

Building Control (Amendment) Bill

Bill No. 23/2024.

Read the first time on 6 August 2024.

A BILL

intituled

An Act to amend the Building Control Act 1989 to enhance energy efficiency measures for existing buildings and to make a miscellaneous amendment.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Building Control (Amendment) Act 2024 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 22

2. In the Building Control Act 1989 (called in this Act the principal Act), in section 22 —

(a) in subsection (1)(f), replace “section 22FG” with “section 22FC”; and

10 (b) in subsection (2A), replace “section 22FI” with “section 22FD”.

New Division heading of Part 3B

3. In the principal Act, in Part 3B, before section 22FA, insert —

“*Division 1 — Preliminary*”.

15 Amendment of section 22FA

4. In the principal Act, in section 22FA —

(a) delete “, unless the context otherwise requires”;

(b) before the definition of “as-built score”, insert —

20 ““approved reduction”, in relation to the energy use intensity of a building, means a reduction in the energy use intensity of the building by a percentage approved by the Commissioner of Building Control under section 22FO(3) for that building;”;

25 (c) after the definition of “as-built score”, insert —

““audit report” means a report of the result of an energy audit mentioned in section 22FN(1)(d);”;

30 (d) in the definition of “energy auditor”, replace “section 22FG” with “section 22FC”;

(e) after the definition of “energy auditor”, insert —

““energy efficiency improvement plan” means an energy efficiency improvement plan prepared under section 22FN(1)(c), and includes any energy efficiency improvement plan amended in accordance with section 22FO(4) or 22FS(1);”

“energy use intensity”, in relation to a building, means the annual energy consumption of the building per unit of gross floor area (expressed in kilowatt hour (kWh) per square metre per year), calculated using the prescribed methodology;

“energy use intensity threshold” means the threshold level of energy use intensity prescribed for the purposes of this Part;

“energy-intensive building” means a Type 1 building that has an energy use intensity that exceeds the energy use intensity threshold;

“environmental sustainability score” or “ES score” means a numerical score to assess the environmental sustainability of a building, calculated using the prescribed scoring methodology;”;

(f) replace the definition of “Green Mark score” with —

““gross floor area”, in relation to a building, means the aggregate of the gross areas of all floor spaces of the building that are prescribed (whether the floor space is within or outside the building, enclosed, covered or otherwise), but excludes any prescribed excluded area;”;

(g) in the definition of “major energy-use change”, replace “energy-use” with “energy use”;

(h) before the definition of “mechanical engineer”, insert —

““mandatory energy improvement audit notice” or “MEI audit notice” means a mandatory energy improvement audit notice issued under section 22FJ(1);” and

5 (i) replace the definition of “prescribed building” with —

““specified reduction”, in relation to the energy use intensity of a building, means a reduction in the energy use intensity of the building by a prescribed percentage;

10 “Type 1 building” means an existing building, or part of an existing building, of any class or type for the time being prescribed for the purposes of Divisions 2, 3 and 4;

15 “Type 2 building” means an existing building, or part of an existing building, of any class or type for the time being prescribed for the purposes of Division 5.”.

New sections 22FB, 22FC, 22FD and 22FE and new Divisions 2, 3, 4 and 5

20 5. In the principal Act, after section 22FA, insert —

“Individuals who may carry out energy audit

22FB. Any of the following individuals may be appointed to carry out an energy audit under this Part (called in this Part a specified individual):

25 (a) a mechanical engineer;

(b) an energy auditor;

(c) any other class or classes of individuals that may be prescribed.

Registration of energy auditors

30 **22FC.—**(1) An individual is eligible to be registered as an energy auditor if the individual has the prescribed qualifications

or experience in relation to assessing the energy efficiency of cooling systems of buildings.

(2) An application to be registered as, or to renew the registration of, an energy auditor must —

- (a) be made to the Commissioner of Building Control; 5
- (b) be made in the form and manner specified by the Commissioner of Building Control; and
- (c) be accompanied by —
 - (i) such documents or information as the Commissioner of Building Control may specify; and 10
 - (ii) any application fee that may be prescribed.

(3) The Commissioner of Building Control may register an applicant as an energy auditor, or renew the registration of an applicant as an energy auditor, if he or she is satisfied that the applicant — 15

- (a) has the prescribed qualifications or experience mentioned in subsection (1); and
- (b) is capable of carrying out the duties of an energy auditor under this Part. 20

(4) The Commissioner of Building Control may, at the time of registering an applicant as an energy auditor, or renewing the registration of an applicant as an energy auditor, specify the validity period of the registration or the renewal of registration.

(5) The Commissioner of Building Control may appoint a committee of persons to assist him or her in considering applications for registration, or renewal of registration, as an energy auditor. 25

Cancellation or suspension of registration of energy auditor

22FD.—(1) The Commissioner of Building Control may cancel, or suspend for a period not exceeding 6 months, the 30

registration of an energy auditor if the Commissioner of Building Control is satisfied that —

- (a) the individual obtained the individual's registration or renewal of registration by fraud or misrepresentation;
- 5 (b) the individual has been convicted of an offence which, in the opinion of the Commissioner of Building Control, renders the individual unfit to remain registered as an energy auditor;
- 10 (c) the individual is no longer capable of carrying out the duties of an energy auditor; or
- (d) the individual is no longer suitable to be registered as an energy auditor for any other prescribed reason.

(2) The Commissioner of Building Control must not cancel or suspend the registration of any energy auditor under subsection (1) without giving the energy auditor an opportunity to be heard.

Register of energy auditors

22FE.—(1) The Commissioner of Building Control must keep a register of energy auditors in which must be entered the names and particulars of all individuals registered under section 22FC as energy auditors.

(2) The Commissioner of Building Control must remove the name and particulars of an individual from the register of energy auditors —

- 25 (a) upon the expiry of the individual's registration as an energy auditor; or
- (b) when the Commissioner of Building Control cancels or suspends the individual's registration as an energy auditor under section 22FD.

30 (3) If the registration of an energy auditor is suspended under section 22FD for any period, then at the end of the period of suspension, the name and particulars of the energy auditor must be reinstated in the register of energy auditors.

*Division 2 — Monitoring energy efficiency and
environmental sustainability of buildings*

Periodic reporting on energy use of Type 1 buildings

22FF.—(1) An owner of a Type 1 building must submit to the Commissioner of Building Control, a report for each prescribed period containing all of the following information relating to the Type 1 building for that period, in accordance with subsection (2):

- (a) the electricity consumption by users of the building as a whole or any part of the building or by different users in the building, as the Commissioner of Building Control may specify;
- (b) the consumption of other types of energy by users of the building as a whole or any part of the building or by different users in the building, as the Commissioner of Building Control may specify;
- (c) the consumption of chilled water supplied to the cooling system of the building;
- (d) such other information relating to the building, the users of the building or their energy usage, as may be prescribed.

(2) The owner of the Type 1 building must submit the report in the form and manner and within the time, specified by the Commissioner of Building Control.

(3) An owner of a Type 1 building who, without reasonable excuse, fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Power to obtain information on energy consumption of any building, etc.

22FG.—(1) Without affecting section 22FF, for the purpose of monitoring the energy efficiency and environmental sustainability of any building (including any Type 1 building

or Type 2 building), the Commissioner of Building Control may do all or any of the following:

5 (a) at any time, by written notice to the owner of the building, require the owner to provide the Commissioner of Building Control with all or any of the following information in respect of the building:

10 (i) the electricity consumption by users of the building as a whole or any part of the building or by different users in the building;

(ii) the consumption of other types of energy by users of the building as a whole or any part of the building or by different users in the building;

15 (iii) the consumption of chilled water supplied to the cooling system of the building;

20 (iv) such other information relating to the building, the users of the building and their energy usage as the Commissioner of Building Control may specify in the notice;

25 (b) by written notice to a supplier of electricity, gas or any other type of energy (called in this section an energy supplier), require the energy supplier to provide the Commissioner of Building Control with information in the possession of the energy supplier relating to the energy consumption of any building or buildings specified in the notice;

30 (c) by written notice to a supplier of any cooling system to buildings, require the supplier to provide the Commissioner of Building Control with information specified in the notice relating to the supply of cooling systems by the supplier to any building or buildings.

35 (2) The person to whom a notice is directed under subsection (1) must provide the information required in the form and manner and within the time, specified in the notice.

(3) Any person who, without reasonable excuse, fails to comply with subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Division 3 — Energy-intensive buildings

Application to Type 1 buildings

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22FH. This Division applies to and in relation to all Type 1 buildings.

Purpose of this Division and Division 4

22FI. The purpose of this Division and Division 4 is to establish a framework to achieve and maintain a specified reduction or an approved reduction in the energy use intensity of Type 1 buildings that are energy-intensive buildings.

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Issuance of MEI audit notice

22FJ.—(1) Subject to subsection (2), the Commissioner of Building Control must issue a mandatory energy improvement audit notice to an owner of a Type 1 building if the Commissioner of Building Control —

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(a) receives information relating to the energy consumption of the Type 1 building —

(i) under section 22FF or 22FG; or

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(ii) from a reliable and independent source; and

(b) based on the information mentioned in paragraph (a), reasonably believes that the Type 1 building is an energy-intensive building.

(2) However, the Commissioner of Building Control —

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(a) need not issue an MEI audit notice in relation to a Type 1 building if —

(i) measures set out in an energy efficiency improvement plan have been carried out in relation to the building in accordance with section 22FQ;

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(ii) after the measures were carried out, the specified reduction or approved reduction in energy use intensity for the building has been achieved during the maintenance period mentioned in section 22FT(2)(a); and

(iii) a prescribed period after that maintenance period has not elapsed; and

(b) may choose not to issue an MEI audit notice on any of the following grounds:

(i) any prescribed ground;

(ii) the Commissioner of Building Control is satisfied that there is a good reason not to issue the notice.

(3) The Commissioner of Building Control does not need to ascertain the veracity of any information received under subsection (1)(a) before issuing an MEI audit notice.

(4) An MEI audit notice must specify —

(a) the period within which the owner must appoint a specified individual to carry out an energy audit of the Type 1 building under section 22FM; and

(b) the period within which the owner must submit an audit report and energy efficiency improvement plan to the Commissioner of Building Control under section 22FO(2).

Cancellation of MEI audit notice

22FK.—(1) The Commissioner of Building Control must cancel an MEI audit notice issued in relation to a Type 1 building if he or she is satisfied, whether or not through further information provided, that the Type 1 building is not an energy-intensive building.

(2) Without affecting subsection (1), the Commissioner of Building Control may cancel an MEI audit notice on any of the following grounds:

- (a) any prescribed ground;
- (b) the Commissioner of Building Control is satisfied that there is a good reason to do so.

Obligations of owner of Type 1 building subject to MEI audit notice

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22FL.—(1) An owner of a Type 1 building that is subject to an MEI audit notice must do all of the following:

- (a) appoint a specified individual to carry out an energy audit, in accordance with sections 22FM and 22FN;
- (b) submit an audit report of the energy audit carried out and an energy efficiency improvement plan, in accordance with section 22FO;
- (c) ensure that the energy efficiency improvement plan is carried out, in accordance with section 22FQ;
- (d) ensure that the specified reduction or approved reduction in energy use intensity is maintained for the maintenance period, in accordance with section 22FT.

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(2) In this Division and Division 4, a reference to an owner of a Type 1 building that is subject to an MEI audit notice —

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- (a) means the current owner of the Type 1 building; and
- (b) includes a reference to a person who becomes the owner of that building after that notice is issued.

(3) If the owner of a Type 1 building that is subject to an MEI audit notice ceases to be the owner of the building before the expiry of the maintenance period mentioned in section 22FT(2)(a), the owner must notify the Commissioner of Building Control of that fact not later than 7 days after the owner ceases to be the owner of the building.

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(4) An owner of a Type 1 building who, without reasonable excuse, contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

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Appointment of specified individual to carry out energy audit

5 **22FM.**—(1) An owner of a Type 1 building that is subject to an MEI audit notice must appoint a specified individual to carry out an energy audit of the Type 1 building within the period specified in the notice.

10 (2) If a specified individual appointed under subsection (1) vacates his or her appointment before the expiry of the maintenance period mentioned in section 22FT(2)(a), the owner of the building must —

(a) appoint another specified individual to carry out the energy audit within 90 days after the cessation; and

15 (b) within 7 days after the date of the appointment, notify the Commissioner of Building Control in writing of that substitute appointment.

(3) An owner of a Type 1 building who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part of a day during which the offence continues after conviction.

(4) An owner of a Type 1 building who, without reasonable excuse, contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Duties of specified individual carrying out energy audit for Type 1 building

25 **22FN.**—(1) A specified individual appointed to carry out an energy audit of a Type 1 building must do all of the following:

(a) carry out —

30 (i) an audit on the energy use of the Type 1 building in the prescribed manner;

(ii) an audit on the energy use of any cooling system or other system with high energy consumption

that may be prescribed for that Type 1 building, in the prescribed manner; and

- (iii) an audit on the energy efficiency of any cooling system or other system with high energy consumption that may be prescribed for that Type 1 building, in the prescribed manner; 5
- (b) provide a recommendation on whether the Type 1 building is able to meet the specified reduction in energy use intensity without undergoing a major energy use change; 10
- (c) prepare and sign an energy efficiency improvement plan setting out the proposed measures to be carried out in relation to the Type 1 building for the purposes of meeting the specified reduction in energy use intensity (whether or not the proposed measures involve a major energy use change); 15
- (d) prepare and sign an audit report of the result of the energy audit in the form and manner specified by the Commissioner of Building Control that includes all of the following: 20
 - (i) the recommendation mentioned in paragraph (b);
 - (ii) the energy efficiency improvement plan mentioned in paragraph (c);
- (e) submit the audit report to the owner of the Type 1 building. 25

(2) To avoid doubt, the proposed measures in the energy efficiency improvement plan may involve a major energy use change even if the building is able to meet the specified reduction in energy use intensity without undergoing a major energy use change. 30

(3) If the specified individual appointed to carry out the energy audit assesses that it is impracticable for the Type 1 building to meet the specified reduction in energy use intensity (whether or

not by carrying out a major energy use change), the audit report must include this assessment.

(4) Any specified individual appointed to carry out an energy audit who —

5 (a) without reasonable excuse, contravenes subsection (1) or (3); or

 (b) provides any information or makes any statement in relation to the audit report required under subsection (1) or (3), which the individual knows or
10 has reason to believe is false,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Submission of energy efficiency improvement plan

15 **22FO.**—(1) This section applies to an owner of a Type 1 building —

 (a) that is subject to an MEI audit notice; and

 (b) in relation to which an audit report has been prepared and submitted under section 22FN(1)(d) and (e).

20 (2) The owner of the Type 1 building must submit the audit report and the energy efficiency improvement plan (whether or not amended under subsection (4)) to the Commissioner of Building Control —

 (a) within the period specified in the relevant MEI audit notice; and

25 (b) in the form and manner specified by the Commissioner of Building Control.

30 (3) Without affecting subsection (2), the owner may apply for the Commissioner of Building Control's approval to reduce the energy use intensity of the Type 1 building by a lower percentage than the specified reduction for that building.

 (4) Any amendments to the proposed measures in the energy efficiency improvement plan must —

- (a) be made by a specified individual; and
- (b) meet the specified reduction or approved reduction in energy use intensity.

(5) An application mentioned in subsection (3) —

- (a) must be made in the form and manner specified by the Commissioner of Building Control; and
- (b) may be made whether or not the audit report contains an assessment that it is impracticable for the Type 1 building to meet the specified reduction in energy use intensity.

(6) An owner of a Type 1 building who, without reasonable excuse, contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

Division 4 — Energy efficiency improvement plan

Application of this Division

22FP. This Division applies to an owner of a Type 1 building —

- (a) that is subject to an MEI audit notice; and
- (b) in relation to which an energy efficiency improvement plan has been submitted to the Commissioner of Building Control under section 22FO(2) (called in this Division the original submission).

Duty to carry out energy efficiency improvement plan

22FQ.—(1) Subject to subsection (2), the owner of the Type 1 building must, within the prescribed period or any longer period that the Commissioner of Building Control may allow in writing —

- (a) ensure that the measures set out in the energy efficiency improvement plan are carried out; and
- (b) submit all of the following to the Commissioner of Building Control:

5 (i) a certificate of completion relating to the measures in the energy efficiency improvement plan certifying that —

(A) the measures have been carried out and completed; and

10 (B) the specified reduction or approved reduction in energy use intensity for the Type 1 building has been achieved;

15 (ii) any other document relating to the Type 1 building or the energy efficiency improvement plan that the Commissioner of Building Control may require.

(2) To avoid doubt, if —

(a) the Type 1 building concerned is also a Type 2 building; and

20 (b) the energy efficiency improvement plan involves a major energy use change to the building,

the major energy use change must be carried out in accordance with Division 5.

25 (3) The certificate of completion mentioned in subsection (1)(b)(i) must —

(a) be prepared and signed by a specified individual; and

(b) be submitted in the form and manner specified by the Commissioner of Building Control.

30 (4) An owner of a Type 1 building who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further

fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

Progress report on energy efficiency improvement plan

22FR.—(1) Without affecting section 22FQ(1), the Commissioner of Building Control may issue a written direction to the owner of a Type 1 building to submit a progress report.

(2) The progress report must —

(a) set out the measures in the energy efficiency improvement plan that have been carried out in relation to the building; and

(b) be in the form and manner specified by the Commissioner of Building Control.

(3) An owner of a Type 1 building who, without reasonable excuse, fails to comply with a written direction mentioned in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Departure and deviation from energy efficiency improvement plan

22FS.—(1) If there are any changes to the measures carried out for the energy efficiency improvement plan, the owner of the Type 1 building concerned must —

(a) ensure that a specified individual —

(i) amends the energy efficiency improvement plan, showing clearly the departures and deviations; and

(ii) certifies that the measures in the amended energy efficiency improvement plan will meet the specified reduction or approved reduction in energy use intensity; and

(b) submit the amended and certified energy efficiency improvement plan to the Commissioner of Building Control —

(i) within 60 days after the owner becomes aware of the changes; and

(ii) in the form and manner specified by the Commissioner of Building Control.

(2) An owner of a Type 1 building who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

Maintenance period

22FT.—(1) This section applies after the measures set out in the energy efficiency improvement plan are carried out in relation to a Type 1 building under section 22FQ.

(2) The owner of the building must —

(a) maintain the specified reduction or approved reduction in energy use intensity in relation to the building for a prescribed maintenance period; and

(b) submit a maintenance report to the Commissioner of Building Control within 3 months after the last day of the maintenance period or any longer period that the Commissioner of Building Control may allow in writing.

(3) The maintenance report mentioned in subsection (2)(b) must —

(a) state the energy use intensity of the building during the maintenance period;

(b) if the specified reduction or approved reduction in energy use intensity is not maintained during the

maintenance period — contain additional measures to supplement the energy efficiency improvement plan;

- (c) be prepared and signed by a specified individual; and
- (d) be submitted in the form and manner specified by the Commissioner of Building Control.

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(4) An owner of a Type 1 building who, without reasonable excuse, contravenes subsection (2)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

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Directions if reduction in energy use intensity, etc., not maintained during maintenance period

22FU.—(1) This section applies if the specified reduction or approved reduction in energy use intensity for an energy-intensive building is not achieved and maintained during the maintenance period mentioned in section 22FT(2)(a).

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(2) The Commissioner of Building Control may issue a written direction to an owner of the building for the purpose of ensuring that the specified reduction or approved reduction in energy use intensity is achieved and maintained.

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(3) The written direction may direct the owner of the building to do any one or more of the following, within the period specified in the direction or any longer period that the Commissioner of Building Control may allow in writing:

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- (a) ensure that a specified individual prepares a supplemental report to supplement the energy efficiency improvement plan submitted with additional measures to be carried out in relation to the building;

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- (b) carry out or ensure the carrying out of either or both of the following additional measures:

- (i) the additional measures supplemented under paragraph (a);

(ii) the additional measures supplemented under section 22FT(3)(b);

(c) submit one or more reports on the energy use intensity of the building that are prepared and signed by a specified individual, to confirm that the specified reduction or approved reduction in energy use intensity is achieved and maintained.

(4) An owner of an energy-intensive building who, without reasonable excuse, fails to comply with a written direction mentioned in subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

Power to modify or waive requirements

22FV. The Commissioner of Building Control, may, on the application of an owner of an energy-intensive building in any particular case, modify or waive any requirement relating to the implementation of an energy efficiency improvement plan under section 22FQ, 22FR or 22FS or the maintenance of the reduction in energy use intensity under section 22FT or 22FU, subject to any conditions that the Commissioner of Building Control may impose.

Division 5 — Major energy use change and periodic energy audit

Application to Type 2 buildings

22FW. This Division applies to and in relation to all Type 2 buildings.”.

Renumbering of provisions of Act

6. In the principal Act, renumber each section of the principal Act in the first column of the following table with the new section number set out opposite in the second column of the table:

<i>Current section number</i>	<i>New section number</i>
22FB	22FX
22FC	22FY
22FD	22FZ
22FE	22FZA
22FF	22FZB
22FH	22FZC

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Amendment of section 22FY

7. In the principal Act, in section 22FY (as renumbered by section 6) —

- (a) replace “section 22FB” with “section 22FX”;
- (b) replace “section 22FB(1)(a)” with “section 22FX(1)(a)”;
- and
- (c) in paragraph (a), replace “section 22FB(5)” with “section 22FX(5)”.

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Amendment of section 22FZ

8. In the principal Act, in section 22FZ(1) (as renumbered by section 6), replace “section 22FB” with “section 22FX”.

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Amendment of section 22FZA

9. In the principal Act, in section 22FZA (as renumbered by section 6) —

- (a) in subsection (1)(a), replace “section 22FC” with “section 22FY”; and
- (b) in subsections (1)(b)(i) and (5), replace “section 22FB(1)(a)” with “section 22FX(1)(a)”.

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Amendment of section 22FZB

10. In the principal Act, in section 22FZB (as renumbered by section 6) —

- 5 (a) in subsection (1), replace “Part” wherever it appears with “Division”;
- (b) in subsection (2)(b)(i), replace “section 22FE(1)(b)(i)” with “section 22FZA(1)(b)(i)”; and
- (c) in subsection (3)(a), replace “person mentioned in section 22FG” with “specified individual”.

Deletion of sections 22FG, 22FI and 22FJ

11. In the principal Act, delete sections 22FG, 22FI and 22FJ.

Amendment of section 22FZC

12. In the principal Act, in section 22FZC (as renumbered by section 6) —

- 15 (a) in the section heading, replace “**person**” with “**specified individual**”;
- (b) in subsections (1) and (2), replace “person” wherever it appears with “specified individual”; and
- 20 (c) in subsection (1), replace “section 22FF” with “section 22FZB”.

Amendment of section 36

13. In the principal Act, in section 36 —

- (a) in the section heading, after “**works**”, insert “, **etc.**”; and
- (b) after subsection (3), insert —

25 “(4) To avoid doubt, in this section, a reference to making any provision in respect of any premises includes a reference to doing anything that the owner of the premises is required to do in respect of the premises under Part 3B.”.

Amendment of section 49

14. In the principal Act, in section 49(2) —

(a) in paragraph (*ed*), after “as-built score”, insert “, an energy efficiency improvement plan”; and

(b) after paragraph (*k*), insert —

“(ka) the regulation of a façade inspector within the meaning of Part 5, including the appointment of a façade inspector and the duties of a façade inspector in connection with a façade inspection;”.

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Miscellaneous amendments

15. In the principal Act —

(a) in the following provisions, replace “major energy-use change” wherever it appears with “major energy use change”:

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Section 22FA, definitions of “as-built score” and “design score”

Section 22FX(1), (3)(a) and (7)(a) and (b) (as renumbered by section 6)

Section 22FY (as renumbered by section 6)

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Section 22FZ(1) and (3) (as renumbered by section 6)

Section 22FZA(1) and (3) (as renumbered by section 6)

Section 22FZB(1)(b) and (2)(b) (as renumbered by section 6);

(b) in section 22FA, in the definitions of “as-built score”, “design score” and “minimum environmental sustainability standard”, replace “Green Mark score” with “ES score”;

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(c) in section 22FX (as renumbered by section 6), in the section heading, before “**building**”, insert “**Type 2**”;

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(d) in section 22FX (as renumbered by section 6), in the section heading, replace “**major energy-use change**” with “**major energy use change**”;

(e) in the following provisions, replace “prescribed building” with “Type 2 building”:

Section 22FX(1), (2), (3), (5), (7) and (8) (as renumbered by section 6)

Section 22FY (as renumbered by section 6)

Section 22FZ(3) and (4) (as renumbered by section 6)

Section 22FZA(1), (3), (4), (5), (6) and (7) (as renumbered by section 6)

Section 22FZB(1)(b) and (2)(b) (as renumbered by section 6); and

(f) in section 22FZA (as renumbered by section 6), in the section heading, replace “**major energy-use change**” with “**major energy use change**”.

Saving and transitional provisions

16.—(1) Despite section 2(a), section 22(1)(f) of the principal Act as in force immediately before the date of commencement of section 2(a) continues to apply to an application for registration, or for the renewal of registration, as an energy auditor that —

(a) is made under section 22FG of the principal Act before that date; and

(b) is refused, or granted by the Commissioner of Building Control subject to terms and conditions, before that date.

(2) Despite section 2(b), section 22(2A) of the principal Act as in force immediately before the date of commencement of section 2(b) continues to apply to a registration of an energy auditor under section 22FI of the principal Act that is cancelled or suspended before that date.

(3) An application to be registered as an energy auditor that —

(a) is made under section 22FG(2) of the principal Act (as in force immediately before the date of commencement of section 11); and

(b) is pending immediately before that date,

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is deemed to be an application made under section 22FC(2) of the principal Act (as inserted by section 5).

(4) An individual is deemed to be registered as an energy auditor under section 22FC(3) of the principal Act (as inserted by section 5) if —

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(a) the individual is registered as an energy auditor under section 22FG(4) of the principal Act (as in force immediately before the date of commencement of section 11); and

(b) the registration is valid immediately before that date.

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(5) For the purposes of subsection (4), the deemed registration of the individual is subject to the same terms and conditions (if any) and the same validity period, as the original registration.

(6) A committee is deemed to be appointed by section 22FC(5) of the principal Act (as inserted by section 5) if —

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(a) the committee is appointed by the Commissioner of Building Control under section 22FG(6) of the principal Act (as in force immediately before the date of commencement of section 11); and

(b) the appointment is valid immediately before that date.

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(7) A register of energy auditors kept by the Commissioner of Building Control under section 22FG(7) of the principal Act (as in force immediately before the date of commencement of section 11) is deemed to be a register of energy auditors kept by the Commissioner of Building Control under section 22FE(1) of the principal Act (as inserted by section 5).

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(8) A written notice given by the Commissioner of Building Control under section 22FJ(1) of the principal Act (as in force immediately

before the date of commencement of section 11) before that date, is deemed to be a written notice given under section 22FG(1) of the principal Act (as inserted by section 5).

5 (9) Any information provided to the Commissioner of Building Control under section 22FJ(2) of the principal Act (as in force immediately before the date of commencement of section 11) before that date, is deemed to be provided under section 22FG(2) of the principal Act (as inserted by section 5).

10 (10) Despite section 15(b), a building that met the minimum environmental sustainability standard according to the Green Mark score before the date of commencement of that section, is deemed to have met the standard according to the ES score.

15 (11) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Building Control Act 1989 for the following main purposes:

(a) to expand the regime in Part 3B relating to environmental sustainability measures for existing buildings;

(b) to regulate façade inspectors within the meaning of Part 5.

The existing regime in Part 3B only relates to environmental sustainability measures for buildings that undergo a major energy use change (existing regime). The new regime (which will be added to Part 3B) involves identifying existing buildings which are energy-intensive buildings and requiring the owners of these energy-intensive buildings to make improvements to the energy efficiency of these buildings (new regime).

Clause 1 relates to the short title and commencement.

Clause 3 inserts a new Division heading for Part 3B.

Clause 4 amends section 22FA to substitute certain definitions and insert new definitions, that are necessary to support the other amendments to Part 3B. In

particular, the definition of “environmental sustainability score” or “ES score” replaces the definition of “Green Mark score” as the numerical score to assess the environmental sustainability of buildings. The definition of “major energy-use change” will be amended to “major energy use change” because the latter term is more commonly used in the built environment sector (even though there is no change in the meaning). The definitions of “Type 1 building” and “Type 2 building” replace the definition of “prescribed building” to allow the Minister to prescribe different types of buildings for the existing regime and the new regime.

Clause 5 inserts new sections 22FB, 22FC, 22FD and 22FE and new Divisions 2, 3, 4 and 5.

The new sections 22FB, 22FC, 22FD and 22FE relate to persons who may carry out an energy audit (called specified individuals), are based on existing sections 22FG and 22FI and replace those provisions. These provisions will be moved to the front of Part 3B because they are relevant to both the existing regime as well as the new regime. Arising from this re-organisation, clause 2(a) replaces the reference to “section 22FG” in section 22(1)(f) with “section 22FC” and clause 2(b) replaces the reference to “section 22FI” in section 22(2A) with “section 22FD”.

The new Division 2 contains provisions relating to monitoring the energy efficiency and environmental sustainability of buildings.

The new section 22FF provides that an owner of a Type 1 building must submit to the Commissioner of Building Control, a report for each prescribed period containing certain information relating to the energy consumption of the building. This information is necessary for the Commissioner of Building Control to issue a mandatory energy improvement audit notice (MEI audit notice) under the new Division 3. It will be an offence for an owner of a Type 1 building to, without reasonable excuse, fail to comply with this.

The new section 22FG is based on the existing section 22FJ and replaces that provision. Unlike the new section 22FF, the new section 22FG applies in relation to any building (not just Type 1 buildings).

The new Division 3 contains provisions for the new regime for energy-intensive buildings.

The new section 22FH provides that Division 3 applies to and in relation to all Type 1 buildings.

The new section 22FI sets out the purpose of Divisions 3 and 4.

The new section 22FJ provides that the Commissioner of Building Control must issue an MEI audit notice to an owner of a Type 1 building if he or she reasonably believes that the Type 1 building is an energy-intensive building. This is based on the information relating to the energy consumption of the building received under the new section 22FF or 22FG or from a reliable and independent source.

However, the Commissioner of Building Control need not, during a prescribed period after the expiry of the maintenance period, issue an MEI audit notice in relation to a building if measures in an energy efficiency improvement plan have been carried out in relation to the building and a specified reduction or an approved reduction in energy use intensity for the building has already been achieved and maintained.

In addition, the Commissioner of Building Control may choose not to issue an MEI audit notice on any prescribed ground, or if he or she is satisfied that there is a good reason not to issue the notice.

Since the issuance of an MEI audit notice is based on the reasonable belief of the Commissioner of Building Control, the new section 22FK provides that the Commissioner of Building Control must cancel an MEI audit notice if he or she is subsequently satisfied that the Type 1 building is not an energy-intensive building. The new section 22FK(2) also provides that the Commissioner of Building Control may cancel an MEI audit notice on any prescribed ground, or if he or she is satisfied that there is a good reason to do so.

The new section 22FL provides for a non-exhaustive summary of the obligations of an owner of a Type 1 building that is subject to an MEI audit notice.

In addition, the new section 22FL also provides that a reference to an owner of a Type 1 building that is subject to an MEI audit notice means the current owner of the Type 1 building and includes a reference to a person who becomes the owner of that building after that notice is issued.

The new section 22FM requires an owner of a Type 1 building that is subject to an MEI audit notice to appoint a specified individual to carry out an energy audit. It will be an offence for an owner of a Type 1 building to, without reasonable excuse, fail to comply with this.

Under the new section 22FN, a specified individual appointed to carry out an energy audit of a Type 1 building must carry out an audit on the energy use of the Type 1 building (among other things) and make a recommendation on whether the building is able to meet the specified reduction in energy use intensity without undergoing a major energy use change. The specified individual must also prepare an energy efficiency improvement plan setting out the proposed measures to be carried out in relation to the building, prepare an audit report of the result of the energy audit and submit the audit report to the owner. It will be an offence for a specified individual to, without reasonable excuse, fail to comply with this.

The new section 22FO requires an owner of a Type 1 building to submit the audit report and energy efficiency improvement plan to the Commissioner of Building Control within the period specified in the relevant MEI audit notice. It will be an offence for an owner of a Type 1 building to, without reasonable excuse, fail to comply with this. The owner may apply for approval to reduce the energy use intensity of the building by a lower percentage than the specified reduction for

that building (called the approved reduction). The proposed measures in the energy efficiency improvement plan may be amended.

The new Division 4 contains provisions for the energy efficiency improvement plan.

The new section 22FP provides that Division 4 applies to an owner of a Type 1 building that is subject to an MEI audit notice and in relation to which an energy efficiency improvement plan has been submitted to the Commissioner of Building Control under the new section 22FO.

The new section 22FQ requires the owner of the Type 1 building to, within the prescribed period or any longer period that the Commissioner of Building Control may allow in writing, ensure that the measures set out in the energy efficiency improvement plan are carried out and submit a certificate of completion (and other related documents required) to the Commissioner of Building Control. It will be an offence for an owner of a Type 1 building to, without reasonable excuse, fail to comply with this. If the Type 1 building is also a Type 2 building and the energy efficiency improvement plan involves a major energy use change, the major energy use change must be carried out in accordance with Division 5 (existing regime).

The new section 22FR provides for the submission of a progress report on the measures in the energy efficiency improvement plan that have been carried out, if the Commissioner of Building Control issues a written direction to do so.

The new section 22FS provides that if there are any changes to the measures carried out for the energy efficiency improvement plan, the owner of the Type 1 building must ensure that a specified individual amends the plan and certifies that the measures in the amended plan will meet the specified reduction or approved reduction in energy use intensity and submit the amended and certified plan to the Commissioner of Building Control within 60 days after the owner becomes aware of the changes. It will be an offence for an owner of a Type 1 building to, without reasonable excuse, fail to comply with this.

The new section 22FT applies after the measures set out in an energy efficiency improvement plan are carried out in relation to a Type 1 building and requires the owner of the building to maintain the specified reduction or approved reduction in energy use intensity for a prescribed maintenance period.

The new section 22FU applies if the specified reduction or approved reduction in energy use intensity for an energy-intensive building is not achieved and maintained during the maintenance period. It empowers the Commissioner of Building Control to direct the owner of the building to ensure that a specified individual supplements the plan with additional measures, carries out additional measures and submits a report to confirm that the specified reduction or approved reduction in energy use intensity is achieved and maintained. It will be an offence

for an owner of an energy-intensive building to, without reasonable excuse, fail to comply with the written direction.

The new section 22FV empowers the Commissioner of Building Control to modify or waive any requirement relating to the implementation of an energy efficiency improvement plan or the maintenance of the reduction in energy use intensity.

The new Division 5 relates to major energy use changes and periodic energy audits (existing regime).

The new section 22FW provides that Division 5 applies to and in relation to all Type 2 buildings.

Clause 6 renumbers the other provisions which will come under Division 5.

Clauses 7, 8, 9, 10 and 12 make consequential amendments to certain provisions in Division 5 arising from the renumbering of the provisions and the other amendments to Part 3B.

Clause 11 deletes sections 22FG, 22FI and 22FJ which have been replaced as new sections 22FB to 22FE and new section 22FG.

Clause 13 amends section 36 to clarify that section 36 applies to anything that the owner of any premises is required to do in respect of the premises under Part 3B.

Clause 14 amends section 49(2) to expand paragraph (*ed*) to include an energy efficiency improvement plan and also for the regulation of a façade inspector within the meaning of Part 5.

Clause 15 contains miscellaneous amendments.

Clause 15(*a*), (*d*) and (*f*) replaces various references in Part 3B to “major energy-use change” with references to “major energy use change”.

Clause 15(*b*) replaces references to “Green Mark score” (in the definitions of “as-built score”, “design score” and “minimum environmental sustainability standard” in section 22FA) with references to “ES score”.

Clause 15(*c*) and (*e*) amends the references to “prescribed building” to “Type 2 building”.

Clause 16 contains saving and transitional provisions.

Clause 16(1), (3), (4), (5), (6) and (7) provides for saving and transitional provisions relating to the replacement of section 22FG with the new sections 22FC and 22FE.

Clause 16(2) provides for a saving and transitional provision relating to the replacement of section 22FI with the new section 22FD.

Clause 16(8) deems a written notice given by the Commissioner of Building Control under section 22FJ(1) before the date of commencement of section 11 to be a written notice given under the new section 22FG(1).

Clause 16(9) deems any information provided to the Commissioner of Building Control under section 22FJ(2) before the date of commencement of section 11 to be information provided under the new section 22FG(2). This should be read with the new section 22FJ which provides that the Commissioner of Building Control must issue an MEI audit notice based on the information received under the new section 22FG.

Clause 16(10) is a saving and transitional provision for the replacement of the Green Mark score with the ES score.

Clause 16(11) confers on the Minister the power to make regulations of a saving or transitional nature in the 2 years after the date of commencement of any provision of the Bill.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
