

PAINTERS' REGISTRATION.

10° Elizabeth II., No. LXI.

No. 61 of 1961.

**AN ACT to provide for the registration of Painters
and for other purposes.**

[Assented to 28th November, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. This Act may be cited as the *Painters' Registration Act, 1961*, and shall come into operation on a day to be fixed by proclamation.

Interpreta-
tion.

2. In this Act unless inconsistent with the context or subject matter—

“the Board” means the Painters' Registration Board constituted under this Act;

“Association” means the Master Painters, Decorators and Signwriters' Association of Western Australia (Industrial Union of Employers), Perth;

“painting” means the application by any method recognised or adopted by the painting trade of paint, varnish or stain or any substance or preparation of a composition similar thereto or recognised by the said trade as a substitute therefor to the whole or any part of a building or other structure of a kind recognised by law as a fixture (but not being a floor, path or drive-way composed of concrete or other similar substance) and includes such processes or treatments as are commonly known to the said trade as graining, kalsomining, marbling, distemporing, gilding, colour-washing, staining, varnishing and plastic relieving, and also includes the hanging of wall-paper and any substitute therefor;

“painter” means any person, partnership or company or other body corporate who or which carries out painting;

“registered painter” means a painter registered under this Act;

“Minister” means the Minister for the time being charged with the administration of this Act;

“Registrar” means the person who for the time being holds the office of Registrar under this Act;

“Register” means the Register of Painters kept pursuant to this Act.

3. This Act applies only within the metropolitan area as defined in the Second Schedule of the Metropolitan Water Supply, Sewerage and Drainage Act, 1909-1960.

Areas under Act.

Prohibition
against un-
registered
painters
carrying on
business.

4. (1) From and after a period of six months after the commencement of this Act no painter shall carry out painting (otherwise than as a *bona fide* employee) where the charge, fee or reward paid or payable in respect of the undertaking exceeds fifty pounds unless he is a registered painter.

Penalty: For a first offence not exceeding ten pounds; for a second or subsequent offence not less than ten pounds or more than fifty pounds.

Penalty
splitting
contracts.

(2) Where—

- (a) a painter enters into a number of distinct contracts (whether in writing or orally) to carry out painting in respect of the same building or other structure or in respect of the same part or a number of different parts of the same building or other structure; and
- (b) the aggregate of the painting contracted to be done under such distinct contracts substantially is a single undertaking in respect of such building or structure or any part thereof; and
- (c) the aggregate of the charges, fees and rewards payable under such distinct contracts exceeds fifty pounds;

the painting contracted to be done under each distinct contract shall be deemed to be an undertaking in respect of which there is payable a charge, fee or reward exceeding fifty pounds notwithstanding that the actual charge, fee or reward paid or payable thereunder is less than fifty pounds.

Establish-
ment of
Painters'
Registration
Board.

5. For the purposes of this Act there shall be a Board (to be called the Painters' Registration Board) appointed by the Governor and constituted as provided in this Act.

Board to be
body corpor-
ate.

6. The Board shall be a body corporate incorporated by this Act and shall have perpetual succession and a common seal and be capable of suing and being sued.

7. (1) The Board shall consist of—

Constitution
of Board.

- (a) a Chairman who shall be the Chairman for the time being of the Builders' Registration Board of Western Australia;
- (b) Two members appointed by the Governor, one member nominated by the Association and who shall be a member of the Association, and one member nominated by the West Australian Chamber of Manufactures (Inc.) and who shall be a representative of the Australian Paint Manufacturers Federation (W.A. Branch).

(2) If within fourteen days after being requested in writing by the Minister so to do the said West Australian Chamber of Manufactures Incorporated or the Association shall fail to submit to the Minister for transmission to the Governor the name of the person which it recommends for appointment as a member of the Board pursuant to the provisions of paragraph (b) of subsection (1) of this section the Governor may appoint to be a member of the Board pursuant to the said paragraph any person eligible to be so recommended whom the Minister shall select.

Minister
may
recommend
in default of
recommen-
dation.

(3) The Governor may at any time remove any member of the Board who is absent without the permission of the Board from four consecutive meetings of the Board or who becomes bankrupt or compounds with his creditors or who is convicted of any indictable offence or who is insane, and any member of the Board may at any time by resignation in writing addressed to the Minister resign from his membership of the Board.

Removal of
Board
members.

(4) No person shall be appointed a member of the Board for a period of more than three years but, subject to this Act, any person appointed a member of the Board may upon the expiration of any period for which he was appointed be re-appointed a member for a further period of not exceeding three years.

Term of
appointment
of Board
members.

Casual
vacancies.

(5) On the occurrence of any casual vacancy in the Board the Governor may appoint some other person (to be recommended where applicable by the same body who had previously recommended the member whose place he is taking) to fill such vacancy and the person so appointed shall be a member only for the remainder of the term for which the member whose place he is taking was serving at the time when such vacancy occurred.

Remunera-
tion of
Board
members.

8. The members of the Board shall be paid out of the funds of the Board such remuneration for their services as shall from time to time be prescribed.

Appoint-
ment of
Officers.

9. (1) The Board shall appoint a Registrar who shall also be secretary to the Board who shall be the Registrar for the time being of the Builders' Registration Board of Western Australia and may also appoint such other officers and servants as it considers necessary to enable it to carry out its duties or functions.

(2) The remuneration of the Registrar and the other officers and servants of the Board shall be paid out of the funds of the Board.

(3) The remuneration of the Registrar shall be approved by the Minister.

Register of
Painters.

10. (1) The Board shall cause to be kept a Register of Painters and upon a painter becoming registered under this Act there shall be entered in the Register the name of such registered painter and such other particulars as may from time to time be prescribed or required by the Board.

Register to
be gazetted.

(2) The Board shall in the month of July next following the expiration of a period of twelve months from the commencement of this Act and thereafter in the month of July next following a direction by the Minister so to do cause a copy of the Register

complete and correct to the thirty-first day of December then last past to be published in the *Government Gazette*.

(3) In each month of July in which a copy of the Register is not required to be published pursuant to the provisions of subsection (2) of this section the Board shall publish in the *Government Gazette* a supplementary list wherein shall be indicated all alterations or additions to and removals from the Register during the twelve months ended on the thirty-first day of December then last past.

Supplement-
ary Lists.

(4) Every supplementary list when published shall be deemed to be part of the last published copy of the Register and such published copy shall be read and construed subject to each supplementary list subsequently published.

Published
copies to be
read
together.

(5) Each published copy of the Register and each supplementary list published as aforesaid shall be *prima facie* evidence of the facts therein contained and the absence of the name of any person from a published copy or a supplementary list shall be *prima facie* evidence that such person was not a registered painter at the date to which such published copy or supplementary list purports to be compiled.

Evidence.

(6) A certificate signed by the Registrar that any person is or is not or on any particular date was or was not a registered painter shall be *prima facie* evidence of the facts therein contained.

Certificate.

11. A painter desiring to be registered under this Act may make application therefor in the prescribed manner.

Application
for regis-
tration.

12. A painter (not being a partnership, company or other body corporate) who applies to be registered under this Act is entitled to be so registered if and when he pays the prescribed fees

Who may
register.

for such registration and satisfies the Board that he has attained the age of twenty-one years and is of good character and that he—

- (1) has completed the prescribed course of training and has passed the prescribed examination as laid down by the Board for persons other than apprentices who have had five years' practical experience in the painting trade, or as laid down by the Court of Arbitration for apprentices to the painting trade; or
- (2) was at the date of the commencement of this Act engaged in the occupation of a painter or as a supervisor of painting as the whole or a part of his means of livelihood; or
- (3) is a member of an association of painters recognised by the Master Painters' Association of Australia; or
- (4) has in some place other than Western Australia attained a degree of proficiency as a painter which the Board considers is comparable with that ordinarily attained by persons who have completed the course of training passed the examinations and worked as mentioned in subparagraph (1) of this section.

13. (1) The course of training to be undertaken by and the examination of persons desiring to be registered under this Act shall be prescribed by the Board, who shall conduct or supervise the conduct of such examinations at such times and places as the Board may appoint.

(2) All costs and expenses with or incidental to the conduct of such examinations shall be paid by the Board.

(3) There shall be paid to the Board by every candidate for examination such fee as the Board, with the approval of the Governor, prescribes but not exceeding three pounds three shillings.

14. A partnership, company or other body corporate which applies to be registered under this Act is entitled to be so registered if and when it pays the fees prescribed for such registration and satisfies the Board that there is already registered under this Act at least one partner of the partnership, or one director of the company, or one member of the board of management of the body corporate or a person employed by the partnership, company or body corporate whose duty or part of whose duty it is to manage or supervise painting carried out by such partnership, company or body corporate.

When corporation may register.

15. A painter whose application for registration under this Act is refused may apply to the Board for its reasons in writing for such refusal and the Board shall forthwith furnish the same to such painter without charge.

Board to supply reasons for refusal to register.

16. (1) Where a complaint is made to the Board that—

Complaints.

- (a) the registration of a registered painter was obtained by fraud or misrepresentation; or
- (b) a registered painter has been guilty of negligence or incompetence in carrying out painting; or
- (c) a registered painter has been guilty of fraudulent conduct in the carrying out of painting; or
- (d) a registered painter, being a partnership, company or other body corporate, has ceased to have registered under this Act, at least one partner of the partnership, or one director of the company, or one member of the board of management of the body corporate or a person employed by

the partnership, company or body corporate whose duty or part of whose duty it is to manage or supervise painting carried out by such partnership, company or other body corporate—

the Board shall hold a full enquiry into such complaint.

Penalties.

(2) Where the Board finds the complaint proved to its satisfaction it may—

- (a) cancel the registration under this Act of the registered painter against whom the complaint is laid; or
- (b) suspend the registration of such registered painter for such period and upon and subject to such conditions as it thinks fit.

Board may order rectifications of faulty painting.

(3) Where the complaint is made on either of the grounds mentioned in paragraphs (b) or (c) of subsection (1) of this section and the Board finds the same proved it may in addition to imposing any of the penalties mentioned in subsection (2) of this section by direction in writing order the registered painter against whom such complaint is made to rectify within such time as it shall fix and to its satisfaction any painting the subject of such complaint which it considers to be faulty or inferior, and if default shall be made in carrying out any such direction within the time so fixed the Board may procure such faulty or inferior painting to be so rectified and all costs, charges and expenses incurred by it in so doing shall be payable by the registered painter in default upon demand and in default of such payment the same shall be recoverable by the Board in such manner as it may think fit.

Notice of complaint to be given

(4) Before holding the enquiry mentioned in subsection (1) of this section the Board shall give to the registered painter against whom the complaint is laid notice in writing containing a copy of the complaint so laid and stating the date, time and place fixed for the holding of the enquiry.

(5) At the enquiry the Board shall afford the registered painter against whom the complaint is laid a reasonable opportunity of giving either personally or in writing such explanation in respect of such complaint as he may desire to give.

Opportunity
to answer
complaint.

17. (1) The Board may on its own motion cancel or suspend the registration of a registered painter for such period and upon and subject to such conditions as it thinks fit.

Cancellation
and
suspension
of registration.

(2) The Board may at any time re-register any painter whose registration it has cancelled or annul any suspension of the registration imposed by it for such reason and upon and subject to such terms as it thinks fit.

(3) A registered painter whose registration has been cancelled or suspended may at any time after the expiration of three months from the date of such cancellation or suspension apply to the Board to re-register him or to annul such suspension.

(4) A registered painter whose registration has been cancelled or suspended shall within fourteen days after being notified of such cancellation or suspension surrender to the Board his current certificate of registration and if he shall fail so to do he shall be liable to a penalty not exceeding twenty pounds.

18. Any person who feels aggrieved by any decision of the Board may within one month after such decision appeal therefrom in manner prescribed to a Local Court held nearest to the place where that person resides.

Appeal from
decision
of Board.

19. In legal proceedings a signature which purports to be the signature of any person who is or has been the Chairman or a member of the Board or the Registrar and which is attached to a certificate of registration or other document issued under this Act shall in the absence of proof to the contrary be deemed to be the signature of the person whose signature it purports to be.

Signature
of Chairman
and
Registrar.

Proceedings
under this
Act.

20. Proceedings under this Act may be taken by the Registrar or by any other person authorised by the Board either generally or in any particular case.

Fees payable
on registra-
tion and
annual fee.

21. (1) Upon the lodging of his application for registration under this Act every applicant therefor shall pay to the Board a fee of two pounds two shillings.

(2) Upon the acceptance of his application for registration a registered painter shall further pay to the Board as and by way of a registration fee for the period commencing on the date of his becoming registered under this Act and expiring on the thirty-first day of January next following a sum which bears to the prescribed fee the same proportion as the said period bears to one year.

(3) On the first day of February each year during the continuance of his registration under this Act a registered painter shall pay to the Board an annual registration fee of an amount approved by the Minister, but not exceeding seven pounds seven shillings.

(4) The Board may suspend or cancel the registration of a registered painter who makes default in paying any fees payable by him under this section.

Funds of
Board.

22. (1) All fees and penalties payable under this Act shall be paid to the Board and be recoverable by it by any such means as it may legally employ.

(2) The funds of the Board shall consist of—

- (a) all fees and penalties payable under this Act; and
- (b) all fees and penalties payable under any rules of the Board or prescribed by regulations under this Act; and
- (c) any other moneys which may come into the hands of the Board under or for the purposes of this Act.

(3) The funds of the Board may be applied by the Board—

- (a) in or towards payment of the remuneration of the members of the Board and all other expenses of or incidental to the carrying out of the provisions of this Act; and
- (b) for such other purposes as the Board with the approval of the Minister may from time to time determine.

23. (1) The Board shall as soon as practical after the thirty-first day of December in each year and not later than the last day of February in the following year prepare a financial statement compiled to the said thirty-first day of December showing the assets and liabilities and the receipts and expenditure of the Board during the preceding period of twelve months. Such financial statement shall be audited by a qualified auditor appointed by the Board with the approval of the Minister.

Financial statement audit and annual report.

(2) The Board shall on or before the thirty-first day of March in each year—

- (a) submit to the Minister a duly audited copy of the statement mentioned in subsection (1) of this section compiled to the thirty-first day of December in the previous year; and
- (b) present to the Minister a report of its proceedings up to the said thirty-first day of December.

24. The Board with the approval of the Governor may make rules for or in respect to—

Power to make regulations.

- (1) the time for and the mode of nominating members of the Board;
- (2) the regulating of its meetings and proceedings;
- (3) the method of application for representation under this Act;

- (4) the issue, suspension and cancellation of certificates of registration;
- (5) the particulars to be entered in the Register;
- (6) the particulars required to be given in any notice given under this Act;
- (7) any forms to be used under this Act;
- (8) any matters authorised by this Act to be prescribed;
- (9) generally any matters or things necessary or convenient to be prescribed for the due and proper carrying out of the provisions of the Act.

No traffick-
ing in regis-
trations.

25. Every registration granted under this Act shall be personal to the painter to whom it is granted and the benefit thereof shall not be transferred or assigned whether for consideration or gratuitously.

Offences.

26. Any person who contravenes any provision of this Act or any regulation made hereunder or fails to carry out any rule made by or any direction given by the Board shall be guilty of an offence against this Act and upon summary conviction shall be liable to a penalty not exceeding twenty pounds or such other sum as is herein provided in respect of any particular breach of this Act.

Act not to
affect Union
coverage.

27. Nothing in this Act contained shall be construed to grant to the Union any greater coverage in respect of persons entitled to be members of the Union than that to which it would at any time be entitled had this Act not been passed.
