

Western Australia

Architects Act 1921

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Western Australia

Architects Act 1921

An Act to make provision for the registration of architects.

Part 1 — Preliminary

[Heading inserted by No. 55 of 2004 s. 33.]

1. Short title

This Act may be cited as the *Architects Act 1921*.¹

2. Interpretation

(1) In this Act, subject to the context —

“articles of association”, in relation to a foreign corporation, includes by-laws, regulations or other instrument regulating the internal administration of the foreign corporation;

“Board” means The Architects’ Board of Western Australia constituted under this Act;

“by-law” means a by-law made under the authority of this Act;

“corporation” means any body corporate, whether formed or incorporated in or outside the State, and includes a company, a foreign company or a registrable Australian body within the meaning of the *Corporations Act 2001* of the Commonwealth;

“firm” means an unincorporated body of persons (whether consisting of natural persons or of corporations or partly of natural persons and partly of corporations);

“foreign corporation” means —

- (a) a corporation which is not incorporated, or taken to be registered, in the State; or
- (b) a corporation which is incorporated, or taken to be registered, in the State but which is a subsidiary, within the meaning of the *Corporations Act 2001* of the Commonwealth, of a corporation referred to in paragraph (a);

“memorandum”, in relation to a foreign corporation, includes charter, statute or other instrument constituting or defining the constitution of the foreign corporation;

“practising corporation” means a corporation which is registered as an architect under this Act;

“practising firm” means a firm which is registered as an architect under this Act;

“register” means the Register of Architects kept under this Act;

“registered” means registered under this Act;

“registered architect” means a natural person who is registered as an architect under this Act.

- (2) The provisions of this Act apply, with such adaptations as may be necessary, to a practising corporation and to a practising firm, notwithstanding that they are not expressly so applied otherwise than by virtue of this subsection.
- (3) Nothing in this Act shall be construed as prohibiting the distribution by way of salary, commission, director’s fees, dividends or otherwise of the profits of a practising corporation or practising firm to the members of that corporation or firm.

[Section 2 amended by No. 76 of 1969, s.3; No. 39 of 1978, s.3; No. 67 of 1981, s.2; No. 10 of 1982, s.28; No. 10 of 2001 s.7; No. 55 of 2004 s. 34.]

[3-4. Repealed by No. 76 of 1969 s.4.]

Part 2 — The Architects' Board of Western Australia

[Heading inserted by No. 55 of 2004 s. 35.]

5. The Architects' Board

- (1) A Board to be called "The Architects' Board of Western Australia" shall be established, and such Board shall be a body corporate with perpetual succession and may have and use a common seal.
- (2) The Board shall consist of 10 members, 3 to be appointed from time to time by the Governor, one to be nominated by the Western Australian Chapter of the Royal Australian Institute of Architects and 6 to be elected from time to time by the registered architects from among their number in accordance with the by-laws, and until by-laws are made, in the manner prescribed in the First Schedule.
- [(3) repealed.]*
- (3a) The member nominated by the Western Australian Chapter of the Royal Australian Institute of Architects shall hold office for a period of 12 months.
- (4) One of the appointed members and 2 of the elected members shall retire annually, on a date to be fixed by the by-laws, but shall be eligible for reappointment or re-election.
- (5) If any member of the Board —
 - (a) dies, resigns, or ceases to reside in the State; or
 - (b) absents himself from 3 consecutive meetings of the Board without leave obtained from the Board in that behalf; or
 - (c) ceases to be registered under this Act or is suspended from practising as an architect,his seat shall become vacant.
- (6) The rules set out in the Second Schedule shall apply to the business and proceedings of the Board, but may be revoked or altered wholly or in part by the by-laws.

[Section 5 amended by No. 76 of 1969 s.5.]

5A. Eligibility of members

Notwithstanding the registration of practising corporations and of practising firms as architects pursuant to this Act, no practising corporation or practising firm is eligible to become a member of the Board and the Board shall be comprised of natural persons only.

[Section 5A inserted by No. 39 of 1978 s.4.]

6. Registrar and officers of the Board

- (1) The Board shall appoint a registrar, and may appoint such other officers as may be deemed necessary for the purposes of this Act.
- (2) The registrar and officers shall act under the control of the Board.

7. Board may hold land

It shall be lawful for the Board to acquire and hold land for offices or chambers for the use of the Board, or for any of the purposes of the Board.

8. Borrowing powers of Board

The Board may borrow money to be expended in the purchase of such land as is mentioned in the last preceding section, or in erecting offices or buildings for the use of the Board.

9. Powers of Board with respect to property

The Board may sell, lease, exchange, or mortgage any real or personal property vested in it.

[10. Repealed by No. 55 of 2004 s. 36.]

s. 11

11. Proceedings of Board not invalidated by vacancy, etc.

- (1) No act or proceeding of the Board shall be invalid or illegal in consequence only of the number of the members of the Board not being complete at the time of such act or proceeding.
- (2) Subject to the provisions of section 5A, all acts and proceedings of the Board shall, notwithstanding the subsequent discovery of any defect in the appointment or election of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if such member had been duly appointed or elected and was qualified and entitled to act, and as if the Board had been properly and fully constituted.

[Section 11 amended by No. 39 of 1978 s.5.]

11A. Exemption from personal liability

A person who is or has been a member of the Board is not personally liable for anything done, or omitted to be done, in good faith in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on him or the Board by this Act.

[Section 11A inserted by No. 76 of 1969 s.6.]

Part 3 — Registration

[Heading inserted by No. 55 of 2004 s. 37.]

12. The register

- (1) The Board shall keep a register for the registration in the prescribed manner of natural persons, practising corporations and practising firms as architects under this Act.
- (2) The register shall be called “The Register of Architects,” and shall be kept by the registrar.
- (3) The register shall contain the name and such other particulars as may be prescribed of —
 - (a) every natural person who has applied to the Board for registration and has satisfied the Board that he possesses the qualifications, experience and knowledge required under this Act;
 - (b) every practising corporation and every practising firm which has applied to the Board for registration and has satisfied the Board that it complies with the requirements of this Act; and
 - (c) every natural person, practising corporation, or practising firm registered pursuant to an order of the State Administrative Tribunal made upon an application under section 16.

[Section 12 amended by No. 76 of 1969 s.7; No. 39 of 1978 s.6; No. 55 of 2004 s. 38.]

[13. Repealed by No. 76 of 1969 s.8.]

14. Registration by the Board

- (1) No natural person shall, except as hereinafter provided, be registered as an architect unless he applies for registration to the Architects’ Board of Western Australia, and proves to the satisfaction of the Board that he has attained the age of 21 years and is a person of good character and reputation; and

s. 14A

(a) has completed a course of studies in architectural subjects approved by the Board at a college, school or other educational institution approved by the Board; or

[(b) deleted.]

(c) is a member of a prescribed institute or is registered as an architect by a prescribed body or authority,

and satisfies the Board, by examination or otherwise, as the Board thinks necessary in any particular case, that he possesses sufficient knowledge of matters concerning the practice of architecture.

(2) No corporation or firm shall be registered as an architect unless an application is made on behalf of that corporation or firm to the Architects' Board of Western Australia for registration and the Board is satisfied that the corporation or firm complies with the requirements of this Act.

(3) In considering any application for registration the Board may —

(a) have regard to any advice that may be received from the Architects Accreditation Council of Australia or such other body as the Board thinks fit in relation to any applicant who possesses qualifications obtained otherwise than in the State;

(b) pay such fees or disbursements as it thinks fit in the obtaining of that advice; and

(c) require that the applicant pay or contribute towards the whole or any part of those fees or disbursements.

[Section 14 amended by No. 43 of 1923 s.2; No. 45 of 1956 s.2; No. 29 of 1960 s.2; No. 76 of 1969 s.9; No. 39 of 1978 s.7; No. 25 of 1986 s.4.]

14A. Practising corporations

(1) A corporation that wishes to be, or to continue to be, registered as an architect pursuant to section 14(2) shall not be eligible to do so unless —

(a) it has a place of business or is carrying on business within the State and the Board is satisfied that the

- principal executive officer of the corporation in the State is a registered architect;
- (b) its memorandum is acceptable to the Board and contains a provision that the Board be notified of any intention to amend that memorandum and be furnished with a copy of any proposed resolution or other form of proposal to give effect to that intention;
- (c) its articles of association are acceptable to the Board and contain a provision that —
- (i) the Board be notified of any intention to amend those articles of association and be furnished with a copy of any proposed resolution or other form of proposal to give effect to that intention; and
 - (ii) a body corporate shall not be eligible to be a director of the corporation;
- (d) if 2 or more directors of the corporation are registered architects, the articles of association of the corporation contain a provision that —
- (i) all issued shares carrying the right to vote at general meetings of the corporation are to be held by the directors of the corporation;
 - (ii) three-fifths of the total voting rights conferred by the issued shares referred to in subparagraph (i) are to be held by registered architects;
 - (iii) not less than three-fifths of the total number of directors of the corporation are to be registered architects;
 - (iv) a meeting of the directors of the corporation is not properly constituted unless not less than three-fifths of those directors present at that meeting are registered architects; and
 - (v) every director who is not a registered architect is to be acceptable to the Board;

s. 14A

- (e) if only one director of the corporation is a registered architect, the articles of association of the corporation contain a provision that —
 - (i) all issued shares carrying the right to vote at general meetings of the corporation are to be held by that director;
 - (ii) the number of directors of the corporation is to be 2;
 - (iii) that director is to have the casting vote whenever the directors of the corporation cannot agree on a proposed resolution; and
 - (iv) a meeting of the directors of the corporation is not properly constituted unless the director who is a registered architect is present at that meeting;
 - (f) its articles of association prohibit the allotment or transfer of issued shares in the corporation which do not carry the right to vote at general meetings of the corporation to, or their acquisition by, any person who, by reason of a relationship of any kind whatsoever between him and a director of the corporation or the business activities in which that person is for the time being engaged or otherwise interested, is able to affect or diminish or likely to affect or diminish the independence of judgment, management or decision of the directors of the corporation in the conduct of the practice of architecture;
 - (g) every director, other than a director who is a registered architect, is acceptable to the Board; and
 - (h) all shares not held by a director who is a registered architect are held by a person who is acceptable to the Board.
- (2) The Board may require that, if —
- (a) the beneficial interest in any share in; or
 - (b) any beneficial interest (whether expectant or in possession) in the income of,

a practising corporation is owned by or devolves on a person who the Board determines to be ineligible to hold that interest, that interest shall be terminated within such reasonable period as the Board specifies, and that ownership or devolution shall not of itself render the practising corporation ineligible for the purposes of this section until the expiry of the period so specified.

- (3) A corporation which has executed or intends to execute a deed of trust, which execution may result in a person other than a registered architect or a practising corporation receiving or being entitled to receive a share of the income of that corporation, is not eligible to be or to continue to be a practising corporation unless the deed of trust, and all beneficiaries or classes of beneficiaries thereunder, are acceptable to the Board.

[Section 14A inserted by No. 39 of 1978 s.8; amended by No. 67 of 1981 s.3.]

14B. Suspension or cancellation of the registration of a practising corporation

- (1) There is proper cause for disciplinary action in respect of a practising corporation if —
- (a) the memorandum or articles of association of a practising corporation has or have been amended in a manner unacceptable to the Board, or without prior notice to the Board;
 - (b) any director, member or shareholding or beneficial holding of shares ceases to comply with the requirements of section 14A;
 - (c) any requirement —
 - (i) of this Act as to the lodging of an Annual Statement or other information; or
 - (ii) made by the Board under section 14A, has not been complied with; or

s. 14C

- (d) a practising corporation has contravened or failed to comply with any condition upon which registration was granted by the Board.

[(2), (3) repealed]

[Section 14B inserted by No. 39 of 1978 s.9; amended by No. 67 of 1981 s.4; No. 55 of 2004 s. 39.]

14C. Practising firms

- (1) A firm that wishes to be, or to continue to be, registered as an architect pursuant to section 14(2) shall not be eligible to do so unless —
 - (a) it has a place of business or is carrying on business within the State and the Board is satisfied that the managing partner is a registered architect;
 - (b) it carries on business within the State under a name registered under the *Business Names Act 1962*, and not otherwise;
 - (c) it is a partnership, other than a limited partnership, constituted pursuant to a deed of partnership which is acceptable to the Board and contains a provision that no amendment thereto shall be made or have effect in the State without the prior approval of the Board;
 - (d) not less than three-fifths of the members of the firm are registered architects of whom one has the actual personal supervision and management of the business of the firm in the State;
 - (e) every member of the firm, other than such as are registered architects, is —
 - (i) an engineer, surveyor or member of an allied profession having qualifications approved by the Board; or
 - (ii) a person who complies with such other requirements as the Board may from time to time determine;

and

- (f) where the partnership includes a corporation amongst its members, that corporation is eligible to be registered as an architect under this Act.

[Section 14C inserted by No. 39 of 1978 s.10; amended by No. 67 of 1981 s.5.]

14D. Suspension or cancellation of the registration of a practising firm

- (1) There is proper cause for disciplinary action in respect of a practising firm if —
 - (a) the deed of partnership of a practising firm has been amended without the prior approval of the Board;
 - (b) the provisions of section 14C have not been complied with or have ceased to be complied with in relation to any practising firm;
 - (c) any requirement of this Act as to the lodging of an Annual Statement or other information has not been complied with; or
 - (d) a practising firm has contravened or failed to comply with any condition upon which registration was granted by the Board.

[(2), (3) repealed]

[Section 14D inserted by No. 39 of 1978 s.11; amended by No. 55 of 2004 s. 40.]

15. Application for registration

- (1) Every application for registration as an architect under this Act shall be made in the prescribed form, and shall be addressed to the chairman of the Architects' Board of Western Australia, and the statements made therein shall be verified by a statutory declaration made —
 - (a) by the applicant, being a natural person;

s. 15

- (b) by a person who is registered as an architect under this Act and who is a director of that corporation, where the application is for the registration of a corporation as a practising corporation; or
 - (c) by a person who is registered as an architect under this Act and who is a member of that firm, where the application is for the registration of a partnership as a practising firm.
- (1a) Where a corporation or firm is desirous of obtaining registration as an architect a preliminary application may be made to the Board in the prescribed manner for the directions of the Board as to whether or not, in the opinion of the Board, that corporation or firm is capable of complying with the requirements of this Act and, if not so capable, the matters which require amendment.
- (2) The Board may require the attendance before it of the person applying to be registered, or of any other person.
- (3) If not satisfied that the applicant is entitled to be registered, the Board may refuse the application or adjourn the same for further consideration.
- (4) Every application under subsection (1) shall be accompanied by such registration fee as may be prescribed, which shall be returned to the applicant if the application is refused.
- (5) In considering any preliminary application under subsection (1a) the Board may pay such fees and disbursements as it thinks fit in dealing with the preliminary application and, subject to subsection (6), may require that the person making the preliminary application pay or contribute towards the whole or any part of those fees or disbursements.
- (6) The Board shall not require a payment or contribution under subsection (5) from a person in respect of a preliminary application made before the coming into operation of the *Architects Amendment Act 1986* but any amount paid by that person as a fee in respect of the making of that application shall be taken to have been properly received by the Board.

[Section 15 amended by No. 29 of 1960 s.3; No. 76 of 1969 s.10; No. 39 of 1978 s.12; No. 25 of 1986 s.5.]

16. Application for review

(1) Any person aggrieved by a reviewable decision of the Board, may apply to the State Administrative Tribunal for a review of the decision.

(2) In subsection (1) —

“person aggrieved” means a person —

(a) whose registration is affected by a reviewable decision; or

(b) who applies for registration;

“reviewable decision” means a decision under this Part other than a decision to make an allegation to the State Administrative Tribunal.

[Section 16 inserted by No. 55 of 2004 s. 41.]

17. Certificate of registration

When any registration is effected, the registrar shall deliver to the applicant a certificate of registration in the prescribed form.

[Section 17 amended by No. 39 of 1978 s.14.]

18. Subscription fees

(1) Every registered architect, practising corporation and practising firm shall pay, on or before 31 March in every year, an annual subscription to the funds of the Board of such amount as is prescribed by the by-laws, and the amount of such subscription shall be recoverable by the Board by action in any court of competent jurisdiction:

Provided that any registered architect who has ceased to practise may, with the approval of the Board, remain on the register without liability to pay such subscription, but shall not be

s. 19

qualified to be a member of the Board or be allowed to vote at any meeting of registered architects held under this Act.

- (2) The Board may remove from the register the name of any registered architect who, or any practising corporation or practising firm which, has failed to pay the annual subscription fee payable within the time required by subsection (1); and on notice of such removal under the hand of the secretary being served on that registered architect, practising corporation or practising firm, as the case requires, the registration shall be deemed to have ceased.
- (3) Where the name of a registered architect, practising corporation or practising firm is so removed from the register the registered architect, practising corporation or practising firm may, at any time after the date when notice thereof was served, pay to the Board all fees which are in arrear, or which would be in arrear if the name had continued to be registered, and shall thereupon be entitled to have the name restored to the register.
- (4) Any registered architect, practising corporation or practising firm to whom subsections (2) and (3) may apply may make representations to the Board with the object of obtaining remission of fees in arrear, and the Board may, if it should think fit, remit such fees in whole or in part.

[Section 18 amended by No. 29 of 1960 s.4; No. 76 of 1969 s.12; No. 39 of 1978 s.15; No. 67 of 1981 s.6.]

19. Register may be altered to insert new or additional qualifications

Every registered architect who obtains any degree or qualification other than that in respect of which he is registered shall be entitled, on payment of a fee of \$1, to have such other degree or qualification inserted in the register, in substitution for or in addition to the qualification therein stated.

[Section 19 amended by No. 113 of 1965 s.8(1).]

19A. Notices and statements required of practising corporation

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

- (2) The Annual Statement shall state —
 - (a) the full name and usual residential address of every person who on 30 June preceding the lodging of the Annual Statement was a director or member of the corporation;
 - (aa) the full name and usual residential address of every person who on 30 June preceding the lodging of the Annual Statement held a beneficial interest (whether expectant or in possession) in the income of the corporation, and any relationship of any kind whatsoever between that person and any director of the corporation;
 - (b) the number of shares in the corporation held by each person and the number of votes which he is entitled to cast at a meeting of directors or members of the corporation;
 - (c) in relation to each director and each member, whether he is a registered architect;
 - (d) where the provisions of section 22C apply, the name of the insurers by whom the foreign corporation is insured under a policy of professional indemnity insurance and the limit, if any, on the amount for which the insurer is liable; and
 - (e) any other matters, necessary or convenient for the administration of this Act, which are indicated in the form.

s. 19B

[Section 19A inserted by No. 39 of 1978 s.16; amended by No. 67 of 1981 s.7.]

19B. Notices and statements required of practising firm

- (1) Every practising firm shall —
 - (a) within one month after any person becomes or ceases to be a member of the firm, or becomes or ceases to be a director or member of a corporation included amongst the members of the partnership, lodge with the registrar a notice stating the full names and usual residential address of that person and the fact that he has become or ceased to be a member of that firm or a director or member of that corporation, as the case may require; and
 - (b) in the month of July in each year lodge with the registrar an Annual Statement in the prescribed form.
- (2) The Annual Statement shall state —
 - (a) the full name and usual residential address of every person who on 30 June preceding the lodging of the return was a member of the firm;
 - (b) in relation to each member, whether he is a registered architect;
 - (c) where the partnership includes a foreign corporation amongst its members the like information relating to professional indemnity insurance as required in relation to such a corporation pursuant to section 19A(2); and
 - (d) any other matters necessary or convenient to the administration of the Act, which are indicated in the form.

[Section 19B inserted by No. 39 of 1978 s.17; amended by No. 67 of 1981 s.8.]

[20-21. Repealed by No. 76 of 1969 s.13.]

22. Correction of register

- (1) The Board shall from time to time erase from the register the names of all registered persons who have died, all practising corporations deregistered under the *Corporations Act 2001* of the Commonwealth, or dissolved, and all names ordered to be removed from the register by the Board or the State Administrative Tribunal under section 22A and shall make such alterations and amendments in the register as may be necessary for the purpose of making the same an accurate record of the names, addresses, and qualifications of all architects for the time being registered.
- (2) All such corrections of the register shall be recorded in the minutes of the Board, and a reference to the relevant minute shall be made on the register.
- (3) The Board shall cause notification of the fact that the name of any person or corporation has been erased from the register pursuant to this section to be published in the *Government Gazette*.

[Section 22 amended by No. 45 of 1956 s.6; No. 76 of 1969 s.14; No. 39 of 1978 s.18; No. 10 of 1982 s.28; No. 10 of 2001 s.8; No. 55 of 2004 s. 42.]

22A. Misconduct of architect

- (1) Proper causes for disciplinary action in respect of a person registered as an architect are the doing by the person of any of the following things —
 - (a) allowing any person except a registered architect in partnership with himself or a practising firm of which he is a member or a practising corporation of which he is a director or a member to practise in his name as an architect or use his name in connection with an architectural practice;
 - (b) directly or indirectly sharing his professional remuneration with any person not being a registered

s. 22A

architect in partnership with him, or directly or indirectly accepting any share of the professional remuneration of such a person, or any commission or bonus thereon;

- (ba) directly or indirectly sharing the professional income of a practising corporation with a person (not being a member of the practising corporation or a beneficiary, or member of a class of beneficiaries, of a trust of which the practising corporation is the trustee) unless the person is acceptable to the Board;
- (c) signing accounts, statements, reports, specifications, plans, or other documents purporting to represent any architectural work performed by himself, where the work has not been performed under his personal supervision or direction;
- (d) directly or indirectly paying a person a commission for bringing him work, or giving any person monetary or other consideration as a remuneration for bringing him work, or for inducing other persons to give him work;
- (e) performing any architectural work in connection with any matter which is the subject of dispute or litigation upon condition that only in the event of the dispute or litigation ending favourably for the party for whom the work is performed shall payment be made for the work;
- (f) 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;
- (g) accepting any architectural work on condition or promise that he will give or receive, or because he has given or received, any remuneration, discount, gift or commission directly or indirectly to or from any person, other than his professional remuneration to be received by him from the person by whom he has been engaged to perform that architectural work;

- (h) 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 51 members;
 - (i) 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;
 - (j) if he is registered because of any 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;
 - (k) obtaining registration by fraud or misrepresentation;
 - (l) 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;
 - (m) 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; or
 - (n) any other thing that constitutes infamous or improper conduct in a professional respect.
- (1a) Without prejudice to the provisions of section 2(2) instead of proceeding against the corporation or firm in question the Board

s. 22AB

or the State Administrative Tribunal may exercise any of the powers conferred by this section in relation to a director or a member of a practising corporation or a member of a practising firm in the same manner as those powers may be exercised in relation to a person practising solely on his own account.

[(2) repealed.]

- (3) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1) or in sections 14B or 14D, against a registered person.

[(4) repealed]

- (5) If in a proceeding commenced by an allegation under this section against a registered person the State Administrative Tribunal is of opinion that proper cause exists for disciplinary action the State Administrative Tribunal may order —
- (a) that the person be reprimanded;
 - (ab) that the registration of the person be suspended for such period, not exceeding 12 months, as the State Administrative Tribunal thinks fit and specifies in the order; or
 - (b) that the person's name be removed from the register and his registration be cancelled.

[(c) deleted]

[(6)-(9) repealed]

[Section 22A inserted by No. 45 of 1956 s.7; amended by No. 76 of 1969 s.15; No. 39 of 1978 s.19; No. 67 of 1981 s.9; No. 55 of 2004 s. 43.]

22AB. Suspension of registration by State Administrative Tribunal

- (1) Where the State Administrative Tribunal makes an order against a registered person and payment is not made in accordance with the order or the order is otherwise not complied with or is

breached, the State Administrative Tribunal may suspend the person's registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

[Section 22AB inserted by No. 55 of 2004 s. 44.]

22B. Liability for damages, etc.

- (1) The directors of a corporation practising as an architect pursuant to this Act, and any person who was at the time the cause of action arose a director of that corporation, shall be jointly and severally liable for the acts or omissions of that corporation in a professional respect in the course of or in connection with its practice as an architect to the same extent as they would be so liable if that corporation were a firm and the directors were members of the firm, and where, at the relevant time, there is only one director he shall be liable to the same extent as if practising on his own account.
- (2) The provisions of subsection (1) shall be construed as being in aid of and not in derogation from any remedy exercisable apart from this Act.

[Section 22B inserted by No. 39 of 1978 s.20.]

22C. Duty of foreign corporation to insure

- (1) Subject to subsection (3), a foreign corporation shall at all times when it is carrying on business as an architect have and maintain in force a policy of professional indemnity insurance which complies with this section and on which the premiums are fully paid, and failure to maintain such insurance shall be deemed to be improper conduct in a professional respect.
- (2) Every policy of professional indemnity insurance issued for the purposes of this section —

s. 23

- (a) must be issued by a company carrying on insurance business as defined in the *Insurance (Deposits) Act 1932* of the Commonwealth as from time to time amended;
 - (b) must indemnify the insured corporation against liability which may be incurred by that corporation for negligence or misfeasance in respect of any work done by or on behalf of that corporation in the course of the practice of architecture;
 - (c) may stipulate a limit on the amount for which the insurance company is liable in the aggregate or in respect of any one claim, not being an amount less than the appropriate amount prescribed by by-laws made by the Board; and
 - (d) must comply with any other requirements prescribed by by-laws made under this Act.
- (3) The Minister may, by instrument in writing served on the corporation, for the time being exempt any foreign corporation from the operation of subsection (1), and the provisions of that subsection shall not apply to or in relation to that corporation for as long as that exemption subsists, but the Minister may, at any time, revoke any such exemption either by instrument in writing so served or by notice in the *Government Gazette*.

[Section 22C inserted by No. 39 of 1978 s.21.]

23. Register to be open to inspection

The register shall be kept in the office of the registrar, and shall at all times be open to inspection by any person without fee.

24. Copy of register to be published annually

A copy of the register shall be published in the *Gazette* annually.

25. Resignation of architects

- (1) Where the name of any architect has been enrolled on the register, that architect may by writing addressed and delivered to the registrar of the Board give notice of resignation and request that the Board remove the name from the register.
- (2) Despite the resignation by an architect, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the resignation, as if the architect had not resigned.
- (3) Where the resignation of any architect is accepted by the Board that architect shall thereupon cease to be registered under this Act and the name shall be removed from the register.

[Section 25 inserted by No. 39 of 1978 s.22; amended by No. 55 of 2004 s. 45.]

Part 4 — Committee of Architectural Education

[Heading inserted by No. 55 of 2004 s. 46.]

26. Committee of architectural education

- (1) The Board shall appoint a committee to be known as the Committee of Architectural Education, and the members of the committee shall be —
 - (a) the chairman and 2 other members of the Board;
 - (b) a person nominated by the University of Western Australia;
 - (c) a person nominated by the Western Australian Institute of Technology³;
 - (d) the chairman of the Board of Education of the Western Australian Chapter of the Royal Australian Institute of Architects; and
 - (e) such other persons as the Board appoints as members of the committee.
- (2) Each member of the Committee of Architectural Education shall be appointed for a term of 12 months.
- (3) The functions of the Committee of Architectural Education are —
 - (a) to advise, and submit recommendations to, the Board on matters concerning the education of students of architecture; and
 - (b) to review, and to report to the Board at least once in every 5 years upon, the standard of courses in architecture conducted in Western Australia.

[Section 26 inserted by No. 76 of 1969 s.16; amended by No. 25 of 1986 s.6.]

Part 5 — General Meeting of Architects

[Heading inserted by No. 55 of 2004 s. 47.]

27. General meeting of architects

- (1) The Board shall hold a general meeting of registered architects once at least in every year, at which meeting every registered architect shall be entitled to be present in person or by proxy.
- (2) The Board shall give to each registered architect 14 days notice in writing of the time and place of every such general meeting.
- (3) Unless and until otherwise provided by the by-laws, one-sixth of the number of registered architects present in person or represented by proxy at a general meeting and entitled to vote shall constitute a quorum, and all questions shall be determined by majority of votes.
- (4) A practising corporation or a practising firm shall not, as such a corporation or firm, be entitled to a vote, but subject to the proviso to section 18(1) and the by-laws every natural person registered as an architect under this Act shall be entitled to vote in person or by proxy.
- (5) The chairman shall have an original, and in case of an equality of votes, a second or casting vote.

[Section 27 amended by No. 39 of 1978 s.23.]

Part 6 — By-laws

[Heading inserted by No. 55 of 2004 s. 48.]

28. By-laws

- (1) The Board may make by-laws for any of the following purposes —
- (a) regulating the nomination of persons for election, and the election of members of the Board, and the mode of filling casual vacancies;
 - (b) regulating the meetings and proceedings of the Board and the quorum to be present;
 - (c) regulating the time, mode, and place of summoning and holding ordinary and special general meetings of architects and the quorum to be present, and the mode of voting and the conduct of proceedings at such meetings;
 - (d) the appointment, duties, and removal of officers of the Board;
 - (e) fixing the amount of the annual subscription payable by registered architects, practising corporations and practising firms, respectively, and the time of payment of the same, prescribing the statements to be submitted by practising corporations and practising firms and the fees to be payable thereon, and fixing the conditions of the professional indemnity insurance required of foreign corporations;
 - (f) regulating the times and places for holding examinations of applicants for registration, and the subjects and the manner of conducting or holding any such examinations, and for fixing a reasonable fee to be paid by applicants, and the conditions on which the examiners shall hold office, and their remuneration; and
 - (g) generally for prescribing such matters as it may be necessary or convenient to prescribe for the purposes of this Act.

- (2) No by-law, and no repeal, alteration, or amendment of any by-law shall be of any force or effect unless and until it has been confirmed by the Governor and published in the *Gazette*.

[Section 28⁴ amended by No. 39 of 1978 s.24; No. 25 of 1986 s.7.]

Part 7 — Miscellaneous

[Heading inserted by No. 55 of 2004 s. 49.]

29. Unregistered persons not to practise as architects

- (1) A person, other than a registered architect, practising corporation or practising firm, who or which —
- (a) takes, uses or adopts the title or description of architect, or architectural practitioner; or
 - (b) uses any name, title, words, letters, additions, or descriptions implying or leading to the belief that such person is, or by words or conduct holds out or in any way implies that such person is —
 - (i) registered under this Act;
 - (ii) qualified under this Act to practise as an architect; or
 - (iii) is carrying on the practice of architecture,

commits an offence.

Penalty: \$1 000.

- (2) Subject to subsection (1) nothing in this Act shall be deemed to prevent an engineer, builder, or other person from designing and superintending the erection of any building.
- (3) Where the registration of an architect is suspended under this Act, the person, corporation, or firm so suspended shall be deemed not to be registered during the period of the suspension.
- (4) A person who makes or publishes a document which states, or may reasonably be interpreted as indicating, that a person not registered under this Act is an architect, or practises as an architect, or undertakes or is willing to undertake work as an architect, commits an offence whether the person referred to in the document is the person who made or published it or some other person.

Penalty: \$500.

- (5) Notwithstanding the provisions of subsection (1) and subsection (4) a person who carried on business or is employed as a naval architect, landscape architect, golf course architect, or architectural draftsman, may use that title, or be so described in any document.

[Section 29 amended by No. 45 of 1956 s.8; No. 74 of 1965 s.2; No. 113 of 1965 s.8(1); No. 39 of 1978 s.25; No. 67 of 1981 s.10.]

30. Penalty for falsifying register, or making false statements, etc.

Any person who —

- (a) makes or causes to be made any falsification in the register or in any matter relating to the register; or
- (b) knowingly makes any false statement upon any investigation by the Board, or in any document to be submitted to the Board; or
- (c) utters or puts off, or attempts to utter or put off, as true before the Board any false, forged, or counterfeit degree, diploma, licence, certificate, or other document or writing; or
- (d) procures or attempts to procure any person to be registered by making or producing, or causing to be made or produced, any false statement, declaration, or representation, either verbal or in writing; or
- (e) personates or represents any person as being the person referred to in any degree, diploma, licence, certificate, document, or writing presented to the Board, or in any certificate granted under this Act; or
- (f) fraudulently or by false representation obtains any certificate of registration under this Act; or
- (g) falsely advertises or publishes that any certificate of registration under this Act has been obtained, or any

s. 31

such registration effected, or permits any such advertisement or publication,

commits an offence and is liable on conviction to a fine of \$1 000.

[Section 30 amended by No. 76 of 1969 s.17; No. 39 of 1978 s.26; No. 78 of 1995 s.147; No. 55 of 2004 s. 50.]

31. Powers of investigation

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
 - (a) determining any application or any other matter before the Board;
 - (b) determining whether or not a person registered under this Act is or has been acting in conformity with the conditions, if any, of the person's registration and is or has been complying with the requirements of this Act;
 - (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action; or
 - (d) detecting offences against this Act.
- (2) The Board may appoint an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
 - (a) require any person —
 - (i) to give the investigator such information as the investigator requires; and
 - (ii) to answer any question put to the person, in relation to any matter the subject of such inquiry;
 - (b) require any person to produce any document to the investigator;

- (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
 - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
 - (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
 - (c) may, by its terms, require that the information or answer required —
 - (i) be given orally or in writing;
 - (ii) be given at or sent or delivered to any place specified in the requirement;
 - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
 - (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
- (a) shall be made by notice in writing served on the person required to produce a document;
 - (b) shall specify the time at or within which the document is to be produced; and
 - (c) may, by its terms, require that the document be produced —

s. 31A

- (i) at any place specified in the requirement; and
 - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he or she is required under this Act to give the information or answer the question, as the case may be.
- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he or she is required under this Act to give the information, answer the question, or produce the document, as the case may be.
- (8) Before entering any premises under this section the investigator —
 - (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
 - (b) shall display to the person, if any, giving the investigator entry, a document signed by the Board and certifying that he or she is an investigator appointed by the Board.

[Section 31 inserted by No. 55 of 2004 s. 51.]

31A. Incriminating information, questions, or documents

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 31 a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

the person shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 31B(1)(b).

[Section 31A inserted by No. 55 of 2004 s. 51.]

31B. Failure to comply with investigation

- (1) Where under section 31 a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him or her) —
 - (a) fails to give that information or answer that question at or within the time specified in the requirement;
 - (b) gives any information or answer that is false in any particular; or
 - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the accused to show —
 - (a) that, in the case of an alleged offence arising out of a requirement made orally under section 31, the investigator did not, when making the requirement, inform the defendant that he or she was required under this Act to give the information or answer the question, as the case may be;
 - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 31, the notice did not state that he or she was required under

s. 31C

this Act to give the information, answer the question, or produce the document, as the case may be;

- (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him or her to comply with the requirement; or
- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

[Section 31B inserted by No. 55 of 2004 s. 51; amended by No. 84 of 2004 s. 82.]

31C. Obstruction of investigator

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his or her powers under section 31.

Penalty: \$2 000.

[Section 31B inserted by No. 55 of 2004 s. 51.]

[32. Repealed by No. 76 of 1969 s.19.]

33. Accounts

- (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Board and shall prepare financial statements in accordance with Australian Accounting Standards.
- (2) The financial statements shall be prepared on an accrual basis unless the Board determines otherwise.

[Section 33 inserted by No. 77 of 1987 s.3.]

34. Audit

The accounts and financial statements of the Board shall be audited at least once a year, at the expense of the Board, by an auditor appointed by the Board with the prior approval of the Minister.

[Section 34 inserted by No. 77 of 1987 s.3.]

35. Annual report

- (1) The Board shall on or before 30 June in each year make and submit to the Minister an annual report of its proceedings for the preceding year ending on 31 December together with a copy of the financial statements and the auditor's report.
- (1a) The Board's annual report is to include details of —
 - (a) the number, nature, and outcome, of —
 - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
 - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
 - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
 - (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
 - (e) any proposals for improving the operation of the Board.
- (2) The Minister shall cause a copy of each annual report, financial statements and auditor's report submitted under subsection (1) to be laid before each House of Parliament within 14 sitting days of that House after receipt of the report by the Minister.

[Section 35 inserted by No. 77 of 1987 s.3; amended by No. 55 of 2004 s. 52.]

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36. Report to annual general meeting

The Board shall submit the audited financial statements referred to in section 34 to the annual general meeting of architects.

The First Schedule

Election of members of the Board

- [1. *deleted.*]
2. For the purpose of every election, the Board shall appoint a day for receiving the nomination of candidates, and a subsequent day prior to the date of retirement of the retiring member, for the holding of the election.
3. The Board shall cause to be delivered or sent by post to every registered architect at his registered address a nomination paper with notice of the day appointed for receiving nominations.
4. Every nomination shall be in writing, and shall be signed by the person nominating himself, and must be received by the Board on or before the day appointed for the receipt of nominations.
5. The Board shall cause to be delivered or sent by post to every architect at his registered address a voting paper on which shall be written or printed a list of all candidates nominated, with notice of the day appointed for the election, and that one or more (as the case may be) members are to be elected, and that the elector must record his vote by striking out the names of all the candidates for whom he does not vote, and return the voting paper to the Board before the date fixed for the election.
6. Every voting paper shall be signed by the chairman of the Board or the registrar before it is issued.
7. As soon as may be after the day appointed for the return of the voting papers the Board shall hold a meeting and shall there examine and count the voting papers duly returned (rejecting all informal voting papers), and shall by resolution declare the result of the election.
8. The resolution so passed by the Board shall be notified in the *Gazette*, and shall be conclusive proof that the election has been in all respects duly conducted, and that the person or persons so declared to be elected is or are members of the Board.

First Schedule

9. In any case in which 2 or more candidates have received the same number of votes the Board shall determine, in such manner as it thinks fit, which of those candidates is to be elected.
10. If the number of persons nominated for election does not exceed the number to be elected, it shall not be necessary to send or return voting papers, and the Board may at the meeting convened to receive nominations decide by resolution that the person or persons so nominated has or have been duly elected, and the name or names of such person or persons shall be published in the *Gazette*.
11. These rules shall, *mutatis mutandis*, apply to elections to fill casual vacancies on the Board.

[Schedule 1 amended by No. 76 of 1969 s.20.]

The Second Schedule

Rules for the conduct of the business of the Board

1. Board meetings

Every meeting shall, subject to the by-laws, be held at the time and place appointed by the Board.

2. Quorum

A quorum of the Board shall consist of 5 members; and no business shall be transacted at any meeting of the Board unless 5 of the members are present when such business is transacted.

3. Chairman

The chairman shall preside at all meetings at which he is present. In the absence of the chairman from any meeting, or if after being present, he retires, the members present shall elect from their number a chairman for that meeting or for the remainder of the meeting.

The chairman shall have a vote, and, when there is an equal division of votes upon any question, he shall have a second or casting vote.

4. Voting

All powers vested in the Board may be exercised by the majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting.

Provided that any question relating to enrolment on the register shall be determined by at least 5 members of the Board present and voting at a duly convened meeting.

At all meetings, save as herein otherwise provided, all members present shall vote.

If a member refuses to vote, his vote shall be counted for the negative.

5. Adjournment

The members present at a meeting may, from time to time, adjourn the meeting.

Second Schedule

If a quorum is not present within half an hour after the time appointed for a meeting, the members present, or any one member if only one is present, or the registrar if no member is present, may adjourn such meeting to any time not later than 7 days from the date of such adjournment:

Provided that nothing herein contained shall be construed to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.

6. Notices

All notices of any meeting shall be in writing and shall be delivered personally or sent by post or otherwise to the address of each of the members at least 7 days previous to the meeting.

7. Authentication of documents

Every appointment, order, certificate, or other document of the Board relating to the execution of this Act shall be sufficiently authenticated if signed by the chairman or any 2 members of the Board.

[Schedule 2 amended by No. 76 of 1969 s.21.]

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Notes

¹ This is a compilation of the *Architects Act 1921* and includes the amendments made by the other written laws referred to in the following table ^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Architects Act 1921</i>	13 of 1922	31 Jan 1922	31 Jan 1922
<i>Architects Act Amendment Act 1923</i>	43 of 1923	22 Dec 1923	22 Dec 1923
<i>Architects Act Amendment Act 1956</i>	45 of 1956	18 Dec 1956	18 Dec 1956
<i>Architects Act Amendment Act 1960</i>	29 of 1960	21 Oct 1960	21 Oct 1960
<i>Architects Act Amendment Act 1965</i>	74 of 1965	25 Nov 1965	25 Nov 1965
<i>Decimal Currency Act 1965</i> , sections 4 to 9	113 of 1965	21 Dec 1965	Sections 4 to 9: 14 Feb 1966 (see s. 2(2)); balance on assent
<i>Architects Act Amendment Act 1969</i>	76 of 1969	7 Nov 1969	1 Jan 1970 (see s. 2 and <i>Gazette</i> 19 Dec 1969 p. 4154)
<i>Architects Act Amendment Act 1978</i>	39 of 1978	29 Aug 1978	23 Feb 1979 (see s. 2 and <i>Gazette</i> 23 Feb 1979 p. 473)
<i>Architects Act Amendment Act 1981</i>	67 of 1981	23 Oct 1981	23 Oct 1981
<i>Companies (Consequential Amendments) Act 1982</i> , Part VIII	10 of 1982	14 May 1982	1 Jul 1982 (see s. 2(1) and <i>Gazette</i> 25 Jun 1982 p. 2079)
<i>Architects Amendment Act 1986</i> ⁴	25 of 1986	29 Jul 1986	14 Aug 1987 (see s. 2 and <i>Gazette</i> 14 Aug 1987 p. 3160)
<i>Acts Amendment (Financial Provisions of Regulatory Bodies) Act 1987</i> , section 3	77 of 1987	26 Nov 1987	1 Jan 1988 (see s. 2)
<i>Sentencing (Consequential Provisions) Act 1995</i> , section 147	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)

Architects Act 1921

Short title	Number and year	Assent	Commencement
<i>Corporations (Consequential Amendments) Act 2001</i> Pt. 3	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 8 ⁷	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 78 and 82 ⁸	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and Year	Assent	Commencement
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 142 ⁵	59 of 2004	23 Nov 2004	To be proclaimed (see s. 2)
<i>Architects Act 2004</i> s. 78(1) and (3), and Sch. 2 ⁶	75 of 2004	8 Dec 2004	To be proclaimed (see s. 2)

² Footnote no longer applicable.

³ Now called the Curtin University of Technology. See section 11 of No. 96 of 1986.

⁴ Section 7(2) of Act No. 25 of 1986 reads as follows —

“

- (2) A by-law made under section 28(1)(e) of the principal Act before the day on which this Act is assented to shall be deemed to have been as validly and effectively made, and any amount paid thereunder by way of annual subscription shall be deemed to have been as properly received, as if subsection (1) had then been in operation.

”.

⁵ On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* s. 142, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

142. Other amendments to various Acts

Each Act listed in Schedule 2 is amended as set out in that Schedule immediately below the short title of the Act.

”.

Schedule 2 cl. 6 reads as follows:

“

Schedule 2 — Other amendments to Acts

6. Architects Act 1921

s. 22A(4)	Delete “Justices of the Peace under the <i>Justices Act 1902</i> ,” and insert instead — “ a court of summary jurisdiction under the <i>Criminal Procedure (Summary) Act 1902</i> , Delete “Justices” and insert instead — “ such a court ”.
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”.

⁶ On the date as at which this compilation was prepared, the *Architects Act 2004* s. 78(1) and (3) which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

78. Repeal of *Architects Act 1921*, savings and transitional provisions

- (1) The *Architects Act 1921* is repealed.
- (3) Schedule 2 has effect in relation to the repeal effected by subsection (1).

”.

Schedule 2 reads as follows:

“

Schedule 2 — Savings and transitional provisions

[s. 78(3)]

1. Terms used in this Schedule

In this Schedule —

“**commencement**” means the commencement of this Act;

“**the former Board**” means The Architects’ Board of Western Australia established under the repealed Act;

“**the new Board**” means Architects Board of Western Australia established under this Act;

“**the repealed Act**” means the *Architects Act 1921*.

2. Interpretation Act 1984 not affected

The provisions of this Schedule do not prejudice or affect the application of the *Interpretation Act 1984* to and in relation to the repeal effected by section 78(1).

3. Board (body corporate) continues

(1) The new Board is the same entity as, and a continuation of, the former Board, and the rights and liabilities of or in relation to the former Board continue as rights and liabilities of or in relation to the new Board.

(2) If in a written law or other document or instrument there is —
(a) a reference to the former Board; or
(b) a reference that is read and construed as a reference to the former Board,

the reference may, where the context so requires, be read as if it had been amended to be a reference to the new Board.

(3) If in a written law or other document or instrument there is —
(a) a reference to the chairman or member of the former Board; or
(b) a reference that is read and construed as a reference to the chairman or a member of the former Board,

the reference may, where the context so requires, be read as if it had been amended to be a reference to the chairperson or a member of the new Board.

4. Membership of new Board

- (1) The persons who, immediately before commencement, were members of the former Board go out of office as members of the Board on commencement.
- (2) Despite Schedule 1 clause 1(1)(a), in the case of the first 4 members of the new Board appointed under section 7(1)(a) —
 - (a) 2 members are to be appointed to hold office for 2 years; and
 - (b) 2 members are to be appointed to hold office for 1 year.
- (3) Despite Schedule 1 clause 1(1)(a), in the case of the first 2 members of the new Board appointed under section 7(1)(b) —
 - (a) one member is to be appointed to hold office for 2 years; and
 - (b) one member is to be appointed to hold office for 1 year.
- (4) Despite section 7(1)(b), the Minister is to appoint the first 2 members of the new Board under that paragraph from at least 4 nominations of the Royal Australian Institute of Architects (WA Chapter) and section 7(4) applies as if that body were prescribed by the regulations for the purposes of section 7(1)(b).
- (5) Despite Schedule 1 clause 1(1)(b), in the case of the first 4 members of the new Board to be elected under section 7(1)(c) —
 - (a) 2 members are to be elected to hold office for 2 years; and
 - (b) 2 members are to be elected to hold office for 1 year.
- (6) Despite the repeal effected by section 78(1), the First Schedule to the repealed Act continues to have effect for the purposes of the first election of members of the new Board under section 7(1)(c) and, for that purpose, references in that Schedule to “the Board” are to be regarded as references to the first 4 members of the new Board appointed under section 7(1)(a) and the first 2 members of the new Board appointed under section 7(1)(b).

5. Registrar and other staff

- (1) The registrar of the former Board who held office immediately before commencement continues in office, under and subject to this Act, as the registrar of the new Board.
- (2) The other officers of the former Board who held office immediately before commencement continue in office, under and subject to this Act, as officers of the new Board.

- (3) A person mentioned in subclause (1) or (2) is to be regarded as having been employed or engaged, as is relevant to the terms of the person's appointment, under this Act.
- (4) Except as otherwise agreed by a person mentioned in subclause (1) or (2), the remuneration, existing or accrued rights, rights under a superannuation scheme or continuity of service of the person are not affected, prejudiced or interrupted by the operation of subclause (1) or (2) or the repeal of the *Architects Act 1921*.
- (5) The rights under a superannuation scheme of a person who was a registrar or officer of the former Board are not affected, prejudiced or interrupted by the repeal of the *Architects Act 1921*.

6. Persons registered under repealed Act

- (1) The registration of a natural person who immediately before commencement was registered under the repealed Act continues, under and subject to this Act, as a registration under this Act —
 - (a) until 31 December in the year of commencement or for a longer period that is prescribed by the regulations; and
 - (b) on the same terms as applied under the repealed Act to the registration.
- (2) A person mentioned in subclause (1) is to be regarded as having been registered under this Act.
- (3) The registration of a corporation that immediately before commencement was registered under the repealed Act continues, under and subject to this Act, as a licence under this Act —
 - (a) until 31 December in the year of commencement or for a longer period that is prescribed by the regulations; and
 - (b) on the same terms as applied under the repealed Act to the registration.
- (4) A corporation mentioned in subclause (3) is to be regarded as having been licensed under this Act.

7. Register

The register under the repealed Act as it exists immediately before commencement continues, under and subject to this Act, as the register under this Act.

8. Certificates under repealed Act

- (1) A certificate of registration that was issued under the repealed Act to a natural person and that is in effect immediately before commencement continues, under and subject to this Act, as a certificate of registration for the purposes of this Act and has

effect until 31 December in the year of commencement or for a longer period that is prescribed by the regulations.

- (2) A certificate of registration that was issued under the repealed Act to a corporation and that is in effect immediately before commencement continues, under and subject to this Act, as a licence document for the purposes of this Act and has effect until 31 December in the year of commencement or for a longer period that is prescribed by the regulations.

9. Transitional provision as to applications for registration

- (1) An application by a natural person for registration under the repealed Act that is not finalised before commencement is to be dealt with as if sections 14, 14A, 14C and 15 of the repealed Act had not been repealed by this Act.
- (2) An application by a corporation for registration under the repealed Act that is not finalised before commencement is to be dealt with as if the application had been made under section 33(1) for the grant of a licence to the corporation.

10. First annual report

- (1) In its first annual report under section 28 the new Board is also to report on the proceedings of the former Board for the period from 1 January in the preceding year to commencement.
- (2) Subclause (1) does not apply to the extent that the former Board has reported under section 35 of the repealed Act on those proceedings.

11. Powers in relation to transitional provisions

If there is no sufficient provision in this Schedule for dealing with a transitional matter the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to that matter.

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⁷ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administration Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

⁸ The amendment in the *Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004* s. 78, which gives effect to Sch. 1 to amend s. 22A(4) is not included because the subsection it sought to amend had been repealed by the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* s. 43.

