



# **Architects Act 2002**

**Current as at 21 April 2010**

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This Act is reprinted as at 21 April 2010. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

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

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

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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## Queensland

# Architects Act 2002

## Contents

---

|                   |  | Page |
|-------------------|--|------|
| <b>Part 1</b>     | <b>Preliminary</b>                                     |      |
| <b>Division 1</b> | <b>Introduction</b>                                    |      |
| 1                 | Short title . . . . .                                  | 9    |
| 2                 | Commencement . . . . .                                 | 9    |
| <b>Division 2</b> | <b>Objects</b>   |      |
| 3                 | Main objects of Act . . . . .                          | 10   |
| 4                 | How main objects are achieved . . . . .                | 10   |
| <b>Division 3</b> | <b>Application of Act</b>                              |      |
| 5                 | Act binds all persons . . . . .                        | 10   |
| 6                 | Mutual recognition legislation not affected . . . . .  | 11   |
| <b>Division 4</b> | <b>Interpretation</b>                                  |      |
| 7                 | Definitions . . . . .                                  | 11   |
| <b>Part 2</b>     | <b>Registration of architects</b>                      |      |
| <b>Division 1</b> | <b>Preliminary</b>                                     |      |
| 7A                | Types of registration as an architect . . . . .        | 11   |
| 8                 | Applying for registration . . . . .                    | 11   |
| <b>Division 2</b> | <b>Eligibility for registration</b>                    |      |
| 9                 | Eligibility . . . . .                                  | 12   |
| 10                | When applicant is qualified for registration . . . . . | 12   |
| 11                | Fitness to practise as an architect . . . . .          | 13   |
| <b>Division 3</b> | <b>Decision on applications for registration</b>       |      |
| 12                | Deciding application . . . . .                         | 14   |
| 13                | Grant of application . . . . .                         | 15   |
| 14                | Refusal of application . . . . .                       | 15   |
| 15                | Period of registration . . . . .                       | 15   |

## Contents

---

|                      |   |    |
|----------------------|---|----|
| <b>Division 4</b>    | <b>Renewal and restoration of registrations</b>                 |    |
| <b>Subdivision 1</b> | <b>Preliminary</b>  |    |
| 16                   | Meaning of continuing registration requirements . . . . .       | 16 |
| 17                   | Notification of expiry of registration . . . . .                | 17 |
| <b>Subdivision 2</b> | <b>Renewal</b>  |    |
| 18                   | Applying for renewal . . . . .                                  | 17 |
| 19                   | Registration in force while application is considered . . . . . | 18 |
| 20                   | Deciding application . . . . .                                  | 18 |
| 21                   | Renewal of registration . . . . .                               | 19 |
| 22                   | Refusal to renew registration . . . . .                         | 19 |
| <b>Subdivision 3</b> | <b>Restoration</b>  |    |
| 23                   | Applying for restoration . . . . .                              | 20 |
| 24                   | Deciding application . . . . .                                  | 20 |
| 25                   | Restoration of registration . . . . .                           | 21 |
| 26                   | Refusal to restore registration . . . . .                       | 21 |
| <b>Division 5</b>    | <b>Lapsing of applications</b>                                  |    |
| 27                   | Lapsing of application . . . . .                                | 22 |
| <b>Division 6</b>    | <b>Cancellation and immediate suspension of registrations</b>   |    |
| 28                   | Grounds for cancellation . . . . .                              | 23 |
| 29                   | Procedure for cancellation . . . . .                            | 23 |
| 29A                  | Immediate suspension of registration . . . . .                  | 24 |
| <b>Division 7</b>    | <b>Offences about registration</b>                              |    |
| 30                   | False or misleading statement . . . . .                         | 25 |
| 31                   | False or misleading document . . . . .                          | 25 |
| 32                   | Notification about particular matters . . . . .                 | 25 |
| 32A                  | Notification of disciplinary action by other bodies . . . . .   | 26 |
| 32B                  | Notification of inability to practise . . . . .                 | 26 |
| <b>Division 8</b>    | <b>Miscellaneous</b>  |    |
| 33                   | Surrender of registration . . . . .                             | 26 |
| 34                   | Form of certificate of registration . . . . .                   | 27 |
| 35                   | Refund of fees—withdrawal of application . . . . .              | 27 |
| 35A                  | Inquiries about fitness to practise as an architect . . . . .   | 27 |
| 35B                  | Report about relevant person’s criminal history . . . . .       | 28 |
| <b>Part 2A</b>       | <b>Health assessments</b>                                       |    |
| 35C                  | Definitions for pt 2A . . . . .                                 | 28 |
| 35D                  | Health assessment . . . . .                                     | 28 |

|                     |  |    |
|---------------------|--|----|
| 35E                 | Appointment of health assessor . . . . .                                 | 29 |
| 35F                 | Health assessment report . . . . .                                       | 29 |
| 35G                 | Payment for health assessment and report . . . . .                       | 30 |
| 35H                 | Use of health assessment report . . . . .                                | 30 |
| <b>Part 3</b>       | <b>Complaints and investigations</b>                                     |    |
| <b>Division 1AA</b> | <b>Extended application of part 3</b>                                    |    |
| 36AA                | Application to former architects . . . . .                               | 31 |
| <b>Division 1</b>   | <b>Grounds for disciplining architects</b>                               |    |
| 36                  | Grounds for disciplining an architect . . . . .                          | 32 |
| <b>Division 2</b>   | <b>Complaints</b>  |    |
| 37                  | Complaints about conduct . . . . .                                       | 32 |
| 38                  | Board may require further information or statutory declaration . . . . . | 33 |
| 39                  | Rejection of complaint . . . . .   | 33 |
| 40                  | Withdrawal of complaint . . . . .  | 33 |
| <b>Division 3</b>   | <b>Investigations</b>  |    |
| 41                  | Investigation of architect's conduct . . . . .                           | 33 |
| 42                  | Investigation of compliance with Act . . . . .                           | 34 |
| 43                  | Investigation to be conducted as quickly as possible . . . . .           | 34 |
| 44                  | Notice of investigation . . . . .  | 34 |
| 45                  | Board may engage persons to help investigation . . . . .                 | 35 |
| <b>Division 4</b>   | <b>Investigators</b>   |    |
| 46                  | Function of investigator . . . . .                                       | 36 |
| 47                  | Powers of investigator . . . . .   | 36 |
| <b>Division 5</b>   | <b>Appointment of investigators and other matters</b>                    |    |
| 48                  | Appointment and qualifications . . . . .                                 | 36 |
| 49                  | Appointment conditions and limit on powers . . . . .                     | 36 |
| 50                  | Issue of identity card . . . . .   | 37 |
| 51                  | Production or display of identity card . . . . .                         | 37 |
| 52                  | When investigator ceases to hold office . . . . .                        | 37 |
| 53                  | Resignation . . . . .  | 38 |
| 54                  | Failure to return identity card . . . . .                                | 38 |
| <b>Division 6</b>   | <b>Powers of board and investigators</b>                                 |    |
| 55                  | Power to require information or attendance . . . . .                     | 38 |
| 56                  | Offences . . . . .   | 39 |
| 57                  | Inspection and copying of produced documents . . . . .                   | 39 |

## Contents

---

|                   |  |    |
|-------------------|--|----|
| <b>Division 7</b> | <b>Seizure of documents</b>  |    |
| 58                | Seizing document as evidence . . . . .                                     | 40 |
| 59                | Receipt for seized document . . . . .                                      | 40 |
| 60                | Investigator to give seized document to board . . . . .                    | 40 |
| 61                | Access to seized document . . . . .  | 40 |
| 62                | Return of seized document . . . . .  | 40 |
| <b>Division 8</b> | <b>Notice of damage and compensation</b>                                   |    |
| 63                | Notice of damage . . . . .   | 41 |
| 64                | Compensation . . . . .   | 42 |
| <b>Division 9</b> | <b>Offences about investigations</b>                                       |    |
| 65                | False or misleading statements . . . . .                                   | 42 |
| 66                | False or misleading documents . . . . .                                    | 42 |
| 67                | Obstructing board or investigators . . . . .                               | 43 |
| 68                | Impersonation of investigators . . . . .                                   | 43 |
| <b>Part 4</b>     | <b>Reports and board's decisions about investigations</b>                  |    |
| 69AA              | Application of pt 4 to certain former architects . . . . .                 | 44 |
| 69                | Board's report about investigation . . . . .                               | 44 |
| 70                | Report about investigation being conducted . . . . .                       | 44 |
| 71                | Investigator's report about investigation . . . . .                        | 44 |
| 72                | Board may report to Minister . . . . .                                     | 45 |
| 73                | Board's decision on investigation about architects . . . . .               | 45 |
| 74                | Notice of result of investigation about architects . . . . .               | 46 |
| 74A               | Publishing of certain decisions on investigation about architect . . . . . | 46 |
| 75                | Board's decision about other investigations . . . . .                      | 47 |
| 76                | Board to take action as soon as practicable . . . . .                      | 48 |
| <b>Part 5</b>     | <b>Board of Architects of Queensland</b>                                   |    |
| <b>Division 1</b> | <b>Establishment</b>   |    |
| 77                | Establishment of board . . . . .   | 48 |
| 78                | Board's relationship with the State . . . . .                              | 48 |
| 79                | Board's independence etc. . . . .  | 48 |
| <b>Division 2</b> | <b>Functions and powers</b>  |    |
| 80                | Functions of board . . . . .   | 49 |
| 81                | Powers of board . . . . .  | 49 |
| <b>Division 3</b> | <b>Membership</b>  |    |
| 82                | Membership of board . . . . .  | 50 |
| 83                | Chairperson and deputy chairperson . . . . .                               | 51 |

|                   |   |    |
|-------------------|---|----|
| 84                | Duration of appointment . . . . .                                     | 52 |
| 85                | Conditions of appointment . . . . .                                   | 52 |
| 86                | Termination of appointment . . . . .                                  | 52 |
| 87                | Vacation of office . . . . .  | 53 |
| 88                | Leave of absence for a member . . . . .                               | 53 |
| 89                | Effect of vacancy in membership of board . . . . .                    | 54 |
| 90                | Report about person's criminal history . . . . .                      | 54 |
| <b>Division 4</b> | <b>Business and meetings</b>  |    |
| 91                | Conduct of business . . . . .   | 55 |
| 92                | Times and places of meetings . . . . .                                | 55 |
| 93                | Quorum . . . . .  | 55 |
| 94                | Presiding at meetings . . . . .                                       | 55 |
| 95                | Conduct of meetings . . . . .   | 56 |
| 96                | Minutes . . . . .   | 56 |
| <b>Division 5</b> | <b>Disclosure of interests by board members</b>                       |    |
| 97                | Disclosure of interests . . . . .                                     | 57 |
| <b>Division 6</b> | <b>Directions by Minister and performance agreements</b>              |    |
| 98                | Ministerial direction . . . . .                                       | 58 |
| 99                | Performance agreement . . . . .                                       | 59 |
| <b>Division 7</b> | <b>Registrar of board and other staff</b>                             |    |
| 100               | Appointment and function of registrar . . . . .                       | 59 |
| 100A              | Other staff . . . . .   | 59 |
| 101               | Board to reimburse cost of registrar's or other staff's services. . . | 60 |
| <b>Division 8</b> | <b>Register</b>   |    |
| 102               | Keeping register . . . . .  | 60 |
| 103               | Inspection of register . . . . .                                      | 61 |
| <b>Division 9</b> | <b>Other provisions about the board</b>                               |    |
| 104               | Application of other Acts . . . . .                                   | 62 |
| 105               | Board's common seal . . . . .   | 62 |
| 106               | Board to reimburse tribunal costs . . . . .                           | 62 |
| 107               | Matters to be included in annual report . . . . .                     | 63 |
| <b>Part 6</b>     | <b>Codes of practice</b>  |    |
| 108               | Board to make code of practice . . . . .                              | 63 |
| 109               | Tabling of code . . . . .   | 64 |
| 110               | Inspection of code . . . . .  | 64 |
| 111               | Notice of approval or amendment of code . . . . .                     | 65 |

## Contents

|                   |  |    |
|-------------------|--|----|
| 112               | Use of code of practice in a disciplinary proceeding . . . . .                             | 65 |
| <b>Part 7</b>     | <b>Other offence provisions</b>  |    |
| 113               | Claims about being an architect . . . . .  | 65 |
| 114               | Using titles or names etc. . . . .   | 66 |
| 114A              | Exemption for corporations. . . . .  | 66 |
| 115               | Claims about provision of architectural services . . . . .                                 | 67 |
| 116               | Providing information about architects . . . . .   | 67 |
| 117               | Information on correspondence about architectural services. . . . .                        | 68 |
| <b>Part 8</b>     | <b>Reviews and disciplinary proceedings</b>  |    |
| <b>Division 1</b> | <b>Reviews</b>   |    |
| 121               | Review of particular decisions . . . . .   | 68 |
| 125               | Information about review . . . . .   | 69 |
| <b>Division 2</b> | <b>Disciplinary proceedings</b>  |    |
| 126               | Tribunal may conduct disciplinary proceeding . . . . .                                     | 69 |
| 128               | Tribunal to have regard to code of practice . . . . .                                      | 69 |
| 129               | Continuation of particular proceeding. . . . .   | 69 |
| 130               | Orders relating to architect . . . . .   | 70 |
| 131               | Orders relating to former architect . . . . .  | 70 |
| 132               | Effect of particular orders . . . . .  | 71 |
| 133               | Recording details of orders . . . . .  | 71 |
| <b>Part 9</b>     | <b>Legal proceedings</b>   |    |
| <b>Division 1</b> | <b>Evidence</b>  |    |
| 134               | Application of div 1 . . . . .   | 72 |
| 135               | Appointments and authority . . . . .   | 72 |
| 136               | Signatures . . . . .   | 72 |
| 137               | Evidentiary matters. . . . .   | 72 |
| <b>Division 2</b> | <b>Offence proceedings</b>   |    |
| 138               | Summary proceedings for offences . . . . .   | 74 |
| 139               | False or misleading information or statements. . . . .                                     | 74 |
| <b>Part 10</b>    | <b>Other matters</b>   |    |
| 140               | Performance and carrying out of architectural services by<br>particular entities . . . . . | 74 |
| 141               | Protection from liability . . . . .  | 75 |
| 141A              | Notice and record for businesses . . . . .   | 76 |
| 142               | Approval of forms . . . . .  | 77 |
| 143               | Regulation-making power. . . . .   | 78 |



|                      |   |    |
|----------------------|---|----|
| <b>Part 11</b>       | <b>Repeal and transitional provisions</b>                             |    |
| <b>Division 1</b>    | <b>Repeal</b>   |    |
| 144                  | Repeal of Architects Act 1985 . . . . .                               | 78 |
| <b>Division 2</b>    | <b>Transitional provisions for Act No. 53 of 2002</b>                 |    |
| <b>Subdivision 1</b> | <b>Preliminary</b>  |    |
| 145                  | Definitions for div 2. . . . .  | 79 |
| <b>Subdivision 2</b> | <b>Transitional references</b>  |    |
| 146                  | References to repealed Act . . . . .                                  | 79 |
| 147                  | References to former board . . . . .                                  | 79 |
| <b>Subdivision 3</b> | <b>Other transitional provisions</b>                                  |    |
| 148                  | Dissolution of former board . . . . .                                 | 80 |
| 149                  | Particular members of former board continue in office. . . . .        | 80 |
| 150                  | First appointment of particular member . . . . .                      | 80 |
| 151                  | Employees of former board . . . . .                                   | 81 |
| 152                  | Vesting of former board's assets, rights and liabilities . . . . .    | 81 |
| 153                  | Vesting of former board's pending legal proceedings. . . . .          | 81 |
| 154                  | Dissolution of disciplinary panel . . . . .                           | 81 |
| 155                  | Complaints under repealed Act . . . . .                               | 82 |
| 156                  | Disciplinary proceeding started before commencement . . . . .         | 82 |
| 157                  | Continuing investigations . . . . .                                   | 83 |
| 158                  | Appeals . . . . .   | 83 |
| 159                  | Existing registrations . . . . .                                      | 84 |
| 160                  | Existing approvals . . . . .  | 85 |
| 161                  | Existing applications for registration. . . . .                       | 85 |
| 162                  | Continuing effect of qualifications under repealed Act . . . . .      | 85 |
| 163                  | Matters about prescribed examinations . . . . .                       | 85 |
| 164                  | Fees for prescribed examinations. . . . .                             | 86 |
| 165                  | Refund of fees—approved architectural company . . . . .               | 86 |
| <b>Division 3</b>    | <b>Transitional provision for Architects Amendment Act 2010</b>       |    |
| 166                  | Certain applications to be dealt with under pre-amended Act . . . . . | 87 |
| 167                  | Prospective application of ss 36AA and 69AA . . . . .                 | 87 |
| <b>Schedule 2</b>    | <b>Dictionary</b> . . . . .   | 88 |
| <br><b>Endnotes</b>  |   |    |
| 1                    | Index to endnotes. . . . .  | 92 |

Contents

---

|   |  |    |
|---|--|----|
| 2 | Date to which amendments incorporated. . . . .               | 92 |
| 3 | Key . . . . .  | 93 |
| 4 | Table of reprints . . . . .                                  | 93 |
| 5 | List of legislation. . . . .                                 | 94 |
| 6 | List of annotations . . . . .                                | 94 |
| 7 | List of forms notified or published in the gazette . . . . . | 98 |

# Architects Act 2002

[as amended by all amendments that commenced on or before 21 April 2010]

## An Act to provide for the registration of architects, and for other purposes

### Part 1 Preliminary

#### Division 1 Introduction

##### 1 Short title

This Act may be cited as the *Architects Act 2002*.

##### 2 Commencement

- (1) The following provisions of this Act commence on assent—
  - (a) part 1, division 4;
  - (b) part 11, division 2, subdivision 1;
  - (c) section 149;
  - (d) schedule 2.
- (2) The remaining provisions of this Act commence on 1 January 2003.

## **Division 2                      Objects**

### **3                      Main objects of Act**

The main objects of this Act are—

- (a) to protect the public by ensuring architectural services of an architect are provided in a professional and competent way; and
- (b) to maintain public confidence in the standard of services provided by architects; and
- (c) to uphold the standards of practice of architects.

### **4                      How main objects are achieved**

The main objects are to be achieved primarily by—

- (a) providing for the registration of individuals as architects under this Act; and
- (b) providing for the monitoring and enforcement of compliance with this Act; and
- (c) imposing obligations on persons about the practice of architecture; and
- (d) establishing the Board of Architects of Queensland.

## **Division 3                      Application of Act**

### **5                      Act binds all persons**

- (1) This Act binds all persons, including the State.
- (2) Subsection (1) does not make the State liable to be prosecuted for an offence.

## **6 Mutual recognition legislation not affected**

This Act does not affect the operation of the *Mutual Recognition (Queensland) Act 1992* or the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*.

## **Division 4 Interpretation**

### **7 Definitions**

The dictionary in schedule 2 defines particular words used in this Act.

## **Part 2 Registration of architects**

### **Division 1 Preliminary**

#### **7A Types of registration as an architect**

The types of registration as an architect under this Act are registration as a practising architect or a non-practising architect.

#### **8 Applying for registration**

- (1) Only an individual may apply to the board for registration as an architect.
- (2) The application must be—
  - (a) in the approved form and state the type of registration to which the application relates; and
  - (b) accompanied by each of the following—
    - (i) satisfactory evidence of the applicant's eligibility for registration;

[s 9]

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- (ii) any other documents, identified in the approved form, the board reasonably requires to decide the application;
  - (iii) the application fee and registration fee prescribed under a regulation.
- (3) The approved form must provide for the inclusion of the applicant's contact details as an architect.
- (4) The applicant also must provide any other relevant information reasonably required by the board to decide the application.

*Editor's note—*

For how the board may make a requirement for information under section 8(4), 18(6) or 23(5), see section 27 (Lapsing of application).

## **Division 2                    Eligibility for registration**

### **9                    Eligibility**

- (1) An applicant for registration is eligible for registration only if—
  - (a) the applicant is qualified, under section 10, for registration; and
  - (b) the board considers the applicant is fit to practise as an architect.
- (2) Also, an applicant for registration as a non-practising architect is eligible for registration only if the board is satisfied that the applicant will not carry out, or be responsible for the carrying out of, architectural services within the registration period to which the application for registration relates.

### **10                    When applicant is qualified for registration**

An applicant for registration is qualified for registration if the applicant has—

- (a) 1 or more of the following qualifications—

- 
- (i) a qualification in architecture recognised by the Architects Accreditation Council of Australia (the *AACA*);
  - (ii) a qualification in architecture obtained outside Australia and assessed by the *AACA* to be equivalent to a qualification mentioned in subparagraph (i);
  - (iii) successful completion of the National Program of Assessment, or another program, coordinated by the *AACA*; and

*Editor's note—*

For a list of other programs coordinated by the *AACA* see the board's website on the internet <[www.boaq.qld.gov.au](http://www.boaq.qld.gov.au)>.

- (b) successfully completed—
  - (i) the *AACA*'s Architectural Practice Examination; or
  - (ii) another examination, if any, arranged or approved by the board.

*Editor's note—*

For a list of any examinations arranged or approved by the board see the board's website on the internet <[www.boaq.qld.gov.au](http://www.boaq.qld.gov.au)>.

## **11 Fitness to practise as an architect**

In deciding whether an applicant for registration is fit to practise as an architect, the board may have regard to each of the following—

- (a) whether the applicant has a conviction, other than a spent conviction, for—
  - (i) an indictable offence; or
  - (ii) an offence against this Act or the repealed Act; or
  - (iii) another offence, relating to the practice of architecture, against a law applying, or that

[s 12]

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- applied, in the State, the Commonwealth, another State or a foreign country;
- (b) if the applicant has been registered under this Act or the repealed Act, or registered to practise as an architect under a law applying, or that applied, in the Commonwealth, another State or a foreign country and the registration was suspended or cancelled—the reason for its suspension or cancellation;
  - (c) if the applicant has been registered under this Act or the repealed Act—any order about the applicant given under section 130 or 131 of this Act, or section 80 of the repealed Act;
  - (d) whether the applicant—
    - (i) is affected by bankruptcy action; or
    - (ii) is an executive officer of a corporation affected by control action after the commencement of this section;
  - (e) if the applicant has been required to undergo a health assessment under section 35D—
    - (i) whether the applicant underwent the assessment; or
    - (ii) whether the applicant cooperated with the doctor appointed to conduct the assessment;
  - (f) any other issue relevant to the applicant's ability to competently practise as an architect, including, for example, the applicant's mental or physical health.

## **Division 3                      Decision on applications for registration**

### **12            Deciding application**

The board must consider each application for registration made under section 8 and either grant or refuse to grant the



application as soon as practicable after the last of the following events to happen—

- (a) the board receives the application;
- (b) the board receives all necessary information to decide the application.

### **13 Grant of application**

If the board decides to grant the application, it must as soon as practicable give the applicant a certificate of registration.

### **14 Refusal of application**

If the board decides to refuse to grant the application, it must as soon as practicable—

- (a) give the applicant an information notice for the decision; and
- (b) refund the fees that accompanied the application less a reasonable amount, if any, prescribed under a regulation for processing the application.

### **15 Period of registration**

- (1) The period of registration that is to apply to an architect (the *registration period*) is a financial year.
- (2) If the board decides to register an applicant during a registration period, the registration remains in force for the period—
  - (a) commencing on the day when the board makes the decision; and
  - (b) ending on the last day of the registration period.

## **Division 4                      Renewal and restoration of registrations**

### **Subdivision 1              Preliminary**

#### **16              Meaning of *continuing registration requirements***

- (1) *Continuing registration requirements* are requirements of the board that, if satisfied, demonstrate that an applicant for renewal or restoration of registration has maintained competency in the practice of architecture.
- (2) The requirements may include requirements about the following—
  - (a) the nature, extent and period of practice of architecture by the applicant;
  - (b) the nature and extent of continuing professional development to be undertaken by the applicant;
  - (c) the nature and extent of research, study or teaching, relating to architecture, to be undertaken by the applicant;
  - (d) the nature and extent of administrative work, relating to architecture, to be performed by the applicant.
- (3) The requirements are satisfied by complying with the board's continuing registration requirements for architecture.
- (4) The board must—
  - (a) keep published the board's continuing registration requirements on the board's website on the internet; and
  - (b) keep the requirements available for inspection, without charge, during normal business hours at the board's office; and
  - (c) if asked by a person and on payment of the fee, if any, prescribed under a regulation, give the person a copy of the requirements.

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*Editor's note—*

The board's website on the internet is <[www.boaq.qld.gov.au](http://www.boaq.qld.gov.au)>.

## **17 Notification of expiry of registration**

The board must give an architect notice of the expiry of the architect's registration at least 3 months before the expiry.

## **Subdivision 2 Renewal**

### **18 Applying for renewal**

- (1) An architect may apply to the board for renewal of the architect's registration.
- (2) The application may only be made at least 1 month, but not more than 3 months, before the last day of the registration period (the *expiry day*).
- (3) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by each of the following—
    - (i) any other documents, identified in the approved form, the board reasonably requires to decide the application;
    - (ii) the annual registration fee.
- (4) Despite subsection (2), the board may accept an application for renewal of registration made within 1 month before the expiry day if the board is satisfied it would be reasonable in all the circumstances to accept the application.
- (5) The approved form must provide for the inclusion of the applicant's contact details as an architect.
- (6) The architect also must provide any other relevant information reasonably required by the board to decide the application.

## **19 Registration in force while application is considered**

- (1) If an application is made under section 18(2), or the board decides to accept an application under section 18(4), the applicant's registration is taken to continue in force from the day it would, apart from this section, have expired until—
  - (a) if the board decides to renew the registration—the day a new certificate of registration is given to the applicant under section 21; or
  - (b) if the board decides to refuse to renew the registration—the day stated, under section 22(a), in the information notice for the decision; or
  - (c) if the application is taken to have lapsed under section 27—the day it is taken to have lapsed.
- (2) Subsection (1) does not apply if the registration is earlier suspended or cancelled under this Act.

## **20 Deciding application**

- (1) The board must consider an accepted application and either renew or refuse to renew the registration as soon as practicable after the last of the following events to happen—
  - (a) the board receives the application;
  - (b) the board receives all necessary information to decide the application.
- (2) In deciding the application, the board must have regard to—
  - (a) whether the board considers the applicant is fit to practise as an architect; and
  - (b) the extent, if any, to which the applicant has satisfied the continuing registration requirements.
- (3) Also, for an application for renewal of registration as a non-practising architect, the board must be satisfied that the applicant will not carry out, or be responsible for the carrying out of, architectural services within the registration period to which the application relates.

- (4) In considering whether an applicant is fit to practise as an architect, the board may have regard to the same matters to which the board may have regard in deciding whether an applicant for registration is fit to practise as an architect.

*Editor's note—*

For the matters the board may have regard to in deciding if an applicant for registration is fit to practise as an architect, see section 11 (Fitness to practise as an architect).

- (5) In this section—

***accepted application*** means an application made under section 18(2) or an application the board accepts under section 18(4).

## **21 Renewal of registration**

If the board decides to renew the applicant's registration, it must as soon as practicable give the applicant a new certificate of registration.

## **22 Refusal to renew registration**

If the board decides to refuse to renew the registration, it must as soon as practicable—

- (a) give the applicant an information notice for the decision stating the day, not before the expiry day and not earlier than 7 days after the notice is given, on which the registration ends; and
- (b) refund the annual registration fee that accompanied the application.

## **Subdivision 3      Restoration**

### **23      Applying for restoration**

- (1) If an individual's registration has expired, the individual, within 2 months after the expiry, may apply to the board for restoration of the registration.
- (2) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by each of the following—
    - (i) any documents, identified in the approved form, the board reasonably requires to decide the application;
    - (ii) the application fee prescribed under a regulation;
    - (iii) the annual registration fee.
- (3) Despite subsection (1), the board may accept an application for restoration of registration made more than 2 months after the expiry if the board is satisfied it would be reasonable in all the circumstances to accept the application.
- (4) The approved form must provide for the inclusion of the applicant's contact details as an architect.
- (5) The applicant also must provide any other relevant information reasonably required by the board to decide the application.

### **24      Deciding application**

- (1) The board must consider an accepted application and either restore or refuse to restore the registration as soon as practicable after the last of the following events to happen—
  - (a) the board receives the application;
  - (b) the board receives all necessary information to decide the application.
- (2) In deciding the application, the board must have regard to—

- (a) whether the board considers the applicant is fit to practise as an architect; and
  - (b) the extent, if any, to which the applicant has satisfied the continuing registration requirements.
- (3) Also, for an application for restoration of registration as a non-practising architect, the board must be satisfied that the applicant will not carry out, or be responsible for the carrying out of, architectural services within the registration period to which the application relates.
- (4) In considering whether an applicant is fit to practise as an architect, the board may have regard to the same matters to which the board may have regard in deciding whether an applicant for registration is fit to practise as an architect.
- (5) In this section—
- accepted application* means an application made under section 23(1) or an application the board accepts under section 23(3).

## **25 Restoration of registration**

- (1) If the board decides to restore the applicant's registration, the board must as soon as practicable give the applicant a new certificate of registration.
- (2) The registration remains in force for the period—
  - (a) commencing on the day when the board makes the decision; and
  - (b) ending on the last day of the registration period in which the decision is made.

## **26 Refusal to restore registration**

If the board decides to refuse to restore the registration, it must as soon as practicable—

- (a) give the applicant an information notice for the decision; and

[s 27]

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- (b) refund the annual registration fee that accompanied the application.

## **Division 5                    Lapsing of applications**

### **27            Lapsing of application**

- (1) This section applies if an application for registration, or renewal or restoration of registration, is made under this part.
- (2) The board may make a requirement under section 8(4), 18(6) or 23(5) for information to decide the application by giving the applicant a notice stating—
  - (a) the required information; and
  - (b) the time by which the information must be given to the board; and
  - (c) that, if the information is not given to the board by the stated time, the application will lapse.
- (3) The stated time must be reasonable and, in any case, at least 21 days after the requirement is made.
- (4) The board may give the applicant a further notice extending or further extending the time if the board is satisfied it would be reasonable in all the circumstances to give the extension.
- (5) A notice may be given under subsection (4) even if the time to which it relates has lapsed.
- (6) If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.
- (7) If an application lapses under subsection (6), the board must, as soon as practicable after it lapses, refund the fees that accompanied the application less a reasonable amount, if any, prescribed under a regulation for processing the application.



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## **Division 6                      Cancellation and immediate    suspension of registrations**

### **28            Grounds for cancellation**

The board may cancel an architect's registration under this part if—

- (a) the board believes on reasonable grounds the architect was registered because of a materially false or misleading representation or document; or
- (b) the architect is affected by bankruptcy action; or
- (c) the architect is an executive officer of a corporation affected by control action after the commencement of this section; or
- (d) the architect's registration to practise as an architect under a law applying, or that applied, in the Commonwealth, another State or a foreign country has been cancelled under that law for disciplinary reasons; or
- (e) the architect's membership of an association of architects, whether in Australia or a foreign country, has been cancelled under the association's rules for disciplinary reasons; or
- (f) the architect has contravened a condition of the architect's registration; or
- (g) the assessment in a health assessment report given to the board under section 35F is that the architect is currently unable to competently and safely practise as an architect.

### **29            Procedure for cancellation**

- (1) If the board proposes to cancel an architect's registration, the board must give the architect a notice stating the following—
  - (a) the board proposes to cancel the registration;

[s 29A]

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- (b) the grounds for the proposed cancellation;
  - (c) the facts and circumstances that are the basis for the grounds;
  - (d) that the architect may make, within a stated period, written representations to show why the registration should not be cancelled.
- (2) The stated period must end at least 21 days after the architect is given the notice.
  - (3) If, after considering all written representations made within the stated period, the board still believes a ground exists to cancel the architect's registration, the board may cancel the registration.
  - (4) The board must, as soon as practicable after making a decision under subsection (3), give the architect an information notice for the decision.
  - (5) The decision takes effect on—
    - (a) the day the notice is given; or
    - (b) if a later day is stated in the notice—the stated day.

## **29A Immediate suspension of registration**

- (1) This section applies if the board requires an architect to undergo a health assessment under section 35D and the architect does not undergo the health assessment as required or does not cooperate with the doctor appointed to conduct the assessment.
- (2) The board may, by information notice given to the architect, immediately suspend the architect's registration.
- (3) The information notice must also state the period of suspension.
- (4) The suspension—
  - (a) is for the period the board decides; and
  - (b) has effect when the information notice is given.

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- (5) The board must end the suspension if satisfied that the ground for the suspension no longer exist.
  - (6) The suspension ends if the architect's registration is cancelled or otherwise ends.

## **Division 7                      Offences about registration**

### **30            False or misleading statement**

A person, in relation to an application under this part, must not state anything to the board the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

### **31            False or misleading document**

- (1) A person, in relation to an application under this part, must not give the board a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
  - (a) tells the board, to the best of the person's ability, how the information in the document is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

### **32            Notification about particular matters**

An architect must, within 21 days after changing his or her name or contact details, advise the board about the change unless the architect has a reasonable excuse.

Maximum penalty—10 penalty units.

[s 32A]

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### **32A Notification of disciplinary action by other bodies**

- (1) An architect must advise the board about any disciplinary action (the *event*) taken against the architect in another State or a foreign country in relation to the architect's practice as an architect, within 21 days after the event, unless the architect has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) For subsection (1) it is immaterial whether or not the disciplinary action happened under a law of the other State or country, or under the rules of an association of architects.

### **32B Notification of inability to practise**

- (1) This section applies if an architect has been unable to competently and safely practise as an architect for a continuous period of 6 months because of the architect's mental or physical health.

- (2) The architect must immediately notify the board in writing of that fact, unless the architect—

- (a) has already notified the board in writing of the incapacity; or
- (b) has a reasonable excuse.

Maximum penalty—50 penalty units.

## **Division 8 Miscellaneous**

### **33 Surrender of registration**

- (1) An architect may, by notice given to the board, surrender the architect's registration.
- (2) The surrender takes effect on the later of the following—
  - (a) the end of 7 days after the day the notice is given;
  - (b) a day stated in the notice for the surrender.

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### **34 Form of certificate of registration**

- (1) A certificate of registration given under this part must be in the approved form.
- (2) The approved form must provide for the inclusion of—
  - (a) the architect's name; and
  - (b) the period of registration; and
  - (c) whether the architect is a practising or non-practising architect.

### **35 Refund of fees—withdrawal of application**

- (1) This section applies if an applicant withdraws an application made under this part before the application is decided.
- (2) The board must, as soon as practicable after the application is withdrawn—
  - (a) for an application for registration—refund the fees that accompanied the application less a reasonable amount, if any, prescribed under a regulation for processing the application; or
  - (b) for an application for renewal or restoration of registration—refund the annual registration fee that accompanied the application.

### **35A Inquiries about fitness to practise as an architect**

- (1) This section applies to the following persons (each a *relevant person*)—
  - (a) an individual applying for registration as an architect under section 8;
  - (b) an architect applying for renewal of registration under section 18;
  - (c) an individual applying for restoration of the person's registration under section 23.

[s 35B]

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- (2) The board may make inquiries about the relevant person to help in deciding whether the person is, or continues to be, fit to practise as an architect.

### **35B Report about relevant person's criminal history**

- (1) The board may ask the commissioner of the police service for a written report about the criminal history of a relevant person.
- (2) If asked by the board, the commissioner of the police service must give the board a written report about the criminal history of the relevant person.
- (3) The duty imposed on the commissioner of the police service applies only to information in the commissioner's possession or to which the commissioner has access.
- (4) A report mentioned in subsection (2) may only be used for the purposes of this Act and must be destroyed as soon as practicable after it is no longer needed for those purposes.
- (5) In this section—  
*relevant person* see section 35A(1).

## **Part 2A Health assessments**

### **35C Definitions for pt 2A**

In this part—

*subject architect* see section 35D(1).

### **35D Health assessment**

- (1) This section applies if the board reasonably believes an architect (the *subject architect*) is unable to competently and safely practise as an architect because of the architect's mental or physical health.

- (2) The board may require the subject architect to undergo a health assessment by a doctor (the *health assessor*) appointed by the board.
- (3) If the board decides to require a health assessment, the board must give the subject architect an information notice about the decision to require the assessment that includes—
  - (a) a stated date, time and place, for the assessment; and
  - (b) the name and qualifications of the health assessor appointed by the board to conduct the assessment; and
  - (c) the possible consequences of failing to undergo, or cooperate during, the assessment.
- (4) The stated date must be no sooner than 14 days after the information notice is given to the subject architect unless the architect and the board agree, in writing, to an earlier date.
- (5) The stated time and place must be reasonable having regard to the circumstances of the subject architect as known to the board.

### **35E Appointment of health assessor**

Before appointing a doctor as a health assessor, the board must be satisfied the doctor does not have a personal or professional connection with the subject architect that may prejudice the way in which the doctor conducts the assessment.

### **35F Health assessment report**

- (1) A health assessor conducting all or part of a health assessment of a subject architect must prepare a report about the assessment (*health assessment report*).
- (2) The health assessment report must include—
  - (a) the health assessor's findings as to whether the subject architect is currently unable to competently and safely practise as an architect; and

[s 35G]

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- (b) if the health assessor finds that the subject architect is unable to competently and safely practise as an architect—the health assessor’s recommendations as to any conditions that could be imposed on the architect’s registration to overcome the inability.
- (3) The health assessor must give the health assessment report to the board and a copy to the subject architect.

### **35G Payment for health assessment and report**

- (1) The board is liable for the cost of the health assessment and the preparation of the health assessment report.
- (2) However, if the assessment is that the subject architect is currently unable to competently and safely practise as an architect, the board may require the architect, by notice, to pay the board the amount of the cost of the assessment and of the preparation of the health assessment report.
- (3) The amount mentioned in subsection (2) is a debt payable to the board.

### **35H Use of health assessment report**

- (1) A health assessment report is not admissible in any proceeding, and a person can not be compelled to produce the report or to give evidence about the report or its contents in any proceeding.
- (2) Subsection (1) does not apply in relation to—
  - (a) a proceeding relating to an application by the subject architect to whom the report relates for registration as, or renewal or restoration of registration as, an architect under this Act; or
  - (b) a proceeding on an appeal by the subject architect against a decision of the board—
    - (i) refusing to grant, renew or restore registration; or
    - (ii) cancelling or immediately suspending registration.



- (3) Also, subsection (1) does not apply if the report is admitted or produced, or evidence about the report or its contents is given, in a proceeding with the consent of—
  - (a) the health assessor who prepared the report; and
  - (b) the architect to whom the report relates.
- (4) A health assessment report may only be used for the purposes of this Act and must be destroyed as soon as practicable after it is no longer needed for those purposes.
- (5) In this section—

*health assessment report* includes a copy of the report or a part of the report or copy.

## **Part 3                      Complaints and investigations**

### **Division 1AA            Extended application of part 3**

#### **36AA    Application to former architects**

- (1) Action may be taken under this part in relation to a person who was an architect at the time the conduct of the person that is relevant for this part happened even though the person is no longer an architect.
- (2) For the purpose of taking action under this part, the person mentioned in subsection (1) is taken to be an architect.
- (3) This section does not limit, but may extend, the operation of the other provisions of this part.

## **Division 1                      Grounds for disciplining architects**

### **36            Grounds for disciplining an architect**

Each of the following is a ground (a *disciplinary ground*) for disciplining an architect—

- (a) the architect has, whether before or after the commencement of this Act, behaved in a way that constitutes unsatisfactory professional conduct;
- (b) the architect has failed to comply with a provision of this Act or the repealed Act;
- (c) the architect has been convicted of an offence against an Act of the State, the Commonwealth or another State related to the practice of architecture.

## **Division 2                      Complaints**

### **37            Complaints about conduct**

- (1) A person who is aggrieved by an architect's conduct in carrying out architectural services, whether before or after the commencement of this Act, may make a complaint about the conduct to the board.
- (2) A complaint must be in the approved form.
- (3) The chairperson must keep available for inspection, at the board's office by members of the public, information about—
  - (a) the type of conduct the board considers may give rise to a complaint; and
  - (b) how a person may make a complaint.

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**38 Board may require further information or statutory declaration**

- (1) The board may, by notice, ask a complainant to give the board further information about the complaint within the reasonable time stated in the notice.
- (2) Also, the board may require a complainant to verify the complaint or further information by statutory declaration.

**39 Rejection of complaint**

The board may decide to reject a complaint if the board reasonably considers the complaint is frivolous, vexatious or trivial.

**40 Withdrawal of complaint**

- (1) If a complainant withdraws a complaint, the board need not take any further action about the complaint.
- (2) However, the withdrawal does not stop the board—
  - (a) investigating, or continuing to investigate, the matter of the complaint; or
  - (b) authorising an investigator to investigate, or continue to investigate, the matter of the complaint.
- (3) In deciding whether to act as mentioned in subsection (2), the board must have regard to the main objects of this Act and the disciplinary grounds.

**Division 3 Investigations**

**41 Investigation of architect's conduct**

- (1) This section applies if—
  - (a) a complaint is made about an architect's conduct in carrying out architectural services; or

[s 42]

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- (b) the board reasonably believes an aspect of an architect's conduct in carrying out architectural services may provide a ground for disciplining the architect.
- (2) The board may conduct an investigation of the architect's conduct or authorise, in writing, an investigator to conduct the investigation.
- (3) To help the board decide whether to act under subsection (2), the board may give the architect a notice stating the architect may make a submission to the board about the complaint or ground for disciplining the architect within the reasonable time stated in the notice.

#### **42 Investigation of compliance with Act**

- (1) If the board reasonably suspects a person has committed an offence against this Act, the board may—
  - (a) investigate the suspected offence; or
  - (b) authorise, in writing, an investigator to conduct the investigation.
- (2) For helping the board decide whether to act under subsection (1), the board may give the person a notice stating the person may make a submission to the board about the matter the subject of the suspected offence within the reasonable time stated in the notice.

#### **43 Investigation to be conducted as quickly as possible**

The board, or an investigator it authorises to conduct an investigation, must conduct the investigation as quickly as possible having regard to the nature of the matter being investigated.

#### **44 Notice of investigation**

- (1) As soon as practicable after deciding to conduct, or authorising an investigator to conduct, an investigation in

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relation to a person, the board must give the person notice of the investigation.

- (2) The notice must state each of the following—
  - (a) whether the investigation is being conducted by the board or an investigator;
  - (b) if an investigator is conducting the investigation—the investigator’s name;
  - (c) if the investigation relates to a complaint—the nature of the complaint;
  - (d) if the board or an investigator is conducting the investigation on the board’s own initiative under section 41(1)(b) or 42—the grounds that are the basis for the investigation;
  - (e) that the person may make, during the course of the investigation, a submission to the board or investigator about the complaint or other grounds for the investigation, and how a submission may be made.
- (3) However, the board need not give the person the notice if the board reasonably believes that giving the notice may—
  - (a) seriously prejudice the investigation; or
  - (b) place the complainant or another person at risk of harassment or intimidation.
- (4) A submission under subsection (2)(e) must be made to—
  - (a) if an investigator is conducting the investigation—the investigator; or
  - (b) otherwise—the board.

#### **45 Board may engage persons to help investigation**

- (1) The board may engage a person to help the board or investigator in conducting an investigation if the board is satisfied the person is sufficiently qualified or experienced to help the board or investigator about the matter the subject of the investigation.

[s 46]

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- (2) Without limiting subsection (1), the board may engage the person to give the board or investigator a written report about the matter the subject of the investigation.

## **Division 4                    Investigators**

### **46            Function of investigator**

An investigator has the function of conducting the investigation the investigator is authorised to conduct by the board.

### **47            Powers of investigator**

To conduct the investigation, an investigator has the powers given to the investigator under this Act.

## **Division 5                    Appointment of investigators and other matters**

### **48            Appointment and qualifications**

- (1) The board may appoint a person as an investigator.
- (2) The person must be an individual who is not a board member.
- (3) However, the board may appoint a person as an investigator only if the board is satisfied the person has the necessary expertise or experience.

### **49            Appointment conditions and limit on powers**

- (1) An investigator holds office on any conditions stated in—
  - (a) the investigator's instrument of appointment; or
  - (b) a signed notice given to the investigator; or
  - (c) a regulation.

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- (2) The instrument of appointment, a signed notice given to the investigator or a regulation may limit the investigator's powers under this Act.
  - (3) In this section—  
*signed notice* means a notice signed by the chairperson or deputy chairperson.

## **50 Issue of identity card**

- (1) The board must issue an identity card to each investigator appointed by it.
- (2) The identity card must—
  - (a) contain a recent photograph of the investigator; and
  - (b) contain a copy of the investigator's signature; and
  - (c) identify the person as an investigator under this Act; and
  - (d) state an expiry date for the card.

## **51 Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, an investigator must—
  - (a) produce the investigator's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the investigator must produce the identity card for the person's inspection at the first reasonable opportunity.

## **52 When investigator ceases to hold office**

- (1) An investigator ceases to hold office if any of the following happens—
  - (a) the term of office stated in a condition of office ends;

[s 53]

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- (b) under another condition of office, the investigator ceases to hold office;
  - (c) the investigator's resignation under section 53 takes effect.
- (2) Subsection (1) does not limit the ways an investigator may cease to hold office.
- (3) In this section—
- condition of office* means a condition on which the investigator holds office.

### **53 Resignation**

An investigator may resign by signed notice given to the board.

### **54 Failure to return identity card**

An individual who ceases to be an investigator must return the individual's identity card to the board within 21 days after ceasing to be an investigator, unless the individual has a reasonable excuse.

Maximum penalty—10 penalty units.

## **Division 6 Powers of board and investigators**

### **55 Power to require information or attendance**

For an investigation, the board or an investigator may, by notice given to a person, require the person—

- (a) to give stated information to the board or investigator within a stated reasonable time and in a stated reasonable way; or
- (b) to attend before the board or investigator at a stated reasonable time and place—
  - (i) to answer questions; or



- (ii) to produce a stated document.

*Example of a document—*

architectural plans or drawings

## **56 Offences**

- (1) A person required to give information to the board or an investigator under section 55 must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) A person given a notice under section 55 must not fail, without reasonable excuse—

- (a) to attend as required by the notice; or
- (b) to continue to attend as required by the board or investigator until excused from further attendance; or
- (c) to answer a question the person is required to answer by the board or investigator; or
- (d) to produce a document the person is required to produce by the notice.

Maximum penalty—50 penalty units.

- (3) It is a reasonable excuse for a person not to give the information, answer the question or produce the document, if giving the information, answering the question or producing the document might tend to incriminate the person.

## **57 Inspection and copying of produced documents**

- (1) If a document is produced to the board or an investigator, whether under a notice under section 55 or otherwise, the board or investigator may inspect it.
- (2) Also, the board or investigator may make a copy of, or take an extract from, the document if the board or investigator reasonably considers the document may be relevant to the investigation being conducted by the board or investigator.

## **Division 7                      Seizure of documents**

### **58        Seizing document as evidence**

The board or investigator may seize a document mentioned in section 57(1) if the board or investigator reasonably believes the document is evidence that is relevant to the investigation being conducted by the board or investigator.

### **59        Receipt for seized document**

- (1) As soon as practicable after the board or investigator seizes a document, the board or investigator must give a receipt for it to the person from whom it was seized.
- (2) The receipt must describe generally each document seized and its condition.

### **60        Investigator to give seized document to board**

If an investigator seizes a document under section 58, the investigator must give the document to the board when the investigator gives the board a report about the investigation under section 71(1).

### **61        Access to seized document**

- (1) Until a seized document is returned, the board or investigator must allow its owner to inspect or copy it.
- (2) Subsection (1) does not apply if it would be unreasonable to allow the inspection or copying.

### **62        Return of seized document**

- (1) The board must return a document seized as evidence, whether by the board or an investigator, to its owner—
  - (a) at the end of 6 months; or

- 
- (b) if proceedings involving the document are started within 6 months—at the end of the proceedings and any appeal from the proceedings.
  - (2) Despite subsection (1), the board must immediately return the document to its owner if the board stops being satisfied its continued retention as evidence is necessary.

## **Division 8                      Notice of damage and compensation**

### **63            Notice of damage**

- (1) This section applies if the board or an investigator damages property when exercising or purporting to exercise a power under division 6 or 7.
- (2) The board or investigator must immediately give notice of the damage to the person who appears to the board or investigator to be the owner of the property.
- (3) The notice must state—
  - (a) the particulars of the damage; and
  - (b) that the person who suffered the damage may be entitled to claim compensation under section 64.
- (4) If the board or investigator believes the damage was caused by a latent defect in the property or circumstances beyond the board's or investigator's control, the board or investigator may state the belief in the notice.
- (5) This section does not apply to damage the board or investigator reasonably believes is trivial.
- (6) In subsection (2)—  
*owner*, of property, includes the person in possession or control of it.

## **64 Compensation**

- (1) This section applies if a person incurs loss or damage because of the exercise or purported exercise of a power under division 6 or 7.
- (2) The person is entitled to be paid the reasonable compensation because of the loss or damage agreed between the board and the person, or failing agreement, decided by a court.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if it is satisfied it is fair to make the order in the circumstances of the particular case.

## **Division 9 Offences about investigations**

### **65 False or misleading statements**

A person must not, in relation to an investigation under this part, state anything to the board or an investigator that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

### **66 False or misleading documents**

- (1) A person must not, in relation to an investigation under this part, give the board or an investigator a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document—
  - (a) informs the board or investigator, to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the board or investigator.

## **67 Obstructing board or investigators**

- (1) A person must not obstruct the board in its exercise of a power in the conduct of an investigation, or an investigator in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed the board or an investigator as mentioned in subsection (1) and the board or investigator decides to proceed with the exercise of the power, the board or investigator must warn the person that—
  - (a) it is an offence to obstruct the board or an investigator, unless the person has a reasonable excuse; and
  - (b) the board or investigator considers the person's conduct is an obstruction.

- (3) In this section—

*obstruct* includes hinder and attempt to obstruct or hinder.

## **68 Impersonation of investigators**

A person must not pretend to be an investigator.

Maximum penalty—100 penalty units.



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**72 Board may report to Minister**

The board may, at any time, give the Minister a report about an investigation conducted by the board or an investigator.

**73 Board's decision on investigation about architects**

- (1) This section applies if the board—
  - (a) prepares a report under section 69(1) about an architect; or
  - (b) receives a report under section 71(1) about an architect and does not request a further report about the architect under section 71(3); or
  - (c) receives a further report under section 71(3) about an architect.
- (2) As soon as practicable after preparing the report, or receiving the report or further report, the board must decide to do 1 or more of the following—
  - (a) start a disciplinary proceeding against the architect;  
*Editor's note—*  
For how to start a disciplinary proceeding, see part 8 (Reviews and disciplinary proceedings).
  - (b) enter into an undertaking agreed with the architect about a matter relating to the architect carrying out architectural services, including, for example, to submit to an audit of the architect's practice of architecture;
  - (c) caution or reprimand the architect;
  - (d) impose a condition, agreed to by the architect, on the architect's registration;
  - (e) take no further action about the matter the subject of the investigation.
- (3) If the architect does not comply with an undertaking entered into under subsection (2)(b), the board may decide to take another action mentioned in subsection (2).

[s 74]

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- (4) In acting under subsection (2), the board must have regard to the main objects of this Act and the disciplinary grounds.
- (5) Also, regardless of what the board decides under subsection (2)(a) to (d), the board may start proceedings to prosecute the architect for an offence.
- (6) A decision to take action as mentioned in subsection (2)(b) to (e) does not prevent the board taking the matter the subject of the investigation into consideration at a later time as part of a pattern of conduct or practice that may result in starting a disciplinary proceeding against the architect.

#### **74 Notice of result of investigation about architects**

- (1) As soon as practicable after making a decision under section 73(2) or (4) about an architect, the board must give notice of the decision to—
  - (a) the architect; and
  - (b) if the investigation was the result of a complaint—the complainant.
- (2) If the board decides, under section 73(2)(c), to caution or reprimand the architect, the board must give the architect an information notice for the decision.
- (3) If the board decides, under section 73(2)(e), to take no further action about the matter the subject of an investigation started because of a complaint, the board must give the complainant an information notice for the decision.

#### **74A Publishing of certain decisions on investigation about architect**

- (1) This section applies if the board decides—
  - (a) to caution or reprimand an architect under section 73(2)(c); or
  - (b) to impose a condition on an architect's registration under section 73(2)(d).



- (2) The board may notify the decision, and reasons for the decision, on the board's website on the internet.
- (3) The board must not act under subsection (2) until the particulars of the decision are included in the register under section 102.

## **75 Board's decision about other investigations**

- (1) This section applies if the board—
  - (a) prepares a report under section 69(1) about a person other than an architect; or
  - (b) receives a report under section 71(1) about a person other than an architect and does not request a further report about the person under section 71(3); or
  - (c) receives a further report under section 71(3) about a person other than an architect.
- (2) As soon as practicable after preparing the report, or receiving the report or further report, the board must decide to do 1 or more of the following—
  - (a) start proceedings to prosecute the person for an offence;
  - (b) enter into an undertaking agreed with the person about the person's conduct;
  - (c) caution or reprimand the person;
  - (d) take no further action about the matter the subject of the investigation.
- (3) If the person does not comply with an undertaking entered into under subsection (2)(b), the board may decide to take another action mentioned in subsection (2).
- (4) As soon as practicable after making the decision, the board must give notice of the decision to the person.
- (5) If the board decides, under subsection (2)(c), to caution or reprimand the person, the board must give the person an information notice for the decision.

[s 76]

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**76 Board to take action as soon as practicable**

As soon as practicable after deciding to take action under section 73(2)(a) to (d), or (4), or section 75(2)(a) to (c), the board must take the action.

## **Part 5 Board of Architects of Queensland**

### **Division 1 Establishment**

**77 Establishment of board**

- (1) The Board of Architects of Queensland is established.
- (2) The board—
  - (a) is a body corporate; and
  - (b) has perpetual succession; and
  - (c) has a common seal; and
  - (d) may sue and be sued in its corporate name.

**78 Board's relationship with the State**

The board does not represent the State.

**79 Board's independence etc.**

In performing its functions, the board is to act independently, impartially and in the public interest.

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## **Division 2                      Functions and powers**

### **80            Functions of board**

The functions of the board are as follows—

- (a) to assess applications made to it under this Act;
- (b) to register individuals who are eligible for registration and issue certificates of registration;
- (c) to conduct, or authorise, investigations about the professional conduct of architects and contraventions of this Act;
- (d) to keep the register;
- (e) to advise the Minister about the operation of this Act in its application to the practice of architecture;
- (f) to arrange or approve examinations in the practice of architecture for the purpose of registration under this Act;
- (g) to advance education in architecture and professional standards of architects;
- (h) to perform other functions given to the board under this or another Act;
- (i) to perform a function incidental to a function mentioned in paragraphs (a) to (h).

### **81            Powers of board**

- (1) The board has all the powers of an individual, and may, for example, do all or any of the following—
  - (a) enter into contracts;
  - (b) acquire, hold, deal with and dispose of, property;
  - (c) appoint and act through agents and attorneys;
  - (d) employ staff and engage consultants;

[s 82]

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- (e) do anything else necessary or convenient to be done for the performance of its functions.
- (2) Without limiting subsection (1), the board has the other powers given to it under this Act.

## **Division 3                      Membership**

### **82            Membership of board**

- (1) The board consists of 7 members appointed by the Governor in Council.
- (2) The members must include—
  - (a) 1 person who—
    - (i) is the academic head or an academic representative of a school of architecture prescribed under a regulation; and
    - (ii) is an architect, or as an applicant would be eligible for registration; and
  - (b) 1 person who—
    - (i) is a representative of the Queensland Chapter of the Australian Institute of Architects (the *institute*); and
    - (ii) is an architect, or as an applicant would be eligible for registration; and
  - (c) 1 architect elected under this Act; and
  - (d) 1 architect who resides and undertakes architectural services in regional Queensland; and
  - (e) 1 lawyer, of at least 10 years standing, with experience in the law relating to building and construction; and
  - (f) 1 person who has at least 10 years experience as a construction contractor in the building and construction industry; and
  - (g) 1 person who is not an architect.

- (3) The members mentioned in subsection (2)(a), (b) and (d) to (g) are to be nominated by the Minister.
- (4) If an architect is not elected under subsection (2)(c), the Minister may nominate an architect for appointment to the board.
- (5) An architect nominated under subsection (4) is taken to be elected under subsection (2)(c).
- (6) The Minister must nominate a person for appointment under subsection (2)(g) who the Minister reasonably believes will represent community interests.

### **83 Chairperson and deputy chairperson**

- (1) The chairperson of the board is the member appointed by the Governor in Council as the chairperson.
- (2) The deputy chairperson of the board is the member appointed by the Governor in Council as the deputy chairperson.
- (3) A person may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a member.
- (4) The chairperson or deputy chairperson holds office for the term decided by the Governor in Council, unless the person's term of office as a member ends sooner than the person's term of office as chairperson or deputy chairperson.
- (5) A vacancy occurs in the office of chairperson or deputy chairperson if the person holding the office resigns the office by signed notice of resignation given to the Minister or stops being a member.
- (6) However, a person resigning the office of chairperson or deputy chairperson may continue to be a member.
- (7) The deputy chairperson is to act as chairperson—
  - (a) during a vacancy in the office of chairperson; and
  - (b) during all periods when the chairperson is absent from duty or for another reason can not perform the functions of the office.

[s 84]

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#### **84 Duration of appointment**

- (1) A member is to be appointed for the term, of not more than 3 years, stated in the member's instrument of appointment.
- (2) However, if at the end of a member's term of appointment a person has not been appointed to replace the member, the member's term does not end until the first of the following events to happen—
  - (a) the end of 3 months after the day the member's term would, apart from this subsection, have ended;
  - (b) the member is reappointed;
  - (c) if the member is not reappointed—another person has been appointed to replace the member.

#### **85 Conditions of appointment**

- (1) A member holds office—
  - (a) on a part-time basis; and
  - (b) on terms, not otherwise provided for in this Act, that are decided by the Governor in Council.
- (2) A member is entitled to be paid the remuneration and allowances decided by the Governor in Council.

#### **86 Termination of appointment**

- (1) The Governor in Council may remove a member from office if—
  - (a) the member is absent from 3 consecutive meetings of the board without the board's permission and without reasonable excuse; or
  - (b) the Minister is satisfied the member—
    - (i) is incapable of performing the duties of a member because of physical or mental incapacity, or otherwise fails to perform the member's duties; or

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- (ii) is performing the member's duties carelessly, incompetently or inefficiently; or
  - (iii) is affected by bankruptcy action; or
  - (iv) is an executive officer of a corporation affected by control action after the commencement of this section; or
  - (v) has a conviction, other than a spent conviction, for an indictable offence or an offence against this Act; or
  - (vi) commits misconduct of a kind that could justify dismissal from the public service if the member were a public service officer.
- (2) In this section—
- meeting* means the following—
- (a) if the member does not attend—a meeting with a quorum present;
  - (b) if the member attends—a meeting with or without a quorum present.

## **87 Vacation of office**

- (1) The office of a member becomes vacant if the member—
  - (a) dies; or
  - (b) resigns office by notice given to the Minister; or
  - (c) is removed from office under section 86.
- (2) Also, the office of a member becomes vacant if the member ceases to hold the office or qualification, if any, mentioned in section 82(2) for the member.

## **88 Leave of absence for a member**

- (1) The Minister may approve a leave of absence for a member (the *absent member*) of not more than 9 months.

[s 89]

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- (2) The Minister may appoint another person to act in the office of the absent member while the member is absent on the leave.
- (3) A person appointed under subsection (2), must be—
  - (a) if the absent member is a person mentioned in section 82(2)(a), (b), (e), (f) or (g)—a person who belongs to the same category of persons, mentioned in the section, to which the absent member belongs; or
  - (b) if the absent member is a person mentioned in section 82(2)(c) or (d)—an architect.
- (4) The Minister's power to appoint a person to act in the office of an absent member does not limit the Governor in Council's powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(v).

## **89 Effect of vacancy in membership of board**

- (1) The performance of a function, or exercise of a power, by the board is not affected merely because of a vacancy in the membership of the board.
- (2) Subsection (1) applies despite section 82(1).

## **90 Report about person's criminal history**

- (1) To help decide whether a person is a suitable person to be nominated as a member under section 82(3) or appointed to act in the office of a member under section 88(2), the chief executive may ask the commissioner of the police service for a written report about the person's criminal history.
- (2) However, the chief executive may make a request about a person under subsection (1) only if the person has given the chief executive written consent for the request.
- (3) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the criminal history of the person.



- (4) The duty imposed on the commissioner of the police service applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) The chief executive must destroy a report given to the chief executive under this section as soon as practicable after it is no longer needed for the purpose for which it was requested.

## **Division 4                      Business and meetings**

### **91            Conduct of business**

Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.

### **92            Times and places of meetings**

- (1) Board meetings must be held at least once in every 2 months at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or at least 2 members.

### **93            Quorum**

A quorum for a meeting of the board is 4 members.

### **94            Presiding at meetings**

- (1) The chairperson is to preside at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is absent from a board meeting, but the deputy chairperson is present, the deputy chairperson is to preside.
- (3) If the chairperson and deputy chairperson are both absent from a board meeting—
  - (a) the member nominated by the chairperson is to preside;  
or

[s 95]

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- (b) if the chairperson does not nominate a member under paragraph (a)—the member nominated by the deputy chairperson is to preside.
- (4) If the offices of chairperson and deputy chairperson are vacant, the member chosen by the members present is to preside.

## **95 Conduct of meetings**

- (1) A question at a board meeting is to be decided by a majority of the votes of the members present and voting.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote.
- (3) A member present at the meeting who abstains from voting is taken to have voted for the negative.
- (4) The board may hold meetings, or allow members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

*Example of use of technology—*

teleconferencing

- (5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
  - (a) a majority of the members gives written agreement to the resolution; and
  - (b) notice of the resolution is given under procedures approved by the board.

## **96 Minutes**

- (1) The board must keep minutes of its meetings.
- (2) Each of the following must be recorded in the minutes—

- 
- (a) a decision made under section 73(2) or 75(2);
  - (b) a resolution made under section 95(6);
  - (c) an authorisation by the board under section 105.

## **Division 5                      Disclosure of interests by board members**

### **97                      Disclosure of interests**

- (1) This section applies to a board member if—
  - (a) the member has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and
  - (b) the interest could conflict with the proper performance of the member's duties about the consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the board.
- (3) Unless the board otherwise directs, the member must not—
  - (a) be present when the board considers the issue; or
  - (b) take part in a decision of the board about the issue.
- (4) The member must not be present when the board is considering whether to give a direction under subsection (3).
- (5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—
  - (a) be present when the board is considering whether to give a direction under subsection (3); or
  - (b) take part in making the decision about giving the direction.
- (6) If—

[s 98]

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- (a) because of this section, a member is not present at a board meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
  - (b) there would be a quorum if the member were present; the remaining members present are a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.
- (7) A disclosure under subsection (2) must be recorded in the board's minutes.
- (8) If the member is an architect, the member does not have a direct or indirect interest in an issue if the interest arises merely because the member is an architect.

## **Division 6                      Directions by Minister and performance agreements**

### **98            Ministerial direction**

- (1) The Minister may give the board a written direction about the performance of the board's functions or exercise of its powers if satisfied it is necessary to give the direction in the public interest.
- (2) Without limiting subsection (1), the direction may be to—
- (a) give reports and information; or
  - (b) apply to the board a policy, standard or other instrument applying to a public sector unit.
- (3) The direction can not be about—
- (a) the registering of, or refusal to register, an applicant for registration; or
  - (b) the renewing of, or refusal to renew, a registration; or
  - (c) the restoring of, or refusal to restore, a registration; or
  - (d) the cancelling of a registration.

- (4) Despite section 79, the board must comply with the direction.
- (5) However, before giving the direction the Minister must consult with the board.
- (6) The Minister must publish a copy of the direction in the gazette within 21 days after the direction is given.

## **99 Performance agreement**

- (1) The board must enter into an agreement with the Minister (a *performance agreement*) within 1 month after the end of each financial year.
- (2) The performance agreement must identify the board's strategic direction for the current financial year and the 2 following financial years.
- (3) The performance agreement may include matters relevant to the operations of the board and agreed to by the Minister and the board.

## **Division 7 Registrar of board and other staff**

### **100 Appointment and function of registrar**

- (1) There is a registrar of the board.
- (2) The registrar is to be appointed to the office under the *Public Service Act 2008*.
- (3) The registrar is responsible for managing the board's administrative affairs.

### **100A Other staff**

With the board's consent, other public service employees may—

- (a) be engaged by a public sector unit to provide services for the board; or

[s 101]

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- (b) be deployed to the board to provide services for the board.

### **101 Board to reimburse cost of registrar's or other staff's services**

The board must reimburse the public sector unit in which the registrar or a public service employee is employed the reasonable costs of the services provided by the registrar or public service employee for the board.

## **Division 8 Register**

### **102 Keeping register**

- (1) The board must keep a register of persons who are, or have been, architects.
- (2) The register may be kept in the way the board considers appropriate, including, for example, in an electronic form.
- (3) The register must contain all the following particulars for each person—
  - (a) the person's name and contact details;
  - (b) the person's qualifications and competencies relied on by the person to obtain registration;
  - (c) if the tribunal makes an order about the person under section 130(2) or (3) or section 131(2)(b)—details of the order, other than any details identified in the order as details that are not to be included in the register;
  - (d) if the tribunal conducts a disciplinary proceeding in relation to the person because of the person's conviction for an offence against this Act—the fact of the conviction;
  - (e) if the person's registration is cancelled under section 29(3)—the day the registration is cancelled and the reasons for the cancellation;

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- (f) if the person's registration is not renewed under section 20—the reasons for not renewing the registration;
  - (g) if the person's registration is not restored under section 24—the reasons for not restoring the registration;
  - (h) other particulars relevant to the person's registration and prescribed under a regulation.
- (4) If an order mentioned in subsection (3)(c) states a period in which details of the order may be included in the register, the details may be included in the register only for the stated period.
- (5) The particulars mentioned in subsection (3)(e) to (g) for a decision of the board to cancel, or refuse to renew or restore a person's registration must not be included in the register until—
- (a) the period in which the person may apply to the tribunal for a review of the decision has ended; or
  - (b) if the person has applied to the tribunal for a review of the decision—the review, and any appeal from the tribunal's decision on the review, has been decided or is otherwise ended.
- (6) However, if a person applies to the tribunal for a review of a decision of the board to cancel, or refuse to renew or restore the person's registration, the particulars mentioned in subsection (3)(e) to (g) for the decision may only be included in the register if—
- (a) the review, and any appeal from the tribunal's decision on the review, is decided or otherwise ended; and
  - (b) the result of the decision on the review and any appeal from the decision, or the ending of the review or appeal, is that the person's registration remains cancelled or may not be renewed or restored.

### **103 Inspection of register**

- (1) The board must—

[s 104]

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- (a) keep the register open for inspection, free of charge, at the board's office by members of the public during ordinary office hours; and
  - (b) give a person a copy of the register, or a part of it, on payment of the fee prescribed under a regulation.
- (2) Also, the board may make the register available for inspection on its website.

## **Division 9                    Other provisions about the board**

### **104    Application of other Acts**

- (1) The board is a statutory body within the meaning of the—
  - (a) *Financial Accountability Act 2009*; and
  - (b) *Statutory Bodies Financial Arrangements Act 1982*.
- (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*.

### **105    Board's common seal**

The board's common seal must be kept in the custody of a person nominated by the board and may be used only as authorised by the board.

### **106    Board to reimburse tribunal costs**

- (1) The board must reimburse the department the tribunal costs paid by the department to the tribunal department.
- (2) In this section—

*tribunal costs* means the reasonable costs of the tribunal incurred in conducting—

  - (a) proceedings for reviews of decisions mentioned in section 121(2); or



(b) disciplinary proceedings.

*tribunal department* means the department in which the QCAT Act is administered.

### **107 Matters to be included in annual report**

The board's annual report under the *Financial Accountability Act 2009* for a financial year must include each of the following—

- (a) a copy of all ministerial directions given to the board under section 98(1) during the year;
- (b) details about action taken by the board to comply with each direction mentioned in paragraph (a);
- (c) information about whether the board's activities during the year were consistent with its performance agreement;
- (d) details about the results of disciplinary proceedings, or proceedings for a contravention of the Act, started by the board;
- (e) details of the results of reviews, under part 8, division 2, of decisions.

## **Part 6 Codes of practice**

### **108 Board to make code of practice**

- (1) The board must, within 9 months after the commencement of this part, make a code of practice to provide guidance to architects as to appropriate professional conduct or practice.
- (2) In developing or amending a code of practice, the board must consult with—
  - (a) professional associations in the State that the board considers represent the interests of architects; and

[s 109]

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- (b) universities that—
    - (i) are established in Queensland; and
    - (ii) are engaged in the education of students to practise in the profession of architecture; and
  - (c) any other entity the Minister directs the board to consult with.
- (3) A code of practice, or an amendment of a code of practice, has no effect until it is approved under a regulation.
  - (4) The board may make a code of practice by adopting another entity's code of practice with or without changes.
  - (5) The board must review its code of practice at least once every 3 years.
  - (6) The board's code of practice is a statutory instrument within the meaning of the *Statutory Instruments Act 1992*.

### **109 Tabling of code**

- (1) This section applies if, under section 108(3), a code of practice, or amendment of a code of practice, has been approved under a regulation.
- (2) The Minister must, within 14 sitting days after the regulation is gazetted, table a copy of the code, or amendment or amended code, in the Legislative Assembly.
- (3) A failure to comply with subsection (2) does not invalidate or otherwise affect the code or the regulation.

### **110 Inspection of code**

- (1) The board must—
  - (a) keep copies of the code of practice, as in force from time to time, available for inspection, free of charge, at the board's office by members of the public during ordinary office hours; and

- (b) give a person a copy of the code, or a part of it, on payment of the fee prescribed under a regulation.
- (2) Also, the board may make the code of practice available for inspection on its website.

### **111 Notice of approval or amendment of code**

The board must notify architects of the approval of a code of practice and any amendment of the code.

### **112 Use of code of practice in a disciplinary proceeding**

- (1) An approved code of practice is admissible as evidence in a disciplinary proceeding brought by the board against an architect under this Act.
- (2) The code may only be used to provide evidence, in the disciplinary proceeding, of appropriate professional conduct or practice for an architect.

## **Part 7 Other offence provisions**

### **113 Claims about being an architect**

- (1) A person who is not an architect must not—
  - (a) claim, or hold himself or herself out, to be an architect;  
or
  - (b) allow himself or herself to be held out as an architect.

Maximum penalty—1000 penalty units.

- (2) A person must not hold out another person as an architect if the person knows or ought reasonably to know the other person is not an architect.

Maximum penalty—1000 penalty units.

[s 114]

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## **114 Using titles or names etc.**

- (1) A person who is not an architect must not use—
  - (a) the title ‘architect’ or ‘registered architect’; or
  - (b) another title or name, prescribed under a regulation, that in the context in which the title or name is used suggests that the person is an architect.

Maximum penalty—1000 penalty units.

- (2) A person who is not a practising architect must not use any of the following words to advertise or otherwise promote services provided by the person unless the services are to be provided using a practising architect—
  - (a) ‘architectural services’, ‘architectural design services’ or ‘architectural design’;
  - (b) other words, prescribed under a regulation, that in the context in which the words are used suggest that the services to which the words relate are to be provided using a practising architect.

Maximum penalty—1000 penalty units.

## **114A Exemption for corporations**

- (1) This section applies to a corporation.
- (2) The corporation does not commit an offence against section 113(1) merely because the corporation uses a title or name referred to in section 114(1) if—
  - (a) the corporation has given the board a notice under section 141A(2) in relation to the provision of architectural services by the corporation; and
  - (b) the notice is a current notice.
- (3) The corporation does not commit an offence against section 114(1) if—
  - (a) the corporation has given the board a notice under section 141A(2) in relation to the provision of architectural services by the corporation; and

- (b) the notice is a current notice.

## 115 Claims about provision of architectural services

- (1) This section applies if a person claims, or holds out, that the person provides architectural services at a place using an architect.
- (2) If the person provides the services, the person must ensure an architect—
  - (a) is at the place while the services are provided; and
  - (b) carries out, or is responsible for the carrying out of, the services.

Maximum penalty—1000 penalty units.

- (3) In this section—

*place* does not include a place at which a person provides architectural services for a single construction site.

*Example of a place—*

a site office for a construction project

## 116 Providing information about architects

- (1) This section applies to a person who claims, or holds out, that the person will provide architectural services to someone (the *other person*) using an architect.
- (2) The person must inform the other person of the name and contact details of the architect responsible for the carrying out of the services.

Maximum penalty—300 penalty units.

- (3) If the person informs another person of the name and contact details of an architect under subsection (2), the person also must inform the other person of the name and contact details of any other architect who becomes responsible for the carrying out of the services.

Maximum penalty—300 penalty units.

[s 117]

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### **117 Information on correspondence about architectural services**

- (1) This section applies to a person who provides, or intends to provide, architectural services to someone (the *other person*) using an architect.
- (2) The person must ensure the name and contact details of the architect who is, or will be, responsible for the carrying out of the services are stated on all correspondence about the services from the person to the other person.

Maximum penalty—300 penalty units.

## **Part 8 Reviews and disciplinary proceedings**

### **Division 1 Reviews**

#### **121 Review of particular decisions**

- (1) The tribunal may, on application by a person mentioned in subsection (2), review the decision of the board stated in the subsection for the person.
- (2) Each of the following persons may apply, as provided under the QCAT Act, to the tribunal for a review of the decision stated for the person—
  - (a) a person whose application for registration, or renewal or restoration of registration, is refused;
  - (b) a person whose application for renewal or restoration of registration is not accepted by the board under section 18(4) or 23(3);
  - (c) a person whose registration is cancelled under section 29(3);

- (d) a person who, under section 73(2)(c) or 75(2)(c), has been cautioned or reprimanded;
- (e) a person who makes a complaint if the board decides, under section 73(2)(e), to take no further action about the complaint.

### **125 Information about review**

The board must keep available for inspection, at the board's office by members of the public, information about how a person may apply to the tribunal for a review of a decision mentioned in section 121(2).

## **Division 2 Disciplinary proceedings**

### **126 Tribunal may conduct disciplinary proceeding**

The tribunal may, on application by the board, conduct a proceeding (a *disciplinary proceeding*) to decide whether a disciplinary ground is established.

### **128 Tribunal to have regard to code of practice**

If the tribunal is making a decision about whether the architect has behaved in a way that constitutes unsatisfactory professional conduct or practice, the tribunal must have regard to the approved code of practice.

### **129 Continuation of particular proceeding**

- (1) This section applies if, after a disciplinary proceeding is started against a person, the person ceases to be an architect.
- (2) The proceeding may continue under this part.

[s 130]

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### **130 Orders relating to architect**

- (1) If the tribunal decides that a disciplinary ground is established, the tribunal may—
  - (a) make 1 or more of the orders mentioned in subsections (2) to (4); or
  - (b) take no action against the architect.
- (2) The tribunal may order the architect to pay a stated amount of not more than the equivalent of 200 penalty units.
- (3) Also, the tribunal may make an order—
  - (a) reprimanding the architect; or
  - (b) cancelling the architect's registration; or
  - (c) disqualifying, indefinitely or for a stated period, the architect from obtaining registration as an architect.
- (4) An order for payment of an amount under subsection (2) may direct that, if the architect does not pay the amount within the period stated in the order, the architect's registration be suspended until the amount is paid.
- (5) If the architect does not pay the amount within the stated period, the registration is suspended until the earlier of the following—
  - (a) the day the amount is paid;
  - (b) the day the registration expires.
- (6) The suspension takes effect immediately after the end of the stated period.

### **131 Orders relating to former architect**

- (1) This section applies if the tribunal decides that a disciplinary ground is established against a person who is not an architect at the time of the tribunal's decision.
- (2) The tribunal may decide—
  - (a) to take no action against the person; or



- (b) to do 1 or more of the following—
  - (i) order the person to pay a stated amount of not more than the equivalent of 200 penalty units;
  - (ii) make an order reprimanding the person;
  - (iii) make an order disqualifying, indefinitely or for a stated period, the person from obtaining registration as an architect.

### **132 Effect of particular orders**

- (1) An order under section 130(2) or 131(2)(b)(i) must order that the amount be paid to the board.
- (2) If the tribunal makes an order under section 130(3)(c), the board must not—
  - (a) if the disqualification is indefinite—re-register the architect; or
  - (b) if the disqualification is for a stated period—re-register the architect during the period stated in the order.
- (3) If the tribunal decides under section 131(3) a period during which a person must not be re-registered by the board, the board must not register the person during the period.

### **133 Recording details of orders**

If the tribunal makes an order about a person under section 130(2) or (3) or section 131(2)(b), the order may state—

- (a) the period in which the details of the order are to be included in the register for the person; and
- (b) the particular details of the order, if any, that the tribunal decides are not to be included in the register.

## **Part 9                      Legal proceedings**

### **Division 1                Evidence**

#### **134      Application of div 1**

This division applies to a proceeding for an offence against this Act or a disciplinary proceeding.

#### **135      Appointments and authority**

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of—
  - (i) the chairperson or another board member; or
  - (ii) the registrar; or
  - (iii) an investigator;
- (b) the authority of the board or a person mentioned in paragraph (a) to do anything under this Act.

#### **136      Signatures**

A signature purporting to be the signature of the chairperson, a member or an investigator, is evidence of the signature it purports to be.

#### **137      Evidentiary matters**

A certificate purporting to be signed by the registrar and stating any of the following matters is evidence of the matter—

- (a) a stated document is 1 of the following things made, given, issued or kept under this Act—
  - (i) an appointment or decision;

- (ii) a direction, notice, order or requirement;
- (iii) a certificate of registration;
- (iv) the board's minutes or an extract from the board's minutes;
- (v) another record or an extract from another record;
- (vi) the register or an extract from the register;
- (b) a stated document is an approved code of practice or an approved amendment of a code of practice;
- (c) a stated document is another document kept under this Act;
- (d) a stated document is a copy of a thing mentioned in paragraph (a), (b) or (c);
- (e) on a stated day, or during a stated period, a stated person was or was not registered under this Act;
- (f) on a stated day, a registration was cancelled;
- (g) on a stated day, or during a stated period, a registration was suspended;
- (h) on a stated day, or during a stated period, an appointment as an investigator was, or was not, in force for a stated person;
- (i) on a stated day—
  - (i) a stated person was given a stated notice or direction under this Act; or
  - (ii) a stated requirement under this Act was made of a stated person;
- (j) a stated fee or other amount is payable by a stated person to the board and has not been paid.

## Division 2                      Offence proceedings

### 138      Summary proceedings for offences

- (1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.
- (2) The proceeding must start within the later of the following periods to end—
  - (a) 1 year after the commission of the offence;
  - (b) 6 months after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

### 139      False or misleading information or statements

In a proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading statement, it is enough for a charge to state that the information or statement was, without specifying which, 'false or misleading'.

## Part 10                              Other matters

### 140      Performance and carrying out of architectural services by particular entities

- (1) This section applies to—
  - (a) a person who is not an architect if the person, in performing, or undertaking to perform, architectural services for someone (the *client*)—
    - (i) claims, or holds himself or herself out, to be an architect; or

- (ii) allows himself or herself to be held out as an architect; or
- (b) another person if—
  - (i) the person, in providing, or undertaking to provide, architectural services for someone (also the *client*) claims, or holds out, that the services are carried out, or to be carried out, by or under the supervision of an architect; and
  - (ii) the services are not carried out by or under the supervision of an architect.
- (2) Despite any agreement between the person and the client, the person is not entitled to any monetary or other consideration for the performance or carrying out of the architectural services.
- (3) A person mentioned in subsection (1)(a) is not taken to claim, or hold himself or herself out, to be an architect, or allow himself or herself to be held out as an architect, merely because the person uses a title or name referred to in section 114(1) if—
  - (a) the person has given the board a notice under section 141A(2) in relation to the provision of architectural services by the person; and
  - (b) the notice is a current notice.

## **141 Protection from liability**

- (1) This section applies to each of the following persons (a *relevant person*)—
  - (a) the Minister;
  - (b) a member;
  - (c) an investigator;
  - (d) a person engaged, under section 45, to assist the board or an investigator.

[s 141A]

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- (2) A relevant person is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to a relevant person mentioned in subsection (1)(a), the liability attaches instead to the State.
- (4) If subsection (2) prevents a civil liability attaching to a relevant person mentioned in subsection (1)(b), (c) or (d), the liability attaches instead to the board.

#### **141A Notice and record for businesses**

- (1) This section applies if a business provides architectural services at 1 or more places using an architect.
- (2) The business may give the board a notice in the approved form.
- (3) The approved form must provide for the inclusion of—
  - (a) the business's name, business address and telephone number; and
  - (b) the name of each place at which the business provides the services; and
  - (c) the name and signature of each architect who is responsible for carrying out architectural services for the business at each of the places mentioned in paragraph (b).
- (4) The notice is taken not to have been given under subsection (2) unless the notice—
  - (a) includes the information mentioned in subsection (3); and
  - (b) is accompanied by the fee prescribed under a regulation.
- (5) Subsection (6) applies if a business gives the board a notice under subsection (2) and a change happens in any 1 or more of the following—

- 
- (a) the business's name, business address and telephone number; and
  - (b) the name of a place at which the business provides architectural services using an architect; and
  - (c) the name of an architect who is responsible for carrying out architectural services for the business at a place.
- (6) The business must, within 21 days after the change happens, notify the board, in the approved form, about the change.
- (7) If the change is in an architect responsible for carrying out architectural services for the business, the notice about the change is not given under subsection (6) unless the notice states the new architect's name and signature.
- (8) If a business gives the board a notice under subsection (2) or (6), the board must—
- (a) keep a record of the information given in the notice; and
  - (b) keep the record open for inspection, free of charge, at the board's office by members of the public during ordinary office hours; and
  - (c) give a person a copy of the record, or a part of it, on payment of the fee prescribed under a regulation.
- (9) If the board receives information (*received information*), other than under subsection (6), that leads the board to reasonably suspect information kept on the record may have changed, the board may note the received information on the record.
- (10) The board may make the record available for inspection on its website.
- (11) In this section—
- business* means a corporation, partnership or other unincorporated association.

## 142 Approval of forms

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

[s 143]

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### **143 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following—
  - (a) fees, including the refunding of fees, for this Act;
  - (b) the procedures for electing a member of the board;
  - (c) imposing a penalty of no more than 20 penalty units for contravention of a regulation.
- (3) Without limiting subsection (2)(a), a regulation may prescribe amounts as fees having regard to the costs of the board performing its functions under, or complying with, this Act or another Act.
- (4) Also, without limiting section 10(1)(a), a regulation may provide for a qualification under that paragraph by reference to subjects or areas of learning relating to architecture.

## **Part 11 Repeal and transitional provisions**

### **Division 1 Repeal**

#### **144 Repeal of Architects Act 1985**

The Architects Act 1985 (1985 Act No. 22) is repealed.



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## **Division 2                    Transitional provisions for Act No. 53 of 2002**

### **Subdivision 1            Preliminary**

#### **145    Definitions for div 2**

*approved architectural company* means a company that, immediately before the commencement, has an approval granted under part 4 of the repealed Act.

*commencement* means the commencement of the provision in which the term is used.

*disciplinary panel* means the Architects Disciplinary Panel established under the repealed Act.

*former board* means the Board of Architects of Queensland established under the repealed Act.

*prescribed examination* means an examination prescribed under a regulation in force under the repealed Act immediately before the commencement.

### **Subdivision 2            Transitional references**

#### **146    References to repealed Act**

A reference in an Act or document to the repealed Act may, if the context permits, be taken as a reference to this Act.

#### **147    References to former board**

A reference in an Act or document to the former board may, if the context permits, be taken as a reference to the board.

### **Subdivision 3      Other transitional provisions**

#### **148      Dissolution of former board**

- (1) On the commencement—
  - (a) the former board is dissolved; and
  - (b) the members of the board go out of office.
- (2) No compensation is payable to a member because of subsection (1).

#### **149      Particular members of former board continue in office**

- (1) This section applies to a person who is a member of the former board immediately before the commencement if the person's term of appointment as a member would, other than for this section, have ended before the commencement of section 148 of this Act.
- (2) Despite section 8 of the repealed Act, the person continues as a member of the former board until it is dissolved under section 148 of this Act.

#### **150      First appointment of particular member**

- (1) For the purpose of the first appointment of a member of the board under section 82(2)(c), the Governor in Council may appoint any person holding office under section 5(1)(a) or (c) of the repealed Act before the commencement.
- (2) A person appointed under subsection (1)—
  - (a) is taken to be properly appointed under section 82; and
  - (b) holds office until—
    - (i) the end of 18 months after the commencement; or
    - (ii) if the person, or another person, is earlier elected under section 82(2)(c)—the day the person or other person is elected.

### **151 Employees of former board**

- (1) This section applies to a person who, immediately before the commencement, was an employee of the former board.
- (2) On the commencement, the person becomes an employee of the board.
- (3) The person—
  - (a) must be employed on terms and conditions at least equivalent to the person's terms and conditions of employment immediately before the commencement; and
  - (b) remains entitled to all rights of employment existing or accruing immediately before the commencement.

### **152 Vesting of former board's assets, rights and liabilities**

On the commencement, the assets, rights and liabilities of the former board vest in the board.

### **153 Vesting of former board's pending legal proceedings**

- (1) This section applies to a legal proceeding that—
  - (a) was taken by or against a following person before the commencement—
    - (i) the former board;
    - (ii) a member of the former board in the person's capacity as a member of the former board; and
  - (b) has not been finished before the commencement.
- (2) From the commencement, the proceeding may be continued and finished by or against the board.

### **154 Dissolution of disciplinary panel**

- (1) On the commencement—
  - (a) the disciplinary panel is dissolved; and

[s 155]

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- (b) the members of the panel go out of office.
- (2) No compensation is payable to a member because of subsection (1).

### **155 Complaints under repealed Act**

- (1) This section applies to a complaint about an individual given to the former board under the repealed Act if, before the commencement, the former board had not appointed a person to investigate the complaint, or otherwise dealt with, the complaint under that Act.
- (2) The complaint is taken to be a complaint under this Act.

### **156 Disciplinary proceeding started before commencement**

- (1) This section applies if, under the repealed Act and before the commencement—
  - (a) the former board has laid a disciplinary charge against an architect; and
  - (b) a disciplinary panel has been formed to hear and decide the charge.
- (2) The disciplinary panel may hear, or continue to hear, and decide the charge under the repealed Act as if the Act had not been repealed and the panel had not been dissolved under section 154.
- (3) Also, for hearing the charge or doing anything else under the repealed Act in relation to the charge, a disciplinary panel member has the member's entitlements under the repealed Act.
- (4) The repealed Act continues in force for the purposes of the panel and the proceeding, including, for example, the making of an order by the panel under section 80 of that Act.
- (5) An order of the panel under section 80 of the repealed Act has effect as if it were an order of the tribunal under section 130 or 131 of this Act.

- (6) For this section, a reference in the repealed Act to the board may, if necessary or desirable for the proceeding, be taken to be a reference to the board established under this Act.

## **157 Continuing investigations**

- (1) This section applies to a person who—
- (a) is appointed as an investigator under section 31 of the repealed Act; and
  - (b) immediately before the commencement, is investigating the conduct of an architect under the repealed Act.
- (2) On the commencement, the person is taken to be an investigator under section 48 and may continue the investigation under this Act.

## **158 Appeals**

- (1) Subsection (2) applies if—
- (a) a person has appealed to the District Court under the repealed Act before the commencement against a following decision—
    - (i) a decision of the former board to refuse an application for registration;
    - (ii) a decision of the former board, under section 20(1)(c) or (d) of the repealed Act, to remove a person's name from the register under that Act;
    - (iii) a decision mentioned in section 84(1) of the repealed Act; and
  - (b) the appeal has not been decided before the commencement.
- (2) The District Court may hear, or continue to hear, and decide the appeal under the repealed Act as if the Act had not been repealed.
- (3) Subsection (4) applies if—

[s 159]

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- (a) immediately before the commencement a person could have appealed to the District Court under the repealed Act against a decision mentioned in subsection (1)(a); and
  - (b) the person has not appealed before the commencement.
- (4) The person may appeal, and the District Court may hear and decide the appeal, under the repealed Act as if this Act had not commenced.
- (5) For giving effect to its decision under subsection (2) or (4), the District Court may make the orders it considers necessary having regard to the provisions of this Act.

*Example for subsection (5)—*

On an appeal by a person against a decision to cancel the person's registration under the repealed Act, the District Court may order that the board register the person under this Act.

## 159 Existing registrations

- (1) This section applies to an individual who, immediately before the commencement, was an architect under the repealed Act.
- (2) On the commencement, the individual is taken to be an architect under this Act.
- (3) Despite section 15, the registration remains in force, unless it is sooner cancelled, until the later of the following days—
  - (a) 31 December first happening after the commencement;
  - (b) the day that is 3 months after the commencement.
- (4) However, if the individual pays the registration fee to the board before the day on which the registration would have ended under subsection (3), the registration remains in force until the last day of the financial year in which the registration would otherwise have ended under the subsection.
- (5) In this section—

*registration fee* means the registration fee prescribed under section 8(2)(b)(iii) for registration for not more than 6 months.

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**160 Existing approvals**

- (1) This section applies to an approved architectural company.
- (2) On the commencement, the company's approval granted under part 4 of the repealed Act ceases to have effect.

**161 Existing applications for registration**

- (1) This section applies to an application for registration as an architect under the repealed Act and not decided before the commencement.
- (2) The application must be decided under this Act.

**162 Continuing effect of qualifications under repealed Act**

- (1) Subsection (2) applies—
  - (a) despite the repeal of the repealed Act; and
  - (b) only until the commencement of the *Architects Amendment Act 2010*.
- (2) A person is taken to be qualified for registration under section 10(1) if the person complies with the requirements for registration under section 16(1)(a) and (b) of the repealed Act.

**163 Matters about prescribed examinations**

- (1) Subsection (2) applies to a person who—
  - (a) immediately before the commencement, is undertaking part 1 or 2 of the prescribed examinations; and
  - (b) successfully completes part 2 of the prescribed examinations before 1 July 2005.
- (2) Despite section 10(1), successful completion of part 2 of the prescribed examinations is taken to be a qualification mentioned in section 10(1)(a).
- (3) The board or another entity approved by the board must continue to conduct parts 1 and 2 of the prescribed examinations until 1 July 2005.

[s 164]

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- (4) The board or another entity approved by the board must continue to conduct part 3 of the prescribed examinations for a person mentioned in subsection (1)(a) until a regulation provides for the competencies in the practice of architecture under section 10(1)(b) of this Act.

#### **164 Fees for prescribed examinations**

The fee payable to the board for entry to a prescribed examination is the fee that would have been payable for the entry immediately before the commencement.

#### **165 Refund of fees—approved architectural company**

- (1) As soon as practicable after the commencement, the board must refund to each approved architectural company an amount calculated using the formula—

$$A = F - \left( B + \left( \frac{F}{12} \times C \right) \right)$$

- (2) In this section—

*A* means the amount to be refunded.

*B* means a reasonable amount, decided by the board, for administrative costs incurred by the board in refunding the amount under this section.

*C* means the number of whole months for which the company was registered as an approved architectural company in the relevant period in which this section commences.

*F* means—

- (a) if the company applied for registration as an approved architectural company in the year in which this section commences—\$205; or
- (b) if the company applied for renewal of its certificate of approval as an approved architectural company in the year in which this section commences—\$145.



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*relevant period* means the period from 1 March in a year to the last day of February in the following year.

### **Division 3                      Transitional provision for Architects Amendment Act 2010**

#### **166      Certain applications to be dealt with under pre-amended Act**

- (1) This section applies to any of the following applications if the application was made to the board, and not finally dealt with, before the commencement—
  - (a) an application for registration under the pre-amended Act, section 8;
  - (b) an application for renewal of registration under the pre-amended Act, section 18;
  - (c) an application for restoration of registration under the pre-amended Act, section 23.
- (2) The pre-amended Act continues to apply to the application for the purpose of making a decision about the application.
- (3) In this section—

*commencement* means the commencement of this section.

*pre-amended Act* means this Act as in force immediately before the commencement.

#### **167      Prospective application of ss 36AA and 69AA**

- (1) Sections 36AA and 69AA do not apply to a person who, before the commencement, stopped being an architect if the relevant conduct of the person mentioned in section 36AA(1) happened before the commencement.
- (2) In this section—

*commencement* means the commencement of this section.

## Schedule 2 Dictionary

### section 7

***affected by bankruptcy action***, in relation to an individual, means the individual is an insolvent under administration within the meaning of the Corporations Act, section 9.

***affected by control action***, in relation to a corporation, means the corporation—

- (a) has executed a deed of company arrangement under the Corporations Act; or
- (b) is the subject of a winding-up, whether voluntarily or under a court order, under that Act; or
- (c) is the subject of an appointment of an administrator, liquidator, receiver or receiver and manager under that Act.

***annual registration fee*** means the fee prescribed under a regulation to be the annual registration fee.

***approved code of practice*** means the code of practice having effect under section 108(3).

***approved form*** means a form approved under section 142.

***architect*** means a person registered as an architect under this Act.

***architectural services*** means services about architecture ordinarily provided by an architect.

***board*** means the Board of Architects of Queensland established under this Act.

***certificate of registration*** means a certificate of registration as an architect.

***chairperson*** means the chairperson of the board.

***complainant***, other than in section 138, means the person who makes the complaint.

**complaint** means a complaint made under section 37(1).

**contact details**, of an architect, means the architect's business address, telephone number, facsimile number or e-mail address notified to the board by the architect.

**continuing registration requirements** see section 16(1).

**criminal history**, of a person, means the convictions, other than spent convictions, recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this Act.

**current notice** means a notice given to the board by a corporation under section 141A(2) if—

- (a) a change mentioned in section 141A(5) has not happened; or
- (b) in a case where a change mentioned in section 141A(5) has happened, the corporation—
  - (i) has not contravened section 141A(5) in relation to the change; or
  - (ii) has given the board notice of the change and, if relevant, the notice contained the information mentioned in section 141A(6).

**deputy chairperson** means the deputy chairperson of the board.

**disciplinary ground** see section 36.

**disciplinary proceeding** see section 126.

**executive officer**, of a corporation affected by control action, means a person who was an executive officer of the corporation when it became affected by control action or within 1 year before it became affected by the action if 5 years have not elapsed since it became affected by the action.

**executive officer**, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

**expiry day** see section 18(2).

**health assessment**, in relation to an architect, includes—

- (a) a physical, medical or psychiatric examination or test of the architect; and
- (b) asking questions to assess the architect's mental and physical health.

**health assessment report** see section 35F(1).

**health assessor**, for part 2A, see section 35D(2).

**indictable offence** includes an indictable offence dealt with summarily.

**information** includes a document.

**information notice** means a notice complying with the QCAT Act, section 157(2).

**institute** see section 82(2)(b)(i).

**investigator** means a person appointed as an investigator under section 48(1).

**member** means a member of the board.

**non-practising architect** means an architect who does not carry out, and is not responsible for the carrying out of, architectural services.

**notice** means a written notice.

**performance agreement** see section 99(1).

**practising architect** means an architect who carries out, or is responsible for the carrying out of, architectural services.

**regional Queensland** means the area of the State other than—

- (a) the Beaudesert, Boonah, Brisbane, Caboolture, Caloundra, Crows Nest, Esk, Gatton, Gold Coast, Ipswich, Kilcoy, Laidley, Logan, Maroochy, Noosa, Pine Rivers, Redcliffe and Redland local government areas; and
- (b) the area of the City of Brisbane.

**register** means the register kept under section 102.

**registrar** means the registrar of the board.

**registration** means registration under part 2.

**registration period** see section 15(1).

**repealed Act** means the *Architects Act 1985*.

**spent conviction** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

**subject architect**, for part 2A, see section 35C.

**tribunal** means QCAT.

**unsatisfactory professional conduct**, for an architect, includes the following—

- (a) conduct that is of a lesser standard than that which might reasonably be expected of the architect by the public or the architect's professional peers;
- (b) conduct that demonstrates incompetence, or a lack of adequate knowledge, skill, judgment or care, in the practice of architecture;
- (c) misconduct in a professional respect;
- (d) fraudulent or dishonest behaviour in the practice of architecture;
- (e) other improper or unethical conduct.

## Endnotes

### 1 Index to endnotes

|  | Page |
|--|------|
| 2 Date to which amendments incorporated . . . . .              | 92   |
| 3 Key . . . . .  | 93   |
| 4 Table of reprints . . . . .                                  | 93   |
| 5 List of legislation . . . . .                                | 94   |
| 6 List of annotations . . . . .                                | 94   |
| 7 List of forms notified or published in the gazette . . . . . | 98   |

### 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 21 April 2010. Future amendments of the Architects Act 2002 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

| Key    | Explanation                    | Key     | Explanation                             |
|--------|--------------------------------|---------|---|
| AIA    | = Acts Interpretation Act 1954 | (prev)  | = previously                            |
| amd    | = amended                      | proc    | = proclamation                          |
| amdt   | = amendment                    | prov    | = provision                             |
| ch     | = chapter                      | pt      | = part                                  |
| def    | = definition                   | pubd    | = published                             |
| div    | = division                     | R[X]    | = Reprint No. [X]                       |
| exp    | = expires/expired              | RA      | = Reprints Act 1992                     |
| gaz    | = gazette                      | reloc   | = relocated                             |
| hdg    | = heading                      | renum   | = renumbered                            |
| ins    | = inserted                     | rep     | = repealed                              |
| lap    | = lapsed                       | (retro) | = retrospectively                       |
| notfd  | = notified                     | rv      | = revised edition                       |
| num    | = numbered                     | s       | = section                               |
| o in c | = order in council             | sch     | = schedule                              |
| om     | = omitted                      | sdiv    | = subdivision                           |
| orig   | = original                     | SIA     | = Statutory Instruments Act 1992        |
| p      | = page                         | SIR     | = Statutory Instruments Regulation 2002 |
| para   | = paragraph                    | SL      | = subordinate legislation               |
| prec   | = preceding                    | sub     | = substituted                           |
| pres   | = present                      | unnum   | = unnumbered                            |
| prev   | = previous                     |         |   |

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments included | Effective       | Notes                 |
|-------------|---------------------|-----------------|-----------------------|
| 0A          | none                | 1 November 2002 |                       |
| 1           | none                | 1 January 2003  |                       |
| 1A          | 2003 Act No. 30     | 1 July 2003     |                       |
| 1B          | 2003 Act No. 36     | 4 July 2003     |                       |
| 1C          | 2003 Act No. 45     | 27 August 2003  | R1C withdrawn, see R2 |
| 2           | —                   | 27 August 2003  |                       |
| 2A          | 2009 Act No. 9      | 1 July 2009     |                       |
| 2B          | 2009 Act No. 25     | 2 November 2009 |                       |
| 2C          | 2009 Act No. 24     | 1 December 2009 |                       |
| 2D          | 2010 Act No. 18     | 21 April 2010   |                       |

## 5 List of legislation

### **Architects Act 2002 No. 53**

date of assent 1 November 2002

ss 1–2, pt 1 div 4, pt 11 div 2 sdiv 1, s 149, sch 2 commenced on date of assent (see s 2(1)(a)–(d))

remaining provisions commenced 1 January 2003 (see s 2(2))

amending legislation—

### **Commercial and Consumer Tribunal Act 2003 No. 30 ss 1–2, 169 sch 1**

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (see s 2)

### **Residential Tenancies and Other Legislation Amendment Act 2003 No. 36 pts 1, 3**

date of assent 2 June 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 4 July 2003 (2003 SL No. 157)

### **Trans-Tasman Mutual Recognition (Queensland) Act 2003 No. 45 ss 1–2, 15 sch**

date of assent 27 August 2003

commenced on date of assent (see s 2)

### **Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

### **Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 12 pt 1**

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

### **Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch**

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

### **Architects Amendment Act 2010 No. 18 ss 1–44**

date of assent 21 April 2010

commenced on date of assent

## 6 List of annotations

### **Mutual recognition legislation not affected**

s 6 amd 2003 No. 45 s 15 sch



**PART 2—REGISTRATION OF ARCHITECTS****Types of registration as an architect**

s 7A ins 2010 No. 18 s 3

**Applying for registration**

s 8 amd 2010 No. 18 s 4

**Eligibility**

s 9 amd 2010 No. 18 s 5

**When applicant is qualified for registration**

s 10 sub 2010 No. 18 s 6

**Fitness to practise as an architect**

s 11 amd 2010 No. 18 s 7

**Deciding application**

s 12 amd 2010 No. 18 s 8

**Meaning of “continuing registration requirements”**

s 16 sub 2010 No. 18 s 9

**Applying for renewal**

s 18 amd 2010 No. 18 s 10

**Deciding application**

s 20 amd 2010 No. 18 s 11

**Applying for restoration**

s 23 amd 2010 No. 18 s 12

**Deciding application**

s 24 amd 2010 No. 18 s 13

**Division 6—Cancellation and immediate suspension of registrations**

div hdg amd 2010 No. 18 s 14

**Grounds for cancellation**

s 28 amd 2010 No. 18 s 15

**Immediate suspension of registration**

s 29A ins 2010 No. 18 s 16

**Notification of disciplinary action by other bodies**

s 32A ins 2010 No. 18 s 17

**Notification of inability to practise**

s 32B ins 2010 No. 18 s 17

**Form of certificate of registration**

s 34 amd 2010 No. 18 s 18

**Inquiries about fitness to practise as an architect**

s 35A ins 2010 No. 18 s 19

**Report about relevant person's criminal history**

s 35B ins 2010 No. 18 s 19

**PART 2A—HEALTH ASSESSMENTS**

pt 2A (ss 35C–35H) ins 2010 No. 18 s 20

**PART 3—COMPLAINTS AND INVESTIGATIONS**

**Division 1AA—Extended application of part 3**

div 1AA (s 36AA) ins 2010 No. 18 s 21

**Application of pt 4 to certain former architects**

s 69AA ins 2010 No. 18 s 22

**Board's decision on investigation about architects**

s 73 amd 2010 No. 18 s 23

**Notice of result of investigation about architects**

s 74 amd 2010 No. 18 s 24

**Publishing of certain decisions on investigation about architect**

s 74A ins 2010 No. 18 s 25

**Board's decision about other investigations**

s 75 amd 2010 No. 18 s 26

**Board to take action as soon as practicable**

s 76 amd 2010 No. 18 s 27

**PART 5—BOARD OF ARCHITECTS OF QUEENSLAND**

**Functions of board**

s 80 amd 2010 No. 18 s 28

**Membership of board**

s 82 amd 2010 No. 18 s 29

**Division 7—Registrar of board and other staff**

div hdg amd 2010 No. 18 s 30

**Appointment and function of registrar**

s 100 amd 2009 No. 25 s 83 sch

**Other staff**

s 100A ins 2010 No. 18 s 31

**Board to reimburse cost of registrar's or other staff's services**

s 101 sub 2010 No. 18 s 32

**Application of other Acts**

s 104 amd 2009 No. 9 s 136 sch 1

**Board to reimburse tribunal costs**

s 106 amd 2009 No. 24 s 1640

**Matters to be included in annual report**

s 107 amd 2009 No. 9 s 136 sch 1

**Using titles or names etc.**

s 114 amd 2010 No. 18 s 33

**Exemption for corporations**

s 114A ins 2003 No. 36 s 33

**Information for advertisements**

s 118 om 2010 No. 18 s 34

**PART 8—REVIEWS AND DISCIPLINARY PROCEEDINGS****Division 1—Reviews**

**div hdg** prev div 1 hdg om 2009 No. 24 s 1641

pres div 1 hdg (prev div 2 hdg) renum 2009 No. 24 s 1642

**Application of Tribunal Act**

s 119 om 2009 No. 24 s 1641

**Representation at proceeding**

s 120 om 2003 No. 30 s 169 sch 1

**Review of particular decisions**

s 121 amd 2003 No. 30 s 169 sch 1; 2009 No. 24 s 1643; 2010 No. 18 s 35

**Application for review**

s 122 om 2003 No. 30 s 169 sch 1

**Stay of operation of decision**

s 123 amd 2003 No. 30 s 169 sch 1

om 2009 No. 24 s 1644

**Effect of review on operation of decision**

s 124 om 2003 No. 30 s 169 sch 1

**Division 2—Disciplinary proceedings**

**div hdg** pres div 2 hdg (prev div 3 hdg) renum 2009 No. 24 s 1645

**Starting disciplinary proceeding**

s 127 om 2003 No. 30 s 169 sch 1

**Orders relating to architect**

s 130 amd 2010 No. 18 s 36

**Orders relating to former architect**

s 131 amd 2010 No. 18 s 37

**Summary proceedings for offences**

s 138 amd 2010 No. 18 s 38

**Performance and carrying out of architectural services by particular entities**

s 140 amd 2003 No. 36 s 34

**Notice and record for businesses**

**prov hdg** amd 2010 No. 18 s 39(1)

s 141A ins 2003 No. 36 s 35

amd 2010 No. 18 s 39(2)–(8)

**PART 11—REPEAL AND TRANSITIONAL PROVISIONS**

**Division 2—Transitional provisions for Act No. 53 of 2002**

**div hdg** sub 2010 No. 18 s 40

**Existing registrations**

**s 159** amd 2010 No. 18 s 41

**Continuing effect of qualifications under repealed Act**

**s 162** amd 2010 No. 18 s 42

**Division 3—Transitional provision for Architects Amendment Act 2010**

**div hdg** ins 2010 No. 18 s 43

**Certain applications to be dealt with under pre-amended Act**

**s 166** prev s 166 om R1 (see RA s 40)  
pres s 166 ins 2010 No. 18 s 43

**Prospective application of ss 36AA and 69AA**

**s 167** ins 2010 No. 18 s 43

**PART 12—CONSEQUENTIAL AMENDMENTS**

**pt hdg** om R1 (see RA s 7(1)(k))

**SCHEDULE 1—CONSEQUENTIAL AMENDMENTS**

om R1 (see RA s 40)

**SCHEDULE 2—DICTIONARY**

def “**affected by bankruptcy action**” sub 2010 No. 18 s 44

def “**assessment entity**” om 2010 No. 18 s 44(1)

def “**complainant**” sub 2010 No. 18 s 44

def “**continuing competency requirements**” om 2010 No. 18 s 44(1)

def “**continuing registration requirements**” ins 2010 No. 18 s 44(2)

def “**current notice**” ins 2003 No. 36 s 36

def “**health assessment**” ins 2010 No. 18 s 44(2)

def “**health assessment report**” ins 2010 No. 18 s 44(2)

def “**health assessor**” ins 2010 No. 18 s 44(2)

def “**information notice**” sub 2009 No. 24 s 1646(2)

def “**non-practising architect**” ins 2010 No. 18 s 44(2)

def “**practising architect**” ins 2010 No. 18 s 44(2)

def “**subject architect**” ins 2010 No. 18 s 44(2)

def “**tribunal**” amd 2003 No. 30 s 169 sch 1

sub 2009 No. 24 s 1646(3)

def “**Tribunal Act**” amd 2003 No. 30 s 169 sch 1

om 2009 No. 24 s 1646(1)

## **7 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in

the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

**Form 1 Version 1 July 2003—Notice by Corporation of Use of an Architect**

pubd gaz 4 July 2003 p 835

**Form 2 Version 1 July 2003—Notice by Corporation of Change of Particulars**

pubd gaz 4 July 2003 p 835

**Form 4—Application for registration**

pubd gaz 2 April 2004 p 1304

**Form 5—Application for renewal of registration**

pubd gaz 2 April 2004 p 1308

**Form 6—Application for restoration of registration**

pubd gaz 2 April 2004 p 1312

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