No 16 of 2009 assented to 16.4.2009

South Australia

Architectural Practice Act 2009

An Act to provide for the registration of architects and architectural businesses; to regulate architectural practice for the purpose of maintaining high standards of competence and conduct by registered architects and registered architectural businesses; to repeal the *Architects Act 1939*; and for other purposes.

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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 *Architectural Practice Act 2009*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Interpretation

(1) In this Act, unless the contrary intention appears—

Board means the Architectural Practice Board of South Australia;

District Court means the Administrative and Disciplinary Division of the District Court;

inspector means a person authorised by the Board to exercise the powers of an inspector under this Act;

nominated contact address of a person means an address nominated by the person for the purpose of service of notices and documents under this Act;

record means—

(a) a documentary record; or

(b) a record made by an electronic, electromagnetic, photographic or optical process; or

(c) any other kind of record;

register means a register kept under this Act;

registered architect means a person registered on the register of architects;

registered architectural business means a body corporate, or each of the partners in a partnership, registered on the register of architectural businesses;

register of architects—see section 24;

register of architectural businesses—see section 25;

Registrar means the person holding or acting in the office of Registrar of the Board;

repealed Act means the *Architects Act 1939*;

representative body means a body that is declared by the regulations to be a representative body for the purposes of this Act;

unprofessional conduct includes—

(a) improper or unethical conduct in relation to professional practice; and

(b) incompetence or negligence in relation to the provision of services as an architect; and

(c) a contravention of or failure to comply with—

(i) a provision of this Act; or

(ii) a code of conduct or professional standard prepared or endorsed by the Board under this Act; and

(d) conduct that constitutes an offence punishable by imprisonment for 1 year or more under some other Act or law.

(2) A reference in this Act to ***unprofessional conduct*** extends to—

(a) unprofessional conduct committed before the commencement of this Act; and

(b) unprofessional conduct committed within or outside South Australia or the Commonwealth.

(3) A reference in this Act to ***engaging in conduct*** includes a reference to failing or refusing to engage in conduct.

Part 2—Architectural Practice Board of South Australia

Division 1—Establishment of Board

4—Establishment of Board

(1) The Architectural Practice Board of South Australia is established.

(2) The Board—

(a) is a body corporate; and

(b) has perpetual succession and a common seal; and

(c) is capable of suing and being sued in its corporate name; and

(d) has all the powers of a natural person that are capable of being exercised by a body corporate; and

(e) has the functions and powers assigned or conferred by or under this Act.

(3) If a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to the document.

Division 2—Board's membership

5—Composition of Board

(1) The Board consists of 7 members appointed by the Governor of whom—

(a) 3 must be registered architects chosen at an election (see section 6); and

(b) 4 must be persons nominated by the Minister and of these—

(i) 1 must be a lawyer; and

(ii) 1 must be a person with qualifications or experience in accounting, business or finance; and

(iii) 1 must be a person with—

(A) qualifications or experience in urban or regional planning or building surveying or construction; or

(B) knowledge of, or experience in, the building and construction industry;

(iv) 1 must be a person who is not eligible for appointment under a preceding provision of this subsection.

(2) At least 1 of the members of the Board must be a woman and 1 must be a man.

(3) The Governor may appoint a person to be a deputy of a member and a person so appointed may act as a member of the Board in the absence of the member.

(4) The requirements of qualification and nomination made by this section in relation to the appointment of a member extend to the appointment of a deputy of that member.

6—Elections and casual vacancies

(1) An election conducted to choose registered architects for appointment to the Board must be conducted under the regulations in accordance with principles of proportional representation.

(2) A person who is a registered architect at the time the voters roll is prepared in accordance with the regulations for an election to choose registered architects is entitled to vote at the election.

(3) If an election of a member fails for any reason, the Governor may appoint a registered architect and the person so appointed will be taken to have been appointed after due election under this section.

(4) If a casual vacancy occurs in the office of a member chosen at an election, the following rules govern the appointment of a person to fill the vacancy:

(a) if the vacancy occurs within 12 months after the member's election and at that election a candidate or candidates were excluded, the Governor must appoint the person who was the last excluded candidate at that election;

(b) if that person is no longer qualified for appointment or is unavailable or unwilling to be appointed or if the vacancy occurs later than 12 months after the member's election, the Governor may appoint a registered architect nominated by the Minister;

(c) before nominating a registered architect for appointment the Minister must consult the representative bodies;

(d) the person appointed holds office for the balance of the term of that person's predecessor.

7—Terms and conditions of membership

(1) A member of the Board will be appointed on conditions determined by the Governor and for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment.

(2) However, a member of the Board may not hold office for consecutive terms that exceed 9 years in total.

(3) The Governor may remove a member of the Board from office—

(a) for breach of, or non-compliance with, a condition of appointment; or

(b) for misconduct; or

(c) for failure or incapacity to carry out official duties satisfactorily.

(4) The office of a member of the Board becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Minister; or

(d) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Board; or

(e) is removed from office under subsection (3).

(5) If a member of the Board is a member constituting the Board for the purposes of any proceedings under Part 4 and the member's term of office expires, or the member resigns, before those proceedings are completed, the member may, for the purpose of continuing and completing those proceedings, continue to act as a member of the Board.

8—Presiding member

The Minister must, after consultation with the Board, appoint a member who is a registered architect (the ***presiding member***) to preside at meetings of the Board.

9—Vacancies or defects in appointment of members

An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

10—Remuneration

A member of the Board is entitled to remuneration, allowances and expenses determined by the Governor.

Division 3—Registrar and staff of Board

11—Registrar of Board

(1) There will be a Registrar of the Board.

(2) The Registrar will be appointed by the Board on terms and conditions determined by the Board.

12—Other staff of Board

(1) There will be such other staff of the Board as the Board thinks necessary for the proper performance of its functions.

(2) An employee of the Board is not a Public Service employee.

(3) The Board may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

Division 4—General functions and powers

13—Functions of Board

(1) The functions of the Board are as follows:

(a) to oversee the practice of architecture by registered architects and registered architectural businesses in the public interest;

(b) to approve, after consultation with authorities considered appropriate by the Board, courses of education or training that provide qualifications for registration on the register of architects;

(c) to determine, after consultation with authorities considered appropriate by the Board, the requirements necessary for registration on the register of architects;

(d) to establish and maintain the registers contemplated by this Act;

(e) to prepare or endorse, subject to the approval of the Minister, codes of conduct or professional standards for registered architects or codes of conduct for registered architectural businesses;

(f) to prepare or endorse guidelines on continuing architectural education for registered architects;

(g) to take such measures as the Board considers appropriate to promote education in architecture, to assist students in architecture or to further knowledge of architecture among the public;

(h) to establish administrative processes for handling complaints received against registered architects and registered architectural businesses (which may include processes under which a person voluntarily enters into an undertaking);

(i) to provide advice to the Minister as the Board considers appropriate;

(j) to carry out other functions assigned to the Board by or under this Act, or by the Minister.

(2) The Board must perform its functions under this Act with a view to achieving and maintaining high professional standards both of competence and conduct by registered architects and registered architectural businesses.

(3) If—

(a) a code of conduct or professional standard prepared or endorsed by the Board is approved by the Minister; or

(b) guidelines are prepared or endorsed by the Board,

the Board must—

(c) cause a copy of the code, standard or guidelines to be published in the Gazette; and

(d) take reasonable steps to send a copy of the code, standard or guidelines to each registered architect and each registered architectural business to whom it applies; and

(e) ensure that a copy of the code, standard or guidelines is published on the Internet and kept available for public inspection without charge during normal office hours at the principal office of the Board,

(although proof of compliance with paragraphs (c), (d) and (e) is not necessary for the purposes of any proceedings that involve an alleged contravention of or failure to comply with a code of conduct or professional standard).

(4) The administrative processes established by the Board for handling complaints received against registered architects and registered architectural businesses must be designed—

(a) to be fair to both the aggrieved person and the respondent; and

(b) to keep both the aggrieved person and the respondent properly informed about the steps taken by the Board in response to the complaint; and

(c) to provide, where appropriate, opportunities for the clarification of any misapprehension or misunderstanding between the aggrieved person and the respondent; and

(d) to keep both the aggrieved person and the respondent properly informed about the outcome of the processes; and

(e) to take into account the needs of particular classes of persons who may otherwise suffer disadvantage in the conduct of those processes.

14—Committees

(1) The Board may establish committees—

(a) to advise the Board or the Registrar on any matter; or

(b) to carry out functions on behalf of the Board.

(2) The membership of a committee will be determined by the Board and may, but need not, consist of, or include, members of the Board.

(3) The Board will determine who will be the presiding member of a committee.

(4) The procedures to be observed in relation to the conduct of the business of a committee will be—

(a) as determined by the Board;

(b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

15—Delegations

(1) The Board may delegate any of its functions or powers under this Act other than—

(a) this power of delegation; and

(b) the power to hear and determine proceedings under Part 4.

(2) A delegation—

(a) may be made—

(i) to a member of the Board, the Registrar or an employee of the Board; or

(ii) to a committee established by the Board; and

(b) may be made subject to conditions and limitations specified in the instrument of delegation; and

(c) is revocable at will and does not derogate from the power of the Board to act in a matter.

Division 5—Board's procedures

16—Board's procedures

(1) Subject to this Act, 4 members constitute a quorum of the Board.

(2) A meeting of the Board (other than for the purposes of hearing and determining proceedings under Part 4) will be chaired by the presiding member or, in his or her absence, the members present at a meeting of the Board must choose 1 of their number to preside at the meeting.

(3) A decision carried by a majority of the votes cast by members of the Board at a meeting is a decision of the Board.

(4) Each member present at a meeting of the Board has 1 vote on any question arising for decision and, except in hearing and determining proceedings under Part 4, the member presiding at the meeting may exercise a casting vote if the votes are equal.

(5) A conference by telephone or other electronic means between the members of the Board will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—

(a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and

(b) each participating member is capable of communicating with every other participating member during the conference.

(6) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—

(a) notice of the proposed resolution is given to all members of the Board in accordance with procedures determined by the Board; and

(b) a majority of the members express concurrence in the proposed resolution by letter, telegram, telex, fax, email or other written communication setting out the terms of the resolution.

(7) However, subsections (5) and (6) do not apply in relation to the hearing and determination of proceedings under Part 4 by the Board as constituted for the purposes of proceedings under that Part.

(8) The Board must have accurate minutes kept of its meetings.

(9) Subject to this Act, the Board may determine its own procedures.

17—Conflict of interest etc under Public Sector Management Act

A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector Management Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with registered architects or registered architectural businesses generally or a substantial section of registered architects or registered architectural businesses in this State.

18—Powers of Board in relation to witnesses etc

(1) For the purposes of proceedings before the Board (including an application for registration or reinstatement of registration), the Board may—

(a) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the attendance before the Board of any person whom the Board thinks fit to call before it; or

(b) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the production of relevant documents, records or equipment and, in the case of a document or record that is not in the English language, require the production of—

(i) a written translation of the document or record into English; and

(ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record; or

(c) inspect any documents, records or equipment produced before it, and retain them for such reasonable period as it thinks fit, and make copies of the documents or records or their contents; or

(d) require any person to make an oath or affirmation (which may be administered by any member of the Board) to answer truthfully questions put by any member of the Board or any person appearing before the Board; or

(e) require any person appearing before the Board (whether summoned to appear or not) to answer any questions put by any member of the Board or by any person appearing before the Board.

(2) On the receipt of an application for the issue of a summons under this section, a member or the Registrar may, without referring the matter to the Board, issue a summons on behalf of the Board.

(3) A person who—

(a) fails without reasonable excuse to comply with a summons issued to attend, or to produce documents, records or equipment, before the Board; or

(b) having been served with a summons to produce—

(i) a written translation of the document or record into English; and

(ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record,

fails, without reasonable excuse, to comply with the summons; or

(c) misbehaves before the Board, wilfully insults the Board or 1 or more of the members in the exercise of the member's official duties, or wilfully interrupts the proceedings of the Board; or

(d) refuses to be sworn or to affirm, or refuses or fails to answer truthfully a relevant question when required to do so by the Board,

is guilty of an offence.

Maximum penalty: $10 000 or imprisonment for 6 months.

(4) A person who appears as a witness before the Board has the same protection as a witness in proceedings before the Supreme Court.

19—Principles governing hearings

(1) In proceedings before the Board under this Act, the Board—

(a) is not bound by the rules of evidence and may inform itself on any matter as it thinks fit; and

(b) must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

(2) In proceedings before the Board under this Act, the Board must keep the parties to the proceedings properly informed as to the progress and outcome of the proceedings.

20—Representation at proceedings before Board

A party to proceedings before the Board (including an applicant for registration or reinstatement of registration) is entitled to be represented at the hearing of those proceedings.

21—Costs

(1) The Board may award such costs against a party to proceedings before it as the Board considers just and reasonable.

(2) A party who is dissatisfied with the amount of the costs awarded by the Board may request a Master of the District Court to tax the costs and, after taxing the costs, the Master may confirm or vary the amount of the costs awarded by the Board.

(3) Costs awarded by the Board under this section may be recovered as a debt.

Division 6—Accounts, audit and annual report

22—Accounts and audit

(1) The Board must keep proper accounting records in relation to its financial affairs, and must have annual statements of accounts prepared in respect of each financial year.

(2) The accounts must be audited at least once in every year by an auditor approved by the Auditor-General and appointed by the Board.

(3) The Auditor-General may at any time audit the accounts of the Board.

23—Annual report

(1) The Board must, on or before 30 September in each year, deliver to the Minister a report on the administration of this Act and the work of the Board during the financial year ending on the preceding 30 June.

(2) The report must—

(a) include the following information in relation to the relevant financial year:

(i) the number and nature of complaints received by the Board against registered architects and registered architectural businesses;

(ii) the number and nature of voluntary undertakings given to the Board;

(iii) the outcomes of proceedings before the Board under Part 4;

(iv) information prescribed by the regulations; and

(b) incorporate the audited accounts of the Board for the relevant financial year.

(3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Part 3—Registration and practice

Division 1—Registers

24—Register of architects

(1) The Registrar must keep a register of architects.

(2) The register must include, in relation to each person on the register—

(a) the person's full name and nominated contact address; and

(b) the qualifications for registration held by the person; and

(c) particulars of any condition of registration or limitation that affects or restricts the person's right to provide services as an architect; and

(d) information prescribed by the regulations,

and may include other information as the Board thinks fit.

(3) If a change occurs such that particulars contained in the register of architects in relation to a registered architect are no longer accurate or complete, the registered architect must, within 1 month after the change, give the Registrar notice of the change in the manner prescribed by the regulations.

Maximum penalty: $250.

Expiation fee: $80.

25—Register of architectural businesses

(1) The Registrar must keep a register of architectural businesses.

(2) The register must include—

(a) in relation to each body corporate on the register—

(i) the name and registered address of the body corporate; and

(ii) the full name and nominated contact address of each member of the governing body of the body corporate; and

(iii) information identifying each member of the governing body who is a registered architect; and

(iv) information prescribed by the regulations; and

(b) in relation to each partnership on the register—

(i) the name under which the partnership carries on business; and

(ii) the full name and nominated contact address of each partner; and

(iii) information identifying each partner who is a registered architect; and

(iv) information prescribed by the regulations,

and may include other information as the Board thinks fit.

(3) If a change occurs such that particulars contained in the register of architectural businesses in relation to a registered architectural business are no longer accurate or complete, the registered architectural business must, within 1 month after the change, give the Registrar notice of the change in the manner prescribed by the regulations.

Maximum penalty: $250.

Expiation fee: $80.

26—Register of removals

(1) The Registrar must keep a register of natural persons, bodies corporate and partnerships that have been removed from the register of architects or register of architectural businesses under this Act or any other Act or law or former Act or law and that have not had their registration reinstated.

(2) The register—

(a) must not include any person who is dead; and

(b) must not include a body corporate that has been wound up or a partnership that has been dissolved; and

(c) must include, in relation to each natural person on the register, a statement of—

(i) the reason for removal of the person from the register of architects; and

(ii) the date of removal; and

(iii) if the removal was consequent on suspension—the duration of the suspension; and

(iv) if the person has been disqualified from being registered on the register of architects—the duration of the disqualification; and

(d) must include, in relation to each body corporate or partnership on the register, a statement of—

(i) the reasons for removal of the body corporate or partnership from the register of architectural businesses; and

(ii) the date of removal; and

(iii) if the removal was consequent on suspension—the duration of the suspension; and

(iv) if the body corporate or partnership has been disqualified from being registered on the register of architectural businesses—the duration of the disqualification; and

(e) must have deleted from it all information relating to any natural person who has been reinstated on the register of architects or any body corporate or partnership that has been reinstated on the register of architectural businesses.

27—General provisions relating to registers

(1) The Registrar is responsible to the Board for the form and maintenance of the registers.

(2) The Registrar must correct an entry in a register that is not, or has ceased to be, correct.

(3) The registers must be kept available for inspection by any person during ordinary office hours at the office of the Registrar and the registers or extracts of the registers must be made available to the public on the Internet.

(4) A person may, on payment of the prescribed fee, obtain a copy of any part of a register kept under this Act.

(5) A certificate stating that a natural person, body corporate or partnership was, or was not, registered on a particular register under this Act at a particular date or during a particular period and purporting to be signed by the Registrar will, in the absence of proof to the contrary, be accepted in legal proceedings as proof of the registration, or of the fact that the person, body or partnership was not so registered, on the date or during the period stated in the certificate.

Division 2—Registration of architects

28—Registration of natural persons as architects

(1) Subject to this Act, a natural person is eligible for registration on the register of architects if the person, on application to the Board, satisfies the Board that he or she—

(a) has qualifications approved or recognised by the Board for the purposes of registration on the register; and

(b) has met the requirements determined by the Board to be necessary for the purposes of registration on the register; and

(c) is, unless exempted by the Board, insured in a manner and to an extent approved by the Board against civil liabilities that might be incurred by the person in connection with the provision of services as a registered architect; and

(d) is a fit and proper person to be registered on the register of architects.

(2) If a person who applies for registration, or reinstatement of registration, on the register of architects does not, in the opinion of the Board, have the necessary qualifications or experience required for registration on the register, the Board may register the person on the register under this subsection (***limited registration***)—

(a) in order to enable the person—

(i) to do whatever is necessary to become eligible for full registration under this Act; or

(ii) to teach or to undertake research or study in this State; or

(b) if, in its opinion, it would otherwise be in the public interest to do so.

(3) In granting a person limited registration, the Board may impose 1 or more of the following conditions on the registration:

(a) a condition restricting the places or times at which the person may provide services as a registered architect;

(b) a condition limiting the kind of services that the person may provide as a registered architect;

(c) a condition limiting the period during which the registration will have effect;

(d) a condition requiring that the person be supervised in the provision of services as a registered architect by a particular person or by a person of a particular class;

(e) such other conditions as the Board thinks fit.

29—Application for registration

(1) An application for registration on the register of architects must—

(a) be made to the Board in the manner and form approved by the Board; and

(b) be accompanied by the registration fee fixed under this Act.

(2) An applicant for registration must, if the Board so requires provide the Board with specified information to enable the Board to determine the application.

(3) The Board may require an applicant for registration as an architect to obtain additional qualifications or experience specified by the Board before the Board determines the application.

(4) If it appears likely to the Registrar that the Board will grant an application for registration as an architect, the Registrar may provisionally register the applicant (***provisional registration***).

(5) Provisional registration remains in force until the Board determines the application.

(6) The registration by the Board under this Act of a person who was provisionally registered as an architect has effect from the commencement of the provisional registration.

30—Removal from register

(1) The Registrar must, on application by a registered architect, remove the person from the register of architects.

(2) The Registrar must remove from the register of architects a person—

(a) who dies; or

(b) who ceases to hold a qualification required for registration on the register; or

(c) who ceases for any other reason to be entitled to be registered on the register; or

(d) whose registration has been suspended or cancelled under this Act.

(3) The Registrar may act under subsection (2) without giving prior notice to the relevant person.

31—Reinstatement on register

(1) A person who has been removed from the register of architects—

(a) on application; or

(b) on account of failure to pay the annual fee or to furnish the return required under section 32; or

(c) on account of failure to pay a fine imposed on the person by the Board under this Act; or

(d) on account of the person ceasing to hold a qualification required for registration or otherwise ceasing to be entitled to be registered,

may apply to the Board at any time for reinstatement on the register.

(2) A person whose registration on the register of architects has been suspended may apply to the Board for reinstatement on the register (but not, in the case of an order for suspension for a specified period made in disciplinary proceedings, until after the expiry of that period).

(3) A person who has been disqualified from being registered on the register of architects may, subject to the terms of the order for disqualification, apply to the Board for reinstatement on the register.

(4) An application for reinstatement must—

(a) be made to the Board in the manner and form approved by the Board; and

(b) be accompanied by the reinstatement fee fixed under this Act.

(5) An applicant for reinstatement must, if the Board so requires, provide the Board with specified information to enable the Board to determine the application.

(6) The Board may require an applicant for reinstatement to obtain additional qualifications or experience specified by the Board before the Board determines the application.

(7) Subject to this section, the Board must reinstate the applicant on the register of architects if satisfied that the applicant is eligible for registration on the register.

(8) The Board may refuse to reinstate the applicant on the register of architects until all complaints (if any) laid against the applicant under this Act have been finally disposed of.

32—Fees and returns

(1) Subject to this Act, a person will not be registered on the register of architects, nor will a person's registration on that register be reinstated, until the registration or reinstatement fee, and the annual fee, fixed under this Act have been paid.

(2) A registered architect must, in each calendar year before the date fixed for that purpose by the Board—

(a) pay to the Board the annual fee fixed under this Act; and

(b) furnish the Board with a return in a form approved by the Board containing information required by the Board.

(3) The Board may, without further notice, remove from the register of architects a person who fails to pay the annual fee or furnish the required return by the due date.

Division 3—Registration of architectural businesses

33—Registration of bodies corporate and partnerships as architectural businesses

(1) A body corporate is eligible for registration on the register of architectural businesses if, on application to the Board, the Board is satisfied that—

(a) in the case of a body corporate with a governing body consisting of an even number of members—at least half of the members of the governing body are registered architects;

(b) in any other case—a majority of the members of the governing body of the body corporate are registered architects.

(2) A partnership is eligible for registration on the register of architectural businesses if, on application to the Board, the Board is satisfied that—

(a) in the case of a partnership consisting of an even number of partners—at least half of the partners are registered architects or bodies corporate that are registered architectural businesses; or

(b) in any other case—a majority of the partners are registered architects or bodies corporate that are registered architectural businesses.

34—Application for registration

(1) An application for registration on the register of architectural businesses must—

(a) be made to the Board in the manner and form approved by the Board; and

(b) be accompanied by the registration fee fixed under this Act.

(2) An application for registration of a partnership must be made jointly by all the partners in the partnership.

35—Removal from register

(1) The Registrar must, on application by a registered architectural business, remove the body corporate or partnership from the register of architectural businesses.

(2) The Registrar must remove from the register of architectural businesses—

(a) a body corporate that has been wound up; or

(b) a partnership that has been dissolved; or

(c) subject to subsection (3), a body corporate or partnership that ceases to be entitled to be registered on that register; or

(d) a body corporate or partnership whose registration has been suspended or cancelled under this Act.

(3) If, as a result of a change in the membership of—

(a) the governing body of a body corporate; or

(b) a partnership,

the body corporate or partnership ceases to be entitled to be registered on the register of architectural businesses, the Board may, subject to such conditions as it thinks fit, exempt the body corporate or partnership from the application of subsection (2)(c) for a specified period in order to enable 1 or more registered architects or registered architectural businesses to become members of the governing body or partnership, as the case requires.

(4) The Registrar may act under subsection (2) without giving prior notice to any person.

36—Reinstatement on register

(1) A body corporate, or the partners in a partnership, that has been removed from the register of architectural business under this Act—

(a) on application; or

(b) on account of failure to pay the annual fee or to furnish the return required under section 37; or

(c) on account of failure to pay a fine imposed on the body corporate or a partner by the Board under this Act; or

(d) on account of the body corporate or partnership ceasing to be entitled to be registered,

may apply to the Board at any time for reinstatement on the register.

(2) A body corporate, or the partners in a partnership, whose registration on the register of architectural businesses has been suspended may apply to the Board for reinstatement of the body corporate or partnership on the register (but not, in the case of an order for suspension for a specified period made in disciplinary proceedings, until after the expiry of that period).

(3) A body corporate, or the partners in a partnership, that has been disqualified from being registered on the register of architectural businesses may, subject to the terms of the order for disqualification, apply to the Board for reinstatement of the body corporate or partnership on the register.

(4) An application for reinstatement must—

(a) be made to the Board in the manner and form approved by the Board; and

(b) be accompanied by the reinstatement fee fixed under this Act.

(5) An applicant for reinstatement must, if the Board so requires, provide the Board with specified information to enable the Board to determine the application.

(6) Subject to this section, the Board must, on application, reinstate a body corporate or partnership on the register of architectural businesses if satisfied that the body corporate or partnership is eligible for registration on the register.

(7) The Board may refuse to reinstate the body corporate or partnership on the register of architectural businesses until all complaints (if any) laid against the body corporate or any partner in the partnership under this Act have been finally disposed of.

37—Fees and returns

(1) Subject to this Act, a body corporate or partnership will not be registered on the register of architectural businesses, nor will the registration of a body corporate or partnership be reinstated, until the registration fee or reinstatement fee, and the annual fee, fixed under this Act have been paid.

(2) A registered architectural business must, in each calendar year before the date fixed for that purpose by the Board—

(a) pay to the Board the annual fee fixed under this Act; and

(b) furnish the Board with a return in a form approved by the Board containing information required by the Board.

(3) The Board may, without further notice, remove from the register of architectural businesses a body corporate or partnership that fails to pay the annual fee or furnish the required return by the due date.

Division 4—Restrictions relating to provision of architectural services

38—Illegal holding out as architect

(1) A natural person must not hold himself or herself out as an architect or permit another person to do so unless registered on the register of architects.

Maximum penalty: $50 000 or imprisonment for 6 months.

(2) A person must not hold out a natural person as an architect unless that natural person is registered on the register of architects.

Maximum penalty: $50 000 or imprisonment for 6 months.

(3) A person must not hold out a body corporate as an architect or permit another person to do so unless the body corporate is registered on the register of architectural businesses.

Maximum penalty: $50 000 or imprisonment for 6 months.

(4) A person must not hold out a partnership as a partnership of architects or firm of architects or permit another person to do so unless the partnership is registered on the register of architectural businesses.

Maximum penalty: $50 000 or imprisonment for 6 months.

39—Illegal holding out concerning limitations or conditions

(1) A person whose registration on the register of architects is limited or subject to a condition under this Act must not hold himself or herself out as having a registration that is not limited or not subject to a condition or permit another person to do so.

Maximum penalty: $50 000 or imprisonment for 6 months.

(2) A person must not hold out another whose registration on the register of architects is limited or subject to a condition under this Act as having a registration that is not limited or not subject to a condition.

Maximum penalty: $50 000 or imprisonment for 6 months.

40—Use of certain titles or descriptions prohibited

(1) A natural person who is not a registered architect must not use a prescribed word, or its derivatives, to describe himself or herself or a service that he or she personally provides.

Maximum penalty: $50 000.

(2) A body corporate that is not a registered architectural business must not use a prescribed word, or its derivatives, to describe the body corporate or a service that the body corporate provides.

Maximum penalty: $50 000.

(3) A person who is a partner in a partnership that is not a registered architectural business must not use a prescribed word, or its derivatives, to describe the partnership or a service that the partnership provides.

Maximum penalty: $50 000.

(4) A person must not, in the course of advertising or promoting a service that he or she, or a partnership in which he or she is a partner, provides, use a prescribed word, or its derivatives, to describe a person who is engaged in the provision of the service or the partnership if the person or partnership is not a registered architect or registered architectural business, as the case requires.

Maximum penalty: $50 000.

(5) In this section—

prescribed word means—

(a) architect; or

(b) any other word or expression prescribed by the regulations.

41—Exceptions for certain titles and descriptions

Nothing in this Division prohibits—

(a) an employee of a registered architect or registered architectural business from using the title or description of "architectural assistant", "architectural technician" or "architectural drafter"; or

(b) a person from using the title or description of "landscape architect", "naval architect" or "computer systems architect"; or

(c) a person who holds an architectural qualification from describing himself or herself as holding that qualification; or

(d) a person from using the word "architectural" only as indicating that the person carries on the business of supplying goods in connection with architecture; or

(e) a person from using a name, title or description prescribed by the regulations in such circumstances, and subject to such restrictions, as may be prescribed by the regulations.

Part 4—Investigations and proceedings

Division 1—Preliminary

42—Interpretation

In this Part—

(a) a reference to a ***registered architect*** includes a reference to a person who is not but who was, at the relevant time, a registered architect under this Act or the repealed Act;

(b) a reference to a ***registered architectural business*** includes a reference to—

(i) the partners in a partnership that is not but that was, at the relevant time, a registered architectural business under this Act;

(ii) a body corporate that is not but that was, at the relevant time, a registered architectural business under this Act or a registered architect under the repealed Act.

43—Cause for disciplinary action

(1) There is proper cause for disciplinary action against a person who is a registered architect if—

(a) the person's registration was improperly obtained; or

(b) the person is guilty of unprofessional conduct; or

(c) the person is for any reason no longer a fit and proper person to be registered on the register of architects.

(2) There is proper cause for disciplinary action against a body corporate, or the partners in a partnership, that is a registered architectural business if—

(a) the registration of the body corporate or partnership was improperly obtained; or

(b) the body corporate or a partner in the partnership has contravened or failed to comply with—

(i) a provision of this Act; or

(ii) a code of conduct prepared or endorsed by the Board.

Division 2—Investigations

44—Powers of inspectors

(1) If there are reasonable grounds for suspecting—

(a) that there is proper cause for disciplinary action against a registered architect or registered architectural business; or

(b) that a person is guilty of an offence against this Act,

an inspector may investigate the matter.

(2) For the purposes of an investigation, an inspector may—

(a) at any reasonable time, enter and inspect premises of a registered architect or registered architectural business or premises on which the inspector reasonably suspects an offence against this Act has been or is being committed; or

(b) with the authority of a warrant issued by a magistrate or in circumstances in which the inspector reasonably believes that immediate action is required, use reasonable force to break into or open any part of, or anything in or on any premises referred to in paragraph (a); or

(c) while on premises entered under paragraph (a) or (b), seize and retain anything found on the premises that the inspector reasonably believes may afford evidence relevant to the matters under investigation; or

(d) require any person who has possession of documents or records relevant to the matters under investigation to produce those documents or records for inspection, including written records that reproduce in a readily understandable form information kept by computer, microfilm or other process; or

(e) inspect any documents or records produced to the inspector and retain them for such reasonable period as the inspector thinks fit, and make copies of the records or documents; or

(f) require any person who is in a position to provide information relevant to the matters under investigation to answer any question put by the inspector in relation to those matters; or

(g) take photographs, films or video or audio recordings; or

(h) if the inspector reasonably suspects that an offence against this Act has been or is being committed, require the suspected offender to state his or her full name and address.

(3) An inspector must not exercise the power conferred by subsection (2)(a) in relation to residential premises except with the permission of the occupier of the premises or on the authority of a warrant issued by a magistrate.

(4) A magistrate must not issue a warrant under this section unless satisfied, by information given on oath, that the warrant is reasonably required in the circumstances.

(5) The person in charge of premises at the relevant time must give an inspector such assistance and provide such facilities as are necessary to enable the powers conferred by this section to be exercised.

Maximum penalty: $5 000.

45—Offence to hinder, etc inspector

A person who—

(a) hinders or obstructs an inspector in the exercise of powers conferred by this Act; or

(b) uses abusive, threatening or insulting language to an inspector; or

(c) refuses or fails to comply with a requirement of an inspector under this Act; or

(d) when required by an inspector to answer a question, refuses or fails to answer the question to the best of the person's knowledge, information and belief; or

(e) falsely represents, by words or conduct, that he or she is an inspector,

is guilty of an offence.

Maximum penalty: $10 000.

Division 3—Proceedings before Board

46—Obligation to report unprofessional conduct of architect

(1) If a person who provides services through the instrumentality of a registered architect is of the opinion that the architect has engaged in unprofessional conduct, the person must submit a written report to the Board setting out the person's reasons for that opinion and any other information required by the regulations.

Maximum penalty: $10 000.

(2) The Board must cause a report made under this section to be investigated.

47—Inquiries by Board as to matters constituting grounds for disciplinary action

(1) A complaint setting out matters that are alleged to constitute grounds for disciplinary action against a person (the ***respondent***) may be laid before the Board (in a manner and form approved by the Board) by—

(a) the Registrar; or

(b) the Minister; or

(c) a representative body; or

(d) a person who is aggrieved by conduct of the person or, if the person aggrieved is suffering from a mental or physical incapacity, by a person acting on his or her behalf.

(2) If a complaint is laid under this section, the Board must inquire into the subject matter of the complaint unless the Board considers that the complaint is frivolous or vexatious.

(3) If a complaint is laid under this section against a partner in a partnership that is a registered architectural business, the Board must give notice of the complaint to each other partner in the partnership.

(4) If a complaint has been laid under this section by or on behalf of an aggrieved person and the Board is satisfied that the complaint arose from a misapprehension on the part of the complainant or from a misunderstanding between the parties, it may, before proceeding further with the hearing of the complaint, require the parties to attend before the Registrar in order to clarify the misapprehension or misunderstanding.

(5) If, after conducting an inquiry under this section, the Board is satisfied on the balance of probabilities that there is proper cause for disciplinary action against the respondent, the Board may, by order, do 1 or more of the following:

(a) censure the respondent;

(b) require the respondent to pay to the Board a fine not exceeding $10 000;

(c) if the respondent is a registered architect—

(i) impose conditions on the respondent's registration restricting the respondent's right to provide services as an architect;

(ii) suspend the respondent's registration for a period not exceeding 1 year;

(iii) cancel the respondent's registration;

(iv) disqualify the respondent from being registered;

(d) if the respondent is a body corporate, or a partner in a partnership, that is a registered architectural business—

(i) suspend the registration of the body corporate or partnership for a period not exceeding 1 year;

(ii) cancel the registration of the body corporate or partnership;

(iii) disqualify the body corporate or partnership from being registered.

(6) The Board may stipulate that a disqualification under subsection (5) is to apply—

(a) permanently; or

(b) for a specified period; or

(c) until the fulfilment of specified conditions; or

(d) until further order.

(7) If—

(a) a person has been found guilty of an offence; and

(b) the circumstances of the offence form, in whole or in part, the subject matter of the complaint,

the person is not liable to a fine under this section in respect of conduct giving rise to the offence.

(8) The Board may—

(a) fix a period within which a fine imposed under this section must be paid;

(b) on application by a person liable to pay a fine imposed under this section, extend the period within which the fine must be paid.

(9) A fine imposed under this section is recoverable by the Board as a debt.

(10) The Board may, without further notice, remove from the register of architects a person who fails to pay a fine imposed under this section.

(11) The Board may, without further notice, remove a body corporate or partnership from the register of architectural businesses if the body corporate or a partner in the partnership fails to pay a fine imposed under this section.

48—Constitution of Board for purpose of proceedings

(1) The Board will, for the purpose of hearing and determining proceedings under this Part, be constituted of 3 members of the Board, of whom—

(a) 1 will be the member (or his or her deputy) who is a lawyer; and

(b) 1 will be a member who is a registered architect.

(2) The member referred to in subsection (1)(a) will preside over the proceedings.

(3) The members of the Board, other than the lawyer, will, for the purposes of any particular proceedings, be selected by the presiding member of the Board.

(4) If a member of the Board as constituted under this section (other than the member presiding over the proceedings) dies or is for any other reason unable to continue with the proceedings, the Board constituted of the remaining members may, if the member presiding over the proceedings so determines, continue and complete the proceedings.

(5) Any questions of law or procedure arising before the Board will be determined by the member presiding over the proceedings and any other questions by unanimous or majority decision of the members.

(6) The Board constituted of the member presiding over the proceedings may, sitting alone—

(a) deal with—

(i) preliminary, interlocutory or procedural matters; or

(ii) questions of costs; or

(iii) questions of law; or

(b) enter consent orders,

and may, for that purpose or as a consequence, while sitting alone, make any determination or order (including a final order) that the member considers appropriate.

49—Provisions as to proceedings before Board

(1) The Board must give at least 14 days' written notice of the time and place at which it intends to conduct proceedings under this Part to—

(a) each of the parties to the proceedings; and

(b) if the respondent is a partner in a partnership that is a registered architectural business—each other partner in the partnership.

(2) However—

(a) the Board may, if it thinks special reasons exist for doing so, give a lesser period of written notice under subsection (1); and

(b) the requirement to give written notice under subsection (1) does not extend to adjournments.

(3) The Board must afford to the parties a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses, and to make submissions to the Board.

(4) Each partner in a partnership to whom notice is given under subsection (1)(b) is entitled to appear and be heard in the proceedings.

(5) If a party to whom notice has been given under this section does not attend at the time and place fixed by the notice, the Board may proceed to hear and determine the matter in the absence of that party.

(6) A person who is aggrieved by the conduct of a person that is the subject-matter of proceedings before the Board under this Part is, subject to any direction of the Board to the contrary, entitled to be present at the hearing of the proceedings.

(7) In the course of proceedings before the Board under this Part, the Board may—

(a) receive in evidence a transcript of evidence taken in proceedings before a court, tribunal or other body constituted under the law of South Australia or of any other State or Territory of Australia or of another country, and draw any conclusions of fact from the evidence that it considers proper;

(b) adopt, as in its discretion it considers proper, any findings, decision, judgment, or reasons for judgment, of any such court, tribunal or body that may be relevant to the proceedings.

(8) The Board should conduct proceedings under this Part as expeditiously as possible.

Part 5—Appeals

50—Right of appeal to District Court

(1) An appeal lies to the District Court against—

(a) a refusal by the Board to register, or reinstate the registration of, a person on the register of architects; or

(b) a refusal by the Board to register a body corporate or partnership on the register of architectural businesses; or

(c) the imposition by the Board of conditions on a person's registration on the register of architects; or

(d) a decision made by the Board in proceedings under Part 4.

(2) An appeal under subsection (1)(d) against a decision may be instituted by the complainant or the respondent in the proceedings in which the decision was made.

(3) An appeal must be instituted within 1 month of the date of the decision appealed against.

51—Operation of order may be suspended

(1) If an order has been made by the Board, and the Board or the District Court is satisfied that an appeal against the order has been instituted, or is intended, it may suspend the operation of the order until the determination of the appeal.

(2) If the Board has suspended the operation of an order under subsection (1), the Board may terminate the suspension, and if the District Court has done so, the Court may terminate the suspension.

52—Variation or revocation of conditions imposed by Court

(1) The District Court may, at any time, on application by a registered architect, vary or revoke a condition imposed by the Court in relation to the person's registration under this Act.

(2) The Board, the Minister and representative bodies are entitled to appear and be heard on an application under this section.

Part 6—Miscellaneous

53—Variation or revocation of conditions imposed by Board

(1) The Board may, at any time, on application by a registered architect, vary or revoke a condition imposed by the Board in relation to the person's registration under this Act.

(2) The Registrar, the Minister and representative bodies are entitled to appear and be heard on an application under this section that relates to conditions imposed by the Board under Part 4.

54—Offence to contravene conditions of registration

A person who contravenes, or fails to comply with, a condition imposed under this Act on the person's registration on the register of architects is guilty of an offence.

Maximum penalty: $75 000 or imprisonment for 6 months.

55—Improper directions to architect

If a person who provides services through the instrumentality of a registered architect directs or pressures the architect to engage in unprofessional conduct, the person is guilty of an offence.

Maximum penalty: $75 000.

56—Procurement of registration by fraud

A person who, by fraud or any other dishonest means, procures registration or reinstatement of registration under this Act (whether for himself or herself or for another person or for a partnership) is guilty of an offence.

Maximum penalty: $20 000 or imprisonment for 6 months.

57—Statutory declarations

If a person is required under this Act to furnish information to the Board, the Board may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have furnished the information as required unless it has been verified in accordance with the requirements of the Board.

58—False or misleading statement

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this Act.

Maximum penalty: $20 000.

59—Registered architects to be indemnified against loss

(1) A registered architect must not, unless exempted by the Board, provide services as a registered architect unless insured or indemnified in a manner and to an extent approved by the Board against civil liabilities that might be incurred by the person in connection with the provision of services by the person as a registered architect.

Maximum penalty: $10 000.

(2) The Board may, subject to such conditions as it thinks fit, exempt a person, or a class of persons, from the requirements of this section and may, whenever it thinks fit, revoke an exemption or revoke or vary the conditions under which an exemption operates.

60—Information relating to claim against architect to be provided

If a person has claimed damages or other compensation from a registered architect or other person for alleged negligence committed by the registered architect in connection with the provision of services as a registered architect, the person against whom the claim is made must—

(a) within 30 days after the claim is made; and

(b) within 30 days after any order is made by a court to pay damages or other compensation in respect of that claim or any agreement has been entered into for payment of a sum of money in settlement of that claim (whether with or without a denial of liability),

provide the Board with prescribed information relating to the claim.

Maximum penalty: $10 000.

61—Victimisation

(1) A person commits an act of victimisation against another person (the ***victim***) if he or she causes detriment to the victim on the ground, or substantially on the ground, that the victim—

(a) has disclosed or intends to disclose information; or

(b) has made or intends to make an allegation,

that has given rise, or could give rise, to proceedings against the person under this Act.

(2) An act of victimisation under this Act may be dealt with—

(a) as a tort; or

(b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*,

but, if the victim commences proceedings in a court seeking a remedy in tort, he or she cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, he or she cannot subsequently commence proceedings in a court seeking a remedy in tort.

(3) If a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.

(4) In this section—

detriment includes—

(a) injury, damage or loss; or

(b) intimidation or harassment; or

(c) discrimination, disadvantage or adverse treatment in relation to the victim's employment or business; or

(d) threats of reprisal.

62—Self-incrimination

If a person is required to provide information or to produce a document, record or equipment under this Act and the information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document, record or equipment, but the information, document, record or equipment so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence against this or any other Act relating to the provision of false or misleading information.

63—Punishment of conduct that constitutes an offence

If conduct constitutes an offence and is also a ground for disciplinary action under this Act, the taking of disciplinary action under this Act is not a bar to conviction and punishment for the offence, nor is conviction and punishment for the offence a bar to disciplinary action under this Act.

64—Vicarious liability for offences

If a body corporate is guilty of an offence against this Act, each person who is a member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.

65—Application of fines

A fine imposed for an offence against this Act must be paid to the Board.

66—Ministerial review of decisions relating to courses

(1) If the Board—

(a) refuses to approve a course of education or training for the purposes of this Act; or

(b) revokes an approval of a course of education or training under this Act,

the provider of the course may apply to the Minister for a review of that decision.

(2) The Minister may determine the application as the Minister thinks fit and, if the Minister finds in favour of the applicant, grant or preserve the approval (as appropriate).

67—Confidentiality

(1) A person engaged or formerly engaged in the administration of this Act or the repealed Act must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

(a) as required or authorised by or under this Act or any other Act or law; or

(b) with the consent of the person to whom the information relates; or

(c) in connection with the administration of this Act or the repealed Act; or

(d) to an authority responsible under the law of a place outside this State for the registration or licensing of architects, where the information is required for the proper administration of that law; or

(e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

Maximum penalty: $10 000.

(2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.

(3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—

(a) the person to whom the information was disclosed; or

(b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: $10 000.

68—Immunity from liability

(1) No civil liability attaches to the Registrar for an act or omission in the exercise or purported exercise of powers or functions under this Act.

(2) An action that would, but for subsection (1), lie against the Registrar lies instead against the Board.

(3) This section does not prejudice rights of action of the Board in respect of an act or omission of the Registrar not in good faith.

69—Service

(1) A notice or document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may—

(a) be given to the person personally; or

(b) be posted in an envelope addressed to the person at the person's last known nominated contact, residential, business or (in the case of a corporation) registered address; or

(c) be left for the person at the person's last known nominated contact, residential, business or (in the case of a corporation) registered address with someone apparently over the age of 16 years; or

(d) be transmitted by fax or email to a fax number or email address provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

(2) Without limiting the effect of subsection (1), a notice or other document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may, if the person is a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, be served on the person in accordance with that Act.

70—Evidentiary provision

(1) In proceedings for an offence against this Act or in disciplinary proceedings under Part 4, an allegation in the complaint—

(a) that a person named in the complaint is or is not, or was or was not, on a specified date, registered on the register of architects;

(b) that the registration of a person named in the complaint is, or was on a specified date, subject to specified conditions;

(c) that a body corporate or partnership named in the complaint is or is not, or was or was not, on a specified date, registered on the register of architectural businesses;

(d) that a person named in the complaint is, or was on a specified date, an inspector,

must be accepted as proved in the absence of proof to the contrary.

(2) In legal proceedings, a document apparently certified by the Registrar to be a copy of a register under this Act, or a copy of a code of conduct or professional standard prepared or endorsed by the Board must be accepted as such in the absence of proof to the contrary.

71—Regulations

(1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) prescribe, or empower the Board to fix—

(i) fees or charges for the purposes of this Act;

(ii) fees or charges for services provided by the Board in the exercise of functions under this Act,

and may provide for the recovery of a fee or charge so prescribed;

(b) exempt any person or class of persons from the obligation to pay a fee or charge so prescribed;

(c) regulate, or otherwise make provision with respect to, the education of architects for the purposes of this Act, including by making provision with respect to the approval of courses that may lead to registration;

(d) make any provision with respect to the keeping of a register;

(e) prescribe penalties, not exceeding $5 000, for breach of, or non-compliance, with a regulation.

(3) The regulations may—

(a) refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed person or body, either as in force at the time the regulations are made or as in force from time to time; and

(b) be of general or limited application; and

(c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and

(d) provide that a specified provision of this Act does not apply, or applies with prescribed variations, to any person, circumstance or situation (or person, circumstance or situation of a prescribed class) specified by the regulations, subject to any condition to which the regulations are expressed to be subject; and

(e) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Board or another prescribed authority.

(4) If a code, standard or other document is referred to or incorporated in the regulations—

(a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and

(b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

Schedule 1—Repeal and transitional provisions

Part 1—Repeal of *Architects Act 1939*

1—Repeal of Act

The *Architects Act 1939* is repealed.

Part 2—Transitional provisions

2—Transitional provisions relating to Board

(1) The Architectural Practice Board of South Australia is the same body corporate as the Architects Board of South Australia established under the repealed Act.

(2) On the commencement of this subclause all members of the Board then in office vacate their respective offices so that fresh appointments may be made to the Board under this Act.

(3) For the purposes of section 7(2), the consecutive terms of a member of the Architects Board of South Australia served immediately before the commencement of this clause are not to be taken into account.

(4) If appointments are to be made to the Board pursuant to the *Acts Interpretation Act 1915* prior to the commencement, and for the purposes, of section 5—

(a) a reference in that section to a ***registered architect*** will, for those purposes, be taken to be a reference to a natural person who is a registered architect under the repealed Act at the relevant time; and

(b) despite section 14C(3) of the *Acts Interpretation Act 1915*, such an appointment takes effect on the commencement of section 5 and not before.

3—Transitional provisions relating to registration

(1) The register of architects maintained under the repealed Act continues in existence as the register of architects under this Act.

(2) A natural person whose name is in the register of architects immediately following the commencement of this clause will be taken to be registered under this Act on the register of architects and any restrictions, limitations or conditions that applied to the registration of the person under the repealed Act immediately before that commencement will be taken to continue to apply to the registration of the person under this Act as if they had been imposed by the Board under this Act.

(3) A body corporate registered on the register of architects under the repealed Act immediately before the commencement of this clause will, on that commencement, be taken to be registered under this Act on the register of architectural businesses.

(4) If a person who was removed from the register of architects under the repealed Act for any reason and who had not, before the commencement of this Act, been reinstated on that register, applies for registration under this Act, the Board may deal with the application as though it were an application for reinstatement on the register of architects, or in the case of a body corporate, the register of architectural businesses, under this Act.

(5) A partnership of architects registered under the repealed Act in existence immediately before the commencement of this clause will, until 3 months after that commencement, be regarded as if it were a registered architectural business and, if within that period of 3 months, the partners make an application for registration of the partnership on the register of architectural businesses, despite section 34, no registration fee is payable in respect of the application.

4—Transitional provisions relating to completion of proceedings

(1) Disciplinary and other proceedings (including an application for registration or reinstatement of registration) commenced but not determined under the repealed Act before the commencement of this clause are to be determined as if they had been commenced under this Act.

(2) Despite clause 2(2), the Board may, in relation to particular proceedings commenced but not determined under the repealed Act before the commencement of this clause, continue and complete the proceedings as constituted for the purposes of those proceedings under the repealed Act.

5—Regulations

The regulations may make other provisions of a savings or transitional nature consequent on the enactment of this Act.