

Queensland



ANNO TRICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 22 of 1985

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

[ASSENTED TO 15TH APRIL, 1985]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title and citation. This Act may be cited as the *Architects Act 1985*.

2. Commencement. (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act or the provisions thereof specified by Proclamation shall commence on the day or days appointed by Proclamation for the commencement of this Act or, as the case may be, those provisions.

3. Arrangement of Act. This Act is arranged as follows:—

PART I—PRELIMINARY (ss. 1-5);

PART II—THE BOARD (ss. 6-13);

PART III—REGISTRATION OF ARCHITECTS (ss. 14-24);

PART IV—APPROVAL OF ARCHITECTURAL COMPANIES
(ss. 25-29);

PART V—DISCIPLINARY PROCEEDINGS (ss. 30-39);

PART VI—PROHIBITED PRACTICES (ss. 40-42);

PART VII—MISCELLANEOUS (ss. 43-55);

SCHEDULE.

4. Repeals and savings. (1) The *Architects Act 1962-1971* (hereinafter in this Act referred to as "the repealed Act") is repealed.

(2) Without limiting the operation of the *Acts Interpretation Act 1954-1977* in relation to the repeal effected by subsection (1), unless the contrary intention appears in this Act—

(a) every act done and decision made, every instrument or document made or issued, for the purposes of the repealed Act shall continue in force and be deemed to have been done, made or issued under this Act and shall be construed subject to this Act;

(b) all moneys, including fees that, having accrued due under the repealed Act, are at the commencement of this Act due or payable to or recoverable by the Board of Architects of Queensland constituted under the repealed Act, or any other body or person, shall be and continue to be so due, payable and recoverable, and may be paid to and received and

recovered by the corresponding body or person established or appointed under this Act;

- (c) any Gazette, register, book, certificate or other document made evidence under the repealed Act shall continue evidence to the same extent as if this Act had not come into operation.

5. Interpretation. In this Act, unless the contrary intention appears—

“approved architectural company” means a company for the time being approved by the Board under Part IV;

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

“architecture” does not include naval architecture, golf course architecture, landscape architecture, or such other form of architecture as the Governor in Council declares by Order in Council shall, for the purposes of this Act, not be included in the term “architecture”;

“Board” means the Board of Architects of Queensland constituted under this Act;

“chairman” means the chairman of the Board and includes where applicable a member acting in accordance with this Act as chairman of the Board;

“company” means a company within the meaning of the *Companies (Queensland) Code*;

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

“member” means a member of the Board and includes where applicable a person appointed under this Act to act in the place of a member;

“Minister” means the Minister for Works and Housing or other Minister of the Crown for the time being charged with the administration of this Act or other Minister of the Crown who is temporarily performing the duties of the Minister;

“register” means the Register of Architects kept under this Act;

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

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

PART II—THE BOARD

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

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

7. Constitution of the Board. (1) The Board shall consist of six members appointed by the Governor in Council, as follows:—

- (a) three members to be nominated by the Minister, one of whom shall be representative of a prescribed school of architecture;
- (b) one member who shall be the President for the time being of the Queensland Chapter of the Royal Australian Institute
- (c) two members who shall be architects, and who shall, subject to subsection (2), be elected by the architects of Queensland in the manner prescribed.

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

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

(4) The chairman and every other member of the Board of Architects of Queensland constituted under the repealed Act holding office immediately prior to the commencement of this Act shall, upon the commencement of this Act and without further appointment, be deemed to be appointed chairman or, as the case may be, member of the Board constituted under this Act for the balance of the term of his appointment under the repealed Act and shall hold office and be eligible for reappointment to the Board subject to the provisions of this Act.

(5) Without limiting the provisions of section 54 as to the making of regulations, the Governor in Council may, on the passing of this Act, make any regulations that may be necessary or convenient for the due constitution of the Board.

Without limiting the generality of the foregoing provisions such regulations may provide for the election of the elective members of the Board, and the procedure in connexion with the taking of any such election.

Until the Governor in Council makes regulations pursuant to this subsection, the regulations under the repealed Act dealing with all or any of the aforementioned matters shall continue in force as fully and effectually as if made pursuant to this subsection.

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

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

9. Rules in the Schedule. The rules set forth in the Schedule to this Act shall apply to the business and proceedings of the Board, examinations, and certificates, and the several matters referred to therein, and shall be observed by the Board and by all persons concerned.

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

10. Tenure of office and remuneration of members. (1) Subject to section 11, the members of the Board, other than the President for the time being of the Queensland Chapter of the Royal Australian Institute of Architects (who shall hold office for the term of his appointment as President), shall hold office for a term of two years, but shall be eligible for re-appointment, or re-election and re-appointment, as the case may be.

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

11. Vacancies. (1) The office of a member of the Board becomes vacant if he—

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

(2) For the purposes of subsection (1) (c), a member shall be deemed to be present at a meeting if he attends at the time and place appointed for the meeting notwithstanding that, by reason that no

quorum is present, no meeting is actually held on that day and the registrar shall record the name of any member who so attends.

(3) If the office of a member becomes vacant during his term of office for a reason mentioned in subsection (1) the Governor in Council shall, notwithstanding the provisions of section 7 (1), appoint a person to that office who shall hold office for the balance of the term of appointment of his predecessor in office.

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

(a) prevented from attending a meeting of the Board, the Minister may appoint a person to act in the place of that member during his absence; or

(b) likely to be absent from meetings of the Board for more than 4 months, the Governor in Council may appoint a person to act in the place of that member during his absence.

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

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

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

12. Registrar and other officers. (1) The Governor in Council may appoint a registrar of the Board and fix the remuneration to be paid for his services.

In fixing such remuneration the Governor in Council shall have regard to any recommendation made in that behalf by the Board.

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

All officers so appointed shall hold office during the pleasure of the Board.

(3) The registrar and every other officer of the Board of Architects of Queensland constituted under the repealed Act holding office immediately prior to the commencement of this Act shall, upon the commencement of this Act and without further appointment, be deemed to be appointed registrar or, as the case may be, officer of the Board constituted under this Act and shall hold office subject to the provisions of this Act.

13. Funds of Board. (1) All moneys received by or on behalf of the Board, including fees and penalties, shall be paid into the funds of the Board.

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

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

(4) The Board may from time to time direct that moneys held by it that are not immediately required for the purposes of subsection (2) or (3) be placed on fixed deposit or be invested in Government or approved securities.

PART III—REGISTRATION OF ARCHITECTS

14. The register. (1) There shall be a Register of Architects containing the name and address of every person registered as an architect and such other particulars as are prescribed.

(2) The Register of Architects kept under the repealed Act shall continue and shall be the Register of Architects for the purposes of this Act.

15. Publication of list of architects. (1) The Board shall cause to be published in the Gazette, as soon as is practicable in each year, a list of the names of architects appearing in the register as at 1 January of that year.

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

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

(4) A copy of the Gazette referred to in section 16, 21 or 38 stating that a person's name has been removed from the register shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings of the matters stated therein.

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

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

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

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

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

17. Qualifications for registration. Subject to this Act, a person shall be entitled to be registered as an architect if he satisfies the Board that he is of good character and reputation and—

(a) has passed—

(i) parts 1 and 2 of the prescribed examinations or equivalent examinations conducted by a board or other body approved by the Board; or

(ii) a course of study in architecture the syllabus of which has been approved by the Board; and

(b) has such practical experience in architectural work and practice as is prescribed and has passed part 3 of the prescribed examinations or equivalent examinations conducted by a board or other body approved by the Board.

The Board may exempt from the requirements of provision (b) an Associate or a Fellow of the Royal Australian Institute of Architects who became an Associate or, as the case may be, a Fellow of the Institute prior to 1 January 1976.

18. Application for registration. (1) Application to the Board for registration shall—

(a) be made as prescribed;

(b) be supported by such evidence as the Board may require; and

(c) be accompanied by—

(i) the prescribed registration fee;

(ii) the prescribed roll fee referred to in section 16 (1) or, as the case may be, the prescribed roll fees referred to in section 16 (2); and

(iii) the prescribed certificate fee.

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

19. Certificates of registration. Where the Board grants an application for registration it shall issue a certificate of registration as prescribed.

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

21. Removal from register. (1) The Board may, in addition to the powers given to it under section 16, remove from the register the name of any person who—

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

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

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

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

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

If such an appeal is terminated or dismissed the Board shall cause notice of the removal to be published in the Gazette.

22. Restoration of name of architect to register. Where the Board, pursuant to section 16 or 21, removes from the register the name of any person, the Board may, upon application in writing made in that behalf, restore his name to the register either without payment of any fee, or conditional upon the payment of such fees as the Board may direct.

23. Re-issue of certificate of registration. Where the name of a person is, in accordance with this Act, restored to the register, the Board shall re-issue to him the certificate of registration as prescribed.

24. Continuation of name of deceased architect. (1) Notwithstanding any other provision of this Act, upon the death of an architect the Board may permit his name to remain upon the register, and may authorize his executor, administrator, or trustee to carry on in the name of the deceased architect the practice formerly carried on by him:

Provided that the practice shall be carried on under the personal superintendence of an architect whose name shall be registered as superintendent of the practice.

(2) Any such permission and authority shall, in the first instance, be limited to a period not exceeding twelve months, but may from time to time be extended by the Board for a further period or periods not exceeding twelve months at any one time:

Provided that the Board may, at any time, if it thinks fit, withdraw its permission and authority and remove from the register the name of the deceased architect.

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

PART IV—APPROVAL OF ARCHITECTURAL COMPANIES

25. Conditions of approval. (1) Subject to this Part, the Board may approve a company as an approved architectural company if—

- (a) the person having the actual personal supervision and management of the business of the company at each place of business in the State is an architect and is resident in the State;
- (b) its articles of association provide that at all times—
 - (i) the principal executive officer of the company shall be an architect and a director of the company;
 - (ii) if the company has only 2 directors, each shall be an architect or one shall be an architect and the other shall be—
 - (A) a person holding a prescribed qualification;
 - (B) a relative, as prescribed, of the architect; or

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

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

- (2) Application to the Board by an approved architectural company for a renewal of its certificate of approval shall—
- (a) be made as prescribed on or before 1 February in each year;
 - (b) be supported by such evidence as the Board may require; and
 - (c) be accompanied by the prescribed fee.

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

27. Publication of list of approved architectural companies. (1) The Board shall cause to be published in the Gazette, as soon as is practicable in each year, a list of the companies that are approved architectural companies as at 1 March of that year.

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

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

(4) A copy of the Gazette referred to in section 29 or 38, stating that the approval of a company as an approved architectural company has been refused or withdrawn shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings of the matters stated therein.

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

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

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

Penalty: \$2 000.

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

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

If such an appeal is terminated or dismissed the Board shall cause notice of the refusal to be published in the Gazette.

PART V—DISCIPLINARY PROCEEDINGS

30. Interpretation. In this Part, unless the contrary intention appears—

“commission” means an agreement (whether in writing or not) in which an architect or a company undertakes to provide architectural services to a person (hereinafter in this Part referred to as the “principal”) whether or not the agreement provides for the architect or company to receive valuable consideration in respect of the provision of those architectural services;

“company” means an approved architectural company.

31. Grounds for exercise of disciplinary powers against architect.

(1) Subject to this Part, the Board may exercise any of the disciplinary powers referred to in section 35 against an architect on one or more of the following grounds:—

- (a) that he has been convicted in Queensland of an indictable offence or has been convicted elsewhere of an offence which, if it were committed in Queensland, would be an indictable offence or has been convicted in Queensland or elsewhere of any other offence which other offence renders him unfit to practise as an architect;
- (b) that he fraudulently obtained his registration under this Act;
- (c) that he is not a fit and proper person to be registered as an architect;
- (d) that his registration as an architect in another State or Territory is or has been suspended or has been cancelled for a reason other than non-payment of fees;
- (e) that he is guilty of misconduct in a professional respect;
- (f) that he is an executive officer of a company in respect of which disciplinary action has been or is to be taken pursuant to section 35 unless he satisfies the Board that the act or omission relevant to the proceedings against the company was done or made without his knowledge and that he could not with reasonable diligence have prevented the doing of the act or the making of the omission.

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

- (a) allows a person, other than another architect with whom he is in partnership, to practise as an architect in his name;
- (b) in connexion with a commission accepted by him, by a firm of which he is a member, or by a company of which he is an executive officer or employee, intentionally does an act or makes an omission that prejudices the interests or rights of the principal arising out of the commission;
- (c) signs any account, statement, report, specifications, plan or other document thereby representing, or in any other manner

- represents, that he has performed architectural services if those services were not performed by him or under his personal supervision or direction;
- (d) directly or indirectly gives or offers, or agrees to give or offer, a person valuable consideration as a reward or inducement for the person securing or attempting to secure a commission for the architect;
 - (e) undertakes or agrees to undertake a commission in connexion with a matter the subject of a dispute if his remuneration for performing the commission depends in any way upon whether or not the dispute is resolved in favour on the principal;
 - (f) fails to provide to the principal regular and accurate statements of the principal's costs arising out of a commission; or
 - (g) provides architectural services in respect of a building or other construction and is the builder of that building or other construction without the written consent of the principal.

32. Grounds for exercise of disciplinary powers against company.

(1) Subject to this Part, the board may exercise any of the disciplinary powers referred to in section 35 against a company on one or more of the following grounds:—

- (a) that the company has been convicted in Queensland or elsewhere of an offence which renders the company unfit to be an approved architectural company;
- (b) that the company is guilty of misconduct in a professional respect;
- (c) that an executive officer of the company who is not an architect is not a fit and proper person to be an executive officer of an approved architectural company;
- (d) that disciplinary action has been, or is to be, taken against an executive officer of the company pursuant to section 35: to this Part;
- (e) that the company fraudulently obtained approval as an approved architectural company; or
- (f) that the company does not or ceases to fulfil the requirements of section 25 in respect of obtaining approval as an approved architectural company.

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

- (a) in connexion with a commission accepted by it, it intentionally does an act or makes an omission that prejudices the interests or rights of the principal arising out of the commission; or

- (b) it engages in conduct of the kind referred to in paragraphs (c) to (g) (both inclusive) of section 31 (2).

For the purposes of this subsection, paragraphs (c) to (g) (both inclusive) of section 31 (2) shall be read and construed as if references to an architect were references to a company.

33. Commencement of disciplinary proceedings. (1) Subject to this section, the Board may of its own motion or upon the written complaint of any person cause an investigation to be made of the conduct of—

- (a) an architect in respect of a ground mentioned in section 31; or
- (b) a company in respect of a ground mentioned in section 32.

The Board may appoint a person to conduct any such investigation.

(2) The Board may refuse to investigate a complaint that is, in its opinion, frivolous or vexatious.

(3) If the Board determines to authorize an investigation, pursuant to subsection (1), it shall, before the commencement of the investigation, give the architect or, as the case may be, the company written notice of its determination accompanied by—

- (a) sufficient particulars to inform the architect or, as the case may be, the company of the matter to be investigated; and
- (b) an invitation to lodge with the registrar a reply to the particulars contained in the notice, within 21 days after the date shown in the notice.

(4) Subject to subsection (5), the Board may, after considering—

- (a) the results of any investigation authorised pursuant to subsection (1); and
- (b) any reply lodged in accordance with subsection (3),

summon the architect or, as the case may be, the company to show cause, at a time (being not less than 14 days after the date of service of the summons) and place specified in the summons, why disciplinary action should not be taken pursuant to section 35.

(5) A summons referred to in subsection (4) shall—

- (a) not be served until a reply is lodged in accordance with subsection (3) (b) or until the expiration of the period allowed by subsection (3) (b) for lodging a reply, whichever occurs sooner; and
- (b) be accompanied by a complaint stating the ground or grounds mentioned in section 31 or, as the case may be, section 32 on which disciplinary action may be taken, and containing sufficient particulars to inform the architect or, as the case may be, the company of the matter of complaint.

(6) If a complaint against a company alleges a ground (mentioned in paragraph (c) or (d) of section 32 (1)) relating to the misconduct of

an executive officer, a copy of the complaint shall be served upon that executive officer together with a summons requiring him to appear at the time and place appointed for the hearing of the complaint against the company unless the executive officer is summoned to appear at that time and place pursuant to subsection (4).

A summons required by this subsection to be served on an executive officer shall be served not less than 14 days before the date upon which the complaint against the company is to be heard.

34. Hearing. At the hearing of a complaint pursuant to this part—

- (a) the Board may, or if required so to do by a natural person or company summoned pursuant to section 33 shall, order that the hearing take place in public;
- (b) a natural person summoned pursuant to section 33 shall attend throughout the duration of the hearing unless excused from so doing by the Board;
- (c) Subject to provision (b), a natural person summoned pursuant to section 33 may be represented at the hearing by his counsel or solicitor;
- (d) a company summoned pursuant to section 33 may be represented at the hearing by its counsel, solicitor or duly authorized agent;
- (e) a barrister, solicitor or other person appointed by the Board may appear to examine or cross-examine witnesses or to otherwise assist the Board;
- (f) if a natural person or company summoned pursuant to section 33 fails to obey the summons then, upon proof of the due service of the summons, the Board may hear and determine the matter in the absence of the person or, as the case may be, the company;
- (g) if the Board believes that instead of or in addition to the ground or grounds specified in the complaint, the architect or, as the case may be, the company should show cause in relation to some other ground or grounds the architect or company shall, subject to provision (h), show cause in relation to the other ground or grounds;
- (h) before an architect or, as the case may be, a company is required to show cause pursuant to provision (g), the Board shall give the architect or company particulars of the other ground or grounds and, if required so to do by the architect or company, adjourn the hearing for a period of 7 days or such longer period as the Board may allow.

35. Disciplinary powers of Board. (1) If, upon the hearing of a complaint pursuant to this Part, the Board is satisfied that a ground referred to in section 31 or, in the case of proceedings against a company,

section 32 is made out it may do any one or combination of the following:—

- (a) reprimand the architect or, as the case may be, the company;
- (b) order that the architect or, as the case may be, the company pay to the Board within the time limited by the Board a fine not exceeding \$2 000;
- (c) order—
 - (i) in respect of an architect, that his name be removed from the register and that he be disqualified from obtaining registration indefinitely or for a period specified in the order;
 - (ii) in respect of a company, that its certificate of approval be withdrawn and that it be disqualified from obtaining approval as an architectural company indefinitely or for a period specified in the order;
- (d) order that the architect or, as the case may be, the company pay to the Board within the time limited by the Board such costs of and incidental to the hearing as it thinks fit (including the fees and allowances payable to the members).

(2) If, upon the hearing of a complaint against a company pursuant to this Part, the Board is satisfied that an executive officer of the company, summoned pursuant to section 33 (5) or (6), is not a fit and proper person to be an executive officer of an approved architectural company it may order—

- (a) that the executive officer be disqualified from being an executive officer of an approved architectural company indefinitely or for such period as is specified in the order; and
- (b) that the certificate of approval of the company be withdrawn until such time as the Board is satisfied that the person, in respect of whom it has made an order under paragraph (a), is no longer an executive officer or member of the company.

36. Recovery of fine or costs. If, pursuant to section 35, the Board orders that a fine or costs be paid and the order is not complied with within the time limited in the order the Board may recover the amount of the fine or costs outstanding as a debt due and owing to the Board by action in a court of competent jurisdiction.

A certificate of the registrar as to the making and terms of such an order and the amount outstanding in respect of the order shall be evidence, and in the absence of evidence to the contrary conclusive evidence, in all proceedings of the matters contained in the certificate.

37. Appeal from Board's decision. If the Board—

- (a) takes disciplinary action against an architect or company pursuant to this Part; or
- (b) makes an order of disqualification in respect of an executive officer pursuant to paragraph (a) of section 35 (1),

the architect or, as the case may be, the company or executive officer may appeal to a judge of the District Court who shall have jurisdiction to hear and determine the appeal and whose decision thereon shall be final and conclusive.

38. Publication of decision. If the Board makes an order pursuant to section 35 (1) (c) in respect of an architect or a company, it shall, at the expiration of a period of 28 days after the date of notification of its decision, cause notice of the order to be published in the Gazette unless, within that period, an appeal is instituted against the decision.

If such an appeal is terminated or dismissed the Board shall cause notice of the order made by it pursuant to section 35 (1) (c) to be published in the Gazette.

39. Surrender of certificate. (1) If an order is made pursuant to section 35 removing the name of an architect from the register or withdrawing the certificate of approval of a company the architect or, as the case may be, the company shall surrender the relevant certificate to the board within 28 days after the date of notification of the Board's decision unless within that period an appeal is instituted against the order.

If such an appeal is terminated or dismissed, the appellant shall forthwith surrender the relevant certificate to the Board.

(2) An architect who, or a company that, fails to surrender a certificate in accordance with subsection (1) is guilty of an offence against this Act.

Penalty: \$1 000.

(3) If an order is made pursuant to section 35 disqualifying an architect or company from obtaining registration or, as the case may be, approval for a specified period then, upon expiration of the period so specified and subject to the provisions of this Act in respect of obtaining registration or, as the case may be, approval, the certificate of registration may be re-issued to the architect or, as the case may be, the certificate of approval may be re-issued to the company.

(4) The removal of the name of an architect from the register or the withdrawal of a certificate of approval from a company pursuant to an order made under section 35 shall be effectual notwithstanding the failure to surrender the certificate of registration or, as the case may be, the certificate of approval.

(5) Subject to subsection (3), if an order is made pursuant to section 35 removing the name of an architect from the register or withdrawing the certificate of approval of a company the name of the architect shall not be again entered on the register or, as the case may be, the company shall not be again approved as an approved architectural company except—

- (a) on the order of a judge of the District Court upon appeal pursuant to section 37; or

- (b) by direction of the Board in any case where the Board thinks fit upon—
 - (i) application in writing being made to it; and
 - (ii) payment of such fees as the board may direct, being not greater in any case than the fees payable under this Act in respect of an application for registration as an architect or, as the case may be, an application for approval as an approved architectural company.

PART VI—PROHIBITED PRACTICES

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

(2) No person other than an architect shall—

- (a) advertise that he is or hold himself out as being or in any manner pretend to be or possess the status of an architect; or
- (b) in connexion with architecture take or use or by inference adopt (either alone or in conjunction with any other name, title, word, letters or symbol)—
 - (i) the title of “architect” or any abbreviation or derivative thereof; or
 - (ii) any name, title, word, letters or symbol implying, or which may be construed as implying that he is an architect, or is qualified to practise architecture.

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

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

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

shall, in conjunction therewith, specify the name or names of the architect or architects supervising the performance of architectural

services undertaken by the company or, as the case may be, the body or association.

(4) A person who—

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

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

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

(6) Nothing contained in subsections (2), (4) or (5) shall be read so as to—

(a) apply to any person—

- (i) with respect to the practice of architecture by that person as an officer of the Public Service of Queensland or of the Commonwealth, or as an officer or employee of any statutory authority constituted for public purposes; or
- (ii) with respect to the practice by that person of naval architecture, golf course architecture or landscape architecture, or any other form of architecture referred to in an Order in Council made pursuant to section 5; or
- (b) prevent any employee of an architect from using the title “architectural assistant” or “architectural draftsman” or “architectural technician”; or
- (c) prevent any person from using the term “architectural” bona fide to indicate that he carries on the business of the supply of wares, instruments, or materials, used in connexion with architecture; or
- (d) prevent any engineer, builder, or other person from designing or superintending the erection of any building.

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

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

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

Penalty: \$2 000.

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

Penalty: \$2 000.

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

42. Company to use approved name. An approved architectural company that takes, uses or adopts in connexion with architecture or the practice of architecture a name other than its name as shown in the certificate of approval issued to it under section 26 commits an offence against this Act.

Penalty: \$2 000.

PART VII—MISCELLANEOUS

43. Board to have powers of Commission of Inquiry. The Board shall, in respect of disciplinary proceedings under Part V or for the purposes of making any other investigation authorized by this Act—

- (a) have all the powers, authority, protection and jurisdiction of a Commission of Inquiry under *The Commissions of Inquiry Acts, 1950 to 1954*, save any such powers, authority, protection and jurisdiction as are, by those Acts, confined to the chairman, being a Judge of the Supreme Court; and
- (b) be authorized to take a statutory declaration from any person.

44. Penalty for forging registration. Any person who wilfully made or causes to be made any false entry in or falsification of the register or who obtains or attempts to obtain registration or approval of any kind under this Act for himself or another person by wilfully making or producing, or wilfully causing to be made or produced, a false representation or declaration (whether verbal or written) shall be guilty of an offence against this Act.

Penalty: \$2 000 or imprisonment for 6 months.

45. Appeals. Where by this Act provision is made for appealing to a judge of the District Court against a decision of the Board—

- (a) such an appeal shall be by way of re-hearing and shall be instituted by lodging with the Court written notice of the appeal within 28 days after the date of notification of the Board's decision or, if exceptional circumstances exist, such further period as a judge of the District Court allows;
- (b) an appellant shall serve a copy of the notice of appeal upon the registrar of the Board within 7 days of lodging the notice with the Court;
- (c) Rules of Court may be made under the *District Courts Act 1967-1982* with respect to the institution, conduct and disposal of such appeals;
- (d) until such Rules of Court are made or in so far as such Rules of Court do not extend a judge of the District Court may, in a particular case, give such directions as he thinks fit and such directions shall, according to their tenor, have the force and effect of Rules of Court made for the purposes of this section;
- (e) the judge may, in respect of the appeal, set aside the order of the Board or vary it in such manner as he thinks fit, or may disallow the appeal and confirm the order of the Board, and may, in any case, make such order as to the costs of the appeal as he thinks fit.

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

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

47. Service of documents. (1) Subject to this Act, where any notice, complaint, summons or other document is to be given to any person under or for the purposes of this Act it shall be taken—

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

have been delivered at the address to which it was sent in the ordinary course of post.

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

48. Accounts and Audit. (1) In this section, unless the contrary intention appears—

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

“financial year” means the period of 12 months ending on 30 June in any year.

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

(3) (a) The Board shall as soon as is practicable after the end of each financial year prepare statements of account with respect to the financial operations of the Board for that year (hereinafter referred to in this section and section 49 as the Annual Statements of Account).

The Annual Statements of Account shall—

- (i) be in the form prescribed;
- (ii) be certified by the chairman and the registrar as to whether in their opinion they fairly set out the financial transactions of the Board for the period to which they relate and show a true and fair view of the state of affairs of the Board at the end of that period on a basis consistent with that applied in respect of the financial year last preceding; and
- (iii) thereupon be transmitted to the Auditor-General.

(b) Until the Annual Statements of Account have been audited, and laid before the Legislative Assembly pursuant to section 49, no such statement shall be sold or made available to any person other than a member, the registrar or an officer appointed pursuant to section 12,

the Minister or a person acting in aid of him or the Auditor-General or a person acting in aid of him.

(c) The Auditor-General shall audit the accounts of the Board kept in respect of all transactions entered into by the Board and shall have in respect of any such audit all the powers and authorities conferred on him by the *Financial Administration and Audit Act 1977-1981*.

(d) The Auditor-General shall certify on the Annual Statements of Account whether or not he has obtained all the information and explanations required by him and whether or not such statements—

- (i) are prepared in the form prescribed;
- (ii) are in agreement with the accounts of the Board; and
- (iii) have, in his opinion, been properly drawn up so as to present a true and fair view of the transactions for the financial year in question and the financial position at the end of that year on a basis consistent with that applied in respect of the financial year last preceding,

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

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

(2) The report shall include the Annual Statements of Account together with the certificate of the Auditor-General prescribed pursuant to section 48.

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

50. Evidence. (1) In any proceeding by or on behalf of the Board under this Act it shall not be necessary to prove the appointment or election of the members, chairman, or registrar of the Board.

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

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

51. Board may sue. The Board may, in its own name, by the registrar, or by any person thereunto authorised by the chairman, institute or carry on any proceeding whatsoever.

It shall not be necessary to prove the authority of any person to institute or carry on any proceeding on behalf of the Board.

52. Offences. (1) All offences against this Act may be prosecuted, and all fees due and payable under this Act may be recovered, in a summary way under the *Justices Act 1886-1982*, upon the complaint of any person authorised by the chairman.

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

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

Any person guilty of an offence against this Act shall be liable, if no specified penalty is prescribed for that offence, to a penalty not exceeding \$2 000.

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

53. Judicial notice. For the purposes of this Act the signatures of the chairman and the registrar shall be judicially noticed.

54. Regulations. (1) The Governor in Council may, from time to time, make regulations, not inconsistent with this Act, prescribing all matters and things that are necessary or convenient for carrying out or giving effect to this Act, and without limiting the generality of the foregoing provisions of this subsection, in particular—

- (a) regulating the appointment and election of members and the proceedings of the Board; prescribing the fees and allowances, that may be paid to members of the Board in relation to the exercise of their powers and duties under this Act, and including fees for attendance at meetings of the Board and reasonable travelling expenses;
- (b) regulating the duties of the registrar and other officers;
- (c) prescribing what schools of architecture shall be recognised by the Minister for the purpose of representation on the Board;
- (d) prescribing the appointment of examiners, and regulating the holding of examinations and prescribing the standards of, subjects of, and fees for such examinations;

- (e) prescribing the practical experience in architectural work and the practice of architecture required of an applicant for registration as an architect;
- (f) regulating the conduct of disciplinary proceedings under Part V;
- (g) prescribing fees payable under this Act including fees for inspection of any register or record, and for the making and supply of any copy thereof or extract therefrom;
- (h) prescribing forms to be used for the purpose of this Act;
- (i) prescribing the manner of keeping the register;
- (j) prescribing the amount of any penalty for any breach of the regulations which penalty shall not exceed in any particular case \$1 000; and
- (k) prescribing all matters and things required or permitted by this Act to be prescribed.

(2) Regulations may be made under this Act at any time after it is passed.

(3) The power to make regulations under this Act with respect to any matter or thing shall include power to make regulations prohibiting that matter or thing either generally or to meet particular cases.

55. Proclamations and Orders in Council. Section 28A of the *Acts Interpretation Act 1954-1977* shall apply with respect to proclamations and Orders in Council made under this Act and, for the purposes of so applying, that section shall be read and construed as if the references to regulations were references to proclamations and Orders in Council.

SCHEDULE

1. Votes at elections. (1) In the case of the election of the representatives of the architects, each architect shall have one vote only.

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

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

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

2. Duties of the Board. The duties of the Board shall be—

- (a) to co-operate with the Department of Works, the Department of Education, and any other Government Department of Queensland, and with bodies approved by the Board or conducting courses approved by the Board for the purposes of section 17, on all matters relating to architectural education;
- (b) to conduct examinations for certificates of registration and to issue such certificates;
- (c) to make such public notification as to the granting of registration as the Minister may direct; and
- (d) to carry out such other duties as may be prescribed or as the Minister may from time to time require.

3. The chairman. The chairman shall act as executive officer of the Board.

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

5. Meetings of the Board. (1) A meeting of the Board shall be held at least once in every two months.

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

(3) The chairman shall preside at every meeting at which he is present.

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

(5) Any four members shall form a quorum.

(6) A special meeting for any particular purpose may be called by the chairman at his discretion or when he is requested by two or more members to call such a meeting.

If the chairman fails to call a special meeting after such a request, any two members of the Board may call such a meeting by a notice signed by themselves.

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

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

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

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

Upon any question the chairman shall have a vote, and if the members are equally divided he shall have a second or casting vote.

If any member refuses to vote, his vote shall be counted for the negative.

6. Examiners. The Board may appoint examiners to conduct prescribed examinations.

7. Times of prescribed examinations. Prescribed examinations shall be held at such times and places as the Board may determine.

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

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

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

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

Certificates shall be in the prescribed form.

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

12. Duplicate certificate in case of loss, etc. If any certificate is lost or destroyed, the holder, or some person having knowledge of the facts and circumstances, may make a statutory declaration with respect thereto and the Board, if satisfied with such declaration, may issue a fresh

certificate to the person entitled to hold the same, on payment of the prescribed fee.

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