

Queensland



Explanatory Notes for SL 2003 No. 11

Architects Act 2002

ARCHITECTS REGULATION 2003

GENERAL OUTLINE

Short title

Architects Regulation 2003.

Authorising Law

Sections 82 and 143 of the *Architects Act 2002*.

Objectives of the subordinate legislation

The objective of the regulation is to prescribe—

- the schools of architecture from which the academic head or an academic representative may be appointed as a member of the Board of Architects of Queensland; and
- the fees payable to the Board of Architects of Queensland.

Reasons for the subordinate legislation

The *Architects Act 2002* (the Act) repealed and replaced the *Architects Act 1985* (the repealed Act) and provides, inter alia, for the registration of individuals as architects and the establishment of the Board of Architects of Queensland (the Board) which registers architects.

Section 82 of the Act provides that the Board consists of seven members appointed by the Governor in Council.

The Board members include a person who—

- is the academic head or an academic representative of a school of architecture prescribed under a regulation; and
- is an architect, or as an applicant would be eligible for registration.

The Act was assented to on 1 November 2002 and commenced on 1 January 2003. On 12 December 2002 the Governor in Council made the *Architects Regulation 2002*, which prescribes the schools of architecture from which the academic head or an academic representative may be appointed as a member of the Board.

The 2002 regulation relied on section 17 of the *Acts Interpretation Act 1954* which permits the exercise of a regulation making power before the commencement of legislation. As this provision is no longer relevant the regulation is being remade following commencement of the Act on 1 January 2003.

The Act also sets out the fees payable to the Board. Prescription of these fees is necessary to allow the Board to recover the fees for registration and related matters.

Part 11 of the Act deals with repeal and transitional provisions. Within Part 11, Section 162(2) of the Act provides that a person is taken to be qualified for registration if the person complies with the requirements for registration under the repealed Act. This provision continues to operate until a regulation under the Act provides for the qualifications and competencies in the practice of architecture.

It is proposed that a regulation prescribing these qualifications and competencies will be made following the completion of a Regulatory Impact Statement (RIS) under the *Statutory Instruments Act 1992*. It is anticipated that this regulation will come into force on 1 July 2004. Accordingly, the provision for prescription of fees in this regulation expires on 30 June 2004.

Under the repealed Act registration of individual architects was based on calendar years. Under the new Act registration of individual architects will be based on financial years.

Section 159 of the new Act provides that registration of individual architects under the repealed Act will be valid until 31 December 2003, and, if a registered architect pays a further six months registration fee, the architect will be registered until 30 June 2004 without further assessment. The vast majority of registered architects will already be registered under

the repealed Act, and their registration will be continued until 30 June 2004 with the payment of a further fee.

Consistency with the authorising law

The proposed declaration of the schools of architecture from which the academic head or an academic representative may be appointed as a member of the Board is required under section 82 of the Act.

The fees payable to the Board are required to be prescribed in accordance with section 143 of the Act.

Estimated cost of government implementation

The fees imposed under the regulation are payable to the Board. There is no net cost impact on government.

Fundamental legislative principles

The proposed regulation is consistent with fundamental legislative principles.

CONSULTATION

Consultation has been conducted in relation to the proposed regulation with the Business Regulation Reform Unit of the Department of State Development and the Board of Architects of Queensland.

The Office of Queensland Parliamentary Counsel has drafted the regulation.

RESULTS OF CONSULTATION

There is agreement regarding the provisions of the regulation.

NOTES ON PROVISIONS

Clause 1 sets out the short title of the regulation.

Clause 2 provides for the schools of architecture from which the academic head or an academic representative may be appointed as a member of the Board under section 82(2)(a)(i) of the Act.

Clause 3 sets out the fees, in accordance with the schedule, which are payable under the Act. The Application Fee and Annual Registration Fee replace the Roll Fee, Registration Fee and Certificate Fee prescribed under the repealed Act. The Application Fee is a combination of the previous Registration Fee and Certificate Fee. The Roll Fee translates into the new Registration Fee.

All of these fees are in substance unchanged from the fees prescribed by the Governor in Council under the repealed Act on 29 August 2002. The Registration Fee for more than one month but not more than six months is half the Annual Registration Fee.

The Processing Fee for refused and lapsed applications is the previous Registration Fee component of the Application Fee. The Processing Fee for withdrawn applications is half the Processing Fee for refused or lapsed applications.

The section expires on 30 June 2004 which is the day before the anticipated date of commencement of a regulation prescribing the qualifications and competencies under the Act.

Clause 4 provides for the expiry of the *Architects Regulation 2002*.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Public Works.