

Queensland



# ARCHITECTS ACT 1985

**Reprinted as in force on 2 April 1998  
(includes amendments up to Act No. 17 of 1998)**

**Reprint No. 3**

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# Information about this reprint

This Act is reprinted as at 2 April 1998. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- omit provisions that are no longer required (s 37)
- number and renumber provisions and references (s 43).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including table of renumbered provisions**
- **editorial changes made in earlier reprints.**

# Queensland



## ARCHITECTS ACT 1985

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# ARCHITECTS ACT 1985

[as amended by all amendments that commenced on or before 2 April 1998]

## **An Act to consolidate and amend the law relating to the registration and practice of architects and for related purposes**

### **PART 1—PRELIMINARY**

#### **Short title and citation**

1. This Act may be cited as the *Architects Act 1985*.

#### **Savings**

2. Without limiting the operation of the *Acts Interpretation Act 1954* in relation to the repeal effected by subsection (1),<sup>1</sup> unless the contrary intention appears in this Act—

- (a) every act done and decision made, every instrument or document made or issued, for the purposes of the repealed Act shall continue in force and be deemed to have been done, made or issued under this Act and shall be construed subject to this Act;
- (b) all moneys, including fees that, having accrued due under the repealed Act, are at the commencement of this Act due or payable to or recoverable by the Board of Architects of Queensland constituted under the repealed Act, or any other body or person, shall be and continue to be so due, payable and recoverable, and may be paid to and received and recovered by the corresponding body or person established or appointed under this Act;
- (c) any gazette, register, book, certificate or other document made

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<sup>1</sup> The repeal of the *Architects Act 1962*

evidence under the repealed Act shall continue evidence to the same extent as if this Act had not come into operation.

## Definitions

3. In this Act—

**“approved architectural company”** means a company for the time being approved by the board under part 4.

**“approved form”** see section 101.<sup>2</sup>

**“architect”** means a person registered as an architect in accordance with this Act and whose name, at any material time, remains upon the register.

**“architecture”** does not include naval architecture, golf course architecture, landscape architecture or another form of architecture declared under a regulation not to be architecture for the Act.

**“attendance notice”** see section 73(1).

**“board”** means the Board of Architects of Queensland constituted under this Act.

**“chairperson”** means—

- (a) for part 5—the chairperson of the disciplinary panel; and
- (b) other than for part 5—the chairperson of the board.

**“company”** means a company under the Corporations Law.

**“disciplinary panel”** means the Architects Disciplinary Panel established under section 48.

**“executive officer”**, in relation to a company, means any person by whatever name called and whether or not the person is a director of the company, who is concerned, or takes part, in the management of the company.

**“investigator”** means a person appointed under section 31 to investigate the conduct of a registered person.

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<sup>2</sup> Section 101 (Approval of forms)

**“member”** means—

- (a) for part 5—a member of the disciplinary panel; and
- (b) other than for part 5—a member of the board.

**“prescribed examinations”** means the examinations prescribed under a regulation.

**“presiding member”** see section 61(1)(a).

**“register”** means the register of architects kept under this Act.

**“registrar”** means the registrar of the board appointed under this Act, and includes any person appointed to act as, or for the time being performing the duties of, the registrar.

**“rules”** means the rules set forth in the schedule, and includes any modification of the rules pursuant to this Act.

## **PART 2—THE BOARD**

### **Board of Architects of Queensland**

**4.(1)** The Board of Architects of Queensland constituted under the repealed Act is hereby preserved, continued in existence and constituted under and for the purposes of this Act.

**(2)** The board shall be a body corporate with perpetual succession and a common seal and may sue and be sued and shall, for the purposes of and subject to the provisions of this Act, be capable of doing and suffering all such acts and things as a body corporate may by law do or suffer.

### **Constitution of the board**

**5.(1)** The board shall consist of 6 members appointed by the Governor in Council, as follows—

- (a) 3 members to be nominated by the Minister, 1 of whom shall be representative of a prescribed school of architecture;
- (b) 1 member who shall be the president for the time being of the

Queensland Chapter of the Royal Australian Institute of Architects;

- (c) 2 members who shall be architects, and who shall, subject to subsection (2), be elected by the architects of Queensland in the manner prescribed.

(2) If, contrary to subsection (1)(c), an architect is not elected by the architects of Queensland, the Governor in Council shall appoint as member an architect nominated by the Minister.

(3) The Governor in Council shall appoint the chairperson of the board who shall be 1 of the members nominated by the Minister under subsection (1)(a).

### **Business of the board**

6.(1) Subject to this Act the board shall meet at such times and conduct its business in such manner as it may decide or as may be prescribed.

(2) An act, proceeding, decision or determination of the board is not invalid or unlawful by reason only of any defect in the qualification, membership or appointment of any member or by reason only of there being any vacancy in the number of members.

### **Rules in the schedule**

7.(1) The rules set forth in the schedule shall apply to the business and proceedings of the board, examinations, and certificates, and the several matters referred to therein, and shall be observed by the board and by all persons concerned.

(2) Such rules shall not be read or construed so as to prevent or limit the making of regulations for the purpose of giving full effect to this Act, but where any regulation under this Act conflicts with any of the provisions of the rules, the rules shall prevail.

### **Tenure of office and remuneration of members**

8.(1) Subject to section 9, the members of the board, other than the president for the time being of the Queensland Chapter of the Royal

Australian Institute of Architects (who shall hold office for the term of the president's appointment as president), shall hold office for a term of 2 years, but shall be eligible for reappointment, or re-election and reappointment, as the case may be.

(2) Each member of the board shall receive such fees and allowances as may from time to time be prescribed.

### **Vacancies**

**9.(1)** The office of a member of the board becomes vacant if the member—

- (a) dies; or
- (b) refuses or fails to act as a member; or
- (c) is absent without prior leave granted by the board from more than 3 consecutive meetings of the board of which the member has received due notice; or
- (d) becomes bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors; or
- (e) resigns office by written notice given to the Minister; or
- (f) becomes incapable of performing duties because of mental illness; or
- (g) subject to subsections (2) to (7), does not hold or ceases to hold the qualifications (required by section 5(1)) for his or her office; or
- (h) is removed from office by the Governor in Council.

(2) For the purposes of subsection (1)(c), a member shall be deemed to be present at a meeting if the member attends at the time and place appointed for the meeting notwithstanding that, by reason that no quorum is present, no meeting is actually held on that day and the registrar shall record the name of any member who so attends.

(3) If the office of a member becomes vacant during his or her term of office for a reason mentioned in subsection (1) the Governor in Council shall, notwithstanding the provisions of section 5(1), appoint a person to

that office who shall hold office for the balance of the term of appointment of his or her predecessor in office.

(4) If at any time a member is, from illness, absence or other proper cause—

- (a) prevented from attending a meeting of the board, the Minister may appoint a person to act in the place of that member during the member's absence; or
- (b) likely to be absent from meetings of the board for more than 4 months, the Governor in Council may appoint a person to act in the place of that member during the member's absence.

(5) If at any time the president of the Queensland Chapter of the Royal Australian Institute of Architects is absent on official leave granted by the institute, the Minister may appoint the person for the time being acting as president of the institute to act as member in the place of the president during the president's absence.

(6) A person appointed to act in the place of a member pursuant to subsection (4) or (5) shall, during the term of the person's appointment, have all the powers of and be deemed to be a member.

(7) If at any time the chairperson is absent from a meeting of the board the Minister may appoint 1 of the other members to act as chairperson and while so acting such other member shall have all the powers of and be deemed to be the chairperson.

### **Registrar and other officers**

**10.(1)** The Governor in Council may appoint a registrar of the board and fix the remuneration to be paid for the registrar's services.

(2) In fixing such remuneration the Governor in Council shall have regard to any recommendation made in that behalf by the board.

(3) The board may appoint such other officers as it thinks necessary to give effect to this Act, and may pay such other officers such remuneration as it thinks fit.

(4) All officers so appointed shall hold office during the pleasure of the board.

**Funds of board**

**11.(1)** All moneys received by or on behalf of the board, including fees and penalties, shall be paid into the funds of the board.

**(2)** The remuneration of the registrar and other officers appointed under this Act, and all other expenses of and incidental to the administration of this Act, shall be paid by the board out of its funds.

**(3)** Any surplus moneys of the board that are not required for the purposes of subsection (2) may be expended by the board for the purpose of the advancement of architecture in such manner as it may determine.

**Board is statutory body**

**12.(1)** Under the *Statutory Bodies Financial Arrangements Act 1982*, the board is a statutory body.

**(2)** The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

**PART 3—REGISTRATION OF ARCHITECTS****The register**

**13.(1)** There shall be a register of architects containing the name and address of every person registered as an architect and such other particulars as are prescribed.

**(2)** The register of architects kept under the repealed Act shall continue and shall be the register of architects for the purposes of this Act.

**Publication of list of architects**

**14.(1)** The board shall cause to be published in the gazette, as soon as is practicable in each year, a list of the names of architects appearing in the register as at 1 January of that year.

(2) Subject to subsections (3) and (4), a copy of the gazette containing a list mentioned in subsection (1) shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings that the persons whose names appear in the list are registered as architects for the year in which the gazette is published.

(3) A certificate signed by the registrar stating that a person was or was not on any date or during any period registered as an architect shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings of the matters stated therein.

(4) A copy of the gazette referred to in section 15, 20 or 73 stating that a person's name has been removed from the register shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings of the matters stated therein.

### **Roll fee**

**15.(1)** Subject to subsection (2), every person who is registered as an architect shall, upon registration and in respect of the year of registration, pay to the registrar the prescribed roll fee for that year.

(2) A person who is registered as an architect subsequent to 1 October in any year shall, upon registration, and in addition to the prescribed roll fee for the year of registration, pay to the registrar the prescribed roll fee for the year commencing on 1 January next following the date of registration of that person.

(3) Every architect shall, on or before 1 October in each year pay to the registrar the prescribed roll fee for the year commencing on 1 January next following.

(4) If an architect fails to pay the prescribed roll fee in accordance with subsection (3), the registrar shall forthwith notify the architect by certified mail addressed to the architect at the address appearing in the register that, if the fee is not paid to the registrar on or before 1 December next following, the board may remove the architect's name from the register.

(5) If an architect fails to pay the fee on or before that day, the board may remove the architect's name from the register, such removal to take effect on and from 1 January next following the date of removal and notification thereof to be published in the gazette as soon as is practicable thereafter.



**Qualifications for registration**

**16.(1)** Subject to this Act, a person shall be entitled to be registered as an architect if the person satisfies the board that he or she is of good character and reputation and—

- (a) has passed—
  - (i) parts 1 and 2 of the prescribed examinations or equivalent examinations conducted by a board or other body approved by the board; or
  - (ii) a course of study in architecture the syllabus of which has been approved by the board; and
- (b) has such practical experience in architectural work and practice as is prescribed and has passed part 3 of the prescribed examinations or equivalent examinations conducted by a board or other body approved by the board.

**(2)** The board may exempt from the requirements of subsection (1)(b) an associate or a fellow of the Royal Australian Institute of Architects who became an associate or, as the case may be, a fellow of the institute prior to 1 January 1976.

**Application for registration**

**17.(1)** Application to the board for registration shall—

- (a) be made as prescribed; and
- (b) be supported by such evidence as the board may require; and
- (c) be accompanied by—
  - (i) the prescribed registration fee; and
  - (ii) the prescribed roll fee referred to in section 15(1) or, as the case may be, the prescribed roll fees referred to in section 15(2); and
  - (iii) the prescribed certificate fee.

**(2)** Where the board refuses an application for registration all fees that accompanied the application shall be refunded.

**Certificates of registration**

**18.** Where the board grants an application for registration it shall issue a certificate of registration as prescribed.

**Appeal from refusal of application for registration**

**19.** If an application for registration is refused by the board upon a ground other than the ground that the applicant has not passed the prescribed examinations or equivalent examinations or a course of study in architecture, the syllabus of which has been approved by the board, the applicant may appeal to a judge of the District Court who shall have jurisdiction to hear and determine the appeal and whose decision thereon shall be final and conclusive.

**Removal from register**

**20.(1)** The board may, in addition to the powers given to it under section 15, remove from the register the name of any person who—

- (a) has died;
- (b) applies to the board in writing to have his or her name removed from the register;
- (c) owing to mental illness, is not capable of practising as an architect;
- (d) does not possess the qualifications in respect of which he or she was registered.

**(2)** Before removing the name of a person from the register pursuant to subsection (1)(c) or (1)(d) the board shall give the person reasonable opportunity to appear before it, in person or by counsel, solicitor or duly authorised agent, to contest the proposed removal of his or her name from the register.

**(3)** A person aggrieved by the decision of the board pursuant to subsection (1)(c) or (1)(d) removing his or her name from the register may appeal to a judge of the District Court who shall have jurisdiction to hear and determine the appeal and whose decision thereon shall be final and conclusive.

(4) If the board removes the name of a person from the register pursuant to subsection (1)(a) or (1)(b) it shall cause notice of the removal to be published in the gazette.

(5) If the board removes the name of a person from the register pursuant to subsection (1)(c) or (1)(d) it shall, at the expiration of a period of 28 days after the date of notification of its decision, cause notice of the removal to be published in the gazette unless, within that period, an appeal is instituted against the decision.

(6) If such an appeal is terminated or dismissed the board shall cause notice of the removal to be published in the gazette.

### **Restoration of name of architect to register**

21. Where the board, pursuant to section 15 or 20, removes from the register the name of any person, the board may, upon application in writing made in that behalf, restore his or her name to the register either without payment of any fee, or conditional upon the payment of such fees as the board may direct.

### **Reissue of certificate of registration**

22. Where the name of a person is, in accordance with this Act, restored to the register, the board shall reissue to the person the certificate of registration as prescribed.

### **Continuation of name of deceased architect**

23.(1) Notwithstanding any other provision of this Act, upon the death of an architect the board may permit the architect's name to remain upon the register, and may authorise the architect's executor, administrator, or trustee to carry on in the name of the deceased architect the practice formerly carried on by the architect.

(2) However, the practice shall be carried on under the personal superintendence of an architect whose name shall be registered as superintendent of the practice.

(3) Any such permission and authority shall, in the first instance, be limited to a period not exceeding 12 months, but may from time to time be

extended by the board for a further period or periods not exceeding 12 months at any one time.

(4) However, the board may, at any time, if it thinks fit, withdraw its permission and authority and remove from the register the name of the deceased architect.

(5) Notwithstanding any other provision of this Act, the decision of the board to withdraw its permission and authority and the removal by the board from the register of the name of a deceased architect shall be final and conclusive and shall not be subject to appeal.

## **PART 4—APPROVAL OF ARCHITECTURAL COMPANIES**

### **Conditions of approval**

**24.(1)** Subject to this part, the board may approve a company as an approved architectural company if—

- (a) the person having the actual personal supervision and management of the business of the company at each place of business is an architect; and
- (b) its articles of association provide that at all times—
  - (i) if the company has only 1 director—the director must be an architect;
  - (ii) if the company has 2 directors—each shall be an architect or 1 shall be an architect and the other shall be—
    - (A) a person holding a prescribed qualification; or
    - (B) a relative, as prescribed, of the architect; or
    - (C) a public accountant or legal practitioner acting for the company;
  - (iii) if the company has more than 2 directors—at least two-thirds of the directors shall be architects;

- (iv) at least two-thirds of the total voting rights of all directors of the company entitled to vote at a meeting of directors of the company shall be held by architects;
  - (v) at least two-thirds of the total voting rights of all persons entitled to vote at a general meeting of members of the company shall be held by architects;
  - (vi) a body corporate shall not be entitled to be a director of the company; and
- (c) at the time when application for approval is made the company complies with its articles of association made in accordance with paragraph (b).
- (2) Application to the board for approval under subsection (1) shall—
- (a) be made as prescribed; and
  - (b) be supported by such evidence as the board may require; and
  - (c) be accompanied by the prescribed fee.

### **Certificate of approval and renewal**

**25.(1)** If the board grants an approval pursuant to section 24 it shall issue a certificate of approval as prescribed that shall take effect on and from the date of its issue and shall expire on the last day of February next following but may be renewed pursuant to subsections (2) and (3).

(2) Application to the board by an approved architectural company for a renewal of its certificate of approval shall—

- (a) be made as prescribed on or before 1 February in each year; and
- (b) be supported by such evidence as the board may require; and
- (c) be accompanied by the prescribed fee.

(3) The board may grant a renewal of a certificate of approval for a period of 12 months expiring on the last day of February in any year.

### **Publication of list of approved architectural companies**

**26.(1)** The board shall cause to be published in the gazette, as soon as is

practicable in each year, a list of the companies that are approved architectural companies as at 1 March of that year.

(2) Subject to subsections (3) and (4), a copy of the gazette containing a list mentioned in subsection (1) shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings that the companies mentioned in the list are approved architectural companies for the year in which the gazette is published.

(3) A certificate signed by the registrar stating that a company was or was not on any date or during any period an approved architectural company shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings of the matters stated therein.

(4) A copy of the gazette referred to in section 28 or 73, stating that the approval of a company as an approved architectural company has been refused or withdrawn shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings of the matters stated therein.

### **Returns by approved architectural companies**

**27.(1)** Every approved architectural company shall, within 1 month after a person becomes or ceases to be a principal executive officer or other director, or a member of the company, lodge with the registrar a notice stating that fact and the name and residential address of the person and—

- (a) where the company has only 2 directors—stating whether that person—
  - (i) is an architect; or
  - (ii) holds a prescribed qualification; or
  - (iii) is a relative, as prescribed, of the other director who is an architect; or
  - (iv) is a public accountant or legal practitioner acting for the company; or
- (b) where the company has more than 2 directors—stating whether that person is an architect.

(2) An approved architectural company that fails to comply with the provisions of this section or that lodges a notice under this section that is false or misleading in a material particular is guilty of an offence against this Act.

Maximum penalty—40 penalty units.

### **Refusal to approve**

**28.(1)** If an application for approval as an approved architectural company or for the renewal of a certificate of approval under this part is refused by the board, the applicant may appeal to a judge of the District Court who shall have jurisdiction to hear and determine the appeal and whose decision thereon shall be final and conclusive.

(2) If the board refuses to renew a certificate of approval it shall, at the expiration of a period of 28 days after the date of notification of its decision, cause notice of the refusal to be published in the gazette unless, within that period, an appeal is instituted against the decision.

(3) If such an appeal is terminated or dismissed the board shall cause notice of the refusal to be published in the gazette.

## **PART 5—INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS**

### *Division 1—Preliminary*

#### **Definitions for pt 5**

**29.** In this part—

“**client**”, of a registered person, means a person who enters into a commission with the registered person.

“**commission**” means a written or other agreement by which a registered person agrees to provide architectural services to a person, whether or not for fee or reward.

“**company**” means an approved architectural company.

“**registered person**” means—

- (a) an architect; or
- (b) a company.

### *Division 2—Complaints and investigations*

#### **Complaints**

**30.** A person aggrieved by the conduct of a registered person may complain in writing to the board.

#### **Appointment of investigator**

**31.(1)** The board may by notice signed by the chairperson of the board appoint a person to investigate the conduct of a registered person for the board if—

- (a) it suspects on reasonable grounds that—
  - (i) the registered person has contravened this Act; or
  - (ii) a ground under section 66 or 67<sup>3</sup> may exist to lay a disciplinary charge against the registered person; or
- (b) a complaint has been made to it about the registered person.

**(2)** However, the board must not appoint an investigator because of a complaint if it considers the complaint is frivolous or vexatious.

**(3)** The board may only appoint a person as an investigator if it is satisfied the person is appropriately qualified to perform the investigation.

**(4)** However, a member of the board or the disciplinary panel must not be appointed as an investigator.

**(5)** The registrar may be appointed as an investigator.

**(6)** The appointment takes effect when the notice is signed.

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<sup>3</sup> Section 66 (Grounds for disciplinary charge against architect)  
Section 67 (Grounds for disciplinary charge against company)



(7) The board must give a copy of the notice to the registered person and the investigator as soon as practicable after the notice is signed.

(8) In subsection (3)—

**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to perform the investigation.

*Example of ‘standing’—*

A person’s classification level in the public service.

### **Submissions to investigator about complaint**

**32.(1)** This section applies if an investigator is appointed because of a complaint.

(2) The investigator must give the registered person the subject of the investigation—

- (a) enough particulars to inform the person of the nature of the complaint; and
- (b) a reasonable opportunity to make representations about the complaint before the investigation ends.

### **Investigator’s report and outline**

**33.(1)** An investigator may, and if directed by the board to do so must, report to the board on the investigation being performed by the investigator.

(2) If the investigator was appointed because of a complaint, the investigator must as soon as practicable after the investigation ends—

- (a) report to the board about the investigator’s—
  - (i) findings in relation to the complaint; and
  - (ii) opinions based on the findings; and
- (b) give a written outline of the report to the registered person the subject of the investigation.

(3) A report may also include a recommendation as to whether—

- (a) the board shall lay a disciplinary charge under this part; or

- (b) the chairperson of the board should authorise a complaint for an offence against this Act.
- (4) A report must be given in the way required by the board.
- (5) The outline mentioned in subsection (2)(b) must give a general statement of any findings about the complaint.
- (6) The outline must not mention any recommendation made by the investigator.

### *Division 3—Investigator’s powers*

#### *Subdivision 1—Entry and related powers*

#### **Entry to places**

- 34.(1)** An investigator may enter a place if—
- (a) its occupier consents to the entry; or
  - (b) the entry is authorised by a warrant; or
  - (c) it is a place of business of the registered person the subject of the investigation, and the entry is made when the place is open for business.
- (2)** An investigator, with or without the occupier’s consent or a warrant, may enter—
- (a) a public place when the place is open to the public; or
  - (b) the land around premises to ask its occupier for consent to enter the premises.

#### **Consent to entry**

**35.(1)** This section applies if an investigator intends to ask an occupier of a place to consent to the investigator entering the place.

- (2)** Before asking for the consent, the investigator must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

(3) If the consent is given, the investigator may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state—

- (a) the occupier has been told—
  - (i) the purpose of the entry; and
  - (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and
- (c) the occupier gives the investigator consent to enter the place and exercise powers under section 39;<sup>4</sup> and
- (d) the date and time the consent was given.

(5) If the occupier signs an acknowledgment, the investigator must as soon as practicable give a copy to the occupier.

(6) Subsection (7) applies if—

- (a) an issue arises in a court proceeding about whether the occupier of a place consented to an investigator entering the place under section 34; and
- (b) an acknowledgment is not produced in evidence for the entry; and
- (c) it is not proved the occupier consented to the entry.

(7) The court may presume the occupier did not consent.

## **Warrants**

**36.(1)** An investigator may apply to a magistrate for a warrant to enter a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the

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<sup>4</sup> Section 39 (General powers after entering places)

investigator gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require that additional information supporting the application be given by a statutory declaration.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing (the “**evidence**”) that may provide evidence of the commission of an offence against this Act; and
- (b) the evidence is, or may be within the next 14 days, at the place.

(5) The warrant must state the following—

- (a) that the investigator may, with necessary and reasonable help and force—
  - (i) enter the place; and
  - (ii) exercise the investigator’s powers under this Act;
- (b) the offence for which the warrant is issued;
- (c) any evidence that may be seized under the warrant;
- (d) the hours when the place may be entered;
- (e) the day, within 14 days after the warrant’s issue, the warrant ends.

### **Warrants—applications made otherwise than in person**

**37.(1)** An investigator may apply for a warrant by phone, fax, radio or another form of communication if the investigator considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the investigator’s remote location.

(2) Before applying for the warrant, the investigator must prepare an application that states the grounds on which the warrant is sought.

(3) The investigator may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately fax a copy to the investigator if it is reasonably practicable to fax a copy.

(5) If it is not reasonably practicable to fax a copy of it to the investigator—

(a) the magistrate must—

(i) tell the investigator what the terms of the warrant are; and

(ii) tell the investigator the date and time the warrant was issued; and

(iii) record the reasons for issuing the warrant on the warrant; and

(b) the investigator must—

(i) complete a form of warrant in the same terms as the warrant issued by the magistrate; and

(ii) write on the warrant form the name of the magistrate and the date and time the magistrate signed the warrant.

(6) The facsimile warrant, or the warrant form properly completed by the investigator, authorises the entry and the exercise of the other powers stated by the warrant issued by the magistrate.

(7) The investigator must, at the first practicable opportunity, send the magistrate—

(a) the sworn application; and

(b) if the investigator completed a warrant form—the completed warrant form.

(8) On receiving the application and any warrant form, the magistrate must attach them to the warrant.

(9) Unless the contrary is proven, a court must presume that a power exercised by an investigator was not authorised by a warrant under this section if—

- (a) a question arises in a proceeding before the court about whether the exercise of power was authorised by a warrant; and
- (b) the warrant is not produced in evidence.

### **Warrants—procedure before entry**

**38.(1)** Before executing a warrant, the investigator named in the warrant must—

- (a) announce that he or she is authorised by the warrant to enter the premises; and
- (b) give any person at the premises an opportunity to allow entry to the premises.

**(2)** However, the investigator need not comply with subsection (1) if the investigator believes on reasonable grounds that immediate entry to the premises is required to ensure the effective execution of the warrant is not frustrated.

**(3)** If an occupier or another person who apparently represents the occupier is present at a place when a warrant is being executed, the investigator must—

- (a) identify himself or herself to the person by producing a copy of the investigator's notice of appointment; and
- (b) give the person a copy of the execution copy of the warrant.

### **General powers after entering places**

**39.(1)** After entering a place under section 34,<sup>5</sup> an investigator<sup>6</sup> may exercise a power mentioned in subsection (2) only if—

- (a) the occupier of the place consents to the exercise of the power; or
- (b) the entry was authorised by a warrant.

**(2)** The investigator may do the following—

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<sup>5</sup> Section 34 (Entry to places)

<sup>6</sup> For the power of a police officer to help the investigator, see the *Police Powers and Responsibilities Act 1997*, section 11 (Exercise of powers under other Acts).

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- (a) search any part of the place;
- (b) if entry was authorised by a warrant—seize the evidence for which the warrant was issued;
- (c) in any case—seize a thing if the investigator reasonably believes that—
  - (i) the thing is evidence of an offence against this Act; and
  - (ii) the seizure is necessary to prevent the thing being—
    - (A) hidden, lost or destroyed; or
    - (B) used to commit, continue or repeat an offence against this Act;
- (d) inspect, examine, photograph or film anything in the place;
- (e) copy a document in the place;
- (f) take into the place the persons, equipment and materials the investigator reasonably requires for exercising a power under this Act;
- (g) require a person in the place to give the investigator reasonable help to exercise the powers mentioned in paragraphs (a) to (f).

**(3)** A person must comply with a requirement under subsection (2)(g), unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

**(4)** It is a reasonable excuse for an individual to fail to give information or produce a document (other than a document required to be kept by the individual under this Act) if doing so might tend to incriminate the individual.

***Subdivision 2—Obtaining documents and information***

**Notice to produce documents or give information**

**40.(1)** An investigator may, by signed notice require an involved person to do one or more of the following at a stated reasonable time and place—

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- (a) produce stated documents of which the person has custody or control that relate to conduct being investigated;
- (b) give the investigator all reasonable help in an investigation;
- (c) appear before the investigator and give the investigator information that relates to the registered person the subject of the investigation.

(2) The person must comply with a requirement unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(3) It is a reasonable excuse for an individual to fail to give documents or information if doing so might tend to incriminate the individual.

(4) In subsection (1)—

**“involved person”** means—

- (a) the registered person the subject of an investigation; or
- (b) if the registered person the subject of an investigation is a company—an executive officer of the company; or
- (c) another person involved in the conduct of a registered person being investigated if the other person—
  - (i) is or has been an officer, employee or agent of the registered person; or
  - (ii) has a document concerning the registered person; or
  - (iii) was a party to the creation of a document concerning the registered person; or
- (d) a person whom the investigator reasonably believes is capable of giving information concerning the conduct of the registered person.

### **Powers if document produced**

**41.** If a document is produced to an investigator under section 40, the investigator may—

- (a) inspect or copy the document; and



- (b) seize the document if the investigator reasonably believes—
  - (i) the document is evidence of an offence against this Act; and
  - (ii) the seizure is necessary to prevent the document being—
    - (A) hidden, lost or destroyed; or
    - (B) used to commit, continue or repeat an offence against this Act.

### *Subdivision 3—Seized documents or things*

#### **Receipt for seized things**

**42.(1)** As soon as practicable after a document or thing is seized by an investigator under this division, the investigator must give a receipt for it to the person from whom it was seized.

**(2)** The receipt must—

- (a) describe generally each thing seized and its condition; and
- (b) if a seized thing was damaged in the exercise of a power under this division—give particulars of the damage.

**(3)** However, if for any reason it is not practicable to comply with subsection (1), the investigator must leave the receipt at the place of seizure, in a reasonably secure way and in a conspicuous position.

#### **Access to and return of seized things**

**43.(1)** The investigator must allow a person who would be entitled to a seized document or thing if it were not in the investigator's possession—

- (a) to inspect it at any reasonable time; or
- (b) if it is a document—to copy it.

**(2)** The investigator must return the seized thing to the person at the end of—

- (a) 1 year; or

(b) if a prosecution for an offence involving it is started within 1 year—the proceeding and any appeal from the proceeding.

(3) Despite subsection (2), the investigator must return the seized thing to the person if the investigator is satisfied—

- (a) its retention as evidence is no longer necessary; and
- (b) its return is not likely to result in its use in repeating the offence.

#### *Subdivision 4—Miscellaneous*

#### **Limits on powers**

**44.(1)** An investigator is subject to directions of the board.

(2) The powers of an investigator may be limited—

- (a) under a regulation; or
- (b) under the investigator's instrument of appointment; or
- (c) by written notice given by the board to the investigator.

#### **Compensation**

**45.(1)** A person may claim compensation from the board if the person incurs loss or expense because of the exercise or purported exercise of a power under this division.

(2) Payment of compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction; or
- (b) an offence against this Act brought against the person making the claim for compensation.

(3) A court may order the payment of compensation for the loss or expense only if the court is satisfied it is just to make the order in the circumstances of the particular case.

**False or misleading statements or documents**

**46.(1)** A person must not—

- (a) state anything to an investigator the person knows is false or misleading in a material particular; or
- (b) give an investigator a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

**(2)** Subsection (1)(b) does not apply to a person who, when giving the document—

- (a) tells the investigator, to the best of the person’s ability, how it is false, misleading or incomplete; and
- (b) if the person has, or can reasonably get, the correct information—gives the correct information to the investigator.

**(3)** It is enough for a complaint against a person for an offence against subsection (1) to state the statement made or the document given was false or misleading to the person’s knowledge without stating which.

**Threatening or obstructing investigator**

**47.(1)** A person must not threaten or obstruct an investigator, or a person helping an investigator, in the exercise of a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

**(2)** If a person obstructs an investigator in the exercise of a power under this Act and the investigator decides to exercise the power, the investigator must warn the person.

**(3)** In warning the person, the investigator must tell the person—

- (a) it is an offence to obstruct the investigator, unless the person has a reasonable excuse; and
- (b) the investigator considers the person’s conduct is an obstruction.

**(4)** In this section—

**“obstruct”** includes hinder and attempt to obstruct.

***Division 4—Disciplinary panel******Subdivision 1—Establishment, functions and powers*****Disciplinary panel**

**48.** A panel called the ‘Architects Disciplinary Panel’ is established.

**Functions**

**49.** The disciplinary panel has the following functions—

- (a) to hear any disciplinary charge laid against a registered person;
- (b) to make a finding whether or not the person is guilty of the charge;
- (c) to make an appropriate order or direction under section 80 or 81<sup>7</sup> if the person is found guilty;<sup>8</sup>
- (d) to keep a record of—
  - (i) its proceedings; and
  - (ii) its decision on each charge and the reasons for the decision; and
  - (iii) the documents produced to it for each charge;
- (e) to report to the Minister on its work and activities for each financial year;
- (f) to perform other functions conferred on it under this Act.

**Powers—general**

**50.(1)** The disciplinary panel has power to do all things necessary or convenient to be done to perform its functions.

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<sup>7</sup> Section 80 (Orders on finding of guilt)  
Section 81 (Suspension direction)

<sup>8</sup> Section 80 (Orders on finding of guilt)

(2) Without limiting subsection (1), the panel has the powers conferred on it by this Act.

### *Subdivision 2—Membership*

#### **Membership**

**51.(1)** The disciplinary panel is to consist of a chairperson and at least 2 other members.

(2) A person may only be appointed chairperson if the person is a retired judge of an Australian court or a lawyer of at least 5 years standing.

(3) A person may only be appointed as another member if the person is—

- (a) a retired judge of an Australian court or a lawyer of at least 5 years standing; or
- (b) an architect of at least 5 years standing.

(4) At least 2 of the other members must be architects of at least 5 years standing.

#### **Appointment of members**

**52.(1)** The members are to be appointed by the Governor in Council.

(2) The members must be appointed under this Act and not the *Public Service Act 1996*.

#### **Restriction on appointment**

**53.** A member of the board must not be appointed as a disciplinary panel member.

#### **Duration of appointment**

**54.** The appointment of a member is for the term, no longer than 7 years, stated in the member's instrument of appointment.

**Terms of appointment**

**55.(1)** A member holds office on a part-time basis.

(2) A member is to be paid the remuneration and allowances decided by the Governor in Council.

(3) A member holds office on the terms, not provided for in this Act, decided by the Governor in Council.

**Vacation of office**

**56.** The office of a member becomes vacant if—

- (a) the member resigns by signed notice given to the Minister; or
- (b) the member ceases to be qualified to be appointed as a member; or
- (c) the member's appointment is ended by the Governor in Council.

**Ending appointment**

**57.** The Governor in Council may end the appointment of a member if the member—

- (a) engages in misbehaviour; or
- (b) fails to act as a member; or
- (c) becomes incapable of performing the duties of a member because of physical or mental incapacity; or
- (d) is an undischarged bankrupt or is taking advantage of the laws in force relating to bankruptcy or insolvent debtors.

**Disclosure of interests**

**58.(1)** This section applies if—

- (a) a member is, or is to be, a member of the panel to hear a disciplinary charge; and
- (b) the member has or acquires an interest (whether financial or

otherwise) that could conflict with the proper performance of the member's functions in relation to the hearing.

(2) The member must disclose the interest to the parties to the hearing as soon as practicable.

(3) The member may only take part in the hearing or exercise a power for the hearing if, after making the disclosure, the parties agree.

(4) If the member fails to disclose the interest and the chairperson becomes aware of the failure, the chairperson must—

- (a) direct the member not to take part, or continue to take part, in the hearing; or
- (b) disclose the interest to the parties.

### **Acting chairperson**

**59.** The Governor in Council may appoint a person, who is qualified for appointment as the chairperson, to act as chairperson—

- (a) when there is a vacancy in the office; or
- (b) when the chairperson is absent from duty or can not perform the chairperson's duties; or
- (c) to hear a disciplinary charge in which the chairperson has an interest of a kind mentioned in section 58.

### **Chairperson's directions about arrangement of business**

**60.(1)** The chairperson may give directions about—

- (a) the arrangement of the disciplinary panel's business; and
- (b) subject to section 61, the members who are to make up the panel to hear and decide a disciplinary charge.

(2) The chairperson may cancel the direction and make a new direction if the hearing of a charge has not started or if a member becomes unavailable to hear the charge before it is decided.

***Subdivision 3—Disciplinary panels for particular hearings*****Establishment**

**61.(1)** The disciplinary panel to hear and decide a disciplinary charge must consist of—

- (a) a member (the “**presiding member**”), who is a retired judge of an Australian court or a lawyer of at least 5 years standing; and
- (b) 2 other members who are architects of at least 5 years standing.

**(2)** The chairperson may, but need not, be the presiding member.

**(3)** The panel may sit as follows—

- (a) by all of its members, to hear and decide the charge;
- (b) by the presiding member alone, to give directions for the hearing of the charge.

**Directions by presiding member**

**62.(1)** Only the presiding member may give directions for the hearing of a disciplinary charge.

**(2)** The presiding member may only give directions about the following—

- (a) whether an investigator has complied with sections 32(2) and 33(2)(b);<sup>9</sup>
- (b) the way or sufficiency of giving of a notice of a disciplinary charge;
- (c) the sufficiency of particulars of a charge, and whether further and better particulars of the charge should be given;
- (d) giving leave to amend a notice of a charge;
- (e) requiring a person making an affidavit for the hearing to be present at the hearing for cross-examination;

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<sup>9</sup> Section 32 (Submissions to investigator about complaint)  
Section 33 (Investigator’s report and outline)



- (f) admissions about facts or documents;
- (g) the place, time and length of the hearing;
- (h) issuing attendance notices;
- (i) giving evidence at the hearing;
- (j) exchanging affidavits of proposed witnesses;
- (k) disclosing reports of expert witnesses before the hearing;
- (l) whether the whole or part of the hearing should not be open to the public;
- (m) applying for further directions.

### **Unavailability or vacancy of member**

**63.(1)** This section applies if—

- (a) the disciplinary panel has started to hear a disciplinary charge; and
- (b) before the panel has made its decision on the charge—
  - (i) a member becomes unavailable to hear the charge; or
  - (ii) a member's office becomes vacant.

**(2)** The chairperson must give a direction under section 60<sup>10</sup> for a new panel to hear the charge if—

- (a) the member is or was the presiding member; or
- (b) only 1 remaining member is available to hear the charge.

**(3)** If the member is or was a member other than the presiding member—

- (a) the chairperson may give a direction for a new panel to hear the charge; or
- (b) if a direction has not been given and the parties to the hearing agree—the remaining members may continue to hear and decide the charge.

**(4)** If the remaining members continue to hear the charge, their decision

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<sup>10</sup> Section 60 (Chairperson's directions about arrangement of business)

has the same effect as if all the original members had heard and decided the charge.

(5) If a new panel is made up, it must rehear the charge.

(6) However, the new panel may have regard to any record of the hearing before the former panel, including any evidence taken by it.

### **Sitting places**

64. The disciplinary panel may sit at any place in the State.

## *Division 5—Disciplinary proceedings*

### *Subdivision 1—Starting proceedings*

### **When disciplinary charge may be laid**

65. The board may lay a disciplinary charge against a registered person if—

- (a) it has been given a report about the person by an investigator; and
- (b) after considering the report and any submissions made to the investigator or the board, the board considers that a ground under section 66 or 67 exists to lay the charge.

### **Grounds for disciplinary charge against architect**

66.(1) For section 65, the following are the grounds for a disciplinary charge against an architect—

- (a) that the architect has been convicted in Queensland of an indictable offence or has been convicted elsewhere of an offence which, if it were committed in Queensland, would be an indictable offence or has been convicted in Queensland or elsewhere of any other offence which other offence renders the architect unfit to practise as an architect;

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- (b) that the architect fraudulently obtained his or her registration under this Act;
- (c) that the architect is not a fit and proper person to be registered as an architect;
- (d) that his or her registration as an architect in another State or Territory is or has been suspended or has been cancelled for a reason other than non-payment of fees;
- (e) that the architect is guilty of misconduct in a professional respect;
- (f) that the architect is an executive officer of a company in respect of which disciplinary action has been or is to be taken under section 80<sup>11</sup> unless the architect satisfies the board that the act or omission relevant to the proceedings against the company was done or made without his or her knowledge and that he or she could not with reasonable diligence have prevented the doing of the act or the making of the omission.

(2) Without limiting the meaning of the expression ‘misconduct in a professional respect’ used in subsection (1)(e), an architect shall be deemed to be guilty of such misconduct if the architect—

- (a) allows a person, other than another architect with whom the architect is in partnership, to practise as an architect in his or her name; or
- (b) in connection with a commission accepted by the architect, by a firm of which the architect is a member, or by a company of which the architect is an executive officer or employee—intentionally does an act or makes an omission that prejudices the interests or rights of the architect’s client arising out of the commission; or
- (c) signs any account, statement, report, specifications, plan or other document thereby representing, or in any other manner represents, that the architect has performed architectural services if those services were not performed by the architect or under his or her personal supervision or direction; or
- (d) directly or indirectly gives or offers, or agrees to give or offer, a

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<sup>11</sup> Section 80 (Orders on finding of guilt)

person valuable consideration as a reward or inducement for the person securing or attempting to secure a commission for the architect; or

- (e) undertakes or agrees to undertake a commission in connection with a matter the subject of a dispute if his or her remuneration for performing the commission depends in any way upon whether or not the dispute is resolved in favour on the architect's client; or
- (f) fails to provide to the architect's client regular and accurate statements of the client's costs arising out of a commission; or
- (g) provides architectural services in respect of a building or other construction and is the builder of that building or other construction without the written consent of the architect's client.

### **Grounds for disciplinary charge against company**

**67.(1)** For section 65, the following are the grounds for a disciplinary charge against a company—

- (a) that the company has been convicted in Queensland or elsewhere of an offence which renders the company unfit to be an approved architectural company;
- (b) that the company is guilty of misconduct in a professional respect;
- (c) that an executive officer of the company who is not an architect is not a fit and proper person to be an executive officer of an approved architectural company;
- (d) that disciplinary action has been, or is to be, taken against an executive officer of the company under section 80;<sup>12</sup>
- (e) that the company fraudulently obtained approval as an approved architectural company;
- (f) that the company does not or ceases to fulfil the requirements of

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<sup>12</sup> Section 80 (Orders on finding of guilt)

section 24 in respect of obtaining approval as an approved architectural company.

(2) Without limiting the meaning of the expression ‘misconduct in a professional respect’ used in subsection (1)(b), a company shall be deemed to be guilty of such misconduct if—

- (a) in connection with a commission accepted by it—it intentionally does an act or makes an omission that prejudices the interests or rights of the company’s client arising out of the commission; or
- (b) it engages in conduct of the kind referred to in section 66(2)(c) to (g).

(3) For the purposes of subsection (2), section 66(2)(c) to (g) shall be read and construed as if references to an architect were references to a company.

### **How disciplinary charge laid**

**68.(1)** A disciplinary charge is laid by filing the charge with the chairperson.

- (2) The charge must state the ground on which the charge is based.
- (3) The board must give a copy of the charge to the person charged.

### *Subdivision 2—Hearings*

#### **Steps to be taken by chairperson**

**69.(1)** If a disciplinary charge is laid, the chairperson must—

- (a) take all necessary steps to have the disciplinary panel formed to hear and decide the charge; and
- (b) give written notice to the person charged of the place, day and time of the hearing at least 30 days before the day fixed for the hearing.

(2) The notice must—

- (a) state, or attach a copy of, the charge; and

- (b) advise the person charged of the person's right to legal representation or representation by an agent.

### **Conduct of hearings**

**70.(1)** When conducting a hearing, the disciplinary panel—

- (a) must observe natural justice; and
- (b) must proceed quickly with as little formality and technicality as is consistent with a fair and proper hearing of the disciplinary charge being heard; and
- (c) is not bound by rules or practice about evidence; and
- (d) may inform itself of anything in the way it considers appropriate.

**(2)** Subject to subsection (1), the chairperson may give directions about the procedure to be followed in a hearing.

**(3)** A person nominated by the presiding member for the purpose may administer an oath or affirmation, or take a statutory declaration, required by the presiding member.

**(4)** The panel may adjourn a hearing.

**(5)** The panel may hear the charge in the absence of the person charged if the person—

- (a) has been given notice of the hearing under section 34(1)(b); and
- (b) fails to attend or continue to attend the hearing.

### **Representation**

**71.** The board and the person charged may be legally represented at the hearing or represented by an agent.

### **Hearings are open**

**72.(1)** A disciplinary panel hearing is open to the public.

**(2)** However, the presiding member may close the hearing or part of the hearing to the public if opening the hearing to the public would be unfair to the person charged or contrary to the public interest.

(3) However, any person representing the board or the person charged may be present while the hearing is closed.

### **Attendance notice**

**73.(1)** The presiding member may by written notice (an “**attendance notice**”), require a person to attend at a disciplinary panel hearing at a stated time and place until excused, for 1 or more of the following—

- (a) to give evidence;
- (b) to produce a stated document or thing;
- (c) to establish a reasonable excuse claimed for a stated document or thing the person is required to produce.

(2) An attendance notice must state, so far as reasonably practicable, the general nature of the matters about which the person may be questioned at the hearing.

(3) However, subsection (2) does not stop the person from being questioned about something relating to the disciplinary charge being heard.

### **Attendance notice must not be contravened**

**74.(1)** A person who is given an attendance notice must not, unless the person has a reasonable excuse, fail to—

- (a) attend the hearing; or
- (b) continue to attend the hearing until excused; or
- (c) produce a document or thing stated in the notice.

Maximum penalty—8 penalty units.

(2) It is a reasonable excuse for an individual to fail to produce a document or thing if producing the document or thing might tend to incriminate the individual.

### **Inspection of documents**

**75.(1)** If a document or thing is produced to the disciplinary panel, the panel may—

- (a) inspect it; or
- (b) copy it, if it is relevant to the disciplinary charge being heard.

(2) The panel may take possession of the document or thing for as long as is reasonably necessary for the hearing.

(3) While the panel has possession of the document or thing it must allow the person who would be entitled to the document or thing if it were not in the panel's possession—

- (a) to inspect it at any reasonable time; or
- (b) if it is a document—to copy it.

(4) The panel must return the document or thing to the person as soon as practicable after the period mentioned in subsection (2).

### **Refusal to take oath or affirmation or answer question**

**76.(1)** A person attending as a witness at a disciplinary panel hearing must not fail—

- (a) to take an oath or make an affirmation when required by the presiding member; or
- (b) without reasonable excuse, to answer a question put to the person at the hearing.

Maximum penalty—8 penalty units.

(2) It is a reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person.

### **Allowances for witness**

**77.(1)** A person attending a disciplinary panel hearing as a witness is entitled to be paid the allowances and expenses payable to a person appearing as a witness in a hearing before a Magistrates Court.

(2) Subsection (1) applies whether the person attends under an attendance notice or at the request of a party to the hearing.

(3) The allowances and expenses must be paid by—



- (a) if the person attended at the request of a party or because of an attendance notice issued at the request of a party—the party; or
- (b) if paragraph (a) does not apply—the board.

### **Deciding questions before disciplinary panel**

**78.(1)** A question before the disciplinary panel must be decided according to the opinion of—

- (a) the majority of the panel members for the hearing of the disciplinary charge being heard; or
- (b) if the members are equally divided on the question—the presiding member.

**(2)** However, a question of law to be decided by the panel may only be decided by the presiding member.

### *Subdivision 3—Disciplinary panel's decision*

### **When a finding of guilt may be made**

**79.(1)** The disciplinary panel may find a person charged with a disciplinary charge guilty of the charge if on hearing the charge it is satisfied on the balance of probabilities that the ground on which the charge is based has been made out.

**(2)** If the ground is the ground mentioned in section 66(1)(f),<sup>13</sup> the reference in section 66(1)(f) to the board is taken to be a reference to the panel.

**(3)** If the panel does not find the person guilty, it must dismiss the charge.

### **Orders on finding of guilt**

**80.(1)** This section applies if the disciplinary panel finds a person charged with a disciplinary charge guilty of the charge.

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<sup>13</sup> Section 66 (Grounds for disciplinary charge against architect)

- (2) The panel may make an order that—
- (a) no action be taken by the panel; or
  - (b) the person be cautioned or reprimanded; or
  - (c) the person pay the board, by way of a penalty, an amount (of no more than 40 penalty units) fixed by the panel; or
  - (d) if the person is an architect—the person’s registration be cancelled; or
  - (e) if the person is a company—the person’s approval as a company be cancelled; or
  - (f) the person be disqualified, indefinitely or for a stated period, from obtaining—
    - (i) if the person is an individual—registration; or
    - (ii) if the person is not an individual—approval as a company; or
  - (g) the person pay the board all or part of the costs of and incidental to either or both of the following—
    - (i) the hearing of the charge;
    - (ii) any investigation under this part because of which the charge was laid.
- (3) The panel may also order that the person be disqualified, indefinitely or for a stated period, from acting as an executive officer of a company if—
- (a) the finding of guilt is because the panel is satisfied a ground mentioned in section 66(1)(c)<sup>14</sup> has been made out; and
  - (b) the person is, or has acted as, an executive officer of a company.
- (4) If the panel orders the person to pay a penalty or costs, the order must state—
- (a) the amount to be paid; and
  - (b) the time or times for payment.

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<sup>14</sup> Section 66 (Grounds for disciplinary charge against architect)

### **Suspension direction**

**81.(1)** This section applies if the disciplinary panel orders a person to pay an amount by way of penalty or for costs.

**(2)** The order may also direct that, if the person does not pay the amount within a stated period (the “**payment period**”), the person’s registration or the person’s approval as a company be suspended until the amount is paid.

**(3)** If the person does not pay the amount within the payment period, the registration or approval is suspended until the amount is paid.

### **Effect of cancellation, suspension or disqualification**

**82.(1)** If the disciplinary panel orders a person’s registration or a person’s approval as a company to be cancelled or if the registration or approval is suspended under section 81—

- (a) the registration or approval ends; and
- (b) the board must take the person’s name off the register or any list of approved architectural companies.

**(2)** However, if the suspension ends, the registration or approval revives and the board must restore the person’s name to the register or list.

**(3)** Subsection (2) is subject to parts 3 and 4.<sup>15</sup>

**(4)** If a person is disqualified from obtaining registration or approval as a company, the board must not register or approve the person while the disqualification is in effect.

### **Notice of decision and reasons**

**83.(1)** The disciplinary panel must give written notice of any decision to the board and the person charged as soon as practicable after making the decision.

**(2)** The notice must state the following—

- (a) the decision;

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<sup>15</sup> Part 3 (Registration of architects)  
Part 4 (Approval of architectural companies)

- (b) the reasons for the decision;
- (c) that the board or the person may appeal against the decision to a District Court within 28 days;
- (d) how an appeal may be started.<sup>16</sup>

(3) In this section—

**“decision”** means—

- (a) the panel’s finding as to whether or not the person is guilty of the disciplinary charge; or
- (b) an order under section 80; or
- (c) a direction under section 81.<sup>17</sup>

#### *Subdivision 4—Miscellaneous*

#### **Appeals from disciplinary panel’s decisions**

**84.(1)** The following persons may appeal<sup>18</sup> to a District Court against the following decisions of the disciplinary panel—

- (a) the person charged—a finding of guilt of the person or a disciplinary order against the person;
- (b) the board—a disciplinary order.

(2) In subsection (1)—

**“disciplinary order”** means an order under section 80 or a direction under section 81.<sup>19</sup>

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<sup>16</sup> For how to start an appeal, see section 45 (Appeals).

<sup>17</sup> Section 80 (Orders on finding of guilt)  
Section 81 (Suspension direction)

<sup>18</sup> For how to start an appeal, see section 45 (Appeals).

<sup>19</sup> Section 80 (Orders on finding of guilt)  
Section 81 (Suspension direction)

**Publication of cancellation or disqualification**

**85.(1)** This section applies if the disciplinary panel orders—

- (a) a person's registration or a person's approval as a company to be cancelled; or
- (b) that the person be disqualified from obtaining registration or approval.

**(2)** The board must publish the order by gazette notice.

**(3)** However, the notice must not be published within 28 days of the making of the order.

**(4)** If an appeal against the order is started, the notice may only be published if—

- (a) the appeal is finally decided or is otherwise ended; and
- (b) the result of the decision on the appeal or the ending of the appeal is that the registration or approval is or remains cancelled.

**Return of registration or approval certificate**

**86.(1)** A person must, unless the person has a reasonable excuse, surrender the person's certificate within 14 days after—

- (a) the disciplinary panel orders the person's registration or the person's approval as a company to be cancelled or suspended; and
- (b) the person has been given notice under section 83.<sup>20</sup>

Maximum penalty—20 penalty units.

**(2)** If a suspended certificate is returned, the board must return it to the person at the end of the suspension period.

**(3)** In this section—

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<sup>20</sup> Section 83 (Notice of decision and reasons)

“**certificate**” means a certificate of registration under section 18 or certificate of approval under section 25.<sup>21</sup>

### **Recovery of penalty or costs**

**87.(1)** This section applies if—

- (a) the disciplinary panel orders a person to pay the board an amount as a penalty or for costs; and
- (b) the amount is not paid within the time stated in the order.

**(2)** The board may recover the amount from the person as a debt in a court having jurisdiction for the amount.

## **PART 6—PROHIBITED PRACTICES**

### **Prohibited practices**

**88.(1)** No person shall take or use or by inference adopt in connection with architecture or the practice of architecture (and whether alone or in conjunction with any other name, title, word, letters or symbol) any name, title, word, letters, or symbol implying or which may be construed as implying that the person is qualified or entitled to registration as an architect or is qualified to practise architecture other than such name, title, word, letters or symbol as truly indicates or indicate a qualification that the person in fact holds.

**(2)** No person other than an architect shall—

- (a) advertise that the person is or hold himself or herself out as being or in any manner pretend to be or possess the status of an architect; or
- (b) in connection with architecture take or use or by inference adopt (either alone or in conjunction with any other name, title, word,

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<sup>21</sup> Section 18 (Certificates of registration)  
Section 25 (Certificate of approval and renewal)

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letters or symbol)—

- (i) the title of ‘architect’ or any abbreviation or derivative thereof; or
- (ii) any name, title, word, letters or symbol implying, or which may be construed as implying that the person is an architect, or is qualified to practise architecture.

(3) Subject to subsection (4) the provisions of subsection (2) do not apply to an unincorporated body or association of persons consisting wholly of persons who are architects or to an approved architectural company.

(4) An approved architectural company or a body or association of persons consisting wholly of architects that—

- (a) advertises or holds itself out as being qualified to practise architecture; or
- (b) takes or uses or by inference adopts (either alone or in conjunction with any other name, title, word, letters or symbol) any name, title, word, letters or symbol implying, or which may be construed as implying, that it is qualified to practise architecture;

shall, in conjunction therewith, specify the name or names of the architect or architects supervising the performance of architectural services undertaken by the company or, as the case may be, the body or association.

(5) A person who—

- (a) advertises that the person is or holds himself or herself out as being or in any manner pretends to be or to possess the status of a consultant or designer with respect to architecture; or
- (b) takes or uses or by inference adopts (either alone or in conjunction with any other name, title, word, letters or symbol) any name, title, word, letters or symbol implying, or which may be construed as implying, that the person is a consultant or designer with respect to architecture;

shall, if the person is not an architect, be deemed to hold himself or herself out as being an architect for the purposes of this section.

(6) A person who advertises or exhibits any degree, diploma, certificate,

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membership, licence, letters, testimonial or title, status or document, or takes or uses any letters (either alone or in conjunction with any title, word, or letters) which may be construed as implying that the person is an architect or is qualified to practise architecture, shall, if the person is not an architect, be deemed to hold himself or herself out as being an architect for the purposes of this section.

(7) Nothing contained in subsections (2), (5) or (6) shall be read so as to—

- (a) apply to any person—
  - (i) with respect to the practice of architecture by that person as an officer of the public service of Queensland or of the Commonwealth, or as an officer or employee of any statutory authority constituted for public purposes; or
  - (ii) with respect to the practice by that person of naval architecture, golf course architecture or landscape architecture, or any other form of architecture referred to in a regulation made under section 3 for the definition “architecture”; or
- (b) prevent any employee of an architect from using the title ‘architectural assistant’ or ‘architectural draftsman’ or ‘architectural technician’; or
- (c) prevent any person from using the term ‘architectural’ bona fide to indicate that the person carries on the business of the supply of wares, instruments, or materials, used in connection with architecture; or
- (d) prevent any engineer, builder, or other person from designing or superintending the erection of any building.

(8) Nothing in this Act shall debar any person, by reason only that the person is not an architect, from obtaining from any local government any permit required for the erection or the supervision of the erection of any work, undertaking, structure, or building, or from designing, erecting or supervising the erection of any work, undertaking, structure or building.



**Supervision by architect**

**89.(1)** Architectural services undertaken by an approved architectural company or by a body or association consisting wholly of architects shall at all times be performed under the supervision of an architect.

(2) An approved architectural company that fails to comply with subsection (1) commits an offence against this Act.

Maximum penalty—40 penalty units.

(3) If a body or association consisting wholly of architects fails to comply with subsection (1) each of those architects shall be deemed to have committed an offence against this Act.

Maximum penalty—40 penalty units.

(4) It is a defence to a charge of an offence brought against an architect pursuant to subsection (3) to prove that the failure to comply took place without his or her knowledge and that he or she could not with reasonable diligence have prevented such failure.

**Company to use approved name**

**90.** An approved architectural company that takes, uses or adopts in connection with architecture or the practice of architecture a name other than its name as shown in the certificate of approval issued to it under section 25 commits an offence against this Act.

Maximum penalty—40 penalty units.

**PART 7—MISCELLANEOUS****Penalty for forging registration**

**91.** Any person who wilfully made or causes to be made any false entry in or falsification of the register or who obtains or attempts to obtain registration or approval of any kind under this Act for himself or herself or another person by wilfully making or producing, or wilfully causing to be made or produced, a false representation or declaration (whether verbal or

written) shall be guilty of an offence against this Act.

Maximum penalty—40 penalty units or 6 months imprisonment.

### **Appeals**

**92.** Where by this Act provision is made for appealing to a judge of the District Court against a decision of the board or the disciplinary panel—

- (a) such an appeal must be by way of rehearing and must be instituted by lodging with the court written notice of the appeal within 28 days after the date of notification of the decision or, if exceptional circumstances exist, such further period as a judge of the District Court allows;
- (b) an appellant must serve a copy of the notice of appeal upon the registrar of the board within 7 days of lodging the notice with the court;
- (c) the judge may, in respect of the appeal, set aside the decision or vary it in such manner as the judge thinks fit, or may disallow the appeal and confirm the decision, and may, in any case, make such order as to the costs of the appeal as the judge thinks fit.

### **Offence by approved architectural company**

**93.(1)** A director of an approved architectural company that commits an offence against this Act shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly unless the director proves that the offence was committed without his or her knowledge and that he or she could not with reasonable diligence have prevented its commission.

**(2)** This section applies so as not to limit or affect in any way the liability of an approved architectural company to be proceeded against and punished for an offence against this Act.

### **Service of documents**

**94.(1)** Subject to this Act, where any notice, complaint, summons or other document is to be given to any person under or for the purposes of

this Act it shall be taken—

- (a) that the notice, requisition or other document has been duly given to that person upon evidence that the same has been sent by certified mail to or left at the address last known to the person by whom the same was sent or left as the place of residence or place of business of that person or, where that person is an incorporated person, as the registered office of that incorporated person; and
- (b) that, where service was effected by certified mail, the notice, complaint, summons or other document was received by the addressee at the time when the certified mail would have been delivered at the address to which it was sent in the ordinary course of post.

(2) Where service is to be effected on a body corporate, it may be effected on any person who is concerned or takes part in the management of the body corporate, or on the secretary thereof or on any person who is apparently in charge of any premises in or from which the business of the body corporate is conducted and service so effected shall be deemed to be service on the body corporate.

### **Accounts and audit**

**95.(1)** In this section—

**“books and accounts”** means the records, howsoever compiled, recorded or stored whether in written or printed form or on microfilm or by electronic process or otherwise, of transactions in respect of moneys or property expressed in money or, in the case of property, money or other units of measurement, and includes books, documents, writings, money forms, financial institution accounts, vouchers and other records of any kind from which accounts have been compiled and information and records of any kind to which the auditor-general thinks he or she ought to have recourse in the conduct of an audit.

(2) The board shall cause proper books and accounts to be provided and kept and true and regular entries to be made therein in respect of all transactions entered into by the board.

(3) The board shall as soon as is practicable after the end of each financial year prepare statements of account with respect to the financial operations of

the board for that year (the “**annual statements of account**”).

(4) The annual statements of account shall—

- (a) be in the approved form; and
- (b) be certified by the chairperson and the registrar as to whether in their opinion they fairly set out the financial transactions of the board for the period to which they relate and show a true and fair view of the state of affairs of the board at the end of that period on a basis consistent with that applied in respect of the financial year last preceding; and
- (c) thereupon be transmitted to the auditor-general.

(5) Until the annual statements of account have been audited, and laid before the Legislative Assembly pursuant to section 96, no such statement shall be sold or made available to any person other than a member, the registrar or an officer appointed pursuant to section 10, the Minister or a person acting in aid of the Minister or the auditor-general or a person acting in aid of the auditor-general.

(6) The auditor-general shall audit the accounts of the board kept in respect of all transactions entered into by the board and shall have in respect of any such audit all the powers and authorities conferred on the auditor-general by the *Financial Administration and Audit Act 1977*.

(7) The auditor-general shall certify on the annual statements of account whether or not the auditor-general has obtained all the information and explanations required by the auditor-general and whether or not such statements—

- (a) are prepared in the approved form; and
- (b) are in agreement with the accounts of the board; and
- (c) have, in the auditor-general’s opinion, been properly drawn up so as to present a true and fair view of the transactions for the financial year in question and the financial position at the end of that year on a basis consistent with that applied in respect of the financial year last preceding;

and after such certification, shall deliver those statements to the board.

**Reports by board**

**96.(1)** The board shall, not later than 31 October in each year, furnish to the Minister a report on the board's operations during the year ended 30 June in that year.

**(2)** The report shall include the annual statements of account together with the certificate of the auditor-general prescribed pursuant to section 95.

**(3)** The Minister shall, within 14 sitting days after a report of the board is received, cause the report to be tabled before the Legislative Assembly.

**Evidence**

**97.(1)** In any proceeding by or on behalf of the board under this Act it shall not be necessary to prove the appointment or election of the members, chairperson, or registrar of the board.

**(2)** A writing certified by the registrar to be a true copy of or a true extract from any register, book, certificate, notice, list, document, or writing of any nature whatsoever that, pursuant to this Act, is in the custody of the board or of the registrar or of any other officer of the board shall, upon its production in evidence, and until the contrary is proved, be sufficient evidence in any proceeding of the original of which it purports to be a copy or extract and shall be receivable in evidence to the same extent as the original.

**(3)** An averment in a complaint of the date on which the commission of an offence came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence in all proceedings of that averment.

**Board may sue**

**98.(1)** The board may, in its own name, by the registrar, or by any person thereunto authorised by the chairperson, institute or carry on any proceeding whatsoever.

**(2)** It shall not be necessary to prove the authority of any person to institute or carry on any proceeding on behalf of the board.

**Offences**

**99.(1)** All offences against this Act may be prosecuted, and all fees due and payable under this Act may be recovered, in a summary way under the *Justices Act 1886*, upon the complaint of any person authorised by the chairperson.

**(2)** Proceedings for an offence against this Act may be instituted at any time within 12 months after the commission of the offence, or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever period is later to expire.

**(3)** Any person who contravenes or fails to comply with any of the provisions of this Act shall be guilty of an offence against this Act.

**(4)** Any person guilty of an offence against this Act shall be liable, if no specified penalty is prescribed for that offence, to a penalty not exceeding 40 penalty units.

**(5)** All penalties and fees recovered by the board under this Act shall be paid to the board and become part of its funds.

**Judicial notice**

**100.** The signatures of the following persons are to be judicially noticed—

- (a) the chairperson of the board;
- (b) the chairperson of the disciplinary panel;
- (c) the registrar.

**Approval of forms**

**101.** The chief executive may approve forms for use under this Act.

**Regulation-making power**

**102.(1)** The Governor in Council may make regulations under this Act.

**(2)** A regulation may be made for or about—

- (a) regulating the appointment and election of members and the

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- proceedings of the board; and
- (b) regulating the duties of the registrar and other officers; and
  - (c) prescribing what schools of architecture shall be recognised by the Minister for the purpose of representation on the board; and
  - (d) prescribing the appointment of examiners, and regulating the holding of examinations and prescribing the standards of, subjects of, and fees for such examinations; and
  - (e) prescribing the practical experience in architectural work and the practice of architecture required of an applicant for registration as an architect; and
  - (f) fees and allowances that may be paid to members of the board and the disciplinary panel; and
  - (g) prescribing fees payable under this Act including fees for inspection of any register or record, and for the making and supply of any copy thereof or extract therefrom; and
  - (h) prescribing the manner of keeping the register; and
  - (i) prescribing the amount of any penalty for any breach of the regulations which penalty shall not exceed in any particular case 20 penalty units.

**References to repealed Acts**

**103.** A reference in an Act or document to either of the following Acts is taken to be a reference to this Act—

- *Architects Act 1928*
- *Architects Act 1962.*

## **PART 8—TRANSITIONAL PROVISIONS FOR ARCHITECTS AMENDMENT ACT 1998**

### **Definitions for pt 8**

**104.** In this part—

“**commencement**” means the commencement of this part.

“**former section 33**” means section 33<sup>22</sup> as in force immediately before the commencement.

### **Investigators**

**105.** A person is taken to be an investigator if, immediately before the commencement, the person held an appointment to conduct an investigation under former section 33.

### **Proceedings for which hearing not started**

**106.(1)** This section applies if immediately before the commencement—

- (a) an architect or approved architectural company has been served with a summons and complaint under former section 33; and
- (b) the board has not started to hear the complaint.

**(2)** The summons and complaint is withdrawn.

**(3)** However, the board may consider any investigator’s report given under former section 33 that it considered for the summons and complaint as if the report is a report by an investigator under part 5.

### **Pending proceedings**

**107.(1)** This section applies if immediately before the commencement—

- (a) an architect or approved architectural company has been given a summons and complaint under former section 33; and

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<sup>22</sup> Former section 33 (Commencement of disciplinary proceedings)



(b) the board has started to hear the complaint, but the hearing has not been completed.

(2) The proceeding may be continued before, and completed by, the board as if the *Architects Amendment Act 1998* had not been enacted.

### **Expiry of pt 8**

**108.** This part expires 1 year after it commences.

## **SCHEDULE**

### **RULES**

section 7

#### **Votes at elections**

**1.(1)** In the case of the election of the representatives of the architects, each architect shall have 1 vote only.

**(2)** The registrar shall be the returning officer at any election.

**(3)** If at any time prior to or during the conduct of any election it appears to the Governor in Council that the registrar is or will be by reason of illness, absence from Brisbane, or other cause unable to perform some or all of the duties of returning officer in connection with an election the Governor in Council may appoint a person to perform all duties which, but for such illness, absence, or other cause should be performed by the registrar as returning officer.

**(4)** Upon such appointment the person appointed shall, during the illness, absence, or inability of the registrar do and perform all acts, matters and things which the registrar is by or under this Act required or authorised to do or perform as returning officer, and in respect of the doing or performance of every such act, matter and thing, shall be deemed to be the returning officer at the election.

#### **Duties of the board**

**2.** The duties of the board shall be—

- (a)** to cooperate with the Department of Works, the Department of Education, and any other government department, and with bodies approved by the board or conducting courses approved by the board for the purposes of section 16 of the Act, on all matters relating to architectural education; and
- (b)** to conduct examinations or certificates of registration and to issue such certificates; and

## SCHEDULE (continued)

- (c) to make such public notification as to the granting of registration as the Minister may direct; and
- (d) to carry out such other duties as may be prescribed or as the Minister may from time to time require.

**The chairperson**

- 3. The chairperson shall act as executive officer of the board.

**The registrar**

- 4. The registrar shall keep minutes of meetings of the board, issue notices of meetings, conduct correspondence, keep records of examinations and of the issue and cancellation of certificates, and of the suspension of certificates under the repealed Act, and perform such other duties pertaining to the business of the board as the board may direct.

**Meetings of the board**

- 5.(1) A meeting of the board shall be held at least once in every 2 months.

(2) Notice of the time and place of meetings, and of the business to be transacted by the board thereat, shall be given to all members at least 7 days before the date of the meeting.

(3) The chairperson shall preside at every meeting at which he or she is present.

(4) The business transacted at any meeting shall be that specified in the notice.

(5) Any 4 members shall form a quorum.

(6) A special meeting for any particular purpose may be called by the chairperson at the chairperson's discretion or when the chairperson is requested by 2 or more members to call such a meeting.

(7) If the chairperson fails to call a special meeting after such a request,

**SCHEDULE (continued)**

any 2 members of the board may call such a meeting by a notice signed by themselves.

(8) Such notice shall state the time and place of meeting and the business to be transacted thereat, and shall be given to members at least 7 days before the date of such meeting.

(9) The business transacted at any special meeting shall be that specified in the notice.

(10) At any meeting of the board, if a quorum is not present within 15 minutes after the notified hour of meeting, that fact and the names of the members present shall be recorded by the registrar in the minute book.

(11) All powers vested in the board may be exercised by a majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting.

(12) Upon any question the chairperson shall have a vote, and if the members are equally divided the chairperson shall have a second or casting vote.

(13) If any member refuses to vote, the member's vote shall be counted for the negative.

**Examiners**

6. The board may appoint examiners to conduct prescribed examinations.

**Times of prescribed examinations**

7.(1) Prescribed examinations shall be held at such times and places as the board may determine.

(2) Notification of the time and place of holding prescribed examinations shall be published in a daily newspaper circulating in the locality in which the examinations are to be held at least 28 days before the date of holding such examinations.

## SCHEDULE (continued)

**Manner of examination**

8. The board shall determine the manner of the prescribed examinations, and may determine that oral, written, or practical tests, or any or all of these shall be employed.

**Applications for examination**

9. A candidate wishing to sit for a prescribed examination shall make application to the board for entry to the examination, such application to be in the approved form and to be lodged with the board on or before the date determined by the board for lodging such applications.

**Granting of certificates**

10.(1) Subject to this Act, certificates of registration shall be granted by the board to every person who sits for the prescribed examinations and who satisfies the board's requirements.

(2) Certificates shall be in the approved form.

**Applicant may appeal to the Minister**

11. Every applicant for permission to sit for a prescribed examination, who is dissatisfied with the decision of the board in respect of his or her application, may within 3 months after notice of such decision has been communicated to the applicant by the registrar, appeal to the Minister, and the Minister may, after hearing such person and the board, dismiss the appeal or order the board to permit such applicant to sit for the prescribed examination.

**Duplicate certificate in case of loss etc.**

12.(1) If any certificate is lost or destroyed, the holder, or some person having knowledge of the facts and circumstances, may make a statutory declaration with respect thereto and the board, if satisfied with such declaration, may issue a fresh certificate to the person entitled to hold the

## SCHEDULE (continued)

same, on payment of the prescribed fee.

(2) Such certificate shall be endorsed with a memorandum setting out the reasons for the issue thereof, and thereafter such certificate shall be available as if it were the original certificate.

## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 2 April 1998. Future amendments of the Architects Act 1985 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 87 of 1994	28 April 1995
2	to Act No. 58 of 1995	30 April 1996
2A	to Act No. 17 of 1997	12 August 1997

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
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Obsolete and redundant provisions	1, 2
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## 6 List of legislation

### **Architects Act 1985 No. 22**

date of assent 15 April 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 9 August 1985 (proc pubd gaz 10 August 1985 p 2264)

as amended by—

### **Public Service (Administrative Arrangements) Act 1990 No. 73 s 3 sch 1**

date of assent 10 October 1990

s 3 sch 1 commenced 24 November 1990 (proc pubd gaz 24 November 1990 p 1450)

### **Statute Law (Miscellaneous Provisions) Act 1990 No. 88 ss 1–3 sch**

date of assent 6 December 1990

commenced on date of assent

### **Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 2**

date of assent 10 May 1994

commenced on date of assent



**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 1**

date of assent 1 December 1994  
 commenced on date of assent

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch**

date of assent 15 May 1997  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 1997 (1997 SL No. 163)

**Architects Amendment Act 1998 No. 17**

date of assent 26 March 1998  
 commenced on date of assent

## 7 List of annotations

**This reprint has been renumbered—see table of renumbered provisions in endnote 8.**

**Savings**

**s 2** prev s 2 om R2 (see RA s 37)  
 pres s 2 amd R1 (see RA s 40)

**Definitions**

**prov hdg** sub 1995 No. 58 s 4 sch 1  
**s 3** prev s 3 om R1 (see RA s 36)  
 pres s 3 amd 1990 No. 73 s 3 sch 1; 1998 No. 17 s 3  
 def “**approved form**” ins 1995 No. 58 s 4 sch 1  
 def “**attendance notice**” ins 1998 No. 17 s 3(2)  
 def “**architecture**” sub 1995 No. 58 s 4 sch 1  
 def “**chairperson**” sub 1998 No. 17 s 3  
 def “**company**” sub 1998 No. 17 s 3  
 def “**disciplinary panel**” ins 1998 No. 17 s 3(2)  
 def “**investigator**” ins 1998 No. 17 s 3(2)  
 def “**member**” sub 1998 No. 17 s 3  
 def “**Minister**” om R1 (see AIA s 36)

def “**prescribed examinations**” ins 1995 No. 58 s 4 sch 1  
 def “**presiding member**” ins 1998 No. 17 s 3(2)

**Constitution of the board**

s 5 amd 1990 No. 88 s 3 sch; R1 (see RA s 38)

**Registrar and other officers**

s 10 amd R1 (see RA s 38)

**Funds of board**

s 11 amd 1996 No. 54 s 9 sch

**Board is statutory body**

s 12 ins 1996 No. 54 s 9 sch

**Removal from register**

s 20 amd 1990 No. 88 s 3 sch

**Conditions of approval**

s 24 amd 1994 No. 87 s 3 sch 1; 1996 No. 54 s 9 sch

**Returns by approved architectural companies**

s 27 amd 1995 No. 58 s 4 sch 1

**PART 5—INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS**

pt hdg sub 1998 No. 17 s 4

**Division 1—Preliminary**

div hdg ins 1998 No. 17 s 4

**Definitions for pt 5**

s 29 sub 1998 No. 17 s 5

**Division 2—Complaints and investigations**

div hdg ins 1998 No. 17 s 5

**Complaints**

s 30 ins 1998 No. 17 s 5

**Appointment of investigator**

s 31 ins 1998 No. 17 s 5

**Submissions to investigator about complaint**

s 32 ins 1998 No. 17 s 5

**Investigator’s report and outline**

s 33 ins 1998 No. 17 s 5

**Division 3—Investigator’s powers**

div hdg ins 1998 No. 17 s 5

**Subdivision 1—Entry and related powers**

sdiv hdg ins 1998 No. 17 s 5

**Entry to places**

s 34 ins 1998 No. 17 s 5

**Consent to entry**

s 35 ins 1998 No. 17 s 5

**Warrants**

s 36 ins 1998 No. 17 s 5

**Warrants—applications made otherwise than in person**

s 37 ins 1998 No. 17 s 5

**Warrants—procedure before entry**

s 38 ins 1998 No. 17 s 5

**General powers after entering places**

s 39 ins 1998 No. 17 s 5

**Subdivision 2—Obtaining documents and information**

sdiv hdg ins 1998 No. 17 s 5

**Notice to produce documents or give information**

s 40 ins 1998 No. 17 s 5

**Powers if document produced**

s 41 ins 1998 No. 17 s 5

**Subdivision 3—Seized documents or things**

sdiv hdg ins 1998 No. 17 s 5

**Receipt for seized things**

s 42 ins 1998 No. 17 s 5

**Access to and return of seized things**

s 43 prev s 43 om 1998 No. 17 s 9  
pres s 43 ins 1998 No. 17 s 5

**Subdivision 4—Miscellaneous**

sdiv hdg ins 1998 No. 17 s 5

**Limits on powers**

s 44 ins 1998 No. 17 s 5

**Compensation**

s 45 ins 1998 No. 17 s 5

**False or misleading statements or documents**

s 46 ins 1998 No. 17 s 5

**Threatening or obstructing investigator**

s 47 ins 1998 No. 17 s 5

**Division 4—Disciplinary panel**

div hdg ins 1998 No. 17 s 5

**Subdivision 1—Establishment, functions and powers**

sdiv hdg ins 1998 No. 17 s 5

**Disciplinary panel**

s 48 ins 1998 No. 17 s 5

**Functions**

s 49 ins 1998 No. 17 s 5

**Powers—general**

s 50 ins 1998 No. 17 s 5

**Subdivision 2—Membership**

sdiv hdg ins 1998 No. 17 s 5

**Membership**

s 51 ins 1998 No. 17 s 5

**Appointment of members**

s 52 ins 1998 No. 17 s 5

**Restriction on appointment**

s 53 ins 1998 No. 17 s 5

**Duration of appointment**

s 54 ins 1998 No. 17 s 5

**Terms of appointment**

s 55 prev s 55 om 1995 No. 58 s 4 sch 1  
ins 1998 No. 17 s 13  
om R3 (see RA s 37)  
pres s 55 ins 1998 No. 17 s 5

**Vacation of office**

s 56 ins 1998 No. 17 s 5

**Ending appointment**

s 57 ins 1998 No. 17 s 5

**Disclosure of interests**

s 58 ins 1998 No. 17 s 5

**Acting chairperson**

s 59 ins 1998 No. 17 s 5

**Chairperson's directions about arrangement of business**

s 60 ins 1998 No. 17 s 5

**Subdivision 3—Disciplinary panels for particular hearings**

sdiv hdg ins 1998 No. 17 s 5

**Establishment**

s 61 ins 1998 No. 17 s 5

**Directions by presiding member**

s 62 ins 1998 No. 17 s 5

**Unavailability or vacancy of member**

s 63 ins 1998 No. 17 s 5

**Sitting places**

s 64 ins 1998 No. 17 s 5

**Division 5—Disciplinary proceedings****div hdg** ins 1998 No. 17 s 5**Subdivision 1—Starting proceedings****sdiv hdg** ins 1998 No. 17 s 5**When disciplinary charge may be laid****s 65** ins 1998 No. 17 s 5**Grounds for disciplinary charge against architect****prov hdg** sub 1998 No. 17 s 6(1)**s 66** amd 1998 No. 17 s 6**Grounds for disciplinary charge against company****prov hdg** sub 1998 No. 17 s 7(1)**s 67** amd 1998 No. 17 s 7**How disciplinary charge laid****s 68** amd 1990 No. 88 s 3 sch

sub 1998 No. 17 s 8

**Subdivision 2—Hearings****sdiv hdg** ins 1998 No. 17 s 8**Steps to be taken by chairperson****s 69** amd 1990 No. 88 s 3 sch

sub 1998 No. 17 s 8

**Conduct of hearings****s 70** sub 1998 No. 17 s 8**Representation****s 71** sub 1998 No. 17 s 8**Hearings are open****s 72** sub 1998 No. 17 s 8**Attendance notice****s 73** sub 1998 No. 17 s 8**Attendance notice must not be contravened****s 74** amd 1990 No. 88 s 3 sch; 1995 No. 58 s 4 sch 1

sub 1998 No. 17 s 8

**Inspection of documents****s 75** ins 1998 No. 17 s 8**Refusal to take oath or answer question****s 76** ins 1998 No. 17 s 8**Allowances for witness****s 77** ins 1998 No. 17 s 8**Deciding questions before disciplinary panel****s 78** ins 1998 No. 17 s 8

**Subdivision 3—Disciplinary panel’s decision****sdiv hdg** ins 1998 No. 17 s 8**When a finding of guilt may be made****s 79** ins 1998 No. 17 s 8**Orders on finding of guilt****s 80** ins 1998 No. 17 s 8**Suspension direction****s 81** ins 1998 No. 17 s 8**Effect of cancellation, suspension or disqualification****s 82** ins 1998 No. 17 s 8**Notice of decision and reasons****s 83** ins 1998 No. 17 s 8**Subdivision 4—Miscellaneous****sdiv hdg** ins 1998 No. 17 s 8**Appeals from disciplinary panel’s decision****s 84** ins 1998 No. 17 s 8**Publication of cancellation or disqualification****s 85** ins 1998 No. 17 s 8**Return of registration or approval certificate****s 86** ins 1998 No. 17 s 8**Recovery of penalty or costs****s 87** ins 1998 No. 17 s 8**Prohibited practices****s 88** amd 1995 No. 58 s 4 sch 1**Supervision by architect****s 89** amd 1995 No. 58 s 4 sch 1**Penalty for forging registration****s 91** amd 1995 No. 58 s 4 sch 1**Appeals****s 92** amd 1995 No. 57 s 4 sch 1; 1998 No. 17 s 10**Accounts and audit****s 95** amd R1 (see RA s 39); 1995 No. 58 s 4 sch 1; 1997 No. 17 s 74 sch**Board may sue****s 98** amd 1990 No. 88 s 3 sch**Offences****s 99** amd 1990 No. 88 s 3 sch; 1995 No. 58 s 4 sch 1**Judicial notice****s 100** sub 1998 No. 17 s 11

**Approval of forms**

**s 101** ins 1995 No. 58 s 4 sch 1

**Regulation-making power**

**prov hdg** sub 1995 No. 58 s 4 sch 1

**s 102** amd R1 (see RA s 39); 1995 No. 58 s 4 sch 1; 1998 No. 17 s 12

**References to repealed Acts**

**s 103** ins 1994 No. 87 s 3 sch 1

**PART 8—TRANSITIONAL PROVISIONS FOR ARCHITECTS AMENDMENT ACT 1998**

ins 1998 No. 17 s 14

exp 26 March 1999 (see s 108)

**Definitions for pt 8**

**s 104** prev s 57 ins 1995 No. 58 s 4 sch 1

exp 28 May 1996 (see s 57(3))

pres s 57 ins 1998 No. 17 s 14

exp 26 March 1999 (s 108)

**Investigators**

**s 105** ins 1998 No. 17 s 14

exp 26 March 1999 (s 108)

**Proceedings for which hearing not started**

**s 106** ins 1998 No. 17 s 14

exp 26 March 1999 (s 108)

**Pending proceedings**

**s 107** ins 1998 No. 17 s 14

exp 26 March 1999 (s 108)

**Expiry of pt 8**

**s 108** ins 1998 No. 17 s 14

exp 26 March 1999 (s 108)

**SCHEDULE****Votes at elections**

**s 1** amd 1990 No. 88 s 3 sch

**Applications for examination**

**s 9** amd 1995 No. 58 s 4 sch 1

**Granting of certificates**

**s 10** amd 1990 No. 88, sch; 1995 No. 58 s 4 sch 1

## 8 Table of renumbered provisions

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