

ARCHITECTS.

5° Elizabeth II., No. XLV.

No. 45 of 1956.

AN ACT to amend the Architects Act, 1921.*[Assented to 18th December, 1956.]*

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. (1) This Act may be cited as the *Architects Act Amendment Act, 1956*.

(2) In this Act the Architects Act, 1921,

Act No. 13 of 1922 as amended by Act No. 43 of 1923,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Architects Act, 1921-1956.

2. Section fourteen of the principal Act is amended by adding after the word, "architect" in line four of paragraph (e), the following passage—

S. 14
amended.

; or

- (f) that he is a member of the Royal Australian Institute of Architects.

3. Section sixteen of the principal Act is amended—

S. 16
amended.

- (a) by adding after the word, "Court" in line four of subsection (1), the passage, "until the coming into operation of the Architects Act Amendment Act, 1956, and thereafter, in the manner prescribed, and on payment of the prescribed fees, to the Magistrate of the Local Court at Perth";

- (b) by adding after the word, "Court" in line one of subsection (2), the passage, ", or Magistrate, as the case may be,"; and

- (c) by adding the following subsection:—

(3) The Supreme Court or Magistrate, as the case may be, may make such order as to costs of and incidental to the application as the Court or Magistrate thinks just.

4. Section twenty of the principal Act is amended—

S. 20
amended.

- (a) by adding after the section designation, "20", the subsection designation, "(1)"; and

- (b) by adding the following subsection:—

(2) The provisions of this section are subject to those of section twenty-two A of this Act.

S. 21
amended.

5. Section twenty-one of the principal Act is amended by adding the following subsection:—

(8) The provisions of this section are subject to those of section twenty-two A of this Act.

S. 22
amended.

6. Section twenty-two of the principal Act is amended by adding after the word, "Court" in line four of subsection (1), the passage, ", or of the Board or the Magistrate under section twenty-two A of this Act,".

S. 22A
added.

7. The principal Act is amended by adding after section twenty-two the following section:—

22A. (1) In this section

"misconduct" means

- (a) the doing, whether before or after the coming into operation of the Architects Act Amendment Act, 1956, by a person registered under this Act as an architect, of any of the things mentioned in paragraphs (a) to (e) both inclusive of subsection (1) of section twenty-one of this Act; and
- (b) the doing, after the coming into operation of that Amendment Act, by a person so registered, of any of the following things:—
 - (i) Receiving, or accepting any promise of any direct or indirect reward for his services as an architect, in connection with any architectural work, other than his professional remuneration.

- (ii) Accepting any architectural work, on condition or promise, that he shall give or receive, or because he has given or received, any discount, gift, or commission, directly or indirectly to or from contractors or tradesmen, whether employed or engaged in connection with the work or not.

- (iii) Failing to disclose to any person who engages his professional services as an architect in connection with any architectural work that he has a direct or an indirect pecuniary interest in any building material, device, invention or patented matter, if he proposes that it be used or applied in or in connection with, the work; or using it or causing it to be used in, or in connection with, the work, without the written approval of the person; except in either case where he has that interest as, and in common with, the other members of a limited liability company of not less than fifty-one members.

- (iv) Advertising, by any means, that he offers his services as an architect or that his services as such are available, unless the Board approves the advertising,

whether in a particular case by written approval issued by the Board, or generally by by-law made under this Act.

- (v) If he is registered because of qualification conferred on him by any institution or other body, and that qualification has been withdrawn or cancelled by that institution or body, failing as soon as practicable after the withdrawal or cancellation of that qualification to apply to the Board for removal of his name from the register and for cancellation of his registration.
- (vi) Obtaining registration by fraud or misrepresentation.
- (vii) Committing, whether in the State or elsewhere, and being convicted of, an offence of so serious a nature, that he should not, in the opinion of the Board, be permitted to continue to have his name on the register.
- (viii) Being guilty of negligence or incompetence in the performance of any contract, or of fraudulent conduct in regard to carrying out his duties, as an architect.

(2) On the coming into operation of the Architects Act Amendment Act, 1956, the provisions of this section apply in respect of misconduct and the jurisdiction conferred on the Supreme Court by sections sixteen, twenty, twenty-one, and thirty-one, of this Act ceases, except where and to the extent that proceedings under those sections have been commenced before, and are pending on, the coming into operation of that Act, in which case the proceedings may be finalised and given effect under the provisions of this Act as in operation when the proceedings commenced.

(3) Where it appears to the Board that a registered person is guilty of misconduct, the Board may, subject to the by-laws, inquire into the misconduct,

- (a) by notifying the person in writing of the misconduct alleged;
- (b) by appointing a time and place for the holding of the inquiry;
- (c) by permitting the person the right to call such evidence and make such representations as he thinks fit and as are relevant to the inquiry, and to representation by counsel;
- (d) notifying the person of the time and place, and of those rights, and opening the inquiry on the appointed day; and
- (e) proceeding with the hearing of the inquiry at the appointed place.

(4) For the purpose of conducting an inquiry under this section, the Board has and may exercise, without prejudice to the provisions of section ten of this Act, the powers conferred upon Justices of the Peace under the Justices Act, 1902, in all respects as if the matter of inquiry were a matter which may be heard and determined by Justices under that Act.

(5) If as the result of the inquiry the Board is of opinion that the person is guilty of the misconduct alleged, the Board may by written order direct,

- (a) that the registration of the person be suspended for such period as the Board thinks fit and specifies in the order; or
- (b) that the person's name be removed from the register and his registration be cancelled; and
- (c) in either case that he pay to the Board costs of and incidental to the inquiry, to be fixed by the Board, or at the election of the person and on payment of the appropriate fees prescribed in relation to taxation of costs in Local Court proceedings, to be determined by taxation by the appropriate officer of the Local Court at Perth on the highest scale of costs prescribed for proceedings in the Local Court.

(6) If as a result of the inquiry the Board decides that the person is not guilty of the misconduct alleged, the Board

- (a) shall order that the decision be recorded in the Board's minutes; and
- (b) may order that the costs of and incidental to inquiry be paid by the Board, as fixed by the Board, or at the election of the person and on payment of the appropriate fees prescribed in relation to taxation of costs in Local Court proceedings, to be determined by taxation by the appropriate officer of the Local Court at Perth on the highest scale of costs prescribed for proceedings in the Local Court.

(7) A decision or order of the Board made under this section

- (a) shall be promulgated in writing sealed with the common seal of the Board;
- (b) shall be kept by the registrar of the Board in his custody, until the Minister, as he is hereby empowered to do, authorises its destruction;
- (c) shall be available at reasonable times for perusal, and to be copied, by any person;
- (d) shall, subject to appeal mentioned in subsection (8) of this section—
 - (i) have effect according to its tenor;
and
 - (ii) be judicially noticed by all Courts and persons exercising judicial authority.

(8) (a) A person dissatisfied with an order or decision made under this section by the Board, including an award or refusal to award costs, may within one month of the promulgation of the order or decision appeal against it, in manner prescribed and on payment of the prescribed fees, to the Magistrate of the Local Court at Perth who may determine the appeal either on the record of the inquiry by the Board, or on hearing evidence and submissions anew, or partly on each, as he thinks fit, and who may confirm, vary, or reverse the order or decision; and may make such order as to the costs of and incidental to the appeal as he considers just.

(b) The decision of the Magistrate has effect according to its tenor, is final, and is not subject to any appeal.

cf. s. 31.

(9) Where costs are awarded, whether by the Supreme Court, the Magistrate, or the Board, the amount of the costs, if unpaid, is recoverable in a court of competent jurisdiction at the suit of the person to whom the costs are awarded, as a debt due from the person or body against whom they are awarded.

s. 29
amended.

8. Section twenty-nine of the principal Act is amended—

- (a) by substituting for the words, “either alone or in conjunction with” in lines four and five of subsection (1), the words, “or shall use”;
- (b) by adding after the word, “is” in line six, the passage, “, or by words or conduct shall hold himself out as, or imply that he is,”;
and
- (c) by adding the following subsection:—

(3) Where the registration of a person is suspended under this Act, he shall be deemed not to be registered during the period of the suspension.
