

Architects Regulation 2019

Explanatory notes for Subordinate Legislation 2019 No.131

made under the

Architects Act 2002

State Penalties Enforcement Act 1999

General Outline

Short title

Architects Regulation 2019

Authorising law

Section 143 of the *Architects Act 2002* (Architects Act)

Section 165(2) and section 165(3) of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

Section 54 of the *Statutory Instruments Act 1992* provides that subordinate legislation expires on 1 September first occurring after the tenth anniversary of the day of its making, unless it is sooner repealed or expires, or a regulation is made exempting it from expiry.

The Architects Regulation 2003 (2003 Regulation) commenced in 2003 and has been exempted from expiry since 2013 as the Architects Act has been undergoing a review. The Architects Regulation 2019 (Architects Regulation) will remake the 2003 Regulation which is due to expire on 31 August 2019.

The Architects Regulation will continue to support the objectives of the Architects Act, which includes:

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

Consequently, the Architects Regulation will prescribe, among other things:

- procedures for an architect to be elected under the Architects Act as a member of the Board of Architects of Queensland (Board);
- fees;
- a code of practice for Queensland architects; and
- prescribed schools of architecture.

In addition, section 114 of the Architects Act protects the terms 'architect', 'registered architect', 'architectural services', 'architectural design services' and 'architectural design' and provides that other protected titles, names or words can be prescribed under a regulation. The intention is to protect the public by ensuring only appropriately qualified and registered persons may hold themselves out to be architects. Currently, no additional titles or names and terms are prescribed by regulation. As the current protected terms under the Architects Act are considered too narrow to effectively enforce, it is intended to prescribe additional titles in the Architects Regulation.

Section 82 of the Architects Act provides that one member of the Board must be an academic head or academic representative of a prescribed school of architecture. Currently, the University of Queensland and the Queensland University of Technology are prescribed schools of architecture and can nominate Board candidates, as these universities offer accredited qualifications in architecture in Queensland. There are two other Queensland universities with schools of architecture that are not prescribed in the current regulation, Bond University and Griffith University. It is intended to also prescribe these universities to allow their representatives to be considered as candidates for appointment to the Board.

Under the Architects Act, the Board must have a code of practice. The code provides guidance to architects on appropriate professional conduct or practice and may be used as evidence in disciplinary proceedings to determine appropriate professional conduct or practice for an architect. The code must be reviewed every three years, must be consulted on, and has no effect until it is approved by regulation. During 2017-18, the Board reviewed and consulted on the current code of practice with the profession and academic stakeholders. An amended code was approved by the Board on 12 December 2018 and the amended code is approved in this regulation.

There are currently no penalty infringement notice (PIN) offences prescribed for the Architects Act. The Architects Regulation will prescribe suitable offences in the Architects Act under which a PIN can be issued through an amendment to the *State Penalties Enforcement Regulation 2014* (SPE Regulation).

Achievement of policy objectives

In addition to remaking the 2003 Regulation, the Architects Regulation prescribes a number of additional protected titles or names and words to ensure that only appropriately qualified and registered persons may hold themselves out to be architects. This ensures that variations to the protected titles and terms in the Architects Act can be protected. The provisions will also provide clarity about the context in which the titles or terms can be used to determine whether an offence has been committed.

Two additional Queensland universities with schools of architecture, Bond University and Griffith University are prescribed to allow these universities to nominate candidates for appointment to the Board. The names of the current prescribed schools (University of Queensland and the Queensland University of Technology) are also updated to reflect their current titles.

On 12 December 2018, the Board approved a revised code of practice that provides greater clarity to architects and the public about the standards expected of architects. Therefore, the updated code of practice is approved in the Architects Regulation.

Finally, the Architects Regulation introduces PIN offences for a number of offences in the Architects Act by making amendments to the SPE Regulation. This provision will commence on 1 January 2020, to allow guidance material to be developed and enable the changes to be communicated to architects and industry.

Consistency with policy objectives of authorising law

The Architects Regulation is consistent with the policy objectives of the authorising laws under the Architects Act and the SPE Act 1999.

Consistency with policy objectives of other legislation

The Architects Regulation is consistent with the policy objectives of other legislation in Queensland.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by making the Architects Regulation replace the 2003 Regulation before the latter expires on 31 August 2019.

Benefits and costs of implementation

Enabling the Board Registrar to issue a PIN for these offences will benefit the Board Registrar, architects and the general public through a cost effective and efficient disciplinary process that still retains avenues of appeal.

It is not expected that additional costs will be incurred in implementing the Architects Regulation.

Consistency with fundamental legislative principles

The Architects Regulation has sufficient regard to the rights and liberties of individuals and the institution of Parliament and has been drafted in accordance with fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

The Queensland Productivity Commission has confirmed the proposed Architects Regulation is excluded from further regulatory impact analysis as it is considered the objectives for sunset reviews have been met and other amendments have no significant adverse impacts.

The Board was consulted and identified no issues with the Architects Regulation, with particular support provided for the prescribed titles, terms and words.

The Australian Institute of Architects (AIA) and the Association of Consulting Architects Australia (ACA) and the Building Designers Association of Queensland were consulted and support the amendments.

Bond University and Griffith University were consulted and supported being a prescribed school of architecture to allow these universities to nominate candidates for appointment to the Board.

During 2017 and 2018, the Board conducted a review of the current code of practice and undertook consultation with Queensland registered architects, the AIA, the ACA and the four accredited schools of architecture in Queensland. Following feedback from stakeholders, the proposed amendments to the Code will provide greater clarity to architects and the general public as to the standards expected of architects.

The Queensland Productivity Commission has confirmed that as consultation has already been undertaken in reviewing the Code, it considers that the proposal would not benefit from further regulatory impact analysis under the Queensland Government Guide to Better Regulation.