

South Australia

## Architects Act 1939

An Act to provide for the registration of architects, to regulate the practice of architecture, and for purposes incidental thereto.

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## Legislative history

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Architects Act 1939*.

### 3—Interpretation

In this Act, unless the context otherwise requires or some other meaning is clearly intended—

*company* means a company registered under the *Corporations Act 2001* of the Commonwealth;

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

*the board* means the Architects Board of South Australia constituted under this Act;

*the register* means the Register of Architects kept under this Act;

*the registrar* means the registrar of the board.

## Part 2—Architects Board

### 4—The Architects Board

- (1) There shall be established a board to be called "The Architects Board of South Australia".
- (2) The board shall be a body corporate with perpetual succession and a common seal, and shall have power to purchase, take, hold and dispose of land and other property for the purposes of this Act, and may sue and be sued by the name of The Architects Board of South Australia.
- (3) The board shall consist of nine members appointed or elected in accordance with this Act.
- (4) The board shall be deemed to be established on the day when notice of the appointment of the first members thereof is published in the Gazette.

### 6—Membership of board

- (1) Subject to subsection (2) of this section, the board shall consist of the following members:
  - (a) three persons appointed by the Governor; and
  - (b) six registered architects elected by registered architects in accordance with by-laws made by the board.
- (2) A company that is registered as an architect shall not be entitled to vote at an election of members of the board or to be a member of the board.

### 7—Term of office

- (1) Subject to this section every member of the board shall hold office for three years.
- (2) Upon a day determined by the board in each year one of the appointed members, and two of the elected members, shall retire, but shall be eligible for re-appointment or re-election.
- (3) The appointed member to retire in each year shall be he who has been longest in office without re-appointment, and the elected members to retire in each year shall be those who have been longest in office without re-election, and whenever it is necessary to determine which of two or more members, who have been in office an equal time without re-appointment or re-election, shall retire, the matter shall be decided by lot.

- (4) If, at the expiration of the term of office of any member, his successor has not then been appointed or elected, that member shall remain in office until his successor is elected or appointed, but the term of office of the successor shall be reckoned from the time when the term of office of his predecessor would have expired in the usual course.
- (5) Every person appointed or elected to a casual vacancy on the board—
  - (a) shall hold office only for the balance of the term of the member in whose place he was appointed or elected; and
  - (b) for the purpose of determining the time of his retirement shall be deemed to have been appointed or elected at the time of the appointment or election of that member.

## **8—Time and mode of elections and appointments**

- (1) Every appointment or election of a member to hold office upon the retirement of a member by effluxion of time shall be made or held during the month preceding the retirement of that member, and shall take effect as from the day following that retirement.
- (2) Every appointment or election of a member to fill a casual vacancy shall be made or held as soon as possible after the casual vacancy has occurred.
- (3) No appointment or election shall be invalid by reason only of any delay in making or holding it.
- (4) Every election shall be held in accordance with by-laws made by the board.
- (5) As soon as possible after an election of members of the board has been held the registrar shall give written notice to the clerk of the Executive Council of the name of every person so elected.
- (6) If, for any reason, a person is not duly elected to fill any vacancy on the board required to be filled by an elected member, within two months after the occurrence of that vacancy, the Governor may, if he thinks it expedient to do so, appoint a registered architect to fill the vacancy, and every person so appointed shall hold office as if he had been duly elected at the proper time.
- (7) The clerk of the Executive Council shall cause notice of every appointment and election of a member of the board to be published in the Gazette.

## **9—Chairman**

- (1) The board shall as early as possible after each annual appointment and election of members, elect one of its members to be chairman for the ensuing year.
- (2) A retiring chairman shall be eligible for re-election as chairman.
- (3) The chairman shall preside at every meeting of the board at which he is present. In his absence another member chosen for the purpose by the majority of the members present and voting shall preside.
- (4) At meetings of the board the chairman or acting chairman shall have a deliberative vote, and in the event of equality of votes, a casting vote also.

## **10—Casual vacancies**

- (1) The office of a member of the board shall become vacant if he—
  - (a) dies;
  - (b) resigns by written notice given to the chairman;
  - (c) absents himself without permission of the board from more than four consecutive meetings of the board and is declared by resolution of the board to have forfeited his seat;
  - (d) is removed from his office by the Governor for misbehaviour or mental or physical incapacity to perform his duties as a member;
  - (e) ceases to hold any qualification which he is required to hold as a member of the board.
- (2) A casual vacancy occurring in the office of any elected member of the board within six months before the normal expiration of the term of that office need not be filled unless the board otherwise determines.

## **11—Quorum and majority decision**

- (1) Subject to subsection (2) of this section any five members of the board shall form a quorum thereof for the transaction of business, and no business shall be transacted at a meeting unless a quorum is present. Every matter coming before the board shall be decided by a majority of the votes of the members present and voting at a duly convened meeting of the board.
- (2) Every charge of professional misconduct under this Act shall be heard and determined by not less than seven members of the board.

## **12—Registrar and officers of the board**

- (1) The board shall appoint a registrar and may appoint any other officers whom the board deems it necessary to appoint for the purposes of this Act.
- (2) The registrar and officers shall act under the control of the board and shall receive such remuneration from the funds of the board, as the board determines.

## **13—Power to acquire land**

The board may purchase any land or buildings or take any land or buildings on lease or other tenancy for offices or chambers for the use of the board, or for use in doing anything required or permitted to be done under this Act.

## **14—Borrowing powers**

The board may borrow money for the purchase, taking on lease, or other acquisition of land for the purposes mentioned in the last preceding section, or for the purchase of any other property required by the board or for erecting offices or buildings for the use of the board, or for preliminary expenses.

## **15—Powers with respect to property**

The board may sell, demise, let, exchange, or mortgage any real or personal property vested in it.

## **16—Proceedings of board not invalid by vacancies and defects**

- (1) No act or proceeding of the board shall be invalid or illegal in consequence only of the number of the members of the board not being complete at the time of such act or proceeding.
- (2) All acts and proceedings of the board shall, notwithstanding the subsequent discovery of any defect in the appointment or election of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if such member had been duly appointed or elected and was qualified and entitled to act, and as if the board had been properly and fully constituted.

## **17—Meetings of board**

- (1) The first meeting of the board shall be convened by the Minister and thereafter the meetings of the board shall be convened by the registrar under the instructions of the board, or in accordance with the by-laws of the board and shall be held at times and places determined by the board.
- (2) Subject to the by-laws of the board the business of the board shall be conducted in such manner as the board determines.

## **Part 3—Registration**

### **Division 1—Register of Architects**

#### **18—The Register of Architects**

- (1) The registrar shall keep a register to be called the "Register of Architects" for the registration of persons as architects under this Act.
- (2) A person shall be registered by entering in the register his name and such other particulars relating to him as are required by this Act, prescribed by by-laws of the board, or directed by the board.

#### **19—Publication of register**

- (1) A true copy of the register, certified by the registrar to be a true copy, shall, in the month of January in every year be sent to the Minister and the Minister shall forthwith publish it in the Gazette at the expense of the board.
- (2) Any person may inspect the register on payment to the board of a fee of ten cents.

#### **20—Manner in which register is to be kept**

- (1) The registrar shall keep the register in a manner and form approved by the board.
- (2) The register shall show any name or style under which a registered architect carries on business and shall contain such other particulars as the board directs or as are prescribed by this Act or by-law of the board.

## 21—Alterations in register

The registrar shall, from time to time—

- (a) insert in the register any alterations which come to his knowledge in the name, address, or, subject to the next succeeding section, the particulars of any person registered therein; and
- (b) erase from the register the name of every deceased person; and
- (c) erase from the register the name of any person deregistered pursuant to this Act; and
- (d) correct any clerical error in the register.

In the execution of these duties the registrar shall act in each case on any evidence which appears to him to be sufficient or on the direction of the board.

## 22—Additional qualifications

Every registered architect who obtains any degree, diploma or qualification other than that in respect of which he is registered shall be entitled, on application, to have such other degree, diploma, or qualification inserted in the register, in substitution for or in addition to the qualification therein stated.

## 23—De-registration

- (1) The board may order the registrar to de-register any natural person—
  - (a) who applies to the board in writing to de-register him; or
  - (b) whose registration has been obtained by fraud or misrepresentation; or
  - (c) who has ceased to possess or does not possess the qualification in respect of which he was registered; or
  - (d) who, owing to mental defect is proved to the board to be no longer capable of practising as an architect; or
  - (e) who has been convicted of an indictable offence.
- (2) The board may order the registrar to de-register any company—
  - (a) that applies in writing to the board for de-registration; or
  - (b) whose registration has been obtained by fraud or misrepresentation; or
  - (c) that purports to act, or whose directors purport to act, in contravention of its memorandum or articles of association; or
  - (d) that is guilty, or has been convicted of, an offence against this Act, or any other Act or law (committed either within or outside this State) that shows, in the opinion of the board, that the company is unfit to practise as a registered architect.

## 24—Re-registration

The board may at any time on the application of any person who has been de-registered and on being satisfied that the applicant still has the necessary qualifications and is entitled to be registered, order the registrar to re-register him.

## **25—Certificate of registration**

When any person has become registered, the registrar shall deliver to him a certificate of registration in the form prescribed by by-laws of the board.

## **26—Memorandum of suspension**

Whenever an architect is suspended under this Act from practice the registrar shall enter in the register a memorandum of that fact, and of the date and cause thereof.

## **27—Delivery of certificate on de-registration**

Any person who is de-registered shall, within fourteen days after the service by post of a notice under the hand of the registrar demanding the return of his certificate of registration surrender his certificate to the board for cancellation.

Any person who fails to comply with this section shall be guilty of an offence and liable to a fine not exceeding ten dollars for every day after the said period of fourteen days during which the certificate is not surrendered.

## **Division 2—Registration**

### **28—Offences**

(1) An unregistered person shall not—

- (a) use the word "architect" or "architectural" as part of his title or description; or
- (b) assume any title or description implying, or leading reasonably to the belief, that he is registered under this Act.

Maximum penalty: \$500.

(2) A person shall not—

- (a) use the word "architect" or "architectural" as part of the title or description of an unregistered person; or
- (b) apply to an unregistered person a title or description implying, or leading reasonably to the belief, that he is registered under this Act.

Maximum penalty: \$500.

(3) Notwithstanding the provisions of subsection (1) and subsection (2), no offence is committed under this section by virtue only of the fact that—

- (a) an unregistered person designs, or superintends the erection of, a building; or
- (b) a person who is a corporate member of the Australian Institute of Landscape Architects describes himself, or is described, as a landscape architect; or
- (c) a naval architect or a golfcourse architect describes himself, or is described, as such; or
- (d) an unregistered person who is employed by a registered architect as an architectural draftsman or architectural technician describes himself, or is described, in relation to that employment, as an architectural draftsman or architectural technician; or



- (e) an unregistered person who holds a qualification prescribed by by-law of the board states that he holds that qualification, or another person states that the unregistered person holds that qualification; or
  - (f) an unregistered person describes himself, or is described, in a manner permitted by the regulations.
- (3a) The Governor may make regulations for the purposes of subsection (3)(f).
- (4) A firm may lawfully describe itself, or be described, as a firm of architects, or of registered architects if—
- (a) at least two-thirds in number of the members of the firm are registered architects; and
  - (b) each member of the firm who is not a registered architect possesses a qualification declared to be a prescribed qualification for the purposes of this section by the by-laws of the Board.

### **29—Application for registration**

- (1) Every application for registration as an architect shall be made in writing in the form prescribed by the by-laws of the board and shall be addressed to the board and sent by post to or lodged with the registrar.
- (2) Every applicant for registration shall furnish the board with all such information as it reasonably requires to enable it to decide the application, and with all particulars required to be entered in the register.
- (3) The board may require an applicant for registration, or where the applicant is a company, a director of the company, to verify any information supplied to the board by the applicant in connection with the application by statutory declaration.

### **30—Registration fee**

Every application shall be accompanied by a registration fee of four dollars twenty cents or such other fee not exceeding four dollars twenty cents as may be prescribed and the fee shall be returned to the applicant if his application for registration is refused.

### **32—Qualifications for registration**

A natural person who applies in accordance with this Act for registration shall be entitled to be registered as an architect if he proves to the satisfaction of the board that he is of good character and that—

- (a) he holds the Certificate of the Architects' Accreditation Council of Australia Incorporated; or
- (b) he—
  - (i) is registered as an architect under the law of any State or Territory of the Commonwealth, the United Kingdom or New Zealand; or
  - (ii) is a fellow or associate of the Royal Australian Institute of Architects or a corporate member of the Royal Institute of British Architects; or
  - (iii) possesses one of the architectural qualifications prescribed by the by-laws of the board,

and he has satisfied such further requirements as are prescribed by the by-laws of the board.

### **32A—Registration of company as architect**

(1) A company that applies in accordance with this Act for registration shall be entitled to be registered as an architect if the memorandum and articles of association conform with the following requirements:

- (a) the sole object of the company must be—
  - (i) to practise as a registered architect; or
  - (ii) to practise as a registered architect and to engage in professional practice in fields related to architecture and approved by the board; and
- (b) each director of the company must be a natural person; and
- (ba) where the company has two directors—
  - (i) both directors must be registered architects; or
  - (ii) one director must be a registered architect and the other must be—
    - (A) a person who holds a qualification declared by by-law of the board pursuant to subsection (2) to be a prescribed qualification; or
    - (B) a relative of the registered architect; or
    - (C) an employee of the company; or
    - (D) a qualified accountant or legal practitioner who acts for the company,

and where the board of directors is constituted in accordance with subparagraph (ii), the articles of association must provide that in the event of a disagreement arising between the directors, the opinion of the registered architect will prevail; and

- (bb) where the company has three or more directors, each director must hold a prescribed qualification and at least two-thirds of the directors must be registered architects; and
- (c) no share issued by the company is to be held otherwise than by—
  - (i) a director or employee of the company; or
  - (ii) a relative of any such person; or
  - (iii) a trustee upon trust for a person referred to in subparagraphs (i) or (ii) of this paragraph; or
  - (iv) another company all the shareholders of which are persons referred to in subparagraphs (i) or (ii) of this paragraph; and
- (d) at least two-thirds of the total voting rights exercisable at a meeting of members of the company must be held by registered architects and the remainder (if any) of those voting rights must be held by persons who hold prescribed qualifications; and

- (e) the shares of any person who is a shareholder by virtue of being a director or employee of the company, and the shares of his relatives, shall, upon his ceasing to be a director or employee of the company be distributed in accordance with the memorandum and articles of association amongst the remaining members of the company; and
- (f) the shares of a person who is a shareholder by virtue of being the spouse or domestic partner of a director or employee of the company will, on the occurrence of a prescribed event, be distributed in accordance with the memorandum and articles of association amongst the remaining members of the company,

and the memorandum and articles of association are otherwise satisfactory to the board.

- (2) In this section—

*domestic partner* means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

*prescribed event* means—

- (a) if the shareholder is married to a director or employee of the company—the dissolution or annulment of the marriage;
- (b) if the shareholder is the domestic partner of a director or employee of the company—the cessation of that relationship;

*prescribed qualification* means—

- (a) registration as an architect under this Act; or
- (b) any other qualification declared to be a prescribed qualification for the purposes of this section by the by-laws of the board;

*relative* means spouse, domestic partner, parent, child, or grandchild;

*spouse*—a person is the spouse of another if they are legally married.

### 33—Consideration of applications

The board shall receive, consider and decide all applications for registration under this Act.

### 34—Appeals

The decision of the board on any application for registration under this Act shall be subject to appeal as hereinafter provided in this Act.

## **Part 4—Professional misconduct and board's proceedings**

### **Division 1—Professional misconduct**

#### **35—Professional misconduct**

- (1) If any registered architect does any of the following things he shall be guilty of professional misconduct within the meaning of that term as used in this Act and shall be liable to be dealt with as prescribed by this Act:
  - (a) If he allows any person except a registered architect in partnership with himself to practise in his name as an architect:
  - (b) If he accepts any commission or any substantial valuable consideration from any person who has contracted to execute or is engaged in the execution of any work in connection with any building designed or supervised by him or from any person who has offered or agreed to supply any material fittings or appliances to be used in or in connection with any such building: Provided that nothing in this section shall prevent an architect from selling at a reasonable price plans of any building to any person who has contracted to execute or is engaged in the execution of any work in connection with that building or who has offered or agreed to supply any materials fittings or appliances to be used in or in connection with that building:
  - (c) If directly or indirectly he pays or gives, or agrees to pay or give, any person any valuable consideration whatever as a remuneration for securing or attempting to secure for him any employment or work as an architect:
  - (d) If he performs any architectural work in connection with any matter which is the subject of dispute or litigation upon condition that only in the event of the said dispute or litigation ending favourably for the party for whom the work is performed, shall payment be made for such work:
  - (e) If he contravenes any provision of a code of professional conduct prescribed by by-law of the board.
- (2) A registered architect is not guilty of professional misconduct by reason of the publication of an advertisement if the advertisement is published in accordance with the by-laws of the board.

#### **36—Charges of professional misconduct**

- (1) Any person claiming to be affected by any professional misconduct on the part of a registered architect, or the registrar on the instruction of the board, may lay a charge of professional misconduct against the registered architect.
- (2) Neither the board nor any of its members shall be debarred from hearing and determining any such charge by reason of the fact that the board or such members have authorised the laying of the charge or taken part in an investigation or inquiry as to such charge.
- (3) Every such charge shall be in writing and the board may require further particulars of any charge or that any charge shall be verified by statutory declaration.

### **37—Notice of charge**

The board shall give to the architect against whom a charge is laid a copy of the charge, and a reasonable time within which to prepare his defence, and the opportunity of calling witnesses before the board and of being heard either personally or by counsel.

### **38—Punishment for professional misconduct**

- (1) If the board, upon inquiring into any charge, finds that a registered architect is guilty of professional misconduct it may—
  - (a) censure him; or
  - (ab) require him to pay to the board a fine not exceeding two thousand dollars; or
  - (b) suspend him from practice for such period as the board thinks fit; or
  - (c) order that his name be removed from the register.
- (2) No person shall be found guilty of or punished for professional misconduct under this section unless at least five members of the board concur in the finding or, as the case may be, in imposing the punishment.

### **39—Effect of orders**

- (1) When the board removes the name of any person from the register the name of that person shall not again be entered on the register, except by direction of the board or by order of the Supreme Court.
- (2) During any period of suspension ordered by the board the architect suspended shall be deemed not to be registered.
- (3) If an architect is suspended from practice he shall, during the continuance of such suspension cease to practise as an architect, but he shall be liable to pay any moneys due by him to the board at the date of his suspension.

## **Division 2—Appeals**

### **40—Appeals against decisions of board**

- (1) A person aggrieved by a decision, order or direction of the board made or given in the exercise or purported exercise of any of its powers or functions under this Act may appeal against the decision, order or direction.
- (2) The appeal shall be to the Supreme Court and shall be instituted within one month from the giving or making of the decision, order, or direction appealed against. The appeal shall be by way of rehearing.
- (3) The Supreme Court may, on the hearing of the appeal, do any one or more of the following things, according to the nature of the case:
  - (a) affirm, quash, or vary the decision, order, or direction appealed against, or substitute, or make or give any decision, order, or direction which ought to have been made or given in the first instance:
  - (b) remit the subject matter of the appeal to the board for further consideration or further hearing:

- (c) mitigate any penalty imposed by the board:
  - (d) make any further or other order, as to costs or otherwise, which the case requires.
- (4) The judges of the Supreme Court in accordance with the provisions of the *Supreme Court Act 1935* as to making of rules of court, may make rules of court regulating the practice and procedure on such appeals.
- (5) The board shall, if required by any person affected by any decision given by it, state in writing the reason for its decision. If the decision of the board is not given in writing in the first instance, the time within which an appeal may be instituted shall, if the appellant at the time of the decision requested that reasons for the decision should be given in writing, run from the time when the board first gives reasons for its decision in writing.

### **Division 3—Board's powers**

#### **41—Power of board to summon witnesses and take evidence**

- (1) For the purpose of hearing and determining any application for registration, or any charge, or of making any inquiry in the course of carrying out its duties under this Act, the board may—
- (a) by summons signed by any member of the board, or by the registrar acting under the direction of the board, require the attendance before the board of any person whom the board thinks fit to call before it:
  - (b) by notice in writing signed as aforesaid compel the production of any books, papers, or documents:
  - (c) inspect any books, papers, or documents produced before it, and retain them for such reasonable periods as it thinks fit, and make any copies of them or take any extracts of any of the contents of them, which are relevant to the matter being inquired into:
  - (d) examine witnesses on oath, affirmation, or declaration, which may be administered by any member of the board.
- (2) If any person—
- (a) who has been personally served with a summons to attend before the board, and whose reasonable expenses of attendance have been paid or tendered to him, neglects to attend in obedience to the summons; or
  - (b) wilfully insults the board or any member thereof; or
  - (c) misbehaves himself before the board; or
  - (d) interrupts the proceedings of the board; or
  - (e) being called or examined as a witness before the board, refuses to be sworn or to affirm or declare, or refuses or neglects to produce any books, papers, or documents mentioned in the notice under this section personally served upon him; or
  - (f) refuses to answer any lawful question,

he shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

- (3) Any person, who, upon oath, affirmation, or declaration taken or made under this Act, wilfully and corruptly gives any false evidence before the board, shall be guilty of perjury, and liable to imprisonment for any term not exceeding four years.
- (4) In this section the term *board* includes any sub-committee of the board.

## Part 5—Miscellaneous

### 42—General meetings of architects

- (1) The board shall hold a general meeting of registered architects once at least in every year, at which meeting every natural person registered as an architect shall be entitled to be present, and, subject to this Act and the by-laws, to vote in person or by proxy.
- (2) The board shall give to each natural person registered as an architect fourteen days' notice in writing of the time and place of every such general meeting.
- (3) Unless otherwise provided by the by-laws of the board one-sixth of the number of registered architects, present in person or represented by proxy at a general meeting and entitled to vote shall constitute a quorum, and all questions shall be determined by a majority of votes. The chairman shall have a deliberative vote, and in case of an equality of votes, a casting vote also.

### 43—By-laws

- (1) The board may make by-laws for any of the following purposes:
  - (a) regulating the nomination of persons for election, and the election of members of the board;
  - (b) regulating the meetings and proceedings of the board;
  - (c) regulating the time, mode, and place of summoning and holding ordinary and special general meetings of architects and the quorum to be present, and the mode of voting and the conduct of proceedings at such meeting;
  - (d) the appointment, duties, and removal of officers of the board;
  - (e) fixing the amount of the annual subscription payable by architects and the time of payment of the same;
  - (e1) prescribing the manner and form in which an application for registration is to be made under this Act;
  - (e2) prescribing, and providing for the recovery of, fees to be paid by an applicant for registration under this Act;
  - (e3) prescribing qualifications and other requirements relating to the registration of applicants for registration under this Act;
  - (e4) prescribing a code of professional conduct to be observed by registered architects;
  - (e5) requiring registered architects to insure, to an extent prescribed in the by-laws, against liability that might be incurred by them in the course of professional practice;

- (f) and generally for prescribing such matters as it may be necessary or convenient to prescribe for the administration and execution of this Act.
- (2) No by-law, and no repeal, alteration, or amendment of any by-law shall be of any force or effect unless and until it has been confirmed by the Governor and published in the Gazette.
- (3) In any by-law prescribing an examination or syllabus the board may adopt an examination or syllabus set or to be set by an institution other than the board; and any such examination or syllabus shall be sufficiently prescribed if it is indicated by stating the name of such institution, and the degree, diploma or other qualification for which the examination or syllabus is set.

#### **44—Annual subscriptions**

- (1) Every registered architect shall pay an annual subscription to the funds of the board of such amount and at such time as prescribed by the by-laws of the board, and the amount of such subscription shall be recoverable by the board by action in any court of competent jurisdiction:

Provided that any registered architect who has ceased to practise may, with approval of the board, remain on the register without liability to pay any subscription, but he shall not, so long as he does not pay subscriptions, be qualified to be a member of the board or be allowed to vote at any meeting of registered architects held under this Act.

- (2) The board may remove from the register the name of any registered architect who is in arrear for twelve months in the payment of the annual subscription payable by him; and on notice of such removal under the hand of the registrar being served on such member, he shall cease to be registered.
- (3) Any architect whose name is so removed from the register may, at any time after the date when notice thereof is served on him, pay to the board all subscriptions owing by him and which would be owing if he had continued to be registered, and shall thereupon be entitled to have his name restored to the register.
- (4) Any architect to whom subsections (2) and (3) apply, may make representations to the board with the object of obtaining remission of subscriptions in arrear, and the board may, if it should think fit, remit such subscriptions in whole or in part.
- (5) All money received by the board under this Act shall be expended by the board in defraying the cost of carrying out its duties, powers and functions under this Act.

#### **45—Penalty for falsifying register, or making false statements etc**

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
- (b) knowingly makes any false statement, written or oral, in connection with any matter being dealt with or considered by the board, or any sub-committee thereof; or
- (c) falsely states that he has obtained any certificate under this Act, or has been registered under this Act, or causes or permits any such false statement to be made,



shall be guilty of an offence, and liable to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding six months.

#### **45A—Returns by companies**

- (1) Every company registered as an architect shall—
  - (a) within one month after any person becomes or ceases to be a director or member of the company lodge with the registrar a notice stating the full name and usual residential address of that person and the fact that he has become or ceased to be such a director or member; and
  - (b) in the month of July in each year lodge with the registrar a return in the prescribed form.

Maximum penalty: \$500.

- (2) The annual return shall state—
  - (a) the full name and usual residential address of every person who on the thirtieth day of June preceding the lodging of the return was a director or member of the company; and
  - (b) the number of shares in the company held by each such person and the number of votes that he is entitled to cast at a meeting of directors or members of the company; and
  - (c) in relation to each director or member, the qualification by virtue of which he is entitled to the directorship or membership; and
  - (d) any other matters prescribed by by-law of the board.

#### **45B—Companies not to practise in partnership**

A company that is registered as an architect shall not practise as an architect in partnership with any other person.

Maximum penalty: \$500.

#### **45C—Criminal liability of directors**

Where a company registered as an architect commits an offence against this Act, or any other Act, each person who was a director of the company at the time of commission of the offence by the company shall be guilty of an offence and liable to the same penalty as that prescribed for the principal offence, unless he proves that he could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the company.

#### **45D—Joint and several liability**

Any civil liability incurred by a company that is registered as an architect shall be enforceable jointly and severally against the company and the persons who were directors of the company at the time the liability was incurred.

#### **45E—Alteration to memorandum or articles of association**

No alteration to the memorandum or articles of association of a company that is registered as an architect shall be made unless the proposed alteration has been submitted to, and approved by, the board.

#### **46—Power of board as to education**

The board may—

- (a) establish and maintain a library for the use of architects and students in architecture:
- (b) take such other measures as it thinks proper for promoting education in architecture, or for assisting students in architecture, whether by the establishment of scholarships or otherwise, or for extending knowledge of architecture among the public.

#### **47—Annual balance-sheet and audit**

The board shall, in every year, prepare a balance-sheet showing the income and expenditure of the board for the period of twelve months to the thirty-first day of December then last past, and shall submit such balance-sheet duly audited to the annual general meeting of architects.

#### **47A—Annual report**

- (1) The board must, on or before 31 March in each year, submit to the Minister a report on the administration of this Act during the 12 months that ended on the preceding 31 December.
- (2) The Minister must, as soon as practicable after receipt of the report, cause a copy of the report to be laid before each House of Parliament.

#### **47B—Immunity from liability**

- (1) No liability attaches to—
  - (a) a member of the board; or
  - (b) the registrar; or
  - (c) any other person engaged in the administration of this Act,for an honest act or omission in the exercise or purported exercise of a power or function under this Act.
- (2) A liability that would, but for subsection (1), lie against a person on whom immunity is conferred by that subsection lies instead against the board.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Repeal of Act

The *Architects Act 1939* was repealed by Sch 1 cl 1 of the *Architectural Practice Act 2009* on 1.1.2011.

### Principal Act and amendments

Year	No	Title	Assent	Commencement
1939	35	<i>Architects Act 1939</i>	14.12.1939	1.3.1940 ( <i>Gazette 15.2.1940 p369</i> )
1965	23	<i>Architects Act Amendment Act 1965</i>	25.11.1965	25.11.1965
1971	15	<i>Age of Majority (Reduction) Act 1971</i>	8.4.1971	15.4.1971 ( <i>Gazette 15.4.1971 p1598</i> )
1973	77	<i>Statute Law Revision Act 1973</i>	6.12.1973	6.12.1973
1975	121	<i>Architects Act Amendment Act 1975</i>	11.12.1975	31.3.1977 ( <i>Gazette 31.3.1977 p998</i> )
1976	94	<i>Architects Act Amendment Act 1976</i>	16.12.1976	31.3.1977 ( <i>Gazette 31.3.1977 p998</i> )
1981	47	<i>Architects Act Amendment Act 1981</i>	18.6.1981	18.6.1981
1987	86	<i>Architects Act Amendment Act 1987</i>	3.12.1987	3.12.1987
1994	59	<i>Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994</i>	27.10.1994	1.1.1995 ( <i>Gazette 8.12.1994 p1942</i> )
2001	23	<i>Statutes Amendment (Corporations) Act 2001</i>	14.6.2001	Pt 3 (s 6)—15.7.2001 being the day on which the <i>Corporations Act 2001</i> of the Commonwealth came into operation: <i>Commonwealth of Australia Gazette No. S 285, 13.7.2001 (Gazette 21.6.2001 p2270)</i>
2003	44	<i>Statute Law Revision Act 2003</i>	23.10.2003	Sch 1—24.11.2003 ( <i>Gazette 13.11.2003 p4048</i> )
2006	43	<i>Statutes Amendment (Domestic Partners) Act 2006</i>	14.12.2006	Pt 8 (ss 30 & 31)—1.6.2007 ( <i>Gazette 26.4.2007 p1352</i> )

## Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 1 of The General Public Acts of South Australia 1837-1975 at page 394.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1	heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 2	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
s 3		
<i>architect</i>	<i>deleted by 121/1975 s 3</i>	<i>31.3.1977</i>
<i>architecture</i>	<i>deleted by 121/1975 s 3</i>	<i>31.3.1977</i>
company	inserted by 121/1975 s 3	31.3.1977
	substituted by 23/2001 s 6	15.7.2001
registered architect	inserted by 121/1975 s 3	31.3.1977
Pt 2	heading preceding s 4 deleted and Pt 2 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 5	<i>deleted by 121/1975 s 4</i>	<i>31.3.1977</i>
s 6	substituted by 121/1975 s 5	31.3.1977
s 7		
s 7(1)	amended by 121/1975 s 6(a)	31.3.1977
s 7(2)	substituted by 121/1975 s 6(b)	31.3.1977
s 9		
s 9(1)	substituted by 121/1975 s 7	31.3.1977
Pt 3	heading preceding s 18 deleted and Pt 3 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
Pt 3 Div 1	heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 20	substituted by 121/1975 s 8	31.3.1977
s 23		
s 23(1)	s 23 amended and redesignated as s 23(1) by 121/1975 s 9	31.3.1977
	amended by 59/1994 Sch 2	1.1.1995
s 23(2)	inserted by 121/1975 s 9(b)	31.3.1977
Pt 3 Div 2	heading preceding s 28 deleted and Pt 3 Div 2 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 28	substituted by 121/1975 s 10	31.3.1977
s 28(1) and (2)	substituted by 47/1981 s 2(a)	18.6.1981
s 28(3)	substituted by 94/1976 s 3	31.3.1977
	substituted by 47/1981 s 2(a)	18.6.1981
s 28(3a)	inserted by 47/1981 s 2(a)	18.6.1981
s 28(4)	substituted by 94/1976 s 3	31.3.1977
	amended by 47/1981 s 2(b)	18.6.1981
s 28(5)	<i>inserted by 94/1976 s 3</i>	<i>31.3.1977</i>

	<i>deleted by 47/1981 s 2(c)</i>	<i>18.6.1981</i>
s 29		
s 29(1)	amended by 121/1975 s 11(a)	31.3.1977
s 29(3)	inserted by 121/1975 s 11(b)	31.3.1977
s 32		
s 32	substituted by 121/1975 s 12	31.3.1977
	amended by 86/1987 s 2	3.12.1987
s 32	(b)(iv) deleted by 86/1987 s 2(b)	3.12.1987
s 32A	inserted by 121/1975 s 12	31.3.1977
s 32A(1)	amended by 94/1976 s 4	31.3.1977
	amended by 47/1981 s 3	18.6.1981
	amended by 43/2006 s 30(1), (2)	1.6.2007
s 32A(2)		
domestic partner	inserted by 43/2006 s 30(3)	1.6.2007
prescribed event	inserted by 43/2006 s 30(3)	1.6.2007
relative	amended by 43/2006 s 30(4)	1.6.2007
spouse	inserted by 43/2006 s 30(5)	1.6.2007
Pt 4	heading preceding s 35 deleted and Pt 4 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
Pt 4 Div 1	heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 35		
s 35(1)	s 35 amended by 121/1975 s 13	31.3.1977
	s 35 redesignated as s 35(1) by 86/1987 s 3	3.12.1987
s 35(2)	inserted by 86/1987 s 3	3.12.1987
s 38		
s 38(1)	amended by 94/1976 s 5	31.3.1977
Pt 4 Div 2	heading preceding s 40 deleted and Pt 4 Div 2 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 40		
s 40(1)	substituted by 121/1975 s 14(a)	31.3.1977
s 40(2)	amended by 121/1975 s 14(b)	31.3.1977
Pt 4 Div 3	heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
Pt 5	heading preceding s 42 deleted and Pt 5 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 42		
s 42(1)	amended by 121/1975 s 15(a)	31.3.1977
s 42(2)	amended by 121/1975 s 15(b)	31.3.1977
<i>heading preceding s 43</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
s 43	amended by 121/1975 s 16	31.3.1977
<i>heading preceding s 44</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
s 44(1)	<i>amended by 121/1975 s 17</i>	<i>31.3.1977</i>

## Architects Act 1939—1.6.2007 to 31.12.2010—repealed

### Legislative history

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<i>heading preceding s 45</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	24.11.2003
ss 45A—45E	inserted by 121/1975 s 18	31.3.1977
ss 47A and 47B	inserted by 86/1987 s 4	3.12.1987
s 48	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	24.11.2003

## Transitional etc provisions associated with Act or amendments

### *Statutes Amendment (Domestic Partners) Act 2006*

#### 31—Transitional provision

From the commencement of this section, a reference to a *relative* or *spouse* in the memorandum and articles of association or constitution of a company that is registered as an architect under the *Architects Act 1939* will, where the context so admits or requires, be taken to include a reference to a *domestic partner*.

## Historical versions

Reprint No 1—1.7.1991

Reprint No 2—1.1.1995

Reprint No 3—15.7.2001

Reprint No 4—24.11.2003