 1 means of complying with building code
(1) Regulations may be made under section 65 57 that specify that there is only 1 means of complying with all or any of the provisions of the building code.

(2) Without limiting subsection (1), the regulations may specify the means of compliance with the building code by requiring the use in the prescribed circumstances (if any) of all or any of the following:
   (a) prescribed acceptable solutions:
   (b) prescribed verification methods:
   (b) building methods, methods of construction, building design, or building materials (building methods or products) that have a current product certificate issued under section 81 58.

22. What happens if regulations specifying that there is only 1 means of complying with building code are made or not made
(1) If regulations referred to in section 21 59 are made, a person who carries out any building work must, in order to comply with the building code, comply with those regulations to the extent that they are relevant to the building work.

(2) If the regulations are not made, a person may comply with the building code by any means, including by complying with a compliance document.

23. Compliance document for use in establishing compliance with building code
(1) The Commissioner of Building Control may, by notice in the Gazette, issue a document for use in establishing compliance with the building code (a compliance document).

(2) A person who complies with a compliance document must, for the purposes of this Act, be treated as having complied with the provisions of the building code to which the document relates.

(3) Subsection (2) is subject to any regulations referred to in section 21 60.

24. Effect of compliance documents
A person may comply with a compliance document in order to comply with the provisions of the building code to which the document relates, but doing so is not the only means of complying with those provisions.

25. Commissioner of Building Control may amend or revoke compliance documents
(1) The Commissioner of Building Control may, by notice in the Gazette, amend or revoke a compliance document at any time.

(2) If subsection (1) applies, the amendment or revocation does not have retrospective effect.

26. Content of compliance document
(1) A compliance document must state—
   (a) the date on which the document comes into force; and

54 if any
55 NZBA 26 (2)
56 NZBA 175
57 NZBA 401
58 NZBA 269
59 NZBA 20
60 NZBA 20
(b) whether the document, or parts of it, applies to building work for which a building consent has been issued before the date on which the compliance document comes into force.

(2) A compliance document may contain—
   (a) acceptable solutions; or
   (b) verification methods.

(3) A compliance document must not contain a provision that—
   (a) relates to contractual or commercial requirements; or
   (b) relates to regulatory approvals, dispensations, or waivers; or
   (c) is inconsistent with this Act or the regulations.

(4) Material may be incorporated by reference in a compliance document in accordance with section 56.

27. Compliance documents to be available on Ministry’s website
   (1) The Commissioner of Building Control must ensure that—
      (a) promptly after a new compliance document is issued, a digital copy is publicly available on the Ministry’s website:
      (b) even after a compliance document has been amended or revoked, a digital copy of it in its original form continues to be publicly available on the website:
      (c) promptly after a compliance document is amended, there are publicly available on the Ministry’s website—
         (i) a digital copy of the amendment; and
         (ii) a digital copy of the document in its up-to-date form
   (4) The digital copies must be available free of charge.

61 NZBA 405
Division 2 Building Consent

28. Buildings not to be constructed, altered, demolished, or removed without consent
(1) A person must not carry out any building work except in accordance with a building consent.

(2) A person commits an offence if the person fails to comply with this section.

(3) A person who commits an offence under this section is liable to a fine not exceeding MVR… and, in the case of a continuing offence, to a further fine not exceeding MVR… for every day or part of a day during which the offence has continued.

29. Building consent not required in certain cases
(1) Despite section 28, a building consent is not required in relation to—
   (a) any building work described in section… [NZBA Schedule 1]; or
   (b) any building work in respect of which a building consent cannot practicably be obtained in advance because the building work has to be carried out urgently—
      (i) for the purpose of saving or protecting life or health or preventing serious damage to property; or
      (ii) in order to ensure that a specified system in a building that is covered by a compliance schedule, or would be covered if a compliance schedule were issued in respect of the building, is maintained in a safe condition or is made safe; or
   (c) any energy work that, under section 31, does not require a building consent; or
   (d) any building work that a territorial authority is authorised to carry out under this Act.

(2) The Minister, add any building work or class of building works to section 43 as being building work for which a building consent is not required.

30. Owner must apply for certificate of acceptance if building work carried out urgently
(1) If building work is carried out without a building consent having been obtained in respect of that work, the owner must, as soon as practicable after completion of the building work, apply for a certificate of acceptance under section 59.

(2) A person commits an offence if the person fails to apply for a certificate of acceptance in accordance with subsection (1).

(3) A person who commits an offence under this section is liable to a fine not exceeding MVR….

31. Building consent not required for energy work
(1) Energy work does not require a building consent.

(2) However, the following energy work requires a building consent:
   (a) energy work that relates to any specified system that is contained in, or proposed to be contained in, any building (whether existing or proposed) and that,—
      (i) in the case of an existing specified system, is covered by a compliance schedule, or would be covered if a compliance schedule were issued in respect of the building; or
      (ii) in the case of a proposed specified system, will be required to be covered by a compliance schedule; and
   (b) energy work in any case where, if that work required a building consent, a consent could not be granted unless it was granted subject to a waiver or modification of the building code.

(3) An owner who wishes to obtain a building consent for energy work that does not require a building consent may apply for a building consent for that work (whether or not the application also relates to any other building work), and in that case this Act applies as if the energy work required a building consent.

32. When to apply for building consent
(1) An owner intending to carry out building work must, before the building work begins, apply for a

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62 NZBA 40
63 NZBA 43
64 NZBA Schedule 1
65 NZBA 96
building consent to a building consent authority that is authorised, within the scope of its accreditation, to grant a building consent for the proposed building work.

(2) An owner may make a series of applications for building consents for stages of the proposed building work.

33. How to apply for building consent

(1) An application for a building consent must—
(a) be in the prescribed form; and
(b) be accompanied by plans and specifications that are:
   (i) required by regulations made under section 66; or
   (ii) if the regulations do not so require, required by a building consent authority; and
(c) contain or be accompanied by any other information that the building consent authority reasonably requires; and
(d) be accompanied by the charge fixed by the building consent authority; and
(e) in the case of an application for a building consent that relates to restricted building work, state the name of each licensed building practitioner who, as far as the applicant is aware at the time the application is made, will be involved in carrying out or supervising the restricted building work that is the subject of the application; and
(f) if the owner applies for a project information memorandum for the building work under section 50 and the project information memorandum is then issued, be accompanied by—
   (i) the project information memorandum; and
   (ii) a development contribution notice under section 36 (if any); and
   (iii) a certificate issued under section 52 (if any); and
(g) be accompanied by either one of the following:
   (i) if a compliance schedule is required as a result of the building work, a list of all specified systems for the building; or
   (ii) if an amendment to an existing compliance schedule is required as a result of the building work, a list of all specified systems that are being—
      (A) altered in the course of the building work:
      (B) added to the building in the course of the building work:
      (C) removed from the building in the course of the building work.

(2) If an application for a building consent is accompanied by plans and specifications that contain design work (relating to building work) that is design work of a kind declared by the Minister to be restricted building work for the purposes of this Act, that design work must be carried out or supervised by 1 or more licensed building practitioners who are licensed to carry out or supervise that work.

(3) The plans and specifications that contain the design work referred to in subsection (2) must be accompanied by a memorandum—
(a) provided by 1 or more licensed building practitioners who carried out or supervised that design work; and
(b) that identifies that design work; and
(c) that states—
   (i) that the design work complies with the building code; or
   (ii) whether waivers or modifications of the building code are required and, if so, what those waivers or modifications are.

(4) An application for an amendment to a building consent must,—
(a) in the case of a minor variation, be made in accordance with section 34; and
(b) in all other cases, be made as if it were an application for a building consent, and this section, and sections 37 to 40 apply with any necessary modifications.

34. Minor variations to building consents

(1) An application for a minor variation to a building consent—
(a) is not required to be made in the prescribed form; but
(b) must comply with all other applicable requirements of section 33.  

(2) Sections 37 to 39 apply, with all necessary modifications, to an application for a minor variation.

(3) A building consent authority that grants a minor variation—
   (a) must record the minor variation in writing; but
   (b) is not required to issue an amended building consent.

35. Copy of certain applications for building consent must be provided to MNDF Fire Service
(1) This section applies to an application for a building consent that is of a kind specified by the Commissioner of Building Control by notice published in the Gazette.

(2) A copy of the notice must be given by the Commissioner of Building Control to every building consent authority as soon as practicable after it is so published.

(3) A building consent authority must, on receipt of an application to which this section applies, provide a copy of the application to the MNDF Fire Service.

36. MNDF Fire Service may give advice on applications under section 35
(1) The MNDF Fire Service may, within 10 working days after receiving a copy of an application for a building consent under section 35 provide the building consent authority concerned with a memorandum that sets out advice on the following matters in respect of the building to which the application relates:
   (a) provisions for means of escape from fire;
   (b) the needs of persons who are authorised by law to enter the building to undertake firefighting.

(2) The MNDF Fire Service must not, in the memorandum referred to in subsection (1), set out advice that provides for the building to meet performance criteria that exceed the requirements of the building code.

(3) If the MNDF Fire Service does not provide a memorandum within the period specified in subsection (1), the building consent authority may proceed to determine the application without the memorandum.

37. Processing application for building consent
(1) After receiving an application for a building consent that complies with section 33, a building consent authority must, within the time limit specified in subsection (1A),—
   (a) grant the application; or
   (b) refuse the application.

(1A) The time limit is within 20 working days after receipt by the building consent authority of the application.

(2) A building consent authority may, within the period specified in subsection (1A), require further reasonable information in respect of the application, and, if it does so, the period is suspended until it receives that information.

(3) In deciding whether to grant or refuse an application for a building consent, the building consent authority must have regard to—
   (a) a memorandum provided by the MNDF Fire Service under section 36 (if any); and
   (b) whether a building method or product to which a current warning or ban under section 47 relates will, or may, be used or applied in the building work to which the building consent relates.

71 NZBA 45
72 NZBA 48 to 50
73 NZBA 46
74 NZBA 46,
75 NZBA 45
76 NZBA 47
77 NZBA 26(2)
(4) Subsection (3) does not limit section 38 (1) 78.

38. Grant of building consent
(1) A building consent authority must grant a building consent if it is satisfied on reasonable grounds that the provisions of the building code would be met if the building work were properly completed in accordance with the plans and specifications that accompanied the application.

(2) However, a building consent authority is not required to grant a building consent until it receives—
   (a) any charge fixed by it in relation to the consent; and
   (b) any levy payable under section 42 79; and

39. Refusal of application for building consent
If a building consent authority refuses to grant an application for a building consent, the building consent authority must give the applicant written notice of:
   (a) the refusal; and
   (b) the reasons for the refusal.

40. Issue of building consent
(1) A building consent must—
   (a) be issued in the prescribed form; and
   (b) have attached to it a copy of—
       (i) the project information memorandum (if any) for the building work to which the building consent relates; and
       (ii) a development contribution notice under section 51 80 (if any); and
       (iii) a certificate issued under section 52 81 (if any); and
   (c) if a compliance schedule is required as a result of the building work, state—
       (i) the specified systems that must be covered by the compliance schedule; and
       (ii) the performance standards for the specified systems that are required by the building code; and
   (d) if an amendment to an existing compliance schedule is required as a result of the building work, state—
       (i) the specified systems that must be covered by the compliance schedule; and
       (ii) the performance standards for the specified systems that are required by the building code.

(2) The issue of a building consent does not, of itself,—
   (a) relieve the owner of the building or proposed building to which the building consent relates of any duty or responsibility under any other Act relating to or affecting the building or proposed building; or
   (b) permit the construction, alteration, demolition, or removal of the building or proposed building if that construction, alteration, demolition, or removal would be in breach of any other Act.

(3) If a building consent authority does not, within the time limit for granting the building consent, receive from the territorial authority any document or information required for compliance with subsection (1)(b) or (ba), the building consent authority may grant the building consent despite that subsection.

(4) However, the building consent authority must, on receiving the document or information referred to in subsection (3), provide the owner with the document or information.

41. Lapse of building consent
A building consent lapses and is of no effect if the building work to which it relates does not commence within—
   (a) 12 months after the date of issue of the building consent; or
   (b) any further period that the building consent authority may allow.

78 NZBA49(1)
79 NZBA53
80 NZBA 36
81 NZBA 37
42. Applicant for building consent liable to pay levy
(1) An applicant for a building consent is liable to pay to the Commissioner of Building Control a levy for, or in connection with, the performance of the Commissioner of Building Control’s functions under this Act if the building consent is granted.

(2) The levy—
   (a) must be calculated—
      (i) in relation to the estimated value of the building work to which the building consent relates; and
      (ii) at the prescribed rate; and
   (b) must be paid—
      (i) to the building consent authority as the agent of the Commissioner of Building Control; and
      (ii) at the time the building consent is granted.

(3) Subsection (2)(a)(ii) is subject to section 67.

43. Exempt building work
A building consent is not required for the following building work:
   (a) any lawful repair and maintenance using comparable materials, or replacement with a comparable component or assembly in the same position, of any component or assembly incorporated or associated with a building except—
      (i) complete or substantial replacement of a specified system; or
      (ii) complete or substantial replacement of any component or assembly contributing to the building’s structural behaviour or fire-safety properties; or
      (iii) repair or replacement (other than maintenance) of any component or assembly that has failed to satisfy the provisions of the building code for durability, for example, through a failure to comply with the external moisture requirements of the building code; or
      (iv) repair or replacement of any water storage heater connected to a supplementary heat exchanger, except for the repair, or replacement with a comparable heater, of any open-vented water storage heater using the same pipework:
   (ab) the opening and reinstatement of any purpose-made access point within a drainage system that is not a NUO system or part of a NUO system; and
   (ac) the alteration to drains for a dwelling, if the alteration—
      (i) is of a minor nature (for example, shifting a gully trap); and
      (ii) does not include making any new connection to a service provided by a network utility operator; and
   (ad) the alteration to existing sanitary plumbing in a dwelling (for example, replacing a bath with a shower or moving a toilet)
   (ae) the installation, replacement, or removal in any existing building of a window (including a roof window) or an exterior doorway if—
      (i) compliance with the provisions of the building code relating to structural stability is not reduced; and
      (ii) in the case of replacement, the window or doorway being replaced satisfied the provisions of the building code for durability:
   (af) the alteration to an entrance or an internal doorway of a dwelling to improve access for persons with disabilities, if compliance with the provisions of the building code relating to structural stability is not reduced;
   (ag) the alteration to the interior of any non-residential building (for example, a shop, office, library, factory, warehouse, mosque, or school), if the alteration does not—
      (i) reduce compliance with the provisions of the building code that relate to means of escape from fire, protection of other property, sanitary facilities, structural stability, fire-rating performance, and access and facilities for persons with disabilities; or
      (ii) modify or affect any specified system;
   (b) the construction or alteration of any motorway sign, stopbank, culvert for carrying water under or in association with a road, or other similar structure that is a simple structure and is owned or controlled by a network utility operator or other similar organisation:

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NZBA 431.
(c) the construction or alteration of any retaining wall that retains not more than 1.5 metres depth of ground and that does not support any surcharge or any load additional to the load of that ground (for example, the load of vehicles on a road):

(ca) the construction, alteration, or removal of an internal wall (including the construction, alteration, or removal of an internal doorway) in any existing building if—

(i) compliance with the provisions of the building code relating to structural stability is not reduced; and

(ii) the means of escape from fire provided within the building are not detrimentally affected; and

(iii) the wall is not made of units of material (such as brick, burnt clay, concrete, or stone) laid to a bond in and joined together with mortar:

(d) the construction or alteration of any wall (except a retaining wall or an internal wall), fence

(e) the construction or alteration of any tank or pool and any structural support of the tank or pool including any tank or pool that is part of any other building for which a building consent is required,—

(i) not exceeding 35,000 litres capacity and supported directly by the ground; or

(ii) not exceeding 2,000 litres capacity and supported not more than 2 metres above the supporting ground; or

(iii) not exceeding 500 litres capacity and supported not more than 4 metres above the supporting ground:

(f) the construction, alteration, or removal of any tent or marquee that has a floor area not exceeding 50 square metres if that tent or marquee is to be, or has been, used for public assembly for a period of not more than 1 month:

(fa) the construction, alteration, or removal of any tent or marquee that has a floor area not exceeding 100 square metres if that tent or marquee is, or has been, for private use for a period of not more than 1 month:

(g) the construction or alteration of any platform, bridge, or the like from which it is not possible for a person to fall more than 1 metre even if it collapses:

(h) the construction or alteration of any temporary storage stack of goods or materials:

(i) building work in connection with any detached building (except a building that is required to be licensed in terms of the Hazardous Substances and New Organisms Act 1996 or a building closer than its own height to any residential accommodation or to any legal boundary) that—

(i) houses fixed plant or machinery, the only normal visits to which are intermittent visits for routine inspection and maintenance of that plant or machinery; or

(ii) into which, or into the immediate vicinity of which, people cannot or do not normally go; or

(iii) is used only by people engaged in the construction or maintenance of another building for which a building consent is required; or

(iv) does not exceed 1 storey, does not exceed 10 square metres in floor area, and does not contain sanitary facilities or facilities for the storage of potable water, but may contain sleeping accommodation (without cooking facilities) if the detached building is used in connection with a dwelling:

(i) building work in connection with the closing in of an existing veranda, patio, or the like so as to provide an enclosed porch, conservatory, or the like with a floor area not exceeding 5 square metres:

(ja) the construction, alteration, or removal of any fabric, glass, or metal awning on any building that—

(i) is on the ground or first storey level; and

(ii) does not exceed 15 square metres in size:

(jb) the construction, alteration, or removal of a pergola:

(jc) the construction, alteration, or removal of a porch or verandah on any building where that porch or verandah—

(i) is on the ground or first storey level; and

(ii) is over a deck or a patio; and

(iii) does not exceed 15 square metres in size:

(k) any other building work in respect of which the territorial authority (or, as the case requires, the regional authority) considers that a building consent is not necessary for the purposes of this Act because that building work—

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83 To be amended as appropriate to Maldives related regulations
(i) is unlikely to be carried out otherwise than in accordance with the building code; or
(ii) if carried out otherwise than in accordance with the building code, is unlikely to endanger people or any building, whether on the same land or on other property.

44. Deviations from approved building plans

(1) Where the plans of any building works or proposed building works have been approved by the Commissioner of Building Control under section 68 (3) (a)\(^{84}\) and the developer of the building works intends to depart or deviate from the plans approved, the developer shall apply to the Commissioner of Building Control for his approval of the amended plans showing the proposed departure or deviation.

(2) An application under subsection (1) shall be accompanied by —
   (a) the amended plans of the building works prepared in accordance with the building regulations by the appropriate registered building practitioner referred to in section 68 (2) (b) (i) or (ii) \(^{85}\) or both, as the case may be;
   (b) in the case of major building works, a certificate from the following accredited professionals:
      (i) a certificate by an accredited professional stating that he has checked the amended plans relating to those building works and that, to the best of his knowledge and belief, the amended plans so checked do not show any inadequacy in the key structural elements of the building to be erected or affected by those building works; and
      (ii) where the building works comprise wholly or partly of any underground building works, a certificate by an accredited professional (who may or may not be the same accredited professional referred to in subparagraph (i)) stating that the accredited professional has checked the amended geotechnical aspects of the underground building works and that, to the best of his knowledge and belief, there is no inadequacy in the geotechnical aspects relating to those underground building works; and
   (c) the certificate (in the form prescribed) signed by the registered building practitioner appointed to prepare the amended plans of those building works, certifying that he prepared those amended plans.

(3) The first approval granted under section 5 of any plans of building works shall end and be superseded to the extent that the amended plans relating to those same building works are approved under this section (whether or not the approval also relates to other building works).

45. Permit to carry out structural works

(1) Subject to the provisions of this Act, an application for a permit to carry out structural works in any building works may be made at any time to the Commissioner of Building Control by —
   (a) the developer of those building works;
   (a) the building contractor whom the developer has appointed in respect of those building works; and
   (c) the registered building practitioner whom the developer or building contractor has appointed under section 84 or 86 \(^{86}\) to supervise those building works.

(2) An application for a permit to carry out structural works in any building works shall be accompanied by —
   (a) a notification, signed by the developer of the building works, stating the date on which those building works are to start;
   (b) the names and particulars of —
      (i) the registered building practitioner appointed under section 84 or 86 \(^{87}\) to supervise the carrying out of those building works; and
      (ii) where the building works comprise wholly or partly of any underground building works, the civil engineer who is appointed under section 84 or 86 \(^{88}\) to supervise the

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\(^{84}\) MBA 5 (3) (a)
\(^{85}\) MBA 5 (2) (b) (i) or (ii)
\(^{86}\) MBA 8 or 11
\(^{87}\) MBA 8 or 11
\(^{88}\) MBA 8 or 11
geotechnical aspects of those underground building works;
(c) the following documents signed by the building contractor:
   (i) an acceptance of his appointment in respect of the structural works; and
   (ii) an undertaking of responsibility for strict compliance with the provisions of this
   Act and the building regulations;
(d) the following documents signed by the registered building practitioner or persons referred
   to in paragraph (b):
   (i) a confirmation of his appointment in respect of the building works; and
   (ii) a notice of the names and particulars of the site supervisor, or all members of
   the team of site supervisors, he has appointed in respect of the structural works in
   accordance with section 85 (1) or (2) 86, and
(e) such other documents as the Commissioner of Building Control may require.

(3) The Commissioner of Building Control may, on an application made under subsection (1), grant
a permit to carry out structural works in any building works jointly to—
(a) the developer of those building works;
(b) the building contractor whom the developer has appointed in respect of those building
   works; and
(c) the registered building practitioner whom the developer or building contractor has appointed
   under section 84 or 86 89 to supervise those building works, subject to such terms and
   conditions as he thinks fit to impose.

(4) The Commissioner of Building Control may revoke a permit to carry out any structural works if
the structural works, if started, are suspended for a continuous period of more than 3 months.

(5) Any permit to carry out structural works in any building works granted under this section shall
not be transferable, and shall automatically lapse if any of the following permit holders ceases to be:
(a) the developer of those building works;
(b) the building contractor whom the developer has appointed in respect of those building
   works; or
(c) the registered building practitioner whom the developer or building contractor has appointed
   under section 84 or 86 90 to supervise those building works.

46. Modification or waiver of building regulations
(1) The Commissioner of Building Control may, on receipt of an application in relation to any
particular building works, advertisements, signboards or skysigns, modify or waive, subject to such
terms and conditions as he may impose, any of the requirements of the building regulations.

(2) Every application under subsection (1) shall—
(a) be made to the Commissioner of Building Control by or on behalf of the developer of the
   building works, advertisements, signboards or skysigns;
(b) be in such form as may be required by the Commissioner of Building Control;
(c) state the nature and extent of and the reasons for the proposed modification or waiver
   of those requirements; and
(d) be accompanied by such plans and other particulars as may be prescribed in the building
   regulations.

47. Commissioner of Building Control may issue warning about, or ban use of, building
methods or products
(1) This section applies if the Commissioner of Building Control considers on reasonable grounds that
the use of a building method or product has resulted, or is likely to result, in a building or building work
failing to comply with the building code.

(2) The Commissioner of Building Control may—
(a) issue a warning about the building method or product; or
(b) declare a ban on the building method or product.

(3) The Commissioner of Building Control must publicly notify—

86 MBA 10 (1) or (2)
89 MBA 8 or 11
90 MBA 8 or 11
91 MBA 8 or 11
(a) the warning or ban; and
(b) the date on which the warning or ban comes into force; and
(c) in the case of a ban, whether the ban applies to building work for which a building consent has been issued before the date on which the ban comes into force; and
(d) whether the procedure in section 29 has been followed in relation to the warning or ban.

(4) The Commissioner of Building Control—
(a) may, at any time, amend or revoke the warning or ban; and
(b) must publicly notify—
(i) the amendment or revocation; and
(ii) the date on which the amendment or revocation comes into force.

48. Procedural requirements for compliance documents, warnings, and bans
(1) This section applies if the Commissioner of Building Control proposes to—
(a) issue a compliance document; or
(b) amend or revoke a compliance document; or
(c) issue a warning or declare a ban; or
(d) amend or revoke a warning or ban.

(2) Before doing any of the things referred to in subsection (1), the Commissioner of Building Control must—
(a) seek to identify all reasonably practicable options for achieving the objective of the document, warning, or ban; and
(b) assess those options by considering—
(i) the benefits and costs of each option; and
(ii) the extent to which the objective would be promoted or achieved by each option; and
(iii) any other matters that, in the Commissioner of Building Control’s opinion, are relevant; and
(c) publicly notify a statement of proposal; and
(d) give persons an opportunity to make submissions on the statement of proposal; and
(e) consider those submissions.

(3) For the purposes of subsection (2)(c), the Commissioner of Building Control must notify—
(a) where copies of the statement of proposal may be obtained; and
(b) that submissions on the statement of proposal may be made to the Commissioner of Building Control by a specified date (which date must not be less than 10 working days after the date of the public notification).

(4) The statement of proposal must contain—
(a) a detailed statement of the proposal (which may be a copy of the proposed document, warning, or ban); and
(b) a statement of the reasons for the proposal; and
(c) an analysis of the reasonably practicable options, including the proposal, identified under subsection (2); and
(d) a detailed statement of the proposed transitional changes (if any) for the document, warning, or ban; and
(e) the date on which the document, warning, or ban is proposed to come into force; and
(f) a statement as to whether the document, warning, or ban will apply to building work for which a building consent has been issued before the date on which the document, warning, or ban comes into force; and
(g) any other information that the Commissioner of Building Control considers relevant.

(5) The Commissioner of Building Control is not required to comply with subsection (2) if the Commissioner of Building Control is satisfied that—
(a) the document or warning needs to be issued, or the ban needs to be declared, urgently; or
(b) the document, warning, or ban needs to be amended urgently; or
(c) the document, warning, or ban needs to be revoked urgently; or
(d) the effect of the document, warning, or ban is minor and will not adversely affect the substantial interests of any person.

49. Procedural requirements for urgent compliance documents, warnings, and bans
(1) If section 48(5) \(^{92}\) applies, the Commissioner of Building Control must—
   (a) consult on the document, warning, or ban (as the case may be) in accordance with section 48 (2) to (4) \(^{93}\); and
   (b) after that consultation, publicly notify whether he or she has decided to amend, replace, or revoke the document, warning, or ban.

(2) The Commissioner of Building Control must comply with subsection (1) within 6 months of issuing, amending, replacing, or revoking the document, warning, or ban concerned.

(3) In the public notification, the Commissioner of Building Control must—
   (a) explain the reasons for his or her decision; or
   (b) state where copies of that explanation may be obtained.

50. Owner may apply for project information memorandum
An owner may apply to a territorial authority for a project information memorandum for building work if—
   (a) the owner is considering carrying out building work; and
   (b) a building consent is required for that work.

51. Territorial authority may issue development contribution notice
(1) This section applies if a territorial authority considers that a development contribution under the Local Government Act \(^{94}\) is payable by the owner.

(2) The territorial authority must issue a notice, in the prescribed form, to the effect that a code compliance certificate for the building work will not be issued unless the development contribution is paid (development contribution notice).

(3) The development contribution notice must be—
   (a) attached to the project information memorandum; or
   (b) if no project information memorandum has been applied for, provided to the building consent authority.

52. Territorial authority must issue certificate if resource consent required
(1) This section applies if a territorial authority considers that the resource consent will or may materially affect building work to which a project information memorandum or an application for a building consent relates.

(2) The territorial authority must issue a certificate, in the prescribed form, to the effect that until the resource consent has been obtained—
   (a) no building work may proceed; or
   (b) building work may only proceed to the extent stated in the certificate.

(3) The certificate must be—
   (a) attached to the project information memorandum; or
   (b) if no project information memorandum has been applied for, provided to the building consent authority.

53. Building on land subject to natural hazards
(1) A building consent authority must refuse to grant a building consent for construction of a building, or major alterations to a building, if—
   (a) the land on which the building work is to be carried out is subject or is likely to be subject to 1 or more natural hazards; or

\(^{92}\) NZBA 29(5)
\(^{93}\) NZBA 29(2) to (4)
\(^{94}\) To be amended as appropriate to Maldives related regulations
(b) the building work is likely to accelerate, worsen, or result in a natural hazard on that land or any other property.

(2) Subsection (1) does not apply if the building consent authority is satisfied that adequate provision has been or will be made to—
   (a) protect the land, building work, or other property referred to in that subsection from the natural hazard or hazards; or
   (b) restore any damage to that land or other property as a result of the building work.

(3) In this section and sections 54 to 55 95 natural hazard means any of the following:
   (a) erosion (including coastal erosion, bank erosion, and sheet erosion):
   (b) falling debris (including soil, rock, snow, and ice):
   (c) subsidence:
   (d) inundation (including flooding, overland flow, storm surge, tidal effects, and ponding):
   (e) slippage.

54. Building consent for building on land subject to natural hazards must be granted in certain cases
Despite section 53 96, a building consent authority that is a territorial authority must grant a building consent if the building consent authority considers that—
   (a) the building work to which an application for a building consent relates will not accelerate, worsen, or result in a natural hazard on the land on which the building work is to be carried out or any other property; and
   (b) the land is subject or is likely to be subject to 1 or more natural hazards; and
   (c) it is reasonable to grant a waiver or modification of the building code in respect of the natural hazard concerned.

55. Conditions on building consents granted under section 54
(1) A building consent authority that is a territorial authority that grants a building consent under section 54 97 must include, as a condition of the consent, that the building consent authority will, on issuing the consent, notify the consent to,—
   (a) in the case of an application made by, or on behalf of, the President, the appropriate Minister; and
   (b) in any other case, the Registrar-General of Land 98.

(2) The notification under subsection (1)(a) or (b) must be accompanied by a copy of any project information memorandum that has been issued and that relates to the building consent in question.

(3) The notification under subsection (1)(c) must identify the natural hazard concerned.

56. Licensed building practitioner to certify or provide memorandum about restricted building work
(1) Each licensed building practitioner who carries out or supervises restricted building work under a building consent must, on completion of the restricted building work,—
   (a) provide the persons specified in subsection (2) with a memorandum, in the prescribed form, stating what restricted building work the licensed building practitioner carried out or supervised; and
   (b) if applicable, give to the persons specified in subsection(2) a certificate, in the prescribed form, stating that any specified systems in the building to which the restricted building work relates are capable of performing to the performance standards set out in the building consent.

(2) The persons are
   (a) the owner; and
   (b) the territorial authority for the district in which the restricted building work is situated.

(3) A licensed building practitioner who carries out or supervises restricted building work that relates only to part of a specified system may give a certificate under subsection (1) that is qualified to the

95 NZBA 72 to 74,
96 NZBA 71
97 NZBA 72
98 To be amended as appropriate to Maldives related regulations
effect that the restricted building work on the other parts of the specified system must meet the requirements in subsection (1)(a) and (b).

(4) A memorandum provided or certificate given under subsection (1) does not, of itself,—
(a) create any liability in relation to any matter to which the memorandum or certificate relates; or
(b) give rise to any civil liability to the owner that would not otherwise exist if the licensed building practitioner was not required to provide the memorandum or certificate.

(5) Subsection (4) does not limit section 83 (c) 99

57. Building consent authority that grants building consent to issue code compliance certificate
(1) A building consent authority that granted the building consent for building work to which a code compliance certificate relates is the only person who may issue that certificate.

(2) However, another building consent authority may issue a code compliance certificate if the following persons agree:
(a) the owner of the building to which the building work relates; and
(b) the building consent authority that it is proposed will issue the code compliance certificate.

(3) Subsection (4) applies if—
(a) a building consent authority that is not a territorial authority or a regional authority is unable or refuses to issue a code compliance certificate in relation to building work for which it granted a building consent; and
(b) no other building consent authority will agree to issue a code compliance certificate for the building work under subsection (2).

(4) The owner of the building to which the building work relates must apply for a certificate of acceptance under section 59 100.

58. Issue of code compliance certificate
A code compliance certificate must be issued—
(a) by a building consent authority; and
(b) in the prescribed form; and
(c) on payment of any charge fixed by the building consent authority.

59. Territorial authority may issue certificate of acceptance in certain circumstances
(1) A territorial authority may, on application, issue a certificate of acceptance for building work already done—
(a) if—
(i) the work was done by the owner or any predecessor in title of the owner; and
(ii) a building consent was required for the work but not obtained; or
(b) if section 30 101 (which relates to building work that had to be carried out urgently) applies; or
(c) if subsections (3) and (4) of section 57 102 (which apply if a building consent authority that is not a territorial authority or a regional authority is unable or refuses to issue a code compliance certificate in relation to building work for which it granted a building consent) apply; or
(d) if—
(i) the work affects premises to which section 362A applies; and
(ii) a building consent for the work was obtained before .......... 103; and
(iii) the territorial authority is unable or refuses to issue a code compliance certificate for the work; and
(iv) the application for the certificate of acceptance was made before .......... 104

99 NZBA 397(c).
100 NZBA 96
101 NZBA 42
102 NZBA 91
103 Date
104
(2) A territorial authority may issue a certificate of acceptance only if it is satisfied, to the best of its knowledge and belief and on reasonable grounds, that, insofar as it could ascertain, the building work complies with the building code.

(3) This section—
(a) does not limit section 28 (which provides that a person must not carry out any building work except in accordance with a building consent); and
(b) accordingly, does not relieve a person from the requirement to obtain a building consent for building work.

60. Requirement for compliance schedule
(1) A building not used wholly as a single household unit—
(a) requires a compliance schedule if—
(i) it has a specified system; or
(ii) it has a mechanical installation for access attached to it or servicing it; and
(b) requires the schedule for all specified systems it has and any mechanical installation for access it has attached to it or servicing it.

(2) A building used wholly as a single household unit—
(a) requires a compliance schedule only if it has a mechanical installation for access attached to it or servicing it; and
(b) requires the schedule only for the mechanical installation for access.

(3) Before ……… ,—
(a) a building not used wholly as a single household unit—
(i) requires a compliance schedule only if it has a specified system other than a mechanical installation for access; and
(ii) does not require a compliance schedule for any mechanical installation for access attached to it or servicing it; and
(b) a building used wholly as a single household unit does not require a compliance schedule.

61. Meaning of earthquake-prone building
(1) A building is earthquake prone for the purposes of this Act if, having regard to its condition and to the ground on which it is built, and because of its construction, the building—
(a) will have its ultimate capacity exceeded in a moderate earthquake (as defined in the Building Code); and
(b) would be likely to collapse causing—
(i) injury or death to persons in the building or to persons on any other property; or
(ii) damage to any other property.

(2) Subsection (1) does not apply to a building that is used wholly or mainly for residential purposes unless the building—
(a) comprises 2 or more storeys; and
(b) contains 3 or more household units.

62. Meaning of insanitary building
A building is insanitary for the purposes of this Act if the building—
(a) is offensive or likely to be injurious to health because—
(i) of how it is situated or constructed; or
(ii) it is in a state of disrepair; or
(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or
(c) does not have a supply of potable water that is adequate for its intended use; or
(d) does not have sanitary facilities that are adequate for its intended use.

63. Offence for residential property developer to transfer household unit without code

104 Date
105 NZBA 40
106 Date
compliance certificate
(1) A residential property developer commits an offence if the residential property developer does either or both of the following things before a code compliance certificate is issued in relation to a household unit:
   (a) completes a sale of the household unit;
   (b) allows a purchaser of the household unit to enter into possession of the household unit.

(2) Subsection (1) does not apply if the residential property developer and the purchaser of the household unit enter into a written agreement, in the prescribed form, that the residential property developer may do either or both of the things referred to in that subsection before a code compliance certificate is issued in relation to the household unit concerned.

(3) A person who commits an offence under this section is liable to a fine not exceeding MVR....

(4) Subsection (1) does not apply if the contract for the sale and purchase of the household unit was entered into before .........

64. Regulations: building code
(1) The Minister may, by Order in Council made on the recommendation of the Minister, make regulations, to be called the building code, that prescribe—
   (a) functional requirements for buildings; and
   (b) the performance criteria that buildings must comply with in their intended use.

(2) Any regulations made under subsection (1) may prescribe that the functional requirements for buildings and the performance criteria with which buildings must comply in their intended use apply—
   (a) generally throughout Maldives or in particular regions of Maldives only; and
   (b) generally over a range of circumstances or in particular circumstances only.

65. Regulations: acceptable solutions, verifications, etc, that must be complied with in order to comply with building code
(1) The Minister may, on the recommendation of the CIDB(?) , make regulations that prescribe—
   (a) acceptable solutions or verification methods, or both, that must be used to comply with the building code; and
   (b) the particular circumstances in which those acceptable solutions or verification methods, or both, must be used; and
   (c) the circumstances in which building methods or products that have a current product certificate issued under section 81 must be used.

(2) Any regulations made under subsection (1) must state whether those regulations apply to building work for which a building consent has been issued, but for which a code compliance certificate has not been issued.

66. 402 Regulations: general
(1) The Minister may on the recommendation of the Commissioner of Building Control make regulations for all or any of the following purposes:

Building levy:
   (a) prescribing the rate of the levy to be paid under section 42
   (b) providing for the method by which the levy will be calculated:
   (c) providing for the payment and collection of the levy:

Licensing:
   (d) prescribing the fees or charges payable in respect of the performance of the Registrar’s functions under Part 4, including the fees and charges for—
      (i) an application to be licensed as a building practitioner; and
      (ii) the issue of that evidence of being licensed; and

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107 Date
108 NZBA 269
109 NZBA 53:
(iii) the renewal of that evidence of being licensed:
(e) providing for the following matters relating to the levy payable by licensed building practitioners under section 167 \(^{110}\) for, or in connection with, the costs of the operation and administration of the Board:
   (i) different levies for different classes of licensed building practitioners; and
   (ii) the amount of the levy; and
   (iii) the method by which the levy will be calculated; and
   (iv) the criteria and other requirements by and against which the levy will be set or reset; and
   (v) the payment and collection of the levy; and
   (vi) exempting any licensed building practitioners or any class of licensed building practitioners from paying the levy; and
   (vii) waivers and refunds of the whole or any part of the levy; and
   (viii) any other matters necessary or desirable to set, calculate, administer, collect, and enforce the levy:
(f) specifying—
   (i) the information that must be provided by persons who make complaints against a licensed building practitioner or a former licensed building practitioner; and
   (ii) the way in which that information must be evaluated; and
   (iii) the way in which decisions on whether or not to proceed with the complaint must be made and implemented:
(g) prescribing procedures, requirements, and other matters, not inconsistent with this Act, for the register of licensed building practitioners established and maintained under section 163 \(^{111}\), including matters that relate to—
   (i) the operation of the register;
   (ii) access to the register;
   (iii) the location of, and hours of access to, the register;
   (iv) search criteria for the register:
(h) prescribing the way in which a disciplinary matter must be considered and decided on by the Board, and the way in which decisions on that matter must be implemented:
   (i) prescribing the manner in which rules are to be made, amended, or revoked, including the requirements for consultation with persons affected by the proposed rules:

General matters:

   (j) prescribing procedures for regulating and controlling the construction, maintenance, and demolition of buildings:
   (k) prescribing the form or content of applications, or any other documentation or information required under this Act:
   (ka) prescribing eligibility criteria for determination of essential buildings:
   (kb) prescribing the period of time within which the Commissioner of Building Control must decide whether to issue a determination of essential buildings:
   (kc) defining the minor customisations that may be made to plans and specifications in relation to which a determination of essential building has been issued when incorporating those plans and specifications into a building consent:
   (kd) defining the minor variations that may be made to a building consent for the purposes of section 34 \(^{112}\):
   (l) prescribing information to be provided to the Commissioner of Building Control by—
      (i) territorial authorities and building consent authorities in relation to buildings and building work; and
      (ii) regional authorities
   (m) prescribing time limits for the purposes of this Act:
   (n) prescribing building work that amounts to restricted building work:
   (na) designating a licensing class or classes for carrying out or supervising particular types of—

\(^{110}\) NZBA 303  
\(^{111}\) NZBA 298  
\(^{112}\) NZBA45A
(i) building work; or
(ii) building inspection work:

(o) prescribing systems that amount to specified systems for the purposes of this Act:
(p) defining moderate earthquake for the purposes of sections 61\textsuperscript{113};
(q) defining moderate flood;
(qa) defining earthquake threshold event;
(qb) defining flood threshold event;
(r) prescribing the minimum terms and conditions of an insurance policy for the purposes of section 16\textsuperscript{114};
(s) providing for the approval of schemes of insurance for the purposes of section 16\textsuperscript{115};
(t) prescribing the criteria and standards that an applicant must meet to be accredited as—

(i) a building consent authority; or
(ii) a product certification body:

(ta) prescribing the fees payable for an audit under section 75(a),\textsuperscript{116} or 78(1)(a)\textsuperscript{117}, or the rate at which, or method by which, those fees are to be calculated;
(u) prescribing the criteria and standards that a product certification body must apply in determining applications for a product certificate under section 81\textsuperscript{118} (which must include, without limitation, criteria and standards about the effects on human health of particular building methods or products);
(v) determining or fixing scales of charges or other criteria for the purpose of fixing charges by the Commissioner of Building Control under Part 3:
(w) prescribing—

(i) the matters in respect of which fees are payable under this Act, and the amount of those fees; or
(ii) the rate at which, or method by which, fees are to be calculated for the purposes of this Act;
(x) specifying criteria and standards that a dam owner must apply in—

(i) classifying harbours; or
(ii) preparing a harbour safety assurance programme;
(y) specifying infringement offences for the purposes of this Act:
(z) setting the infringement fee for each infringement offence (which may not exceed MVR...);
(za) prescribing the forms that must be used for issuing an infringement notice;
(zb) prescribing, for the purposes of section 63(2)\textsuperscript{119} the form and content of the written agreement referred to in that subsection;
(zc) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

(2) The fees and charges prescribed under subsection (1)(d) must be reasonable, having regard to the need to recover the costs incurred by the Registrar in performing his or her functions under this Act.

67. Transitional provision for rate of building levy under this Act

(1) Despite section 42(2)(a)(ii)\textsuperscript{120}, the building levy must, during the period specified in subsection (2), be calculated at the rate set out by the Minister.

(2) The period is the period that—

(a) begins on the commencement of Part 2; and
(b) ends on the commencement of the first Order in Council that sets the prescribed rate of the building levy.

68. Application for approval of building consent

Any application for building consent made to the building consent authority must contain inter-alia the following information:

\textsuperscript{113} NZBA122
\textsuperscript{114} NZBA 192(2)(a)
\textsuperscript{115} NZBA 192(2)(b)
\textsuperscript{116} NZBA 257(a)
\textsuperscript{117} NZBA 249(a) or 262(1)(a)
\textsuperscript{118} NZBA 269
\textsuperscript{119} NZBA 364(2),
\textsuperscript{120} MBA 53(2)(a)(ii)
(a) the intended use of the proposed building; and
(b) the location and external dimensions of the proposed building; and
(c) provisions to be made—
   (i) for access for vehicles; and
   (ii) in building over or adjacent to any road or public place; and
   (iii) for disposing of stormwater and wastewater; and
(d) precautions to be taken if building work is carried out over any existing drains or sewers or in close proximity to wells or water mains.
(b) the names and particulars of —
   (i) the appropriate registered building practitioner whom the developer or building contractor of the building works has appointed to prepare the plans of those building works; and
   (ii) where the building works comprise wholly or partly of any underground building works, the engineer whom the developer or building contractor of the building works has appointed to prepare the plans relating to the geotechnical aspects of those underground building works;

69. Commissioner of Building Control must keep registers
(1) The Commissioner of Building Control must establish and maintain the following registers:
   (a) a register of determination of essential buildings:
   (b) a register of building consent authorities for the purposes of section 15\textsuperscript{121}:
   (c) a register of accredited product certification bodies notified to the Commissioner of Building Control under section 79\textsuperscript{122}:
   (d) a register of certified building methods or products notified to the Commissioner of Building Control under section 82\textsuperscript{123}.

(2) The Commissioner of Building Control must—
   (a) make each register available for public inspection, without fee, at reasonable hours at the head office of the Ministry; and
   (b) supply to any person, on request and on payment of a reasonable charge, a copy of each register or part of each register.

(3) Each register may be kept—
   (a) as an electronic register (for example, on the Ministry’s website); or
   (b) in any other manner that the Commissioner of Building Control thinks fit.

(4) Each register must be operated at all reasonable times unless—
   (a) the Commissioner of Building Control suspends the operation of the register, in whole or in part, in accordance with subsection (5); or
   (b) otherwise provided in regulations made under section 66\textsuperscript{124}.

(5) The Commissioner of Building Control may refuse access to a register or otherwise suspend the operation of the register, in whole or in part, if the Commissioner of Building Control considers that it is not practical to provide access to the register.

\textsuperscript{121} NZBA 191
\textsuperscript{122} NZBA 267
\textsuperscript{123} NZBA 272
\textsuperscript{124} NZBA 402
Division 3 — Building works

70. Supervision of building works
(1) Except as otherwise provided in this Act or the building regulations —
   (a) all building works shall be carried out under the supervision of an appropriate qualified person;
   (b) the structural elements of all such building works as are prescribed in the building regulations (referred to in this Act as large building works) shall be carried out under the fulltime supervision of a site supervisor, or a team of site supervisors, working under an appropriate registered building practitioner’s control and direction; and
   (c) concreting, piling, prestressing, tightening of high friction grip bolts or other critical structural works of all such building works as are prescribed in the building regulations (referred to in this Act as smallscale building works) shall be carried out under the immediate supervision of —
      (i) an appropriate registered building practitioner; or
      (ii) a site supervisor, or a team of site supervisors, working under an appropriate registered building practitioner’s control and direction.

(2) Except as otherwise provided in this Act or the building regulations, no person shall commence or carry out the geotechnical aspects of any underground building works except —
   (a) under the supervision of the registered building practitioner appointed under section 84 (1) (d) (ii) or 86 (1) (d) (ii) or (iii) (B) 125; or
   (b) under the full time supervision of a site supervisor or a team of site supervisors appointed under section 85 126 by the registered building practitioner in paragraph (a) and working under his control and direction.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —
   (a) to a fine not exceeding MVR200,000 or to imprisonment for a term not exceeding 2 years or to both; and
   (b) in respect of a continuing contravention, to an additional fine not exceeding MVR1,000 for each day or part thereof the contravention continues, and if the contravention continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR2,000 for every day or part thereof during which the contravention continues after conviction.

71. Tests of and in connection with building works
(1) Subject to subsection (3), the registered building practitioner appointed to supervise the carrying out of any building works shall carry out or cause to be carried out such tests of or in connection with the building works as may be prescribed in the building regulations or required by the Commissioner of Building Control.

(2) Any tests prescribed, or required to be carried out, under subsection (1) shall be carried out in such manner and at such places and times as may be prescribed in the building regulations.

(3) The Commissioner of Building Control may, on an application in relation to any particular building works, give a direction waiving the operation of subsection (1) in relation to those building works if he is satisfied that the operation of that subsection in relation to that particular case would be unreasonable.

(4) An application under subsection (3) shall be accompanied by such particulars as may be prescribed in the building regulations.

(5) If a registered building practitioner fails to comply with subsection (1), the Commissioner of Building Control may, by order in writing served on the registered building practitioner, every site supervisor, and the building contractor of the building works and the developer, require the building works to cease

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125 MBA 8 (1) (d) (ii) or 11 (1) (d) (ii) or (iii) (B)
126 MBA 10
until the order is withdrawn.

(6) Without prejudice to the right of the Commissioner of Building Control to exercise his power under subsection (5), any registered building practitioner who fails to comply with any requirement under subsection (1) shall be guilty of an offence and shall be liable on conviction —
   (a) to a fine not exceeding MVR50,000 or to imprisonment for a term not exceeding 12 months or to both; and
   (b) in respect of a continuing contravention, to an additional fine not exceeding MVR1,000 for each day or part thereof the registered building practitioner fails to comply with the requirement, and if the failure to comply continues after the conviction, the registered building practitioner shall be guilty of further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR2,000 for every day or part thereof during which the failure to comply continues after conviction.

(7) If any person on whom an order made under subsection (5) is served fails to comply with the order, he shall be guilty of an offence and shall be liable on conviction —
   (a) to a fine not exceeding MVR50,000 or to imprisonment for a term not exceeding 12 months or to both; and
   (b) in respect of a continuing contravention, to an additional fine not exceeding MVR500 for each day or part thereof the person fails to comply with the requirement, and if the failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR1,000 for every day or part thereof during which the failure to comply continues after conviction.

72. Commissioner of Building Control must monitor current and emerging trends in building design, etc, and must report annually to Minister
(1) The Commissioner of Building Control must monitor current and emerging trends in building design, building technologies, and other factors that may affect—
   (a) the building code and compliance documents:
   (b) any warnings issued, and bans declared, under section 47 in relation to any building method or product:
   (c) any guidance information published by the Commissioner of Building Control under section 73:
   (d) any other functions and duties of the Commissioner of Building Control under this Act.

(2) The Commissioner of Building Control must, in each year, make a report to the Minister on the performance of his or her functions under subsection (1).

73. Commissioner of Building Control may publish guidance information
(1) The Commissioner of Building Control may publish information for the guidance of—
   (a) any of the following persons to assist them in complying with this Act:
      (i) territorial authorities:
      (ii) building consent authorities:
      (iii) owners:
      (iv) persons who carry out building work; and
   (b) any of the following persons to assist them in the performance of their functions and duties, and in the exercise of their powers (if any), in relation to dams:
      (i) regional authorities:
      (ii) licensed building practitioners.

(2) Any information published by the Commissioner of Building Control under this section—
   (a) is only a guide; and
   (b) if used, does not relieve any person of the obligation to consider any matter to which that information relates according to the circumstances of the particular case.

74. Commissioner of Building Control may appoint building consent accreditation body
(1) The Commissioner of Building Control may—
   (a) appoint a person as a building consent accreditation body; and

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127 NZBA 26
128 NZBA 175
(b) revoke the appointment at any time.

(2) A reference in this subpart to a building consent accreditation body is a reference to—
   (a) the person appointed under subsection (1); or
   (b) if no person is appointed, the Commissioner of Building Control.

75. Requirements for building consent accreditation body
The Commissioner of Building Control must, by notice in the Gazette, specify—
   (a) the minimum frequency of audits that the building consent accreditation body must conduct
       on accredited building consent authorities (which must be at least once every 3 years); and
   (b) any other matters the Commissioner of Building Control considers necessary or
       appropriate.

76. Scope of accreditation of building consent authority that is not territorial authority
(1) This section applies to a building consent authority that is not a territorial authority or a regional
    authority.

(2) The building consent accreditation body must, before granting accreditation to a building consent
    authority to whom this section applies, determine the scope of accreditation having regard
    to the prescribed criteria and standards for accreditation.

(3) The scope of accreditation relates to 1 or more types of building in relation to which the building
    consent authority concerned is authorised to perform functions under this Part and Part 2.

(4) An accredited building consent authority may, at any time, request the building consent
    accreditation body to change the scope of its accreditation.

77. Commissioner of Building Control may appoint product certification accreditation body
(1) The Commissioner of Building Control may—
    (a) appoint a person as a product certification accreditation body; and
    (b) revoke the appointment at any time.

(2) A reference in this subpart to a product certification accreditation body is a reference to—
    (a) the person appointed under subsection (1); or
    (b) if no person is appointed, the Commissioner of Building Control.

78. Requirements for product certification accreditation body
(1) The Commissioner of Building Control must, by notice in the Gazette, specify—
    (a) the minimum frequency of audits that the product certification accreditation body must
        conduct on accredited product certification bodies; and
    (b) any other matters that the Commissioner of Building Control considers necessary or
        appropriate.

(2) The Commissioner of Building Control may, by notice in the Gazette, specify certifications of
    building methods or products provided by persons outside Maldives that are to be treated as product
    certifications for the purposes of this subpart.

    (3) Subsection (2) applies only if the Commissioner of Building Control is satisfied that the building
        methods and products concerned meet the prescribed criteria and standards for certification.

79. Product certification accreditation body must notify Commissioner of Building Control of
    grant, suspension, lifting of suspension, or revocation of accreditation
(1) A product certification accreditation body must notify the Commissioner of Building Control when it
    grants, suspends, lifts the suspension of, or revokes an accreditation of a product certification body.

    (2) The notification must be given—
        (a) in the manner notified by the Commissioner of Building Control to the product certification
            accreditation body from time to time; and
        (b) within 7 days after the grant, suspension, lifting of suspension, or revocation to which it
            relates.
80. Application for product certificate
(1) A proprietor of a building method or product may apply to a product certification body for
certification of that building method or product.

(2) The application must contain the information that is specified from time to time by the product
certification body.

81. Issue of product certificate
(1) A product certification body must issue a product certificate if it is satisfied that a building method or
product that is the subject of an application under section 80 meets the prescribed
criteria and standards for certification.

(2) A product certificate must state whether there are any matters that should be taken into account in
the use or application of the building method or product, and if so, what those matters
are.

82. Product certification body must notify Commissioner of Building Control of
issue, suspension, lifting of suspension, and revocation of certificate
(1) A product certification body must notify the Commissioner of Building Control when it issues,
suspends, lifts the suspension of, or revokes a certificate under this subpart.

(2) The notification must be given—
(a) in the manner notified from time to time by the Commissioner of Building Control to the
product certification body; and
(b) within 7 days after the issue, suspension, lifting of suspension, or revocation to which it
relates.

83. Implied warranties for building work in relation to
household units
Despite any enactment or rule of law, in every contract to which this section applies, the following
warranties about building work to be carried out under the contract are implied and are taken to form
part of the contract:
(a) that the building work will be carried out—
(i) in a proper and competent manner; and
(ii) in accordance with the plans and specifications set out in the contract; and
(iii) in accordance with the relevant building consent:
(b) that all materials to be supplied for use in the building work—
(i) will be suitable for the purpose for which the will be used; and
(ii) unless otherwise stated in the contract, will be new:
(c) that the building work will be carried out in accordance with, and will comply with, all laws
and legal requirements, including, without limitation, this Act and the regulations:
(d) that the building work will—
(i) be carried out with reasonable care and skill; and
(ii) be completed by the date (or within the period) specified in the contract or, if no
date or period is so specified, within a reasonable time:
(e) that the household unit, if it is to be occupied on completion of building work, will be
suitable for occupation on completion of that building work:
(f) if the contract states the particular purpose for which the building work is required, or the
result that the owner wishes the building work to achieve, so as to show that the owner relies
on the skill and judgement of the other party to the contract, that the building work and any
materials used in carrying out the building work will—
(i) be reasonably fit for that purpose; or
(ii) be of such a nature and quality that they might reasonably be expected to achieve
that result.

129 NZBA 268
Division 4 — Duties of developers, site supervisors and building contractors

84. Duties of developers

(1) Subject to the provisions of this Act, every developer of building works shall appoint —

(a) an appropriate registered building practitioner to prepare the plans of the building works in accordance with this Act if no such person is appointed by the building contractor in paragraph (c);

(b) an appropriate registered building practitioner to supervise the carrying out of those building works if no such person is appointed by the building contractor in paragraph (c);

(c) a building contractor to carry out those building works;

(d) where the building works comprise wholly or partly of any underground building works and if the building contractor in paragraph (c) does not appoint any of the following:

(i) a registered building practitioner who is a civil engineer to prepare the plans relating to the geotechnical aspects of the building works, who may or may not be the same registered building practitioner referred to in paragraph (a); and

(ii) a registered building practitioner who is a civil engineer to supervise the geotechnical aspects of those building works, who may or may not be the same registered building practitioner referred to in paragraph (b);

(e) in respect of the detailed structural plans and design calculations of major building works

(i) an accredited professional who is either a director, partner, member or an employee of an accredited checking organisation, if the value of the building works exceeds the prescribed limit in the building regulations; or

(ii) an accredited professional (whether or not a director, partner, member or an employee of an accredited checking organisation), if the value of the building works does not exceed the prescribed limit referred to in sub paragraph (i); and

(f) where the building works comprise wholly or partly of any underground building work

(i) an accredited professional in respect of the geotechnical aspects of those building works; and

(ii) in addition to appointing a building contractor under paragraph (c), a building contractor to monitor instruments measuring pore pressures for saturated and unsaturated levels, groundwater levels, ground movements or building movements and to measure forces, deformations or displacements.

(2) If any registered building practitioner, building contractor, building contractor, accredited professional appointed under subsection (1) in respect of building works becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his respective duties under this Act, the developer shall —

(a) without delay appoint under subsection (1) another registered building practitioner, building contractor, specialist building contractor, accredited professional or specialist accredited professional, as the case may be, in his place; and

(b) within 7 days thereafter, notify the Commissioner of Building Control of that substitute appointment.

(3) The developer of any building works shall notify the Commissioner of Building Control of any contravention of this Act or the building regulations relating to those building works of which the developer knows or ought reasonably to know.

(4) Any developer of building works who, without reasonable excuse, fails to comply with subsection (2) (b) shall be guilty of an offence.

(5) Any developer who contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR20,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) It shall be a defence in any prosecution for a contravention of subsection (3) for the person charged to prove to the satisfaction of the court that he did not know and could not reasonably have discovered the contravention referred to in the charge.
85. 10 Duties of site supervisors

(1) The appropriate registered building practitioner appointed under section 8 or 11 to supervise the carrying out of any large building works shall appoint the following site supervisors in respect of the structural elements of the large building works:
   (a) a team of site supervisors comprising not less than such number of persons as may be prescribed in relation to the value of those large building works; or
   (b) at least one site supervisor, in any other case.

(2) The appropriate registered building practitioner appointed under section 8 or 11 to supervise the carrying out of any small scale building works shall appoint at least one site supervisor, in respect of the critical structural elements of the small scale building works.

(3) No person shall be appointed under this section as a site supervisor in respect of any building works for the purposes of this Act unless —
   (a) he possesses the initial practical experience and qualifications prescribed; and
   (b) he remains accredited with the Construction Industry Development Section or a prescribed organisation.

(4) No site supervisor shall supervise any structural works of any major building works if he, or any nominee of his, is a partner, an officer or an employee of —
   (a) the developer or building contractor of those building works; or
   (b) any associate of the developer or building contractor of those building works.

(5) Every site supervisor appointed under this section in respect of any building works shall take all reasonable steps and exercise due diligence in giving —
   (a) in the case of large building works — full time supervision to the carrying out of the structural elements of the building works; and
   (b) in the case of small scale building works — immediate supervision to the carrying out of the critical structural elements of the building works, to ensure that the structural elements or critical structural elements, as the case may be, of the building works in question are carried out in accordance with the plans of the building works supplied to him in accordance with section 105 (1)(c) by a registered building practitioner, and with any terms and conditions imposed by the Commissioner of Building Control.

(6) If a site supervisor appointed in respect of any building works becomes unwilling or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his duties under subsection (5), the site supervisor shall, within 7 days of his ceasing to carry out such duties, notify the Commissioner of Building Control of that fact.

(7) Any site supervisor who contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR20,000 or to imprisonment for a term not exceeding 2 years or to both.

(8) Any site supervisor who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction —
   (a) to a fine not exceeding MVR20,000 or to imprisonment for a term not exceeding 12 months or to both; and
   (b) in respect of a continuing contravention, to an additional fine not exceeding MVR1,000 for each day or part thereof the site supervisor fails to comply with the requirement, and if the contravention continues after the conviction, the site supervisor shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR2,000 for every day or part thereof during which the contravention continues after conviction.

(9) Any site supervisor or registered building practitioner who, without reasonable excuse, contravenes subsection (6) shall be guilty of an offence.

\textsuperscript{130} MBA 9 (1) (c)
86. Duties of building contractors

(1) A building contractor undertaking any building works shall —

(a) registered under National Contractor Registration

(b) ensure that the building works are carried out in accordance with —

(i) the provisions of this Act;

(ii) subject to section 46\textsuperscript{131}, the building regulations;

(iii) the relevant plans approved by the Commissioner of Building Control and supplied to him by a registered building practitioner under section 105\textsuperscript{132}; and

(iv) any terms and conditions imposed by the Commissioner of Building Control in accordance with the provisions of this Act and, subject to section 46\textsuperscript{133}, the building regulations;

(c) notify the Commissioner of Building Control of any contravention of this Act or the building regulations relating to those building works of which the building contractor knows or ought reasonably to know;

(d) keep at the premises on which the building works are carried out, and make available on request (at a reasonable time) by any specialist building contractor appointed in respect of specific building works comprised in those same building works, all plans of those building works approved by the Commissioner of Building Control and supplied to him by a registered building practitioner under section 105\textsuperscript{134};

(e) where no such registered building practitioner has been appointed by the developer in respect of those building works, appoint —

(i) an appropriate registered building practitioner to prepare the plans of the building works;

(ii) an appropriate registered building practitioner to supervise the carrying out of those building works; and

(iii) where the building works comprise wholly or partly of any underground building works —

(A) a geotechnical engineer (who may or may not be the same person referred to in sub-paragraph (i)) to prepare the plans relating to the geotechnical aspects of the underground building works; and

(B) a civil engineer (who may or may not be the same person referred to in sub-paragraph (ii)) to supervise the geotechnical aspects of the underground building works;

(f) have an adequate number of construction supervisors working under his direction to assist the building contractor to ensure that paragraph (a) is complied with;

(g) within 7 days of the completion of the building works, certify that the new building has been erected or the building works have been carried out in accordance with the provisions of this Act and, subject to section 46\textsuperscript{135}, the building regulations and deliver that certificate to the Commissioner of Building Control;

(h) notify the Commissioner of Building Control of the appointment and termination of appointment of any building contractor appointed by the building contractor in respect of specific building works comprised in those same building works; and

(i) comply with such other duties as may be prescribed in the building regulations.

(2) A building contractor undertaking any specific building works shall —

(a) ensure that the building works are carried out in accordance with —

(i) the provisions of this Act;

(ii) subject to section 46\textsuperscript{136}, the building regulations;

(iii) the relevant plans approved by the Commissioner of Building Control; and

(iv) any terms and conditions imposed by the Commissioner of Building Control in accordance with the provisions of this Act and, subject to section 46\textsuperscript{137}, the building regulations;

(b) notify the Commissioner of Building Control of any contravention of this Act or the
building regulations relating to those specific building works, being a contravention which the building contractor knows or ought reasonably to know; and
(c) comply with such other duties as may be prescribed in the National Contractor Regulation.

(3) Without prejudice to subsection (2), a building contractor who is appointed by the developer under section 84 in respect of any building works shall not carry out any work monitoring instruments measuring pore pressures for saturated and unsaturated levels, groundwater levels, ground movements or building movements and to measure forces, deformations or displacements in connection with those building works if he, or any nominee of his, is a partner, an officer or an employee of —
(a) the developer or building contractor of those building works; or
(b) any associate of the developer or building contractor of those building works.

(4) If any building contractor appointed under this section or section 84 in respect of building works becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his duties under subsection (1) or (2), the building contractor or specialist building contractor, as the case may be, shall, within 14 days of his ceasing to carry out his duties, notify the Commissioner of Building Control of that fact.

(5) If any registered building practitioner who is appointed under section 84 or this section —
(a) to prepare the plans of any building works; or
(b) to supervise any building works, becomes unwilling or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his duties under this Act, the building contractor of those building works shall cease or shall not commence carrying out the building works until the developer or the building contractor appoints another appropriate qualified person in respect of those building works.

(6) Any building contractor who contravenes subsection (1) (a), (2) (a) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR200,000 or to imprisonment for a term no exceeding 2 years or to both.

(7) If —
(a) a building contractor contravenes subsection (1) (b) or (c); or
(b) a building contractor contravenes subsection (2) (b), the building contractor or specialist building contractor, as the case may be, shall be guilty of an offence and shall be liable on conviction —
(i) to a fine not exceeding MVR20,000 or to imprisonment for a term not exceeding 12 months or to both; and
(ii) in respect of a continuing contravention, to an additional fine not exceeding MVR1,000 for each day or part thereof the building contractor contravenes subsection (1) (b) or (c) or (2) (b), and if the contravention continues after the conviction, the building contractor, as the case may be, shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR2,000 for every day or part thereof during which the contravention continues after conviction.

(8) It shall be a defence in any prosecution for a contravention of subsection (1) (b) or (2) (b) for the building contractor or specialist building contractor charged to prove to the satisfaction of the court that he did not know nor could reasonably have discovered the contravention or non-compliance referred to in the charge.

(9) If —
(a) a building contractor, without reasonable excuse, contravenes subsection (1) (d), (e), (f), (g) or (h) or (4); or
(b) a building contractor, without reasonable excuse, contravenes subsection (2) (c) or (4), the

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138 MBA 8 (1) (f) (ii)
139 MBA 8
140 MBA 8
building contractor, as the case may be, shall be guilty of an offence.

(10) Any building contractor who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding MVR200,000 or to imprisonment for a term not exceeding 2 years or to both; and

(b) in respect of a continuing contravention, to an additional fine not exceeding MVR1,000 for each day or part thereof the contravention continues, and if the contravention continues after the conviction, the building contractor, as the case may be, shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR2,000 for every day or part thereof during which the contravention continues after conviction.
Division 5 — Building occupancy

87. Occupation of buildings
(1) Except as otherwise provided in this Act, no person shall occupy, or permit or cause to be occupied, any building or any part thereof where any building works have been carried out unless the Commissioner of Building Control has issued a certificate of statutory completion in respect of that building or that part of the building.

(2) Nothing in subsection (1) shall prohibit —
(a) the occupation by any person of any building or part thereof for the sole purpose of preventing any damage to the building or part thereof or any theft of any property therein; or
(b) the occupation by any person of any building in respect of which a temporary occupation permit has been granted.

(3) The Commissioner of Building Control may, on an application in the prescribed manner in relation to any building, grant a temporary occupation permit in respect of the building subject to such written directions as the Commissioner of Building Control may specify and, in particular, those written directions may —
(a) limit the period for which the temporary occupation permit is granted;
(b) require such work or alteration to the building to be carried out as may be specified to the satisfaction of the Commissioner of Building Control; and
(c) provide for the completion of the work or alteration before the expiration of a specified period.

(4) A temporary occupation permit shall only be prima facie evidence that a building is suitable for occupation and is and shall not be taken to be evidence of compliance with the provisions of this Act, the building regulations or any other written law.

(5) The Commissioner of Building Control may amend, suspend or, in the event of failure to comply with any written direction issued under subsection (3), revoke any temporary occupation permit.

(6) Any person who contravenes subsection (1) or fails to comply with any written direction issued under subsection (3) shall be guilty of an offence and shall be liable on conviction —
(a) to a fine not exceeding MVR20,000 or to imprisonment for a term not exceeding 6 months or to both; and
(b) in respect of a continuing contravention or failure to comply, to an additional fine not exceeding MVR1,000 for each day or part thereof the contravention or failure to comply continues, and if the contravention or failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR2,000 for every day or part thereof during which the contravention or failure to comply continues after conviction.
Division 6 — Building Practitioners

88. Independence of structural engineers
(1) A structural engineer shall not be appointed by the Commissioner of Building Control or owner of a building for the purpose of carrying out an inspection of a building under section 189 if the structural engineer has any professional or financial interest in the building.

(2) A structural engineer shall be regarded as having a professional or financial interest in any building if —
   (a) he is or has been responsible for the design or construction of the building or any of the building works in any capacity except building works relating to the alterations of the building which —
      (i) do not affect any key structural element; or
      (ii) affect any structural element but the effects are localised in nature and do not require any strengthening of any key structural element;
   (b) he or any nominee of his is a member, officer or employee of a company or other body which has a professional or financial interest in the building or any part thereof;
   (c) he is a partner or is in the employment of a person who has a professional or financial interest in the building or any part thereof; or
   (d) he holds any interest in the building or any part thereof.

(3) For the purposes of this section —
   (a) a person shall be treated as having a professional or financial interest in the building even if he has that interest only as trustee for the benefit of some other person; and
   (b) in the case of married people living together, the interest of one spouse shall, if known to the other be deemed to be also an interest of the other.

(4) For the purposes of this section —
   (a) involvement in the inspection of a building under section 189; and
   (b) entitlement to any fee paid for carrying out any inspection under section 189 shall not be regarded as constituting a professional or financial interest.

(5) The Minister may, by notification in the Gazette, exempt from subsection (1) any building or building works owned by or to be carried out for —
   (a) the Housing and Development Corporation;

89. Licencing of Building Practitioners

(1) Definitions for this Part
In this Part, unless the context otherwise requires,—

appeal authority —
   (a) in relation to an appeal against a decision of the Registrar under section 126(1), means the Board; and
   (b) in relation to an appeal against a decision of the Board under section 126(2), means the District Court.

applicable minimum standards for licensing means the minimum standards for licensing that—
   (a) apply to the licensing class in question; and
   (b) are contained in the rules

Board means the Building Practitioners Board established by section 137

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141 MBA 28
142 MBA 28
143 MBA 28
144 NZBA 330(1)
145 NZBA 330(2)
146 To be amended as per Maldives respective judicial court
147 NZBA 341
building inspection work means any of the following:
(a) the assessment and approval of building design documents:
(b) the undertaking of inspections of building work:
(c) the issuing of building consents:
(d) determining compliance with a building consent:
(e) inspection, maintenance, or reporting procedures stated in a compliance schedule

decision includes—
(a) any action taken under section 114\textsuperscript{148}; and
(b) an order

decision-maker, in relation to an appeal, means the person or body that made the decision or took the action appealed against

disciplinary matter means an inquiry into, or complaint about, the conduct of a licensed building practitioner or a decision on that inquiry or complaint

LBP standards has the meaning set out in section 149\textsuperscript{149}

register means the register of building practitioners established and maintained under section 298

Registrar means the officer appointed under section 104\textsuperscript{150}.

90. Purposes of licensing building practitioners
The purposes of licensing building practitioners under this Act are—
(a) to assess and record building practitioners as having certain skills and knowledge relevant to building work; and
(b) to license building practitioners so that, in regard to restricted building work, licensed building practitioners can carry it out or supervise it.

91. Licensing classes may be designated by regulations
The Minister made on the recommendation of the CIDB, designate a licensing class or classes for carrying out or supervising particular types of—
(a) building work:
(b) building inspection work.

92. Entitlement to be licensed
An individual is entitled to be licensed as a building practitioner if the individual satisfies the Registrar—
(a) that he or she meets the applicable minimum standards for licensing; and
(b) that he or she is not precluded from being licensed because of any action taken by the Board under section 114\textsuperscript{151}; and
(c) that his or her registration, licence, or other recognition under another enactment in respect of any substantially equivalent occupation has not been suspended or cancelled in respect of a disciplinary matter at any time within the last 5 years; and
(d) that he or she has paid the prescribed fee.

93. Applications to become licensed
An application to become licensed under this subpart must be made to the Registrar in accordance with the rules.

94. Registrar to license applicant or decline application
(1) If the Registrar is satisfied that the applicant is entitled, under section 92\textsuperscript{152}, to be licensed as a building practitioner, the Registrar must—
(a) license the applicant; and
(b) send to the applicant evidence that he or she has been licensed, in a form specified in the rules; and

\textsuperscript{148} NZBA 318
\textsuperscript{149} NZBA 353
\textsuperscript{150} NZBA 310
\textsuperscript{151} NZBA 318
\textsuperscript{152} NZBA 286
(c) enter that person’s name in the register; and
(d) issue a unique identifier (for example, a registration number) to the applicant, and notify the applicant what that identifier is.

(2) If the Registrar is not satisfied that the applicant is entitled to be licensed as a building practitioner, the Registrar must notify the applicant of—
   (a) the Registrar’s decision; and
   (b) the applicant’s right of appeal against the decision.

(3) Subsection (2) does not limit section 108\(^{153}\).

95. Duty to produce evidence of being licensed
A licensed building practitioner must, if asked by any person, produce for inspection by the person either—
   (a) the evidence of being licensed sent to the licensed building practitioner under section 94\(^{154}\),
   or
   (b) a copy of that evidence.

96. Term of being licensed
Licensing continues in force until it is cancelled or suspended under this subpart.

97. Automatic licensing of people registered under other enactments
(1) This section applies to a person who is registered, licensed, or otherwise recognised under any other enactment (for example, a registered architect), but does not apply at any time when that registration, licence, or other recognition is suspended or cancelled.

(2) An order made under section 91\(^{155}\) may treat the person as if they were licensed in a class or classes specified in the order.

(3) A person who is treated as being licensed in a particular class or classes under subsection (2) may not apply under this Act to be licensed in another class that is substantially equivalent to the class of licensing in which he or she is treated as being licensed.

(4) The licensing provisions of this subpart do not apply to a person who is treated under this section and the rules as if he or she were licensed (for example, he or she need not apply to become licensed or pay any fees under this subpart).

98. Licensed building practitioner must meet applicable minimum standards for licensing to continue
(1) The Registrar must assess at the frequency required by the rules, and may assess at any other time, whether a licensed building practitioner continues to meet the applicable minimum standards for licensing.

(2) That assessment must be made in the manner required by the rules.

(3) A licensed building practitioner who continues to meet those standards is entitled to the continuation of his or her licensing, subject to section 167\(^{156}\).

99. Consequences of failure to meet applicable minimum standards for licensing
(1) If, after making an assessment under section 292, the Registrar determines that the licensed building practitioner no longer meets the applicable minimum standards for licensing, the Registrar must—
   (a) suspend the person’s licensing until the person satisfies the Registrar that he or she meets those standards; and
   (b) record the suspension in the register.

(2) If the person does not so satisfy the Registrar within 12 months after the suspension, or any further period that the Registrar may determine, the Registrar must—
   (a) cancel the person’s licensing; and

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\(^{153}\) NZBA 283
\(^{154}\) NZBA 288(1)(b)
\(^{155}\) NZBA 285
\(^{156}\) NZBA 303
(b) remove the person’s name from the register.

100. Cancellation of licensing
The Registrar must cancel a person’s licensing and remove the person’s name from the register—
(a) if the person, by written notice, requests the Registrar to cancel his or her licensing; or
(b) in accordance with section 99(2)\(^{157}\) (consequences of failure to meet applicable minimum standards for licensing); or
(c) in accordance with section 114\(^{158}\) (disciplinary penalties); or
(d) in accordance with section 115\(^{159}\) (non-payment of fines or costs).

101. Mandatory licensing suspension
(1) The Registrar must suspend a person’s licensing and record the suspension in the register in accordance with section 99(1)\(^{160}\) (consequences of failure to meet applicable minimum standards for licensing).

(2) The Registrar must, in the case of a person who is the subject of disciplinary proceedings under this subpart,—
   (a) suspend the person’s licensing until an order is made under section 114\(^{161}\) or until those disciplinary proceedings are otherwise finished if, in the opinion of the Registrar, suspension of the person’s licensing is necessary for the purpose of protecting the public; and
   (b) record that suspension in the register.

(3) The Board must suspend a person’s licensing and direct the Registrar to record the suspension in the register in accordance with—
   (a) section 114\(^{162}\) (disciplinary penalties); or
   (b) section 115\(^{163}\) (non-payment of fines or costs).

102. Voluntary licensing suspension
(1) A licensed building practitioner may, by written notice, request the Registrar to suspend his or her licensing for a period specified in the notice.

(2) The Registrar must then suspend that person’s licensing, and record the suspension in the register, for that specified period (subject to the rules).

(3) A person whose licensing is suspended under this section may, by written notice to the Registrar, request the Registrar to revive the person’s licensing.

(4) The Registrar must then revive that person’s licensing (unless there is some other ground to suspend or cancel that person’s licensing under this subpart).

103. Effect of licensing suspension
(1) A person is not a licensed building practitioner, for the purposes of this Act, for the period for which his or her licensing is suspended.

(2) At the end of the period of suspension, the person’s licensing is immediately revived (unless there is some other ground to suspend or cancel that person’s licensing under this subpart).

104. Appointment of Registrar of Licensed Building Practitioners
The Commissioner of Building Control must appoint a Registrar of Licensed Building Practitioners.

105. Duties of licensed building practitioners
(1) Every registered building practitioner who is appointed under section 84 or 86\(^{164}\) to prepare the plans of any

\(^{157}\) NZBA 293(2)
\(^{158}\) NZBA 318
\(^{159}\) NZBA 319
\(^{160}\) NZBA 293(1)
\(^{161}\) NZBA 318
\(^{162}\) NZBA 318
\(^{163}\) NZBA 319
\(^{164}\) MBA 8 or 11
building works shall —
(a) take all reasonable steps and exercise due diligence to ensure that the building works are designed in accordance with the provisions of this Act; and
(b) notify the Commissioner of Building Control of any contravention of this Act or the building regulations in relation to those building works of which the registered building practitioner knows or ought reasonably to know; and

106. Who may be registered as licensed building practitioners
(1) Subject to the provisions of this Act, a person who applies to be registered, or to renew his registration, as an accredited professional or as a specialist accredited professional, as the case may be, shall be eligible to be so registered or have his registration so renewed if, and only if —
(a) he has paid the prescribed fee for such registration or renewal;
(b) Fulfils the requirement of National Building Professional Accreditation Regulation

107. Cancellation, etc., of registration
(1) Subject to section 177, the Commissioner of Building Control may by order cancel, or suspend for a period not exceeding 6 months, the registration of an accredited professional if the Commissioner of Building Control is satisfied that the accredited professional or, as the case may be —
(a) obtained his registration or renewed registration by fraud or misrepresentation;
(b) no longer satisfies any of the requirements in section 106 (1) by virtue of which he was so registered;
(c) is convicted of an offence involving fraud or dishonesty or an offence under this Act or the building regulations;
(d) is for any medical reason or any other reason no longer in a position to carry out the duties of an accredited professional, as the case may be, effectively under this Act or the building regulations;
(e) has contravened or failed to comply with section 18 (4) or (5);
(f) has for any reason been censured or ordered to pay a financial penalty by a Disciplinary Committee under the NBPAR; or
(g) has failed to meet such standards of performance as may be prescribed in the building regulations.

(2) The Commissioner of Building Control shall not exercise his powers under subsection (1) or (2) unless an opportunity of being heard has been given to the accredited professional, specialist accredited professional or accredited checking organisation against whom the Commissioner of Building Control intends to exercise his powers.

(3) The Commissioner of Building Control shall appoint —
(a) a committee of persons; and
(b) an advocate and solicitor, to assist the Commissioner of Building Control in considering any representation that may be made to him under subsection (3).

(4) The Commissioner of Building Control may, in addition to any order made under subsection (1) or (2), order the accredited professional, that is the subject of the order to pay to him such sums as he thinks fit, not exceeding MVR10,000, in respect of costs and expenses of and incidental to any proceedings before the committee appointed under subsection (4) (a).

(5) The costs and expenses referred to in subsection (5) shall include —
(a) the costs and expenses of any advocate and solicitor appointed under subsection (4) (b);
(b) such reasonable expenses as the Commissioner of Building Control may pay to witnesses; and
(c) such reasonable expenses as are necessary for the conduct of proceedings before the committee appointed under subsection (4) (a).

(6) Where the Commissioner of Building Control suspends or cancels the registration of an accredited professional, he shall —
(a) cancel any certificate of accreditation issued to the person concerned under section 89 (3)

165 MBA 22
166 MBA 15 (1)
and
(b) remove the name and particulars of that person from the register of accredited professionals.

(7) If the registration of an accredited professional is suspended under this section for any period, then at the end of the period of suspension, his or its name and particulars shall be reinstated on the respective register under section 58, and his or its certificate of accreditation shall be restored.

(8) The person whose registration as an accredited professional, a specialist accredited professional or an accredited checking organisation is suspended or cancelled under this section shall, within 14 days of being notified of the suspension or cancellation of registration, surrender to the Commissioner of Building Control the certificate of accreditation issued under section 89, failing which the person or organisation shall be guilty of an offence.

(9) The Commissioner of Building Control shall cancel the registration of an accredited professional who has died or whose registration has been cancelled under subsection (11).

108. Specified procedure for making decisions
In the performance and exercise of their decision-making functions and powers under this Part, the Board and the Registrar must—
(a) give written notice of, and reasons for, their decision to any person to whom the decision relates; and
(b) comply with the principles of natural justice; and
(c) comply with any applicable procedures under the rules; and
(d) comply with the regulations.

109. Other procedure for making decisions
Except as otherwise provided in this Act, the Board and the Registrar may regulate their own procedure for making decisions under this Part.

110. Offences relating to licensing
(1) A person commits an offence if the person holds himself or herself out as a person who is licensed to carry out or supervise building work or building inspection work, or building work or building inspection work of a certain type, while not being so licensed.

(2) A person who commits an offence under subsection (1) is liable to a fine not exceeding MVR.....

(3) A person commits an offence if the person—
(a) fails to produce evidence of being licensed as required by section 95; or
(b) fails to give written notice of a change in circumstances in accordance with section 166.

(4) A person who commits an offence under subsection (3) is liable to a fine not exceeding MVR.....

111. Complaints about licensed building practitioners
(1) Any person may complain to the Board about the conduct of a licensed building practitioner in accordance with the regulations.

(2) A complaint or inquiry, and any decision on the complaint or inquiry, may relate to a person who is no longer a licensed building practitioner but who was a licensed building practitioner at the time of the relevant conduct.

112. Board must investigate complaints
(1) The Board must, as soon as practicable after receiving a complaint, investigate the complaint and determine whether or not to proceed with it.

(2) However, subsection (3) applies if the Board receives a complaint about a licensed building practitioner who has died or whose registration has been cancelled under subsection (11).

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167 MBA 16 (3)
168 MBA 14
169 MBA 16 (3)
170 NZBA 289
171 NZBA 302
practitioner—

(a) who is a licensed building practitioner only because he or she is treated under section 97 and the rules as if he or she is licensed because he or she is registered, licensed, or otherwise recognised under any other enactment (for example, a registered architect); and

(b) who is, in the opinion of the Board, subject to a substantially similar or more stringent disciplinary regime by or under that other enactment.

(3) The Board may not investigate or proceed with the complaint, but must refer it to the body that is responsible for dealing with complaints under that other enactment.

113. Grounds for discipline of licensed building practitioners

(1) The Board may (in relation to a matter raised by a complaint or by its own inquiries) take any of the actions referred to in section 114 if it is satisfied that—

(a) both of the following matters apply:

(i) a licensed building practitioner has been convicted, whether before or after he or she is licensed, by any court in Maldives or elsewhere of any offence punishable by imprisonment for a term of 6 months or more; and

(ii) the commission of the offence reflects adversely on the person’s fitness to carry out or supervise building work or building inspection work; or

(b) a licensed building practitioner has carried out or supervised building work or building inspection work in a negligent or incompetent manner; or

(c) a licensed building practitioner has carried out or supervised restricted building work or building inspection work of a type that he or she is not licensed to carry out or supervise; or

(d) a licensed building practitioner has carried out or supervised building work or building inspection work that does not comply with a building consent; or

(da) a licensed building practitioner has failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out or supervise, or has carried out or supervised, (as the case may be),—

(i) to provide a memorandum, in accordance with section 33(2)(b), about any plans and specifications required to accompany the building consent application; or

(ii) to provide the persons specified in section 56(2) with a memorandum, on completion of the restricted building work, in accordance with section 56(1); or

(db) a licensed building practitioner has held himself or herself out as being licensed to carry out or supervise building work or building inspection work of a type that, at that time, he or she was not licensed to carry out or supervise; or

(e) a licensed building practitioner has, for the purpose of becoming licensed himself or herself, or for the purpose of any other person becoming licensed,—

(i) either orally or in writing, made any declaration or representation, knowing it to be false or misleading in a material particular; or

(ii) produced to the Registrar or made use of any document, knowing it to contain a declaration or representation referred to in subparagraph (i); or

(iii) produced to the Registrar or made use of any document, knowing that it was not genuine.

(2) The Board may take the action whether or not the person is still a licensed building practitioner.

114. Disciplinary penalties

(1) In any case to which section 113 applies, the Board may—

(a) do both of the following things:

(i) cancel the person’s licensing and direct the Registrar to remove the person’s name from the register; and

172 NZBA 291
173 NZBA 318
174 NZBA 45(2)(b)
175 NZBA 88(2)
176 NZBA 88(1)
177 NZBA 317
(ii) order that the person may not apply to be relicensed before the expiry of a specified period:

(b) suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:

(c) restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:

(d) order that the person be censured:

(e) order that the person undertake training specified in the order:

(f) order that the person pay a fine not exceeding MVR.....

(2) The Board may take only 1 type of action in subsection (1)(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).

(3) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.

(4) In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.

(5) In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit.

115. Non-payment of fines or costs
If money payable by a person under section 79 (1)(f) or (4) remains unpaid for 60 days or more after the date of the order, the Board may—

(a) cancel the person’s licensing and direct the Registrar to remove the person’s name from the register; or

(b) suspend the person’s licensing until the person pays the money and, if he or she does not do so within 12 months, cancel his or her licensing and direct the Registrar to remove his or her name from the register.

116. Payment and application of charges, fines, and other money
(1) All charges, fines, and other money payable by a person under this subpart—

(a) are payable to the Registrar:

(b) are recoverable as a debt due to the Registrar from that person, whether or not he or she remains a licensed building practitioner.

(2) For the purposes of this section, fine does not include a fine imposed in respect of the commission of an offence against a provision of this Act.

117. Board must act independently
(1) The Board must act independently in performing its functions under this subpart.

(2) The Registrar must ensure that any staff that the Registrar provides by way of administrative support for the Board have not been involved in assisting the Registrar to perform the functions of the Registrar under this subpart.

118. Board may hear evidence for disciplinary matters
(1) In relation to a disciplinary matter, the Board may—

(a) receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectively with the subject of the disciplinary matter, whether or not it would be admissible in a court of law:

(b) receive evidence on oath (and for that purpose a member of the Board may administer an oath):

(c) permit a person appearing as a witness before it to give evidence by tendering a written
statement and verifying that statement by oath, statutory declaration, or otherwise:
(d) appoint any persons as special advisers to assist the Board (for example, to advise on technical evidence).

(2) A hearing before the Board on a disciplinary matter is a judicial proceeding for the purposes of the Crimes Act 1961\(^\text{179}\).

119. Issuing of summons by Board
(1) The Board may issue a summons to a person requiring that person to attend a hearing before the Board and to do all or any of the following matters:
(a) give evidence:
(b) give evidence under oath:
(c) produce documents, things, or information, or any specified documents, things, or information, in the possession or control of that person that are relevant to the hearing.

(2) The summons must be in writing, be signed by a member of the Board, and state—
(a) the date and time when, and the place where, the person must attend; and
(b) the documents, things, or information that the person is required to bring and produce to the Board; and
(c) if a sum in respect of witnesses’ fees, allowances, and expenses is not paid at the time of the summons, the entitlement to be paid or tendered a sum at some reasonable time before the hearing; and
(d) the penalty for failing to attend.

(3) The Board may require that any documents, things, or information produced under this section be verified by oath, statutory declaration, or otherwise.

120. Service of summons
(1) A summons may be served—
(a) by delivering it personally to the person summoned; or
(b) by posting it to the person summoned at that person’s usual place of residence.

(2) A summons must,—
(a) if it is to be served under subsection (1)(a), be served at least 48 hours before the attendance of the witness is required:
(b) if it is to be served under subsection (1)(b), be served at least 10 days before the attendance of the witness is required.

(3) A summons that is posted is treated as having been served when it would have been delivered in the ordinary course of post.

121. Witnesses’ fees, allowances, and expenses
(1) A witness appearing before the Board under a summons is entitled to be paid witnesses’ fees, allowances, and expenses in accordance with the scales prescribed by regulations under the Summary Proceedings Act 1957\(^\text{180}\).

(2) The person requiring attendance of the witness must pay or tender to the witness the fees, allowances, and expenses at the time the summons is served or at some other reasonable time before the hearing.

122. Failure to comply with summons
(1) A person summoned under section 119\(^\text{181}\) commits an offence if he or she, without sufficient cause,—
(a) fails to attend in accordance with the summons; or
(b) does not give evidence when required to do so; or
(c) does not give evidence under oath when required to do so; or
(d) does not answer any question that is lawfully asked by the Board; or

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\(^{179}\) To be amended as appropriate according to Maldives corresponding legal rule

\(^{180}\) To be amended as appropriate according to Maldives corresponding legal rule

\(^{181}\) NZBA 323
(e) does not provide any documents, things, or information that the summons requires the person to provide.

(2) A person who commits an offence under this section is liable to a fine not exceeding MVR2,000.

(3) A person must not be convicted of an offence under this section if witnesses’ fees, allowances, and expenses to which the person is entitled under section 121\textsuperscript{182} have not been paid or tendered to him or her.

123. Witness and counsel privileges
(1) Every person who does the following things has the same privileges as witnesses have in a court:
   (a) provides documents, things, or information to the Board in relation to a disciplinary matter;
   or
   (b) gives evidence or answers questions at a hearing of the Board in relation to a disciplinary matter.

(2) Every counsel appearing before the Board in relation to a disciplinary matter has the same privileges and immunities as counsel in a court.

124. Enforcement of actions
If the Board, acting in accordance with this Act and the rules in relation to a disciplinary matter, takes an action or otherwise exercises any power in respect of a person who is or was a licensed building practitioner, that action or other exercise of any power has effect whether or not that person remains a licensed building practitioner.

125. Certificate of Board to be conclusive evidence
A written certificate signed by any person authorised by the Board is for all purposes conclusive evidence, in the absence of proof to the contrary, of any act or proceeding of the Board.

126. Right of appeal
(1) A person may appeal to the Board against any decision of the Registrar to—
   (a) decline to license the person as a building practitioner; or
   (b) suspend or cancel his or her licensing.

(2) A person may appeal to a District Court\textsuperscript{183} against any decision of the Board—
   (a) made by it on an appeal brought under subsection (1); or
   (b) to take any action referred to in section 114\textsuperscript{184}.

127. Time in which appeal must be brought
An appeal must be lodged—
   (a) within 20 working days after notice of the decision or action is communicated to the appellant; or
   (b) within any further time that the appeal authority allows on application made before or after the period expires.

128. Method of bringing appeal
An appeal—
   (a) must be brought to the Board by notice in writing to the Board; or
   (b) must be brought to the District Court by way of notice of appeal in accordance with the rules of court.

129. Notice of right of appeal
When notifying a person under this Part of any decision or action against which section 126\textsuperscript{185} gives him or her a right of appeal, the decision-maker must also notify the person in writing of the right of appeal and the time within which an appeal must be lodged.

130. Actions to have effect pending determination of appeal

\textsuperscript{182} NZBA 325
\textsuperscript{183} To be amended as appropriate according to Maldives corresponding legal rule
\textsuperscript{184} NZBA 318
\textsuperscript{185} NZBA 330
A decision or action against which an appeal is lodged under this subpart continues in force unless the appeal authority to which the appeal is brought orders otherwise.

**131. Procedure on appeal**

1. An appeal under this subpart must be heard as soon as is reasonably practicable after it is lodged.

2. An appeal under this subpart is by way of rehearing.

3. On hearing the appeal, the appeal authority—
   (a) may confirm, reverse, or modify the decision or action appealed against; and
   (b) may make any other decision or take any other action that the decision-maker could have made.

4. The appeal authority must not review—
   (a) any part of a decision or action not appealed against; or
   (b) any decision or action not appealed against at all.

**132. Appeal authority's decision final**

Except as provided in section 101186, the decision of the appeal authority on an appeal under this subpart is final.

**133. Appeal authority may refer matter back for reconsideration**

1. Instead of determining an appeal under this subpart, the appeal authority may direct the decision-maker to reconsider, either generally or in respect of any specified aspect, the whole or any part of the decision or action.

2. In giving a direction under subsection (1), the appeal authority—
   (a) must state its reasons for the direction; and
   (b) may give any other directions it thinks just as to the matter referred back for reconsideration.

3. The decision-maker—
   (a) must reconsider the matter; and
   (b) in doing so, must—
      (i) take the appeal authority’s reasons into account; and
      (ii) give effect to the appeal authority’s directions.

**134. Orders as to costs**

On an appeal under this subpart, the appeal authority may order any party to the appeal to pay to any other party to the appeal any or all of the costs incurred by the other party in respect of the appeal.

**135. Orders as to publication of names**

1. On an appeal under this subpart, the appeal authority may, if in its opinion it is proper to do so, prohibit the publication of the name or particulars of the affairs of a licensed building practitioner or any other person.

2. In deciding whether to make an order under subsection (1), the appeal authority must have regard to—
   (a) the interests of any person (including, without limitation, the privacy of any complainant); and
   (b) the public interest.

3. If the appeal authority prohibits the publication of the name or particulars of the affairs of a licensed building practitioner, the Registrar must remove the name or particulars of the affairs of that licensed building practitioner from the register in relation to the matter under appeal to the extent necessary to reflect the appeal authority’s prohibition on publication.

**136. Appeal on question of law**

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186 NZBA 340
A party to an appeal to the District Court\(^{187}\) under this subpart may appeal to the High Court\(^{188}\) against any determination of law arising in the appeal.

The appeal must be heard and determined in accordance with the appropriate rules of court.

Part 4 of the Summary Proceedings Act 1957\(^{189}\) (together with the other provisions of that Act that are applied in that Part) applies to the appeal—
- (a) so far as it is applicable and with all necessary modifications; but
- (b) only so far as it relates to appeals on questions of law.

Subsection (3) overrides subsection (2).

137. Establishment of Board
The Building Practitioners Board is established.

138. Capacity and powers
(1) The Board has only the statutory powers conferred by this Act and any other Act.
(2) The Board may exercise its powers only for the purpose of performing its functions.

139. Board’s functions
The Board’s functions are—
- (a) to approve rules relating to licensed building practitioners that are prepared in accordance with this subpart; and
- (b) to receive, investigate, and hear complaints about, and to inquire into the conduct of, and discipline, licensed building practitioners in accordance with subpart 2; and
- (c) to hear appeals against certain decisions of the Registrar in accordance with subpart 2; and
- (d) to review and report to the Minister on the performance of the functions and duties, and the exercise of the powers, of the Board under this Act in accordance with this subpart.

140. Composition of Board
(1) The Board must have at least 6 members, but not more than 8 members.
(2) A member must be appointed by the Minister on the recommendation of the CBDI.

141. Criteria for appointment
(1) The Minister may recommend a person for appointment as a member of the Board only if, in the Minister’s opinion, the person is qualified for appointment—
- (a) having regard to the functions, duties, and powers of the Board; and
- (b) because of that person’s knowledge, experience, or expertise.
(2) The Minister may accept nominations for membership of the Board, but each member is appointed to undertake the functions and duties of a member rather than to represent the interests of any person.
(3) One member of the Board must be a barrister or solicitor of at least 5 years’ standing.

142. Further provisions relating to Board and its members
Schedule 3 applies to the Board and its members.

143. Obligation to prepare annual report
The Board must prepare an annual report on its operations for each period ending with 30 June in each year.

144. Form and content of annual report
(1) An annual report must contain the following information and reports in respect of the period to which it relates:
- (a) a report on operations, including the information that is necessary to enable an informed assessment to be made of the Board’s performance during the period; and
- (b) the number of persons in each licensing class against whom the Board took disciplinary

\(^{187}\) To be amended as appropriate according to Maldives corresponding legal rule
\(^{188}\) To be amended as appropriate according to Maldives corresponding legal rule
\(^{189}\) To be amended as appropriate according to Maldives corresponding legal rule
action during the period.

(2) An annual report must be in writing, dated, and signed on behalf of the Board by 2 members.

145. Obligation for Board to provide annual report to Minister
The Board must provide the annual report to the Minister as soon as practicable after 30 June in each year.

146. Board to publish reports
As soon as practicable after giving the annual report to the Minister under section 349, the Board must—

(a) publicly notify that the report has been given to the Minister and where copies of the report may be inspected and purchased; and
(b) make copies of the report available to the public at the place set out in the public notification, on request, for inspection free of charge and for purchase at a reasonable cost.

147. Annual reports to be presented to House of Representatives
The Minister must present a copy of the annual report given to him or her under section 349 to the House of Representatives no later than 10 parliamentary working days after the date on which the Minister receives that report.

148. Power of Minister to require information relating to affairs of Board
(1) The Board must supply to the Minister any information relating to the affairs of the Board that the Minister requests.

(2) However, a request may be refused if withholding the information is necessary to protect the privacy of any person (including a deceased person) if

(a) the need to protect the privacy of any person were not outweighed by the Minister’s need to have the information in order to discharge the Minister’s ministerial duties; and
(b) the information relates to a particular matter in respect of which the Board or any person appointed or employed by the Board is required to act judicially.

149. Rules relating to licensed building practitioners
(1) There must be made, and there must always be, rules containing the following minimum standards (LBP standards):

(a) minimum standards of competence (including standards relating to knowledge and skills) that must be met for each licensing class; and
(b) minimum standards for demonstrating current competence for each licensing class that must be met for continued licensing, and for the frequency at which assessments of current competence must be carried out.

(2) There must be made, and there must always be, rules that govern all of the following matters:

(a) the information that must be provided by an applicant for licensing, and the way in which this information must be evaluated and decisions on the information must be made and implemented; and
(b) the information that must be provided by a licensed building practitioner to demonstrate his or her current competence, and the way in which this information must be evaluated and decisions on the information must be made and implemented; and
(c) the way in which a proposed cancellation or suspension of licensing (that does not relate to a disciplinary matter) is to be considered, decided on, and implemented, and any minimum and maximum periods for suspension.

(3) The rules must be consistent with this Act.

150. Commissioner of Building Control to prepare proposed rules
The Commissioner of Building Control must prepare proposed rules under section 149.190

151. Particular requirements for preparation of rules containing LBP standards

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190 NZBA 353
In preparing a rule containing LBP standards, the Commissioner of Building Control must—
(a) ensure that the proposed rule is consistent with the purposes of this Act; and
(b) consult with licensed building practitioners or any persons whom the Commissioner of
Building Control reasonably considers to be representative of licensed building practitioners or
of other persons or classes of persons affected by the proposed rule; and
(c) take into account international best practice and Maldives international obligations.

152. Rules to be approved by Board
(1) The Commissioner of Building Control must submit proposed rules for the approval of the Board.

(2) The Board must, as soon as practicable after receiving a proposed rule for approval, by written
notice to the Commissioner of Building Control,—
(a) approve it; or
(b) decline to approve it.

153. Revision of rules
If the Board declines to approve a proposed rule,—
(a) the Board must indicate the grounds on which it declines to approve it; and
(b) the Board must direct the Commissioner of Building Control to prepare and submit a
revised proposed rule; and
(c) the Commissioner of Building Control must submit a revised proposed rule to the Board not
later than 15 working days after the date on which approval was declined or any later date that
the Board in any particular case may allow.

154. NZBA 358 Approval of revised rule
(1) As soon as practicable after receiving a revised proposed rule, the Board must—
(a) approve the rule by written notice to the Commissioner of Building Control; or
(b) if the Board considers that the revised proposed rule requires further amendment,—
(i) make any amendments to the rule that the Board considers necessary; and
(ii) approve the rule (as amended) by written notice to the Commissioner of Building
Control, which notice must be accompanied by a copy of the rule as approved.

(2) Before making an amendment to a rule under this section, the Board must—
(a) advise the Commissioner of Building Control of the Board’s intention to do so; and
(b) give the Commissioner of Building Control a reasonable opportunity to make submissions
on the matter; and
(c) consider those submissions.

155. Rules to be approved by Minister
(1) The Board must submit the proposed rules for the approval of the Minister.

(2) The Minister must, as soon as practicable after receiving a proposed rule for approval, by written
notice to the Board,—
(a) approve it; or
(b) decline to approve it.

156. Rules made when approved by Minister
The rules are made once they are approved by the Minister.

157. Register of licensed building practitioners
(1) The Commissioner of Building Control shall keep and maintain the following registers a register of
building practitioners registered under section 89 191;

(2) The absence of the name of any person from the registers kept under subsection (1) shall be prima
facie evidence that the person is not so registered or that his registration has been suspended or
cancelled;

(3) The registers referred to in subsection (1) shall be kept and maintained at the office of the

191 MBA 16
Commissioner of Building Control and shall be available for inspection by any person without charge during office hours.

158. Purpose of register
The purpose of the register is—
(a) to enable members of the public to—
   (i) determine whether a person is a licensed building practitioner and, if so, the status and relevant history of the person’s licensing; and
   (ii) choose a suitable building practitioner from a list of licensed building practitioners; and
   (iii) know how to contact the building practitioner; and
   (iv) know which licensed building practitioners have been disciplined within the last 3 years; and
(b) to facilitate the administrative, disciplinary, and other functions of the Board and the Registrar under this Act.

159. Appointment of Registrar of Licensed Building Practitioners
The Commissioner of Building Control may appoint, under the State Sector Act 988192, a Registrar of Licensed Building Practitioners.

160. Functions of Registrar
The functions of the Registrar are—
(a) to establish and maintain the register; and
(b) to make decisions about whether persons meet the requirements for licensing or continued licensing, to issue, cancel, and suspend persons’ licensing as part of the licensing system, and to perform the other functions relating to licensing under this subpart; and
(c) to help the Board to receive and investigate complaints under sections 111 and 112 193; and
(d) to provide other administrative support for the Board sufficient to enable the Board to perform its functions efficiently and effectively; and
(e) to perform any other function conferred on the Registrar by this Act or any other enactment.

161. Power of Registrar to delegate
(1) The Registrar may delegate to any person (whether an employee of the State services or not), either generally or particularly, any of the Registrar’s functions, duties, and powers except the power of delegation.

(2) A delegation—
   (a) must be in writing; and
   (b) may be made subject to any restrictions and conditions that the Registrar thinks fit; and
   (c) is revocable at any time, in writing; and
   (d) does not prevent the performance or exercise of a function, duty, or power by the Registrar.

(3) A person to whom any functions, duties, or powers are delegated may perform and exercise them in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.

(4) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

162. Certificate of Registrar to be conclusive evidence
(1) A certificate signed by the Registrar, or any person authorised by the Registrar, in relation to the matters referred to in subsection(2) is for all purposes conclusive evidence, in the absence of proof to the contrary, of those matters specified in the certificate.

(2) The matters are—
   (a) that any person was or was not a licensed building practitioner at any particular time or during any period specified in the certificate; or
   (b) that any entry in the register is as stated in the certificate; or
   (c) that the description of building work and building inspection work that a person is licensed

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192 To be amended as appropriate according to Maldives corresponding legal rule
193 NZBA 315 and 316
(3) The certificate must be dated.

163. Register of licensed building practitioners
(1) The Registrar must establish and maintain, in accordance with this Act and the regulations, a register of licensed building practitioners.

(2) The Registrar must enter in the register—
   (a) the name of every licensed building practitioner; and
   (b) the information about that person that is specified in section 165 to the extent that the information is relevant to that person.

(3) The Registrar must make any other entries in the register that may be required, permitted, or directed to be entered by or under this subpart or the regulations.

164. Form of register
(1) The register may be kept—
   (a) as an electronic register; or
   (b) in any other manner that the Registrar thinks fit.

(2) The register must be operated at all times unless—
   (a) the Registrar suspends the operation of the register, in whole or in part, in accordance with subsection (3); or
   (b) otherwise provided in the regulations.

(3) The Registrar may refuse access to the register or otherwise suspend the operation of the register, in whole or in part, if the Registrar considers that it is not necessary or practical or appropriate to provide access to the register.

165. Matters to be contained in register
(1) The register must contain all of the following information, to the extent that the information is relevant, for each licensed building practitioner whose name is entered in the register:
   (a) full name:
   (b) any aliases:
   (c) date of birth:
   (d) address for communications under this Act:
   (e) residential address:
   (f) name of any company or body corporate that is associated with the licensed building practitioner (for example, that person's employer or the company of which that person is a director):
   (g) email and website address:
   (h) phone number:
   (i) fax number:
   (j) any unique identifier issued by the Registrar (for example, a registration number):
   (k) any other prescribed information:
   (l) information about the status and history of the person's licensing, particularly—
      (i) the class in which the person is licensed; and
      (ii) the date on which the person's name was entered in the register; and
      (iii) any action taken under section 318 on a disciplinary matter in respect of the person in the last 3 years:
   (m) any other information that the Registrar considers necessary or desirable for the purpose of the register.

(2) The register must also show—
   (a) whether a person's licensing was suspended in the last 3 years; and
   (b) if paragraph (a) applies,—
      (i) the ground under this Act for the suspension (for example, whether for non-payment of a levy that was required from the licensed building practitioner, or on another

194 NZBA 301
ground); and
(ii) the period of suspension; and
(iii) any conditions for termination of the suspension.

166. Obligation to notify Registrar of change in circumstances
(1) Each person applying to become licensed, and each licensed building practitioner, must give
written notice to the Registrar of any change in circumstances within 10 working days after the change.

(2) Change of circumstances—
(a) means any change in the information that the person has provided to the Registrar under
this subpart; and
(b) includes any change that may be prescribed (if any).

167. Registrar must contact licensed building practitioners on annual basis
(1) The Registrar must, on an annual basis, contact each licensed building practitioner, in a manner
provided for in the rules, and—
(a) ask whether the licensed building practitioner wishes to continue to be licensed; and
(b) ask whether the information shown on the register in respect of that person is correct; and
(c) notify the requirement to pay a prescribed levy.

(2) The licensed building practitioner must, within 20 working days of being contacted,—
(a) reply to both questions, and supply any information necessary to ensure that the
information shown on the register is correct; and
(b) pay to the Registrar the prescribed levy.

(3) If a licensed building practitioner does not comply with subsection (2), the Registrar must contact
the licensed building practitioner, in a manner provided for in the rules, and advise the licensed
building practitioner that his or her licensing will be suspended unless the person complies with
subsection (2), and pays a late fee, within the period, provided for in the rules.

(4) If the licensed building practitioner does not do so, the Registrar must—
(a) suspend the person's licensing until the person does so; and
(b) record the suspension in the register.

(5) If the licensed building practitioner does not comply with subsection (2), and pay the late fee, within
12 months after the date on which the person is contacted under subsection (3), the Registrar must—
(a) cancel the person's licensing; and
(b) remove the person's name from the register.

168. Alterations to register
The Registrar may, at any time, make any amendments to the register that are necessary to—
(a) reflect any changes in the name of a licensed building practitioner or the information
specified in section 301; or
(b) correct a mistake caused by any error or omission on the part of the Registrar or any
person to whom the Registrar has delegated his or her functions, duties, or powers.

169. Search of register
A person may search the register in accordance with this Act or the regulations.

170. Search criteria
The register may be searched only by reference to criteria to be specified in the regulations.

171. Search purposes
A search of the register may be carried out only for a purpose referred to in section 156.

172. When search constitutes interference with privacy of individual
A search of the register for personal information that has not been carried out in accordance with
sections 169 to 171 constitutes an action that is an interference with the privacy of an

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195 NZBA 299.
196 NZBA 305 to 307
individual under section 66 of the Privacy Act 1993.\textsuperscript{197}

\textbf{173. Search fees}

(1) The Registrar may charge a fee for searches of the register.

(2) The fee may be prescribed by the regulations, or may be determined by the Registrar, and must be no greater than the cost of providing for the search of the register.

\footnotesize{\textsuperscript{197} To be amended as appropriate according to Maldives corresponding legal rule}
Division 7 — Enforcement and administration

174. Demolition, etc., of unauthorised building works

(1) Where, in the opinion of the Commissioner of Building Control, any building has been erected, or any building works are or have been carried out, in contravention of the provisions of this Act or the building regulations, the Commissioner of Building Control may by order in writing require —
   (a) the cessation of the building works until the order is withdrawn;
   (b) the demolition of the building; or
   (c) such work or alteration to the building or building works to be carried out as may be necessary to cause the same to comply with the provisions of this Act and the building regulations or otherwise to put an end to the contravention thereof.

(2) An order made under subsection (1) shall specify all or any of the following:
   (a) the manner in which the demolition, work or alteration specified in the order is to be carried out;
   (b) the time within which the demolition, work or alteration shall commence;
   (c) the time within which the demolition, work or alteration shall be completed;
   (d) that the demolition, work or alteration shall be carried out with due diligence to the satisfaction of the Commissioner of Building Control.

(3) An order made under subsection (1) shall be served —
   (a) where a building has been erected, on the owner or occupier of the building; and
   (b) where building works are being carried out, on the developer of the building works or the building contractor carrying out the building works.

(4) If an order made under subsection (1) is not complied with, the Commissioner of Building Control may —
   (a) demolish, remove or alter, or cause to be demolished, removed or altered, such building or building works or take such other steps as appear to the Commissioner of Building Control to be necessary, including ordering the closure of the building; and
   (b) recover all expenses reasonably incurred by him in the exercise of his powers under this section from the person in default.

(5) Without prejudice to the right of the Commissioner of Building Control to exercise his powers under subsection (4), if any person on whom an order made under subsection (1) is served fails to comply with the order, that person shall be guilty of an offence and shall be liable on conviction —
   (a) to a fine not exceeding MVR20,000 or to imprisonment for a term not exceeding 6 months or to both; and
   (b) in respect of a continuing failure to comply, to an additional fine not exceeding MVR500 for each day or part thereof the failure to comply continues, and if the failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR1,000 for every day or part thereof during which the failure to comply continues after conviction.

(6) The Commissioner of Building Control may seize any materials resulting from the carrying out of any work under subsection (4).

(7) This section shall apply to any building works, whether or not for or connected with any temporary building.

175. Building offences

(1) Any person who commences or carries out, or permits or authorises the commencement or carrying out of —
   (a) any building works (including underground building works) the plans of which have not been approved by the Commissioner of Building Control under section 68 or 44198; or
(b) any building works (including underground building works) for which there is no permit under section 45\(^{199}\) in force, shall be guilty of an offence and shall be liable on conviction —

(i) to a fine not exceeding MVR200,000 or to imprisonment for a term not exceeding 2 years or to both; and

(ii) in respect of a continuing contravention, to an additional fine not exceeding MVR1,000 for each day or part thereof the contravention continues, and if the contravention continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR2,000 for every day or part thereof during which the contravention continues after conviction.

(2) Any person who contravenes any term or condition of —

(a) an approval of plans of any building works under section 68 or 44\(^{200}\); or

(b) a permit to carry out any building works under section 45\(^{201}\), shall be guilty of an offence and shall be liable on conviction

(i) to a fine not exceeding MVR20,000 or to imprisonment for a term not exceeding 12 months or to both; an

(ii) in respect of a continuing contravention, to an additional fine not exceeding MVR1,000 for each day or part thereof the contravention continues, and if the contravention continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR2,000 for every day or part thereof during which the contravention continues after conviction.

(3) Any developer of any building works and any registered building practitioner, site supervisor or building contractor directly concerned with the building works who, in carrying out the building works deviates, or permits or authorises the building works to deviate, in any material way from any plans of the building works approved by the Commissioner of Building Control under this Part shall each be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR100,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) Any person who, being required by or by virtue of this Act or the building regulations to make or produce to the Commissioner of Building Control any plan, declaration, certificate, report, record, notice or other document, or who, for the purpose of obtaining any licence, permit, waiver or approval from the Commissioner of Building Control under this Act or the building regulations or for the purpose of establishing any fact relevant to the administration of this Act or the building regulations —

(a) makes or produces any plan, declaration, certificate, report, record, notice or other document which is false in a material particular; and

(b) produces any plan, declaration, certificate, report, record, notice or other document which is false in a material particular, or has not been made by the person by whom it purports to have been made, or has been in any way altered or tampered with, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR20,000 or to imprisonment for a term not exceeding 12 months or to both.

176. Pecuniary penalty

(1) Whether or not proceedings have been instituted against any person for an offence under section 175\(^{202}\) in respect of any building works, the Commissioner of Building Control may require the person to pay a sum not exceeding 10 times the prescribed fees for the approval of plans of the building works or which would have been payable had each approval been obtained, for those building works, where it appears to the Commissioner of Building Control that such an offence has been committed.

(2) Any person who is aggrieved by a decision of the Commissioner of Building Control under subsection (1) may, within 14 days of being notified of the decision, appeal to the Minister against the decision.

\(^{199}\) MBA 6

\(^{200}\) MBA 5 or 5A

\(^{201}\) MBA 6

\(^{202}\) MBA 20
(3) Where an appeal is made to the Minister under subsection (2), the Minister may confirm, vary or reverse the decision of the Commissioner of Building Control, or give such directions in the matter as he thinks fit, and the decision of the Minister shall be final.

(4) Every pecuniary penalty or part thereof outstanding shall be recoverable as a debt due to the Building and Construction Authority.

(5) On acceptance by the Commissioner of Building Control of the pecuniary penalty imposed under this section, the unauthorised building works in respect of which the penalty is paid shall be deemed to have been carried out without contravening section 175 20.

177. Appeals

(1) Where an application made under —
   (a) section 44 or 68 203 for approval of plans of any building works;
   (b) section 45 204 or a permit to carry out any structural works;
   (c) section 46 205 for any modification or waiver of the requirements of the building regulations in relation to any particular building works;
   (d) section 71(3) 206 for a waiver of the operation of section 71(1) 207 in relation to any building works; or
   (e) section 106 208 for registration, or for the renewal of registration, as an accredited professional, is refused, or is granted by the Commissioner of Building Control subject to terms and conditions, the applicant may, if aggrieved by the decision of the Commissioner of Building Control, appeal to the Minister against the decision within 14 days after being served with the notice of the decision.

(2) If the Commissioner of Building Control has made an order under section 107 209 in respect of an accredited professional, the accredited professional, concerned may appeal to the Minister against the order within 14 days after being served with the notice of the order.

(3) In any appeal under this section in relation to the conviction of an accredited professional, a specialist accredited professional or an accredited checking organisation for a criminal offence, the Minister on appeal from any order of the Commissioner of Building Control shall accept the conviction as final and conclusive.

(4) Where an appeal is brought under this section from a decision of the Commissioner of Building Control, the Minister may, after giving the aggrieved appellant an opportunity to make representations in writing, dismiss or allow the appeal, unconditionally or subject to such conditions as he thinks fit.

(5) The decision of the Minister in any appeal under this section shall be final.

203 MBA 5 or 5A
204 MBA 6 f
205 MBA 6A
206 MBA 7A (3)
207 MBA 7 (1)
208 MBA 15
209 MBA 17
PART III (A)

DISABILITY AND OTHER PERFORMANCE REQUIREMENTS FOR BUILDINGS

178. Interpretation of this Part

(1) In this Part, unless the context otherwise requires
building does not include a temporary building;

performance requirement means a performance requirement in the building regulations that —
(a) is to facilitate the access to, and use of, a building and its facilities by persons with
disabilities; or
(b) is prescribed in the building regulations for the purposes of this Part;

person with disability means an individual who has an impairment of hearing or sight, or an
impairment which limits his ability to walk, or which restricts him to using a wheelchair;

physical feature, in relation to a building, includes the following physical features (permanent or
temporary):
(a) any feature arising from the design or construction of the building;
(b) any feature of any approach to, exit from or access to such a building;
(c) any fixtures, fittings or facility in or on the premises of the building; or
(d) any other physical element or quality of the land on which the building stands.

(2) A physical feature of a building satisfies the relevant performance requirement for the purposes
of this Part where the physical feature is constructed or installed in or in connection with the
building in accordance with the performance requirement that —
(a) is relevant in relation to that physical feature; and
(b) is in effect at the following time:
   (i) the day upon which the works to construct or install the physical feature started;
or
   (ii) in the case of a physical feature provided as part of building works to which Part
        II applies, the day a certificate of statutory completion is issued in respect of the
        building on the completion of those building works.

179. Buildings in respect of which the requirement for the provision of access and facilities for persons
with disabilities apply are, without limitation, as follows:
(a) land, sea, and air passenger transport terminals and facilities and interchanges, whether
    wholly on land or otherwise:
(b) public toilets wherever situated:
(c) banks:
(d) childcare centres and kindergartens:
(e) day-care centres and facilities:
(f) commercial buildings and premises for business and professional purposes, including
    computer centres:
(g) central, regional, and local government offices and facilities:
(h) courthouses:
(i) Police stations:
(j) hotels, motels, hostels, halls of residence, holiday cabins, groups of pensioner flats,
    boarding houses, guest houses, and other premises providing accommodation for the public:
(k) hospitals, whether public or private, and rest homes:
(l) medical and dental surgeries, and medical and paramedical and other primary health care
    centres:
(m) educational institutions, including public and private primary, intermediate, and secondary
    schools, universities, polytechnics, and other tertiary institutions:
(n) libraries, museums, art galleries, and other cultural institutions:
(o) mosque:
(p) places of assembly, including auditoriums, theatres, cinemas, halls, sports stadiums,
    conference facilities, clubrooms, recreation centres, and swimming baths:
(q) shops, shopping centres, and shopping malls:
(r) restaurants, bars, cafeterias, and catering facilities:
(s) showrooms and auction rooms:
(t) public laundries:
(u) petrol and service stations:
(v) funeral parlours:
(w) television and radio stations:
(x) car parks, parking buildings, and parking facilities:
(y) factories and industrial buildings where more than 10 persons are employed:
(z) other buildings, premises, or facilities to which the public are to be admitted, whether for
free or on payment of a charge.

180. Duty of building owner, etc., not to alter
(1) Every owner or occupier of a building shall not remove, alter or obstruct, or cause the removal,
alteration or obstruction of, any physical feature of the building where —
   (a) the physical feature satisfies the relevant performance requirement for the purposes of
this Part; and
   (b) the removal, alteration or obstruction will cause the physical feature to cease to satisfy
the relevant performance requirement.

(2) Where, in the opinion of the Commissioner of Building Control, any physical feature of a
building referred to in subsection (1) (a) has been removed, altered or obstructed so as to cease to
satisfy the relevant performance requirement, the Commissioner of Building Control may, by notice
in writing, require such repairs, work or alteration to the physical feature or the building or other
remedial action as he thinks fit to be carried out to reinstate the physical feature so as to satisfy the
relevant performance requirement.

(3) A notice to reinstate under subsection (2) shall specify —
   (a) the manner in which the repairs, work, alteration or remedial action specified in the
notice is to be carried out;
   (b) the time within which the repairs, work, alteration or remedial action shall commence;
   (c) the time within which the repairs, work, alteration or remedial action shall be
completed; and
   (d) that the repairs, work, alteration or remedial action shall be carried out with due
diligence to the satisfaction of the Commissioner of Building Control.

(4) A notice to reinstate under subsection (2) shall be made in respect of any building or any
physical feature thereof and shall be served —
   (a) on the owner of the building;
   (b) where that owner is not known or cannot be found by reasonable inquiry, on the
occupier of the building;
   (c) in the case of a physical feature comprised in any common property or limited common
property of any subdivided building, on the owner thereof; or
   (d) in the case of a physical feature comprised in any common property of residential or
commercial property in any housing estate of the Housing and Development Corporation —
      (i) on the Town Council receiving any rent or charge for the maintenance of that
common property;
      (ii) where there is no Town Council with the function and duty to maintain that
common property, on the Housing and Development Corporation.

(5) If any person on whom a notice under subsection (2) is served fails, without reasonable excuse,
to comply with the requirements of that notice, that person shall be guilty of an offence and shall be
liable on conviction —
   (a) to a fine not exceeding MVR5,000 or to imprisonment for a term not exceeding 3
months or to both;
   (b) to a further fine not exceeding MVR250 for each day or part thereof the person fails,
without reasonable excuse, to comply with the requirements of that notice; and
   (c) in the case of a continuing offence after conviction, to a further fine not exceeding
MVR500 for every day or part thereof during which the failure to comply continues after
conviction.
181. Appeal against notice to reinstate

(1) Any person on whom a notice to reinstate under section 180(2)210 is served may, within 21 days after the date of receipt of the notice, appeal in writing to the Minister against the notice in the prescribed manner.

(2) Notwithstanding that an appeal is lodged under subsection (1), the notice appealed against shall take effect and be complied with unless otherwise ordered by the Minister.

(3) The Minister may determine an appeal under this section by confirming, varying or cancelling the notice of the Commissioner of Building Control under section 180(2)211.

(4) The decision of the Minister in any appeal under this section shall be final.

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210 MBA 22E (2)
211 MBA 22E (2)
PART IV

DANGEROUS BUILDINGS AND OCCURRENCES

182. DANGEROUS BUILDINGS AND OCCURRENCES Interpretation of this Part
In this Part, building includes a building or any part thereof in respect of which building works are being carried out.

183. Dangerous building works
(1) If the Commissioner of Building Control is of the opinion that any building works are being carried out in such a manner as —
   (a) will cause, or will be likely to cause, a risk of injury to any person or damage to any property;
   (b) will cause, or will be likely to cause, or may have caused a total or partial collapse of —
      (i) the building in respect of which the building works are or have been carried out; or
      (ii) any building, street or natural formation opposite, parallel, adjacent or in otherwise close proximity to those building works, or any part of any such building, street or land; or
   (c) will render, or will be likely to render, or may have rendered the building in respect of which the building works are or have been carried out or any building, street or natural formation opposite, parallel, adjacent or in otherwise close proximity to those building works, or any part of any such building, street or land, so unstable or so dangerous that it will collapse or be likely to collapse (whether totally or partially), the Commissioner of Building Control may do either or both of the following:
      (A) engage a registered building practitioner or a specialist to carry out such investigations and tests as may be necessary and to advise the Commissioner of Building Control on all matters relating to the safety of the building in respect of which the building works are or have been carried out or the building, street or natural formation opposite, parallel, adjacent or in otherwise close proximity to those building works, as the case may be, the reasons for its collapse (if applicable) and the measures that should be taken to obviate any possible danger that might arise from the condition of the building;
      (B) make all or any of the orders in subsection (2).

(2) The Commissioner of Building Control may, for the purpose of obviating any danger or preventing any situation referred to in subsection (1) (a), (b) or (c) from happening, order the developer of those building works —
   (a) to immediately stop the building works;
   (b) to carry out or cause to be carried out (at the developer’s cost) such inspection as the Commissioner of Building Control may specify of either or both of the following:
      (i) the building in respect of which the building works are or have been carried out;
      (ii) the building, street or natural formation opposite, parallel, adjacent or in otherwise close proximity to those building works;
   (c) to execute or cause to be executed (at the developer’s cost) such building works as the Commissioner of Building Control may specify (which may include retrofitting under Part III); or
   (d) to demolish or cause to be demolished (at the developer’s cost) the building in respect of which the building works are or have been carried out or any part thereof, and remove any rubbish resulting from the demolition.

(3) Where the building works referred to in subsection (1) comprise structural works, the Commissioner of Building Control may, in lieu of or in addition to any engagement or order in subsection (1) or (2), revoke any permit granted under section 45 212 to carry out those structural works.

(4) If the person to whom an order in subsection (2) is given fails to comply with the order within the time specified, the Commissioner of Building Control may execute the order in such manner as he thinks fit and recover in a court of competent jurisdiction as a debt due to him all expenses reasonably incurred by him in doing so from the person in default.

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212 MBA 6
(5) Without prejudice to the right of the Commissioner of Building Control to exercise his powers under subsection (4), any person who, without reasonable excuse, fails to comply with any order in subsection (2) that the person is given shall be guilty of an offence and shall be liable on conviction to —

(a) where the order is to immediately stop the building works —
(i) a fine not exceeding MVR$500,000$ or imprisonment for a term not exceeding 2 years or both; and
(ii) in respect of a continuing failure to comply, an additional fine not exceeding MVR$10,000$ for each day or part thereof the person fails to comply with the order; or

(b) in the case of any other order in subsection (2) —
(i) a fine not exceeding MVR$100,000$ or imprisonment for a term not exceeding 12 months or both; and
(ii) in respect of a continuing failure to comply, an additional fine not exceeding MVR$2,500$ for each day or part thereof the person fails to comply with the order, and if the failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding —

(A) where the order is to immediately stop the building works —
MVR$20,000$ for each day or part thereof the person fails to comply with the order after conviction; or

(B) in the case of any other order in subsection (2) — MVR$5,000$ for each day or part thereof the person fails to comply with the order after conviction.

(6) Any person to whom any order in subsection (2) is given shall, while the order is in force, display a copy of the order at every entrance to the building to which the order relates, and such copy shall be displayed in a way that it can be easily read by people outside the building.

(7) Any person who contravenes subsection (6) shall be guilty of an offence.

(8) The Commissioner of Building Control may also order the developer of the building works concerned to pay or reimburse the Commissioner of Building Control, all or a specified part of the expenses he has incurred in engaging a registered building practitioner or a specialist under subsection (1) (A).

(9) The Commissioner of Building Control may recover in a court of competent jurisdiction as a debt due to him so much of the amount payable under an order made under subsection (8) as is not paid in accordance with that order.

(10) Any person on whom an order under subsection (8) is served may, within 14 days after the date of receipt of the order, appeal in writing to the Minister against the order in the prescribed manner.

(11) The Minister may determine an appeal under subsection (10) by confirming, varying or cancelling the order of the Commissioner of Building Control under subsection (8); and the decision of the Minister in any such appeal shall be final.

184. Dangerous buildings

(1) If the Commissioner of Building Control is of the opinion that a building is in such a condition, or is used to carry such loads, as to be or likely to be dangerous, the Commissioner of Building Control may, for the purpose of obviating any danger, order the owner of the building to do all or any of the following:

(a) to carry out or cause to be carried out (at the owner’s cost) such inspection of the building as the Commissioner of Building Control may specify (b) to execute or cause to be executed (at the owner’s cost) such building works as the Commissioner of Building Control may specify (which may include retrofitting under Part III);
(c) to demolish or cause to be demolished (at the owner’s cost) the building or any part thereof, and remove any rubbish resulting from the demolition;
(d) to cause (at the owner’s cost) the building to be shored up or otherwise secured and a proper hoarding or fence to be put up for the protection of the public from danger, or arranging for the building to be watched.
(2) The Commissioner of Building Control may, in lieu of or in addition to any order under subsection (1), make —

(a) an order (referred to in this Part as an occupancy order) directing the owner or occupier of the building to not allow more than the number of people stated in the occupancy order to be in the building at any time or to otherwise restrict the use of the building, until he, being satisfied that any inspection or building works referred to in subsection (1) are completed, withdraws the order; or

(b) an order (referred to in this Part as a closure order) directing the closure of the building, and that every owner and occupier of the building must quit the building and must not allow anyone else to occupy the building except as permitted under this Part.

(3) Before exercising any of his powers under subsection (2), the Commissioner of Building Control shall, if it is reasonably practicable to do so, give notice of his intention to make an occupancy order or a closure order, as the case may be.

(4) If the person to whom an order in subsection (1) is given fails to comply with the order within the time specified, the Commissioner of Building Control may —

(a) execute the order in such manner as he thinks fit; and

(b) recover in a court of competent jurisdiction as a debt due to him all expenses reasonably incurred by him in doing so from the person in default, except that so far as the expenses incurred under this section consist of expenses of fencing off the building, or arranging for it to be watched, the expenses shall not be recoverable in respect of any period after the danger has been removed by other steps under this section.

(5) Without prejudice to the right of the Commissioner of Building Control to exercise his powers under subsection (4), any person who, without reasonable excuse, fails to comply with any order in subsection (1) that the person is given shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding MVR100,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) in respect of a continuing failure to comply, to an additional fine not exceeding MVR2,500 for each day or part thereof the person fails to comply with the order, and if the failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR5,000 for each day or part thereof the person fails to comply with the order after conviction.

(6) Any person to whom any occupancy order or closure order under subsection (2) is given shall, while the order is in force, display a copy of the order at every entrance to the building to which the order relates, and such copy shall be displayed in a way that it can be easily read by people outside the building.

(7) Any person who contravenes subsection (6) shall be guilty of an offence.

185.Closure orders

(1) Where the Commissioner of Building Control makes any closure order, the order shall be served on the owner and every occupier of the building.

(2) A closure order may require the owner or occupier of the building to which the order relates to cease to inhabit the building and to remove all goods, furniture and effects from the building before the order comes into force.

(3) Except with the permission in writing of the Commissioner of Building Control, no person, other than a public officer in the course of his duty, shall enter or be in a building at any time while a closure order is in force in respect of the building.

(3A) Any person who contravenes or fails to comply with subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR10,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding MVR200 per day during which the offence continues after conviction.

(4) Where the Commissioner of Building Control thinks fit, he may, subject to such conditions as he may impose, by notice in writing permit any person to enter and be in a building while a closure order is in force.
(5) Any permission granted under subsection (4) may be cancelled by the Commissioner of Building Control at any time and for any reason.

(6) Where a closure order is in force in respect of a building —
(a) any police officer may, with such force or assistance as may be necessary, remove therefrom any person who is in the building in contravention of subsection (3);
(b) the Commissioner of Building Control may seal or cause to be sealed, all or any of the entrances to or exits from the building; and
(c) the Commissioner of Building Control or any police officer may remove all goods, furniture and effects from the building.

(7) A closure order shall remain in force in respect of a building until the Commissioner of Building Control had served a notice of expiry of the order on the owner of the building by causing the notice to be posted upon a conspicuous part of the building to which it relates and by serving a copy of the notice upon the owner.

(8) Every notice of expiry of a closure order shall specify the building to which it relates and the date upon which the order expires.

186. Investigations into dangerous occurrences

(1) Where the Commissioner of Building Control becomes aware of any dangerous occurrence in any premises at which building works are carried out or in any other premises, the Commissioner of Building Control may direct any person authorised on his behalf to investigate the circumstances of the dangerous occurrence.

(2) No person shall, without the prior consent of the Commissioner of Building Control —
(a) alter, replace, remove or add to any building element, machinery, equipment, plant or article at any premises in respect of which the Commissioner of Building Control has made any direction under subsection (1); or
(b) modify any premises in respect of which the Commissioner of Building Control has made any direction under subsection (1).

(3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR10,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) Nothing in subsection (2) shall operate to interfere with rescue work or work necessary for the general safety of life and property.

(5) In this section, dangerous occurrence means —
(a) the collapse or structural failure of any building (completed or otherwise); or
(b) any structural distress that is likely to lead to the instability of any building (completed or otherwise), whether or not the collapse, structural failure or structural distress results in any death, bodily injury or injury to health.
PART V

INSPECTION OF BUILDINGS

187. INSPECTION OF BUILDINGS Interpretation of this Part
(1) In this Part —

owner, in relation to —

(a) a subdivided building comprising 2 or more flats, means —
   (i) the management corporation having control of the building; or
   (ii) the person receiving any rent or charge for the maintenance and management of
       the common property of the building;

(b) the common property of any building comprising 2 or more flats, means —
   (i) the person receiving any rent or charge for the maintenance and management of
       the common property of the building;
   (ii) any body corporate constituted under an order made by the Minister;
   (ba) the limited common property of any building comprising 2 or more flats, means the
       subsidiary management corporation or the person receiving any rent or charge for the
       maintenance and management of that limited common property; and
   (c) the common property of residential and commercial property in any housing estate of
       the Housing and Development Corporation, means that Board;

special building means any building of which not less than 90% of its floor area is used solely for
residential purposes, and in this definition, floor area means the total area of floor space within
the building measured between party walls including the thickness of external walls;

structural engineer means a person who is registered under the NBPAR in the civil or structural
engineering discipline.

(2) For the purposes of this Part, a building which is physically connected with another building —
   (a) shall, although so connected, be treated as a separate building if it is so constructed as to
       be capable of remaining in position and being used independently of the other building or as to
       require only minor modification as to render it so capable; and
   (b) shall not be treated as other than a separate building merely because it is so connected
       with the other building at or below ground level or by means of a bridge or similar structure
       (whether affording access or accommodation to both).

188. Application of this Part

This Part shall apply to buildings other than —
   (a) detached houses, semi-detached houses, terraced or linked houses which are used solely
       by the owners or occupiers thereof solely as their residence; and
   (b) temporary buildings.

189. Periodic inspection of buildings

(1) Subject to subsection (2), the Commissioner of Building Control may, by notice served on the
owner of a building to which this Part applies, require the building to be inspected.

(2) In relation to any building to which this Part applies, a notice under subsection (1) may be made
   (a) where the building (other than a special building) is used other than solely for residential
       purposes — after the fifth year commencing from the date the first temporary occupation
       permit or first certificate of statutory completion was issued in respect of the building,
       whichever was issued earlier, and thereafter at intervals of not less than 5 years from the
       date of the last notice under this section; or
   (b) where the building is a special building or is used solely for residential purposes — after
       the tenth year commencing from the date the first temporary occupation permit or first
       certificate of statutory completion was issued in respect of the building, whichever was
       issued earlier, and thereafter at intervals of not less than 5 years from the date of the last
(3) Every owner of a building to which this Part applies shall, on receipt of a notice under subsection (1), cause the building to be inspected within the period specified in the notice and in the prescribed manner by a structural engineer appointed by the owner.

(4) Where a building comprising 2 or more flats is not subdivided and there are subsisting leases for those flats, the owners of those flats shall, on receipt of a notice under subsection (1), jointly appoint a structural engineer to inspect the building within such time as may be specified in the notice and in the prescribed manner.

(5) The structural engineer who is appointed by the owner of a building to carry out an inspection of a building under this section shall be entitled at all reasonable times to full and free access to the building and any part thereof he is required to inspect.

(5A) Any person who hinders, obstructs or delays the structural engineer in the performance of his duty under subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR5,000 and, in the case of a continuing offence, to a further fine not exceeding MVR 500 for every day during which the offence continues after conviction.

(6) A structural engineer appointed to carry out an inspection of a building under this section shall —
   (a) carry out the inspection in the prescribed manner;
   (b) on completion of the inspection, prepare and sign a report of the result of the inspection; and
   (c) serve a copy of the report on the Commissioner of Building Control within such period as the Commissioner of Building Control may specify in the notice under subsection (1).

(7) Where the report of the result of the inspection of a building prepared under subsection (6) (b) contains any measure or other building works recommended by the structural engineer to be carried out to ensure the structural stability or integrity of the building, the owner of the building shall, within such period and subject to such conditions as may be specified by the Commissioner of Building Control, carry out such measure or building works as is recommended by the structural engineer in the report.

(8) Any owner of a building who contravenes or fails to comply with a notice under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR20,000.

(9) Any owner of a building who fails to comply with subsection (3), (4) or (7) within the period specified in the notice under subsection (1) or within the period specified under subsection (7), as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR50,000 or to imprisonment for a term not exceeding 12 months or to both, and in respect of a continuing contravention, to an additional fine not exceeding MVR500 for each day or part thereof during which the contravention continues, and if the contravention continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding MVR2,000 for every day or part thereof during which the contravention continues after conviction.

(10) Any structural engineer who contravenes or fails to comply with subsection (6) (a), (b) or (c) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR20,000.

(11) The Minister may, by order, provide for the application of this section with such adaptations or modifications as may be specified therein to buildings in respect of which no certificate of fitness for occupation has been issued.
PART VI

MISCELLANEOUS

190. Exemption
The Minister may by order, either generally or in any particular case, and subject to such conditions as he may impose, exempt any person, premises or building or any building works from all or any of the provisions of this Act or the building regulations.

191. Protection from liability

(1) No liability shall lie against the Government or any public officer by reason of the fact that any building works are carried out in accordance with the provisions of this Act or that such building works or plans of the building works are subject to inspection or approval by the Commissioner of Building Control or the public officer.

(2) Nothing in this Act shall make it obligatory for the Commissioner of Building Control to inspect any building or building works or the site of any proposed building to ascertain whether the provisions of this Act are complied with or whether any plans, certificates, notices or other documents submitted to him are accurate.

(3) No matter or thing done by the Commissioner of Building Control or by any public officer shall, if it were done bona fide for the purpose of carrying out the provisions of this Act, subject the Commissioner of Building Control or the public officer personally to any action, liability, claim or demand.

(4) Where the Commissioner of Building Control provides any information to any person in respect of any building or building works by electronic or other means, neither the Government, the Commissioner of Building Control nor any public officer shall be liable for any loss or damage suffered by any person by reason of any error or omission of whatever nature or howsoever caused, including any defect or breakdown in the electronic equipment used for providing the information, if such error or omission is made in good faith and in the ordinary course of duties of the Commissioner of Building Control or public officer.

192. Power to enter premises

(1) The Commissioner of Building Control or any person appointed by him for this purpose may enter any premises at all reasonable hours for the purpose of—

(a) ascertaining whether there is, or has been, on or in connection with the premises, a contravention of this Act or the building regulations;

(b) ascertaining whether circumstances exist that would authorise the Commissioner of Building Control to take any action or execute any work under this Act or the building regulations;

(c) taking any action or carrying out any work, authorised or required by this Act or the building regulations;

(d) inspecting the documents, books or records kept and maintained by a registered building practitioner or building contractor under section 105(4) or 86(1)(c)\(^{213}\), respectively.

(1A) For the purposes of subsection (1), the Commissioner of Building Control or a person appointed under subsection (1) may take such steps as he may consider necessary, including the making of openings and the taking without payment of reasonable samples of building materials for analysis.

(2) The results of any analysis of a sample of building materials taken under subsection (1A) shall not be admissible as evidence in any proceedings under this Act or the building regulations unless the samples were taken in the prescribed manner.

(3) A certificate of the results of an analysis of a part of a sample taken under subsection (1A) shall be signed by the accredited building practitioner but the analysis may be made by a person acting under the direction of the accredited building practitioner.

\(^{213}\) MBA 9 (4) or 11 (1) (c)
(4) For the purposes of any inspection under subsection (1) (d), the registered building practitioner or building contractor concerned shall afford the Commissioner of Building Control or a person appointed under subsection (1) access to and shall produce the documents, books or records and shall give such information and facilities as may be required by the Commissioner of Building Control or a person appointed under subsection (1).

(4A) Any registered building practitioner or building contractor, as the case may be, who contravenes or fails to comply with subsection (4) shall be guilty of an offence.

(5) The documents, books or records referred to in subsection (4) shall not be required to be produced at such times or at such places as would interfere with the proper execution of the building works.

(6) Any person who wilfully obstructs the Commissioner of Building Control or a person appointed under subsection (1) in the performance of any matter or thing which he is authorised to do by this section shall be guilty of an offence.

193. Presumptions and defences
(1) In any proceedings instituted under this Act for the commencement or carrying out of any building works on any premises in contravention of the provisions of this Act or the building regulations, the owner of the premises at the time the building works were commenced or carried out shall be presumed, until the contrary is proved, to be the person commencing or carrying out the building works.

(2) Where anything is required under this Act to be done by the owner of a building, and there is more than one owner of such building, it shall be a defence to any prosecution for failing to do that thing —
   (a) that such thing was done by another owner of the building; or
   (b) that any notice or order in respect of such thing required under this Act to be served on the owner was served on another owner of the building and not on the person charged.

194. Occupier may execute work in default of owner
(1) Whenever default is made by an owner of any premises in the execution of any work required under this Act to be executed by him, an occupier of the premises may, with the approval of the Commissioner of Building Control, cause the work to be executed.

(2) The costs and expenses thereof shall be recoverable by the occupier from the owner or the amount may be deducted out of the rent from time to time becoming due from him to the owner.

(3) The occupier may, in the absence of any special agreement to the contrary, retain possession of the premises until the costs and expenses incurred by him have been fully reimbursed.

195. Proceedings if occupier opposes execution of works
(1) Where —
   (a) the owner of any premises is required under any provision of this Act or the building regulations to carry out any work or make any provision in respect of the premises;
   (b) the owner has given written notice to the occupier of the premises of his intention to carry out the work or make such provision; and
   (c) the occupier prevents the owner from carrying out the work or making such provision in respect of the premises, a Magistrate's Court, upon proof thereof and upon application by the owner, may make an order in writing requiring the occupier to permit the owner to execute all such work or to make such provision with respect to the premises as may be required by the provisions of this Act or the building regulations and may also, if the Court thinks fit, order the occupier to pay to the owner the costs relating to the application or order.

(2) If, after the expiration of 8 days from the date of the order, the occupier continues to refuse to permit the owner to execute such work or make such provision as may be required by the provisions of this Act or the building regulations, the occupier shall be guilty of an offence and shall be liable on conviction to a fine not exceeding MVR2,000 for every day during which he so continues to refuse.

(3) Every such owner shall, during the continuance of such refusal, be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing the work or
making provision in respect of the premises or building.

**196. Recovery of costs and expenses payable by owners**

(1) All expenses incurred by the Commissioner of Building Control in or about the execution of any work pursuant to any provision of this Act, together with interest accruing in accordance with subsection (3), shall be recoverable from the person who is the owner of the premises on the date on which the works are completed.

(1A) As from the date of the completion of the work, the expenses and interest accrued due thereon shall be, until recovered, a first charge on the premises and on all estates and interests therein, exercisable against the premises and the estates and interests therein and all movable property or crops for the time being found thereon, notwithstanding any change in the ownership or occupation of the premises subsequent to that date.

(2) The Commissioner of Building Control may certify under his hand the expenses due and the names of the persons liable therefor and may by such certificate apportion the expenses among those persons.

(2A) A copy of the certificate shall be served upon each of those persons referred to in subsection (2), but where no such persons may be found, the certificate shall be deemed to have been duly served if a copy thereof is posted at the office of the Commissioner of Building Control and another copy thereof is affixed to some conspicuous part of the premises in respect of which the expenses have been incurred.

(3) Interest at the rate of 9% per annum from the expiry of one month from the date of service of a certificate under subsection (2A) shall be recoverable as part of the expenses incurred by the Commissioner of Building Control.

(4) A certificate purporting to be under the hand of the Commissioner of Building Control and to be made under subsection (2) and setting forth the amount claimed as due to the Commissioner of Building Control and the persons as liable for the payment thereof shall be prima facie evidence of the facts certified therein and of the signature of the Commissioner of Building Control thereto.

(5) If any sum or any part thereof due to the Commissioner of Building Control under this Act remains unpaid at the expiration of one month commencing from the date of service of the certificate under subsection (2A), or such further period as the Commissioner of Building Control may allow, it shall be deemed to be arrears.

**197. Recovery of costs and expenses by instalments**

(1) Where the Commissioner of Building Control has incurred expenses in or about the execution of any work which are recoverable from any person, the Commissioner of Building Control may either recover such expenses in the manner provided in section 196 or, if he thinks fit, may obtain an undertaking from the person for the payment of such instalments as will be sufficient to defray the whole amount of such expenses with interest thereon at a rate not exceeding 9% per annum within a period of 10 years.

(2) Upon default in payment of any instalment upon the date appointed for payment thereof by any such undertaking, the whole of the balance then outstanding of such amount shall immediately become due and payable and, notwithstanding any change in the ownership or occupation of the premises since the date of the undertaking, may be recovered by the same means and in the likely manner as provided in section section 196.

**198. Power to vary interest rates**

The Minister may, at any time by notification in the Gazette, vary the rates of interest specified in sections section 196 (3) and 197(1).

**199. Liability of transferor of property in respect of expenses incurred by Commissioner of**

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\[214\] MBA 37
\[215\] MBA 37.
\[216\] MBA 37 (3) and 38 (1)
Building Control

(1) Where a person sells or transfers any premises in respect of which expenses have been incurred by the Commissioner of Building Control in or about the execution of any work required to be done under this Act which are recoverable from the owner thereof, the person shall continue to be liable for the payment of all such expenses payable in respect of the premises and for the performance of all other obligations imposed by this Act upon the owner of those premises which became payable or were required to be performed prior to the transfer.

(2) Nothing in subsection (1) shall affect the liability of the purchaser or transferee to pay such expenses in respect of the premises or affect the right of the Commissioner of Building Control to recover such expenses or to enforce any obligation under this Act.

200. Property and materials seized or removed by Commissioner of Building Control

(1) Any property or materials seized or removed by the Commissioner of Building Control, in the exercise of his powers under this Act, may be forfeited to the Government and sold or otherwise disposed of by the Commissioner of Building Control unless a claim is made by the person to whom the property or materials belong within 2 weeks of the seizure or removal in which case the property or materials may be returned to the person on such terms and conditions as the Commissioner of Building Control may impose.

(2) Where the Commissioner of Building Control sells any property or materials under subsection (1), the Commissioner of Building Control shall pay on demand the proceeds of the sale to the owner to whom the property or materials belonged after deducting the amount of any expenses recoverable by the Commissioner of Building Control from him.

(3) Any proceeds of the sale of property or materials under this section not claimed within 2 years of the sale shall be paid into the Consolidated Fund.

201. Service of documents

(1) Any notice, order or document required or authorised to be served under this Act shall be deemed to be sufficiently served —

(a) by delivering a copy thereof personally or by leaving it with some adult person at the last known place of abode of the person on whom the notice is to be served;

(b) by leaving it at the usual or last known place of abode or business of the person on whom the notice is to be served in a cover addressed to that person or by posting it upon a conspicuous part of those premises;

(c) by sending it by registered post addressed to the person on whom the notice is to be served at his usual or last known place of abode or business; or

(d) in the case of an incorporated company, a partnership or a body of persons —

(i) by delivering it to the secretary or other like officer of the company, partnership or body of persons at its registered office or principal place of business; or

(ii) by sending it by registered post addressed to the company, partnership or body of persons at its registered office or principal place of business.

(2) Any notice, order or document required or authorised to be served under this Act on the owner or occupier of any premises or building shall also be deemed to be sufficiently served by delivering a copy thereof personally to some adult person on the premises or building or, if there is no such person to whom it can with reasonable diligence be delivered, by affixing the notice, order or document to some conspicuous part of the premises or building.

(3) Any notice, order or document required or authorised by this Act to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises without further name or description.

(4) Any notice, order or document to be issued by the Commissioner of Building Control under this Act or the building regulations may be issued in such form as the Commissioner of Building Control may determine and every such notice, order or document shall be valid if the signature of the Commissioner of Building Control or any officer authorised under this Act is duly printed or written thereon.

(5) Any notice, order or document sent by registered post to any person in accordance with
subsection (1) shall be deemed to be duly served on the person at the time when the notice, order or document, as the case may be, would in the ordinary course of post be delivered and, in proving service of the notice, order or document, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

202. Furnishing of information
(1) The Commissioner of Building Control may by notice require any person who appears to the Commissioner of Building Control to be acquainted with the circumstances of any case which is under investigation to furnish him within such time as may be specified in the notice with information relating to that case in the possession of that person.

(2) Any person who fails to comply with any notice under subsection (1) or who furnishes any information which he knows or has reason to believe is false shall be guilty of an offence.

203. Evidence
(1) Subject to this section, the contents of any document prepared, issued or served under, by virtue of or for the purposes of this Act or the building regulations shall until the contrary is proved be presumed to be correct.

(1A) The production of any document purporting to contain any apportionment made under section 196(2) shall, without any other evidence, be received as prima facie proof of the making and validity of the apportionment mentioned therein.

(2) In any proceedings under this Act or the building regulations, a certificate of analysis under section 192 purporting to be signed by an accredited building practitioner shall, on its production by the prosecution without proof of the signature of the accredited building practitioner, be sufficient evidence of the facts stated therein unless the defendant requires the accredited building practitioner to be called as a witness, in which case he shall give notice thereof to the prosecution not less than 3 clear days before the day fixed for the hearing of the summons.

(3) All records and other documents required by this Act or the building regulations to be kept by the Commissioner of Building Control shall be deemed to be public documents, and copies thereof or extracts therefrom certified by the officer responsible for the custody thereof to be true copies or extracts, as the case may be, subscribed by that officer with his name and his official title shall be admissible in evidence as proof of the contents of the documents or extracts.

(4) Where any information in respect of any building or building works is provided by the Commissioner of Building Control by electronic means, the production of any document under the hand of a public officer responsible for providing such information purporting to be a hard copy transcript of all or any such information shall, in all courts and in all proceedings, be sufficient evidence of the information provided electronically and all courts shall in all proceedings take judicial notice of the signature of the public officer.

204. Jurisdiction of Courts
Notwithstanding the provisions of the Criminal Procedure Code, a District Court or a Magistrate's Court shall have power to impose the maximum penalties provided for an offence under this Act.

205. General penalty
Any person who is guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding MVR10,000 or to imprisonment for a term not exceeding 6 months or to both.

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217 MBA 37 (2)
218 MBA 33
219 To be amended as appropriate according to Maldives corresponding legal rule
220 To be amended as appropriate according to Maldives corresponding legal rule
206. Composition of offences
(1) The Commissioner of Building Control may, in his discretion, compound any offence under this Act or any subsidiary legislation made thereunder which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding (a) one half of the amount of the maximum fine that is prescribed for the offence; or (b) MVR5,000, whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Minister may make regulations to prescribe the offences which may be compounded. After consulting with the committee

(4) All sums collected under this section shall be paid to the MHTE.

207. Regulations
(1) The Minister may make regulations for carrying out the purposes of this Act and for any matter which is required under this Act to be prescribed.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or in respect of all or any of the following matters:
   (a) the regulation or prohibition of the exhibition of advertising signs, skysigns, aerial signs and projected advertisement in or on any premises and the regulation of the size and construction of those signs and advertisements;
   (b) the submission of plans of building works, the authorisation of persons qualified to submit the same and their duties and responsibilities, and the nature or classification of plans which each person may submit;
   (c) the manner of making applications for and granting of approval of plans of building works and permits to carry out building works;
   (ca) the establishing of objectives and performance, functional requirements of the building code for the design and construction of buildings;
   (d) the structural strength and stability of buildings or proposed buildings, including — (i) precautions against overloading; (ii) measures to safeguard adjacent buildings; (iii) underpinning;
   (e) the design and construction of buildings, including — (i) the preparation of sites for building works; (ii) exterior features; (v) the natural lighting and ventilation of buildings; (vi) the headroom of rooms, cubicles and staircases and other spaces within buildings; (vii) the suitability and use of materials and components; (viii) environmental sustainability measures that improve the total quality of life and minimises adverse effects to the environment, both now and in the future;
   (f) the demolition of buildings and the safety precautions to be taken in respect thereof;
   (f) the reporting of dangerous occurrences (as defined in section 25A) in premises at which building works are carried out;
   (g) prohibiting or regulating the occupation of buildings;
   (h) the control and regulation of measures for energy conservation in buildings;
   (i) the provision of embankments and retaining walls;
   (j) measures to improve efficiency and standardisation in the construction industry relating to design, processes, construction techniques, products and materials;
   (k) the regulation of persons authorised to carry out installation or retrofitting of any exterior feature, including prescribing the qualifications and training of such persons, and their duties and responsibilities in connection with installing or retrofitting the exterior feature;
   (l) measures for the construction, installation and inspection of lifts and escalators;
   (m) the control, regulation and supervision by registration, licensing, inspection or otherwise of places to which the public has access;
   (n) the prescribing of documents, books or records to be kept and reports or certificates to
be made under this Act;
(o) the time and manner of making, and the information and documents to be furnished in respect of, an application for a temporary occupation permit and a certificate of statutory completion;
(p) the manner in which the duties and responsibilities of accredited professionals and specialist accredited professionals are to be discharged;
(q) the manner in which appeals may be made to and determined by the Minister under this Act and the information to be supplied by the Commissioner of Building Control in connection therewith;
(r) the granting of permits for the erection, demolition and occupation and the control of buildings required for a limited time or constructed of short lived materials;
(s) the procedure for the sampling of building materials under section 192;
(t) the prescribing of forms necessary for the administration of this Act; and
(u) the prescribing of fees and charges for the purposes of this Act.

(2A) Regulations made under this section may provide that —
(a) any particular objective and performance, functional requirement for the design and construction of any building shall be deemed to be complied with if the building is constructed with such specifications, materials, designs or methods of construction as may be specified by the Commissioner of Building Control; and
(b) the Commissioner of Building Control may issue in such form as he thinks fit, and from time to time amend, one or more Approved Documents setting out the specifications, materials, designs or methods of construction which shall, without prejudice to any alternative means of achieving compliance, be deemed to comply with the relevant objective and performance, functional requirement for the design and construction of buildings prescribed in those regulations.

(3) The Minister may, in making any building regulations under this section, provide that any contravention of or failure to comply with any provision thereof shall be an offence and may prescribe punishment by a fine not exceeding MVR10,000 or imprisonment for a term not exceeding 12 months or with both.

208. Adoption of codes and standards
(1) Any building regulations made under section 207 may adopt wholly or partially or as amended by the regulations or by reference any code, standard, rule, specification or provision which relates to any matter with which the building regulations deal and which is —
(a) recommended, issued or adopted by the Singapore Productivity and Standards Board;
(b) recommended, issued or adopted by —
   (i) the British Standards Institution;
   (ii) any other standards organisation or body of any place outside Singapore being an organisation or body approved by the Commissioner of Building Control; or
(c) included in any document issued by any Government department or issued by any public authority constituted by any written law.

(2) The Commissioner of Building Control shall cause a copy of every code, standard, rule, specification or provision adopted under subsection (1) (other than a code, standard, rule, specification or provision recommended, issued or adopted by the Singapore Productivity and Standards Board to be made available for inspection by members of the public without charge at the office of the Commissioner of Building Control during normal office hours.

(3) In any proceedings under the building regulations, a copy certified by the Commissioner of Building Control as a true copy of a code, standard, rule, specification or provision adopted under subsection (1) (other than a code, standard, rule, specification or provision recommended, issued or adopted by the Singapore Productivity and Standards Board shall be evidence of the code, standard,
rule, specification or provision so adopted.

209. Application of Act to Government
(1) Except as provided in subsection (2), this Act shall bind the Government and shall apply to —
   (a) any premises wholly or partly owned or occupied by the Government; and
   (b) any premises in which any building operation or any work of engineering construction is
   carried on by or on behalf of the Government.

(2) Nothing in this Act shall render the Government liable to prosecution for an offence.

(3) For the avoidance of doubt, no person shall be immune from prosecution for any offence under
this Act by reason that the person is engaged to provide services to the Government.

210. Presentation of order, notification and regulation to Parliament
Any order, notification or building regulations made under this Act shall be presented to
Parliament as soon as possible after publication in the Gazette.

211. 53. Transitional provisions
(1) Any licence, permission, approval or other document prepared, made or granted under the
repealed Act and valid immediately prior to … shall be deemed to have been prepared,
made or granted under the corresponding provision of this Act.

(2) A valid and subsisting certificate of fitness for occupation issued under regulations made under
the repealed Act or a valid and subsisting temporary occupation licence shall have the same force
and effect as a certificate of statutory completion or temporary occupation permit, respectively,
granted under this Act.

(3) Any temporary permit, permission or other similar document issued in respect of a temporary
building under any written law relating to building control in force before shall be
presumed, until the contrary is proved, to have lapsed or expired.

(4) The powers conferred on the Commissioner of Building Control by this Act may be exercised in
respect of
   (a) any building erected in contravention of, or deemed to be unauthorised under, any
   written law relating to building control in force before …; and
   (b) any temporary building in respect of which no temporary permit, permission or other
   similar document issued under any such written law relating to building control or this Act is
   in force, and such building shall be deemed unauthorised for the purposes of this Act.

(5) Where any written law or document refers expressly or by implication to a temporary
occupation licence or to a certificate of fitness for occupation, the reference shall (except where the
context otherwise requires) be construed as a reference to a temporary occupation permit or a
certificate of statutory completion, respectively.

(6) For the purposes of this section, temporary building means a building which is required for a
limited time or constructed of short-lived materials.