

Architects Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 21 November 1990

(Brought in by Mr Sheehan, Northcote and Mr Roper)

A BILL

to provide for the registration of architects, to regulate the use of the title 'architect' and for other purposes

Architects Act 1990

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purposes*

The main purposes of the Act are:

- 5 (a) to provide for the registration of architects;
- (b) to provide for the approval of architectural partnerships and architectural companies;
- (c) to regulate the professional conduct of architects;
- 10 (d) to provide a procedure for handling complaints against architects;
- (e) to regulate the use of the words "architect", "architecture" and "architectural";

Section headings appear in bold italics and are not part of the Act (see **Interpretation of Legislation Act 1984**).

(f) to establish the Architects Registration Board of Victoria.

2. Commencement

This Act comes into operation on a day or days to be proclaimed. 5

3. Definitions

In this Act—

“**approved**” means approved by the Board;

“**approved architectural company**” means a company which is approved under section 14; 10

“**approved architectural partnership**” means a partnership which is approved under section 13;

“**architect**” means a natural person who is registered as an architect under section 11;

“**Board**” means the Architects Registration Board of Victoria; 15

“**Register**” means the Register of Architects;

“**this Act**” includes the regulations made under this Act.

PART 2—PROHIBITED CONDUCT 20

4. Restrictions on natural persons

A natural person other than an architect must not—

- (a) take or use the title “architect”; or
- (b) hold himself or herself out as being an architect; or
- (c) use the words “architect”, “architecture” or “architectural” (either alone or in combination with any other word or words or letters) in relation to— 25
 - (i) the design of buildings or parts of buildings by that person; or

(ii) the preparation of plans, drawings or specifications for buildings or parts of buildings by that person; or

5 (d) in any way imply that he or she is registered under this Act.

Penalty: 50 penalty units.

5. *Restrictions on unincorporated bodies*

10 Every member of a body, other than a body corporate or an approved architectural partnership, is guilty of an offence if the body—

(a) takes or uses the title “architect”; or

(b) holds itself out as being an architect or architectural body; or

15 (c) uses the words “architect”, “architecture” or “architectural” (either alone or in combination with any other word or words or letters) in relation to—

(i) the design of buildings or parts of buildings by that body; or

20 (ii) the preparation of plans, drawings or specifications for buildings or parts of buildings by that body; or

(d) in any way implies that it is registered or approved under this Act.

Penalty: 50 penalty units.

25 6. *Restrictions on bodies corporate*

(1) A body corporate, other than an approved architectural company, must not—

(a) hold itself out as being an architect or architectural body; or

30 (b) uses the words “architect”, “architecture” or “architectural” (either alone or in combination with any other word or words or letters) in relation to—

(i) the design of buildings or parts of buildings by that body; or

(ii) the preparation of plans, drawings or specifications for buildings or parts of buildings by that body; or

(c) in any way imply that it is registered or approved under this Act. 5

Penalty: 50 penalty units.

(2) If a body corporate is guilty of an offence against sub-section (1) any person who is concerned in or takes part in the management of that body corporate is also guilty of that offence and liable to the penalty for that offence. 10

7. Exceptions

(1) Section 4 does not apply to any person employed in architectural practise as an officer or employee of the public service of Victoria or of the Commonwealth or as an officer of any public statutory authority in respect of that person's employment as an officer or employee. 15

(2) Sections 5 and 6 do not apply to any approved organisation or approved body.

8. Publication offence

(1) A person must not make or publish a document which states or implies that that person or another person or body who or which is not an architect is an architect or practises as an architect or undertakes or is willing to undertake work as an architect. 20

Penalty: 50 penalty units 25

(2) It is a defence to a prosecution under sub-section (1) if the the person who published the document—

(a) was the publisher of a newspaper; and

(b) published the document at the direction of another person in the normal course of business as a newspaper publisher; and 30

(c) had no connection with the author of the document.

(3) In this section 'architect' includes approved architectural company and approved architectural partnership.

PART 3—REGISTRATION AND APPROVAL

Division 1—Registration of Architects

9. *Application for registration*

- 5 (1) An application for registration as an architect may be made to the Board.
- (2) An application must be—
 (a) in the prescribed form; and
 (b) accompanied by the prescribed fee.
- 10 (3) The Board may require an applicant to provide further information or material.

10. *Qualifications for registration as an architect*

A natural person is eligible to be registered as an architect if the person—

- 15 (a) is of good character; and
 (b) has been engaged for not less than 2 years on practical architectural work; and
 (c) either—
 (i) holds a prescribed qualification in architecture; or
 (ii) has passed a prescribed course of study and completed a period of 5 years in gaining professional knowledge in architecture to the satisfaction of the Board.
- 20

11. *Registration*

- 25 The Board may—
 (a) register an applicant as an architect, if it is satisfied that the applicant is eligible to be so registered; or
 (b) refuse to register the applicant, if it is not so satisfied.

**Division 2—Approval of Architectural Partnerships and
Architectural Companies**

12. *Application for approval*

- (1) An application for approval as an architectural partnership or architectural company may be made to the Board. 5
- (2) An application must be—
 - (a) in the prescribed form; and
 - (b) accompanied by the prescribed fee.
- (3) An application for approval of an architectural partnership must be made jointly by all the members of the partnership. 10
- (4) The Board may require an applicant to provide further information or material.

13. *Approval as an architectural partnership* 15

- (1) The Board may approve a partnership as an architectural partnership if not less than two thirds of the partners being beneficially entitled to not less than two-thirds of the capital assets and profits of the partnership are architects. 20
- (2) If an architectural partnership ceases to comply with the criteria in sub-section (1), the members must notify the Board within 14 days.
- (3) The Board may give any directions necessary to ensure that the partnership complies with sub-section (1). 25
- (4) If one member of the partnership complies with sub-section (2), that is sufficient compliance by all the members of the partnership.

14. *Approval as an architectural company*

- (1) The Board may approve a company as an architectural company if satisfied that— 30

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- 10
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- (a) the memorandum and articles of association of the company provide that the primary purpose of the company is the practise of architecture; and
 - (b) one or more of the shareholders registered as the beneficial owners of not less than two-thirds of the total issued share capital of the company and being entitled to exercise not less than two thirds of the voting power of the company are architects; and
 - (c) the principal executive officer of the company is an architect; and
 - (d) the directors of the company are natural persons; and
 - (e) in the case of a company which has only 2 directors, one director is an architect and the other is a prescribed relative of the architect or a person approved by the Board; and
 - (f) in the case of any other company, not less than two-thirds of the directors are architects.
- (2) In this section “prescribed relative” in relation to an architect, means a parent, spouse, de facto spouse, child or grandchild of the architect.
- (3) If an architectural company ceases to comply with the criteria in sub-section (1), it must notify the Board within 14 days.
- (4) The Board may give any directions necessary to ensure that the company complies with sub-section (1).

Division 3—Annual Fees

15. *Annual fees*

- 30
- 35
- (1) Every architect, approved architectural partnership and approved architectural company must pay the relevant prescribed annual fees to the Board by 1 July in each year.
 - (2) If an architect fails to pay the relevant annual fees without reasonable excuse, the Board may suspend the registration of the architect.

- (3) If an approved architectural partnership or approved architectural company fails to pay the relevant annual fees without reasonable excuse, the Board may suspend the approval of the partnership or company.
- (4) The Board may revoke a suspension under sub-section (2) or (3) if the person or body concerned gives a satisfactory explanation of the failure and pays the relevant annual fees together with any prescribed additional fee. 5

Division 4—The Register

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16. *The Register*

There shall be a Register of Architects containing the names and addresses of every architect, approved architectural partnership, approved architectural company and any other prescribed particulars.

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17. *Publication of Register*

- (1) The Board must cause a copy of the Register to be published in August in each year that the Minister directs.
- (2) The Board must cause a supplementary list showing all alterations to the Register during the 12 months ending on the previous 30 June to be published in August in each year that the Register is not published under sub-section (1). 20
- (3) The Register and the supplementary lists may be published in any manner determined by the Board. 25
- (4) The Registrar must make a copy of the last published copy of the Register available for inspection by any person at the Board's offices in normal office hours, free of charge.
- (5) A supplementary list published under this section is to be taken to form part of the copy of the Register last published. 30

PART 4—DISCIPLINARY PROCEEDINGS**Division 1—Powers of Inquiry****18. Powers of inquiry**

- 5 (1) The Board, on its own initiative or on the complaint of any person, may inquire into an architect's fitness to practise or professional conduct.
- 10 (2) The Board must in writing notify any person who has made a complaint to the Board about an architect of its determination to inquire or not to inquire into the architect's fitness to practise or professional conduct.

Division 2—Tribunal**19. Tribunal to conduct inquiry for the Board**

Each inquiry concerning an architect must be conducted by a Tribunal constituted under this Division.

15 20. Constitution of Tribunal

The Board may constitute a Tribunal to conduct on its behalf—

- 20 (a) all inquiries concerning architects; or
(b) any class of inquiries concerning architects; or
(c) an inquiry concerning a particular architect.

21. Membership of Tribunal

- 25 (1) A Tribunal must consist of—
(a) one member of the Board who is an architect; and
(b) one person who is not an architect and who may or may not be a Board member; and
(c) one practising architect who is not a Board member.
- (2) If a person mentioned in sub-section (1) is ineligible under section 29 to be appointed or unable to act as a member of the Tribunal, the Board may appoint to the

Tribunal another person, although that person is not a member of the Board.

22. *Remuneration*

- (1) A person appointed under section 21 (other than a member of the Board) is entitled to receive any fees or allowances fixed by the Minister by notice published in the Government Gazette. 5
- (2) The Minister may fix those fees and allowances by reference to any determination of the Public Service Board. 10

23. *Chairperson*

The Board must nominate a member of the Tribunal to be the Chairperson of the Tribunal.

24. *Procedure*

- (1) The Tribunal must meet at the times and places determined by the Chairperson of the Tribunal. 15
- (2) The decision of the Tribunal on a matter must be taken to be the decision of the Board.

Division 3—Procedure on inquiry

25. *Appearance of parties* 20

- (1) An architect who is the subject of an inquiry may appear at the inquiry in person or by a representative.
- (2) If an architect who is the subject of an inquiry does not attend in person or by a representative at the time and place fixed for the hearing, the Tribunal may proceed in his or her absence. 25

26. *Tribunal may direct public inquiry*

- (1) The Tribunal may direct whether or not the whole or any specified part of an inquiry will be open to the public.

(2) The Tribunal may give directions prohibiting or restricting disclosure (by publication or otherwise) of evidence given at any part of an inquiry.

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(3) A person to whom a direction under sub-section (2) relates must comply with it.

Penalty: 50 penalty units.

27. Notice

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If the Tribunal decides to hold an inquiry, it must, at least 14 days before the inquiry is held, send by registered post to the architect concerned a notice—

(a) stating its intention, the kind of inquiry to be held, the grounds for the inquiry and the place and time at which it is to be held; and

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(b) inviting the architect to explain his or her behaviour personally or in writing; and

(c) containing any other prescribed information.

28. Assisting counsel

(1) The Tribunal may appoint a lawyer to assist it in the conduct of an inquiry.

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(2) The fees of any lawyer assisting the Tribunal must be paid by the Board.

29. Interested members

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(1) A member of the Board who has been involved in investigating a matter being inquired into by the Tribunal—

(a) must disclose the interest to the Chairperson of the Board as soon as possible after becoming aware that the inquiry is to be held; and

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(b) is ineligible to be appointed as a member of the Tribunal; and

(c) must not attend, vote at or take part in, any proceedings of the Tribunal or the inquiry.

(2) A member of the Board is not prevented from acting as

a member of the Tribunal by reason only that he or she was involved in considering and deciding as a Board member whether the inquiry should be held.

30. Procedure

- At an inquiry— 5
- (a) subject to this Part, the procedure of the Tribunal is in its discretion; and
 - (b) the proceedings must be conducted with as little formality and technicality as the requirements of this Act and the proper consideration of the matter permit; and 10
 - (c) the Tribunal is not bound by rules of evidence but may inform itself in any way it thinks fit; and
 - (d) the Tribunal may require evidence to be given on oath or affirmation and any member may administer an oath or take an affirmation for that purpose; and 15
 - (e) the Tribunal is bound by the rules of natural justice.

31. Powers

Sections 14, 15, 16 and 21A of the **Evidence Act 1958** 20 apply to the Tribunal in the conduct of an inquiry as if it were a Board or the Chairman of a Board appointed by the Governor in Council.

Division 4—Determinations of Tribunal

32. Grounds for disciplinary action against a registered architect 25

If after considering the submissions made at an inquiry the Tribunal finds that—

- (a) the architect is careless or incompetent in his or her practice; or
- (b) the professional standards of the architect are demonstrably lower than the standards which a competent architect should meet; or 30
- (c) the architect is guilty of unprofessional conduct; or

(d) the architect has breached or failed to comply with any provision of this Act or the regulations; or

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(e) the architect has been convicted in Victoria of an indictable offence or has elsewhere been convicted of an offence which if committed in Victoria, would be an indictable offence; or

(f) the registration of the architect has been obtained by fraud or misrepresentation or concealment of facts—

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the Tribunal may make one or more of the following determinations—

(g) to caution the architect;

(h) to reprimand the architect;

(i) to impose a penalty not exceeding 50 penalty units;

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(j) to suspend the architect's registration for the period stated in the determination;

(k) to cancel the architect's registration.

33. *Determination and reasons*

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(1) A determination made on an inquiry comes into operation on its making or at any later time stated in the determination.

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(2) As soon as possible after making a determination on an inquiry the Tribunal must give to the person to whom the determination relates a written statement setting out its determination.

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(3) A person affected by a determination made on an inquiry may, by notice in writing given to the Board within 2 months after the date on which the determination is made request the Board for the reason for the determination.

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(4) As soon as possible but not later than one month after receiving the request, the Board must give the applicant a written statement setting out the determination made on the inquiry, the reason for the determination and the findings of fact on which they were based.

34. Publication of determination

- (1) The Registrar must publish a notice of a determination of the Tribunal to cancel or suspend an architect's registration—
- (a) if the determination has been reviewed by the Administrative Appeals Tribunal and upheld, as soon as practicable after the determination of the Administrative Appeals Tribunal; and 5
 - (b) if the determination is not reviewed by the Administrative Appeals Tribunal, as soon as practicable after the period within which the person concerned can seek a review of a determination of the Tribunal under this Act has expired. 10
- (2) The notice must be published in a manner determined by the Board. 15
- (3) The notice must set out the following particulars—
- (a) the name of the person to whom the inquiry relates; and
 - (b) the nature of the inquiry; and
 - (c) the determination made by the Tribunal. 20

35. Enforcement of determination

- (1) The Board must take all action necessary to give effect to a determination made on an inquiry.
- (2) Action under sub-section (1) includes, but is not limited to— 25
- (a) the amendment of a certificate of registration; and
 - (b) the recording of matters in the Register.
- (3) A determination that is made on an inquiry and that imposes a penalty may be enforced as if it were an order of the Magistrates' Court made on a conviction for an offence. 30
- (4) Without limiting the meaning of "unprofessional conduct" an architect who does not comply with a determination of the Tribunal under section 32 (1) is guilty of unprofessional conduct. 35

Division 5—Board's Powers**36. Cancellation or suspension on withdrawal of qualification**

5 Without holding an inquiry, the Board may cancel or suspend an architect's registration if it is satisfied that the qualification which made the architect eligible to be registered has been withdrawn.

37. Cancellation or suspension of approval

- 10 (1) The Board may suspend an approval under section 13 or 14 if the Board is satisfied that the company or the members of the partnership have failed to comply with a direction of the Board under section 13 (3), 14 (4) or the regulations.
- 15 (2) The Board may suspend or cancel the approval of an architectural partnership if the Board is satisfied that the partnership no longer fulfils the criteria in section 13.
- (3) The Board may suspend or cancel the approval of an architectural company if the Board is satisfied that the company no longer fulfils the criteria in section 14.
- 20 (4) The Board must give written notice of the cancellation or suspension of approval to the partnership or company concerned.
- (5) The cancellation or suspension takes effect 14 days after notice is given under sub-section (4) unless an application for review is lodged under section 43 within that period.
- 25 (6) If an application for review has been lodged under section 43 and the Administrative Appeals Tribunal confirms the suspension or cancellation, the suspension or cancellation takes effect upon the making of that determination.

30 38. Return of document

- (1) If, an architect's registration is cancelled or suspended, the holder of the certificate of registration must, within 14 days after the date on which notice of the

determination is given, return the certificate of registration to the Board.

Penalty: 5 penalty units.

- (2) If an architectural partnership's or architectural company's approval is cancelled or suspended, the holder of the certificate of approval must, within 14 days after the date on which notice of the determination is given, return the certificate of approval to the Board. 5

Penalty: 5 penalty units.

- (3) The Board must return a certificate of registration or approval to the holder of the certificate as soon as possible— 10
- (a) after the end of the suspension period; or
- (b) if the suspension is sooner revoked, after that revocation. 15

39. *Effect of suspension or variation*

- (1) While a person's registration is suspended, the person must be taken not to be registered under this Act.
- (2) While an approval under this Act is suspended, the partnership or company concerned must be taken not to be an approved architectural partnership or an approved architectural company. 20

40. *Revocation of suspension*

- (1) The Board may at the request of the person concerned or on its own initiative revoke the suspension of the person's registration. 25
- (2) The Board may at the request of the company or a member of the partnership concerned or on its own initiative revoke the suspension of the company's or partnership's approval. 30
- (3) The Board must without delay give written notice of the revocation to the person, partnership or company concerned.

41. Publication of cancellations and suspensions

The Board may from time to time cause details to be published of any registrations or approvals which have been suspended or cancelled under this Act.

5 **PART 5—REVIEW BY ADMINISTRATIVE APPEALS
 TRIBUNAL**

42. Review by AAT—(registrations)

10 Without limiting section 27 of the **Administrative Appeals Tribunal Act 1984**, a person may apply to the Administrative Appeals Tribunal for review of—

- 15 (a) a determination refusing the person's application for registration; or
- (b) a failure to grant the person's application for registration within the prescribed time after—
- (i) the person gives the Board further information or material that it requires; or
- (ii) the date on which the application for registration was made; or
- 20 (c) a determination made at an inquiry concerning the person; or
- (d) a determination cancelling or suspending the person's registration made under section 36; or
- (e) a determination refusing to revoke the suspension of the person's registration; or
- 25 (f) a failure to grant a request to revoke the suspension of the person's registration within the prescribed time after the date on which the request was made; or
- 30 (g) a determination by the Board not to institute an inquiry into an architect's fitness to practise or professional conduct.

43. Review by AAT—(approvals)

Without limiting section 27 of the **Administrative Appeals Tribunal Act 1984**, a company or member of a

partnership may apply to the Administrative Appeals Tribunal for review of—

- (a) a determination refusing the company's or partnership's application for approval; or
- (b) a failure to grant the company's or partnership's application for approval within the prescribed time after—
 - (i) the company or partnership gives the Board further information or material that it requires;
 - (ii) the date on which the application for approval was made; or
- (c) a determination cancelling or suspending the company's or partnership's approval under section 37; or
- (d) a determination refusing to revoke the suspension of the company's or partnership's approval; or
- (e) a failure to grant a request to revoke the suspension of the company's or partnership's approval within the prescribed time after the date on which the request was made.

44. Procedure

- (1) An application for review under this Part must be made—
 - (a) in the case of an application under section 43 (c) within 14 days after the date on which the Board gives notice of the determination to the company or partnership concerned; or
 - (b) in the case of an application under section 42 (b) or (f) or 43 (b) or (e), within 3 months after the date on which the relevant prescribed time ends; or
 - (c) in any other case, within 3 months after the date on which the Board gives notice of the determination to the person, company or partnership concerned.
- (2) On an application for review under this Part, the Administrative Appeals Tribunal may make such orders (if any) as to costs as it thinks fit.

- (3) If a provision of this Part is inconsistent with a provision of the **Administrative Appeals Tribunal Act 1984**, the provision of this Part prevails.

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PART 6—ARCHITECTS REGISTRATION BOARD OF VICTORIA

45. *Establishment of Board*

There is established a Board to be called the Architects Registration Board of Victoria.

46. *Powers and duties of Board*

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The Board may—

- (a) determine the qualifications and experience required for registration under this Act;
- (b) regulate the examination of persons applying for registration under this Act;
- 15 (c) in association with the approved schools of architecture, assess and accredit courses in architecture;
- (d) hold examinations and appoint examiners;
- (e) issue or cancel certificates of registration or approval;
- 20 (f) in accordance with this Act, suspend or cancel the registration of any person under the Act;
- (g) in accordance with this Act, approve architectural partnerships and architectural companies and cancel or suspend an approval;
- 25 (h) revoke any suspension;
- (i) regulate the professional conduct of architects, architectural partnerships and architectural companies;
- 30 (j) publish information relating to the operation of the Board and this Act;
- (k) investigate and take proceedings for offences against this Act;

- (l) generally carry out any other powers and functions which are given to it by this Act or which are necessary to implement this Act.

47. Membership

- (1) The Board shall consist of 8 members appointed by the Governor in Council. 5
- (2) Of the members of the Board—
- (a) two shall be appointed as representatives of consumer interests and be nominated by the Minister administering the **Consumer Affairs Act 1972**; 10
- (b) one shall be a practising senior government architect nominated by the Minister;
- (c) two must be architects nominated by architects in the manner prescribed; 15
- (d) one must be nominated by the Minister from a panel of 3 names submitted by the councils of the approved schools of architecture;
- (e) one must be nominated by the Minister from a panel of 4 names submitted jointly by— 20
- (i) the Institution of Engineers, Australia, Victoria Division; and
- (ii) the Institution of Surveyors, Victoria; and
- (iii) the Australian Institute of Quantity Surveyors; and 25
- (iv) the Royal Australian Planning Institute; and
- (v) the governing bodies of any related professions determined by the Minister;
- (f) one must be nominated by the Minister from a panel of 3 names submitted by the President of the Royal Australian Institute of Architects (Victorian Chapter). 30

48. Nominations

- (1) All panels of names are to be submitted in the manner (if any) prescribed. 35

- 5 (2) If any person or body (other than the Minister) fails to nominate a person or submit the required panel of names of persons for appointment to the Board, the Minister may nominate any appropriate person to be a member of the Board without that nomination or panel.

49. Terms of appointment

- (1) A member of the Board holds office for the period of up to 2 years specified in the instrument of appointment.
- (2) A member is eligible for re-appointment.

10 **50. Remuneration**

- (1) A member of the Board is entitled to receive the remuneration and allowances determined by the Governor in Council.
- 15 (2) The Governor in Council may fix the remuneration and allowances by reference to any determination of the Public Service Board.

51. Vacancies

- 20 (1) A member of the Board may resign the office of member by writing signed by the member and addressed to the Governor in Council.
- (2) The Governor in Council may at any time remove a member of the Board from office.
- 25 (3) If a member of the Board dies, resigns or is removed from office, the Governor in Council may, in accordance with this Act, fill the vacant office.
- (4) A member appointed under sub-section (3) holds office for the rest of the term of appointment of the member whose place he or she fills.

52. Chairperson

- 30 (1) The Board must elect one of its members to be Chairperson.

(2) The Chairperson holds office as Chairperson for his or her period of appointment as a member or until he or she resigns as Chairperson.

(3) A person who is re-appointed as a member of the Board is eligible for re-election as Chairperson. 5

(4) If there is an equality of votes at an election of a Chairperson, it shall be decided by lot which of the members obtaining an equal number of votes shall be Chairperson.

53. Deputy Chairperson 10

(1) The Board must elect one of its members to be Deputy Chairperson.

(2) The Deputy Chairperson holds office as Deputy Chairperson for his or her period of appointment as a member or until he or she resigns as Deputy Chairperson. 15

(3) A person who is re-appointed as a member of the Board is eligible for re-election as Deputy Chairperson.

(4) If there is an equality of votes at an election of a Deputy Chairperson, it shall be decided by lot which of the members obtaining an equal number of votes shall be Deputy Chairperson. 20

(5) In the absence or inability to act of the Chairperson the Deputy Chairperson may exercise all the powers and must carry out all the duties of the Chairperson.

54. Procedure of Board 25

(1) The Chairperson or in the absence of the Chairperson, the Deputy Chairperson, must preside at a meeting of the Board at which he or she is present.

(2) If neither the Chairperson nor Deputy Chairperson are present at a meeting the members present may elect a member to preside at the meeting. 30

(3) The person presiding at a meeting has a deliberative vote and a second or casting vote.

(4) 5 members of the Board constitute a quorum.

- (5) Subject to this Act the Board may regulate its own proceedings.

55. *Effect of vacancy or defect*

5 An act or decision of the Board is not invalid only because—

- (a) of a vacancy in its membership; or
- (b) of a defect or irregularity in the appointment of any of its members.

56. *Immunity*

10 (1) A member of the Board or the Registrar is not personally liable for anything done or omitted to be done in good faith and without negligence—

- (a) in the exercise of a power or the discharge of a duty under this Act or the regulations; or
- 15 (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act or the regulations.

20 (2) Any liability resulting from an act or omission that would but for sub-section (1) attach to a member of the Board or the Registrar attaches instead to the Board.

57. *Appointment of Registrar and other officers*

- (1) The Board may appoint a Registrar and such other officers as are necessary for the purposes of this Act.
- (2) The Registrar is responsible for keeping the Register.
- 25 (3) The Board may appoint a person to act as Registrar if the Registrar is unable to perform the duties of his or her office.
- 30 (4) The acting Registrar has all the powers and must perform the duties of the Registrar during his or her period of appointment as acting Registrar.

PART 7—FINANCIAL PROVISIONS

58. *Payment of fees and penalties to Board*

All fees and penalties paid or recovered under this Act or the regulations must be paid to the Board.

59. *Application of fees and penalties* 5

- (1) The Board must—
 - (a) apply any money received under this Act to the payment of—
 - (i) the expenses connected with the examination of candidates; 10
 - (ii) the fees and allowances payable to the members of the Board and the Tribunal; and
 - (iii) the general expenses of the Board in carrying this Act into effect; and
 - (b) apply any money not required under paragraph (a), at its discretion, for the purpose of the advancement of architectural education in any manner the Board determines. 15
- (2) The Board may invest any money received under this Act in any manner approved by the Treasurer. 20

60. *Accounts and records*

- (1) The Board must ensure that there are kept proper accounts and records of the transactions and affairs of the Board and such other records as sufficiently explain the financial operations and financial position of the Board. 25
- (2) The Board must do all things necessary to do each of the following—
 - (a) ensure that all money payable to the Board is properly collected; 30
 - (b) ensure that all money expended by the Board is properly expended and properly authorised;
 - (c) ensure that adequate control is maintained over assets owned by, or in the custody of, the Board;

- (d) ensure that all liabilities incurred by the Board are properly authorised;
- (e) ensure efficiency and economy of operations and avoidance of waste and extravagance;
- 5 (f) develop and maintain an adequate budgeting and accounting system;
- (g) develop and maintain an adequate internal audit system.

61. Annual report

- 10 (1) The Board must, in respect of each financial year, prepare an annual report containing—
 - (a) a report of its operations during the financial year; and
 - (b) financial statements for the financial year—
- 15 and submit the report to the Minister not later than 30 September next following the financial year.
- (2) The report of operations referred to in sub-section (1)
 - (a)—
 - 20 (a) must be prepared in a form and contain information determined by the Board to be appropriate; and
 - (b) must contain any further information required by the Minister.
- (3) The financial statements referred to in sub-section (1)
 - (b)—
 - 25 (a) must contain information determined by the Treasurer to be appropriate; and
 - (b) must be prepared in a manner and form approved by the Treasurer; and
 - 30 (c) must present fairly the results of the financial transactions of the Board during the financial year to which they relate and the financial position as at the end of that year;
 - (d) must be signed by the principal accounting officer (by whatever name called) of the Board and by the Chairperson and another member of the Board who shall—
 - 35

- (i) state whether, in their opinion, the financial statements present fairly the results of the financial transactions of the Board during the financial year to which they relate and whether they sufficiently explain the financial position of the Board as at the end of the financial year; and 5
- (ii) state whether, at the date of signing the financial statements, they were aware of any circumstances that render any particulars included in the statements misleading or inaccurate and, if so, particulars of the circumstances; and 10
- (e) be audited as required by section 62 (1).
- (4) The Minister must cause each annual report submitted to the Minister under this section to be laid before the Legislative Council and the Legislative Assembly before the expiration of the seventh sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after the annual report has been received by the Minister. 15 20
- (5) If the Board fails to submit an annual report to the Minister—
- (a) if an extension has not been granted under subsection (7)—by 30 September in any year; or
- (b) if such an extension has been granted—by the date to which the extension was granted— 25
- the Minister must report or cause to be reported that failure and the reasons for the failure to each House of Parliament.
- (6) The Board may apply in writing to the Minister for an extension of the date by which an annual report is to be submitted to the Minister. 30
- (7) The Minister may in writing grant to the Board an extension to such date as the Minister determines.
- (8) The Minister must advise or cause to be advised each House of the Parliament of each extension granted under this section and the reasons for the extension. 35

- (9) This section does not apply to the Board if, as a result of an order made under the **Annual Reporting Act 1983**, the Board is required to submit an annual report under that Act.

5 **62. Audit**

- (1) The financial statements referred to in section 61 must be audited by the Auditor-General.
- 10 (2) The Auditor-General has, in respect of the audit of the financial statements, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.
- (3) Without limiting the generality of sub-section (2), the Auditor-General and each officer of the Auditor-General—
- 15 (a) has right of access at all times to the books of the Board; and
- (b) may require from an officer or employee of the Board any information, assistance and explanations necessary for the performance of the duties of the Auditor-General in relation to the audit.
- 20 (4) The Board must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General.

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PART 8—ENFORCEMENT

63. Charge for offence

- (1) A charge for an offence against this Act may be filed by the Registrar or any other officer authorised by the Board.
- 30 (2) Any prosecution instituted in the name of the Board must, in the absence of evidence to the contrary, be taken to have been instituted by authority of the Board.
- (3) A charge for an offence against this Act must be filed within 5 years after the commission of the offence.

64. No proof required

In any proceedings by or against the Board or the Registrar no proof is required (until evidence is given to the contrary) of—

- (a) the due constitution of the Board; or 5
- (b) any resolution or determination of the Board or a Tribunal; or
- (c) the appointment of any member of the Board or Tribunal; or
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board. 10

65. Evidence of Register

- (1) The Register or a supplementary list published under section 17 or a document certified by the Registrar to be a copy of or extract from the Register or list, is evidence and, in the absence of evidence to the contrary is proof of the matters set out in the document. 15
- (2) The absence of a person's name from the Register or a supplementary list is evidence and in the absence of evidence to the contrary, is proof that the person is unregistered. 20
- (3) The absence of a company's name from the Register or a supplementary list is evidence and in the absence of evidence to the contrary, is proof that the company is not an approved architectural company. 25
- (4) The absence of a partnership's name from the Register or a supplementary list is evidence and in the absence of evidence to the contrary, is proof that the partnership is not an approved architectural partnership. 30

66. Statement of Registrar

Each of the following statements is evidence and, in the absence of evidence to the contrary, is proof of the matters stated—

- 5 (a) a statement in writing appearing to be signed by the Registrar to the effect that, at a particular time, a person is or was not registered under this Act or a person's registration under this Act is or was suspended;
- 10 (b) a statement in writing appearing to be signed by the Registrar to the effect that, at a particular time, a company is or was not an approved architectural company under this Act or that a company's approval is or was suspended;
- 15 (c) a statement in writing appearing to be signed by the Registrar to the effect that at a particular time, a partnership is or was not an approved architectural partnership under this Act or that a partnership's approval is or was suspended;
- (d) a statement in writing appearing to be signed by the Registrar setting out the contents of a determination of the Board or a Tribunal and the date when it was made.

20 **67. False statements**

Any person who—

- (a) makes or causes to be made in the Register any entry or alteration which is false or not authorised by law; or
- 25 (b) knowingly makes any false statement, written or oral, in connection with any matter being dealt with or considered by the Board; or
- 30 (c) falsely states that he or she has obtained any certificate under this Act or has been registered or approved under this Act, or causes or permits any such false statement to be made—

is guilty of an offence and liable to a fine not exceeding 10 penalty units.

68. Offences by bodies corporate

- 35 Except where otherwise provided in this Act, if a body corporate is guilty of an offence against this Act, any

person who is concerned in or takes part in the management of that body corporate who was in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for that offence. 5

PART 9—REGULATIONS

69. *Regulations*

- (1) The Board, with the approval of the Governor in Council may make regulations for or with respect to any of the following— 10
- (a) the times for and method of nominating members of the Board and for submitting panels of names for nomination to the Board;
 - (b) the election of the Chairperson and Deputy Chairperson; 15
 - (c) the procedure of the Board;
 - (d) the qualifications, experience or examinations that make a person eligible to be registered;
 - (e) the examination of persons for registration and the standards and conduct of examinations; 20
 - (f) the remuneration of examiners;
 - (g) approval by the Board of applicants for admission to examinations;
 - (h) applications for registration and approval; 25
 - (i) the Register and the duties of the Registrar;
 - (j) the issue, suspension and cancellation of certificates of registration and approval.
 - (k) approvals under this Act;
 - (l) publication of information about registrations and approvals and cancellations and suspensions of registrations and approvals; 30
 - (m) standards of professional conduct and practice for architects.
 - (n) the preparation, publication and implementation of guidelines on professional conduct and practice 35

for architects, approved architectural partnerships and approved architectural companies;

- 5 (o) regulating advertising by architects, approved architectural companies and approved architectural partnerships;
- (p) notices under this Act;
- (q) forms for the purpose of this Act;
- (r) fees for the purpose of this Act;
- 10 (s) the verification of information in forms by statutory declaration or otherwise;
- (t) providing that an architect who contravenes any specified regulation is guilty of unprofessional conduct;
- 15 (u) providing that an architect member or director of an approved architectural partnership or approved architectural company which contravenes any specified regulation is guilty of unprofessional conduct;
- 20 (v) prescribing penalties not exceeding 20 penalty units for breaches of the regulations;
- (w) generally, any matters required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
- 25 (a) may be of general or limited application; and
- (b) may differ according to differences in time, place or circumstance;
- (c) may impose different fees for different cases;
- 30 (d) may confer discretion or powers or impose duties on the Board, the Registrar or a member of the Board;
- (e) may leave anything to the approval or satisfaction of a specified person.
- (3) Regulations made under sub-section (1) (r) may include regulations prescribing—
- 35 (a) fees for applications for registration or approval; and

- (b) annual fees; and
- (c) fees for alterations to the Register; and
- (d) fees for copies of the Register or part of the Register or of supplementary list or part of a supplementary list; and 5
- (e) fees for duplicate certificates; and
- (f) fees for certificates of qualification issued by the Board.

PART 10—REPEALS, SAVINGS, TRANSITIONAL

70. *Repeal of Architects Act 1958* 10

The Architects Act 1958 is repealed.

71. *Board succeeds old Board*

- (1) On the commencement of this section—
 - (a) the Board (the “new Board”) is the successor in law of the Architects Registration Board of Victoria (the “former Board”) established under the Architects Act 1958; and 15
 - (b) the former Board is abolished and its members go out of office; and
 - (c) all rights, assets, liabilities and obligations of the former Board immediately before its abolition become rights, assets, liabilities and obligations of the new Board; and 20
 - (d) the new Board is substituted for the former Board as a party in any proceedings, contract, agreement or arrangement commenced or made by or against or in relation to the former Board; and 25
 - (e) the new Board may continue and complete any other continuing matter or thing commenced by or against or in relation to the former Board; and 30
 - (f) any reference to the former Board in—
 - (i) an Act other than this Act; or

- (ii) an subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984**; or
- (iii) any document whatever—

5 must so far as relates to any period on or after commencement of this section, and if not inconsistent with the context or subject-matter, be taken to be a reference to the new Board.

72. Registrar

- 10 (1) The person who immediately before the commencement of section 57 held the office of Registrar of the Architects Registration Board of Victoria under the **Architects Act 1958** is the first Registrar of the Board.
- 15 (2) The first Registrar continues to hold office on the same terms and conditions and with the same accrued benefits as the Registrar held office immediately before the date of commencement of section 57.

73. Existing registration

- 20 (1) A person who immediately before the date of commencement of Part 3 was registered as an architect under the **Architects Act 1958** must be taken to be registered as an architect under this Act.
- 25 (2) A firm which immediately before the date of commencement of Part 3 was included in the register under the **Architects Act 1958** must be taken to be an approved architectural partnership under this Act.
- 30 (3) A company which immediately before the date of commencement of Part 3 was included in the register under the **Architects Act 1958** must be taken to be an approved architectural company under this Act.

74. Applications

- (1) An application for registration made under the **Architects Act 1958** but not determined at the date of commencement of Part 3 must on and from that date be

taken to be an application in the prescribed form made for registration under Part 3 of this Act.

- (2) If that application was accompanied by the fee prescribed under the **Architects Act 1958**, the applicant must, for the purposes of this Act, be taken to have paid the prescribed fee under this Act. 5
- (3) Anything done before the commencement of Part 3 in relation to an application to which this section applies is to be treated as having been done under this Act.

75. Register

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The Register existing under the **Architects Act 1958** immediately before the date of commencement of Part 3 must be taken to form part of the Register established under that Part.

