



ANNO VICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1975

No. 121 of 1975

An Act to amend the Architects Act, 1939-1973.

[Assented to 11th December, 1975]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Architects Act Amendment Act, 1975". Short titles.
- (2) The Architects Act, 1939-1973, is hereinafter referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Architects Act, 1939-1975".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 3 of the principal Act is amended by striking out the definitions of "architect" and "architecture" and inserting in lieu thereof the following definitions:— Amendment of principal Act, s. 3—
Interpretation.
 - "company" means a company incorporated under the law of this State or under the law of any other State or Territory of the Commonwealth:
 - "registered architect" means a person registered under this Act as an architect.

4. Section 5 of the principal Act is repealed. Repeal of s. 5 of principal Act.

5. Section 6 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 6 of principal Act and enactment of section in its place—
 - 6. (1) Subject to subsection (2) of this section, the board shall consist of the following members:— Membership of board.

(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.

Amendment of
principal Act,
s. 7—
Term of office.

6. Section 7 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “(other than the first members of the board and any members appointed in lieu of any of those members on a casual vacancy)”;

and

(b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(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.

Amendment of
principal Act,
s. 9—
Chairman.

7. Section 9 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(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.

Repeal of
s. 20 of
principal Act
and enactment
of section in
its place—
Manner in
which register
is to be kept.

8. Section 20 of the principal Act is repealed and the following section is enacted and inserted in its place:—

20. (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.

Amendment of
principal Act,
s. 23—
De-registration.

9. Section 23 of the principal Act is amended—

(a) by striking out the passage “de-register any person” and inserting in lieu thereof the passage “de-register any natural person”;

and

(b) by inserting after the present contents thereof as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) The board may order the registrar to de-register any company—

(a) that applies in writing to the board for de-registration;

- (b) whose registration has been obtained by fraud or misrepresentation;
 - (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.

10. Section 28 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 28 of principal Act and enactment of section in its place—

28. (1) An unregistered person shall not—

Offences.

- (a) hold himself out as an architect or as being qualified or willing to undertake architectural work;
 - (b) use the word “architectural” as part of his title or description;
- or
- (c) assume any title or description implying, or leading reasonably to the belief, that he is registered under this Act, or qualified to practise as an architect.

Penalty: Five hundred dollars.

(2) A person shall not—

- (a) hold out an unregistered person as an architect or as being qualified or willing to undertake architectural work;
 - (b) use the word “architectural” as part of the title or description of an unregistered person;
- or
- (c) apply to an unregistered person any title or description implying or leading reasonably to the belief that he is registered under this Act, or qualified to practise as an architect.

Penalty: Five hundred dollars.

(3) This section does not prevent any person who is not a registered architect from designing, or superintending the erection of, any building.

(4) Notwithstanding the provisions of subsection (1) or subsection (2) of this section—

- (a) a person who is a corporate member of the Australian Institute of Landscape Architects may describe himself, or hold himself out, as a landscape architect;
- (b) a naval architect or golfcourse architect may describe himself or hold himself out, as such;

(c) an architectural draftsman or architectural technician who practises as such only in the course of employment by a registered architect may describe himself, or hold himself out, as an architectural draftsman, or architectural technician, as the case may require;

and

(d) a firm may describe itself, or hold itself out, as a firm of architects or of registered architects, if—

(i) at least two-thirds by number of the members of the firm are registered architects;

and

(ii) each member (if any) 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,

and no offence is committed by any other person by reason of the fact that he applies the appropriate title or description authorized by this subsection to any such person or firm.

Amendment of
principal Act,
s. 29—
Application for
registration.

11. Section 29 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “and the statements made therein shall be verified by a statutory declaration made by the applicant in the prescribed form”;

and

(b) by inserting after subsection (2) the following subsection:—

(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.

Repeal of
s. 32 of
principal Act
and enactment
of sections in
its place—

Qualifications
for registration.

12. Section 32 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

32. 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;

(ii) is a fellow or associate of the Royal Australian Institute of Architects or a corporate member of the Royal Institute of British Architects;

(iii) possesses one of the architectural qualifications prescribed by the by-laws of the board;

or

(iv) has passed the special examinations 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. (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:—

Registration of
a company as
an architect.

(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;

(b) each director of the company must be a natural person who holds a prescribed qualification, and at least two-thirds of the directors must be registered architects;

(c) no share issued by the company, and no right to participate in the distribution of the profits of the company is to be held beneficially otherwise than by—

(i) a director or employee of the company;

or

(ii) a relative of any such person;

(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;

(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 of a director or employee of the company shall, upon the dissolution or annulment of his marriage with that person, 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—

“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, parent, child, or grandchild.

Amendment of
principal Act,
s. 35—
Professional
misconduct.

13. Section 35 of the principal Act is amended by inserting after paragraph (d) the following paragraph:—

(e) If he contravenes any provision of a code of professional conduct prescribed by by-law of the board.

Amendment of
principal Act,
s. 40—
Appeals against
decisions of
board.

14. Section 40 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) A person agrieved 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.;

and

(b) by striking out from subsection (2) the passage “direction or refusal or failure to approve” and inserting in lieu thereof the passage “or direction”.

Amendment of
principal Act,
s. 42—
General
meetings of
architects.

15. Section 42 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “every registered architect” and inserting in lieu thereof the passage “every natural person registered as an architect”;

and

(b) by striking out from subsection (2) the passage “each registered architect” and inserting in lieu thereof the passage “each natural person registered as an architect”.

Amendment of
principal Act,
s. 43—
By-laws.

16. Section 43 of the principal Act is amended by striking out paragraph (e1) and inserting in lieu thereof the following paragraphs:—

(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.

17. Section 44 of the principal Act is amended by striking out from subsection (1) the passage “, not exceeding six dollars thirty cents,”.

Amendment of principal Act, s. 44—
Annual subscriptions.

18. The following sections are enacted and inserted in the principal Act immediately after section 45 thereof:—

Enactment of ss. 45a, 45b, 45c, 45d and 45e of principal Act—

45a. (1) Every company registered as an architect shall—

Returns by companies.

- (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.

Penalty: Five hundred dollars.

(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;

- (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;

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

Companies not to practise in partnership.

Penalty: Five hundred dollars.

45c. 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.

Criminal liability of directors.

Joint and
several
liability.

45d. 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.

Alteration to
memorandum
or articles of
association.

45e. 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.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor