



Western Australia

Architects Act 2004

## **Architects Regulations 2005**



# Architects Regulations 2005

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## Architects Regulations 2005

### Part 1 — Preliminary

**1. Citation**

These regulations are the *Architects Regulations 2005*.

**2. Commencement**

These regulations come into operation on the day on which the *Architects Act 2004* comes into operation.

**3. Terms used**

In these regulations —

***registered address***, in relation to a registered person or licensed corporation, means the address that is recorded in the register in respect of the person or corporation;

***return day*** means the day set by the Board as the last day for the return of the voting papers for an election under regulations 8 and 9;

***section*** means section of the Act.

## **Part 2 — The Architects Board**

### **Division 1 — Nominations**

#### **4. Bodies that nominate persons for ministerial appointment of members**

The following bodies are prescribed for the purposes of section 7(1)(b) —

- (a) the Royal Australian Institute of Architects;
- (b) the Association of Consulting Architects — Australia;
- (c) the University of Western Australia;
- (d) the Curtin University of Technology.

### **Division 2 — Elections**

#### **5. Nominations**

- (1) The Board is to call for the nomination of registered persons as candidates for election to the office of a Board member under section 7(1)(c) that —
  - (a) is due to become vacant because the member's term of office is about to expire by the passage of time; or
  - (b) becomes vacant under Schedule 1 clause 3 of the Act.
- (2) For the purposes of subregulation (1) the Board must send to each registered person —
  - (a) a nomination paper, in a form approved by the Board, for the registered person to nominate himself or herself as a candidate for election to the office; and
  - (b) written notice —
    - (i) of the number of members to be elected under section 7(1)(c) in the particular election; and
    - (ii) of the period for which the successful candidate is to hold office; and

- (iii) of the time by which nominations are to be received by the Board; and
  - (iv) of the return day; and
  - (v) that a nomination will not be accepted unless the candidate provides, for inclusion with the voting papers, a statement about the nominee's qualifications, experience and reasons for nomination.
- (3) The nomination paper and notices are to be sent to the registered person's registered address —
- (a) in the case of an office mentioned in subregulation (1)(a), at least 60 days before the day on which the term of office is due to expire; or
  - (b) in the case of an office mentioned in subregulation (1)(b), as soon as is practicable after the office becomes vacant.

*[Regulation 5 amended: SL 2022/121 r. 4.]*

**6. List of candidates**

- (1) The Board is to prepare a list of candidates for election from the nominations made under regulation 5.
- (2) The Board is not to include a person's name in the list if —
  - (a) the person has not signed the nomination form; or
  - (b) the nomination was not received by the time mentioned in regulation 5(2)(b)(iii); or
  - (c) the person has not provided a statement mentioned in regulation 5(2)(b)(v); or
  - (d) the person is not eligible for election because of section 7(5)(a) or (b).

**7. Voting papers**

- (1) If the number of names in the list of candidates exceeds the number of members to be elected the Board is to send a voting paper for an election to each registered person.
- (2) The voting paper is to be sent to the registered person's registered address at least 14 days before the return day.
- (3) The voting paper is to contain —
  - (a) the list of candidates; and
  - (b) notice of the number of members to be elected under section 7(1)(c) in the particular election; and
  - (c) notice of the return day; and
  - (d) instructions on how the elector is to record his or her vote; and
  - (e) notice that the vote will not be counted if it is not received by the Board by the return day.
- (4) The voting paper is to be in a form approved by the Board and signed by the registrar or the chairperson of the Board.

**8. Counting of votes**

- (1) As soon as is practicable after the return day the registrar and at least one other person are to —
  - (a) open and examine the votes received by the Board on or before the return day; and
  - (b) count the votes that have been correctly recorded in accordance with the instructions mentioned in regulation 7(3)(d).
- (2) The Board is to check the registrar's examination and counting of the votes as soon as is practicable after the registrar has counted the votes.
- (3) If 2 or more candidates receive the same number of votes the members of the Board who are also registered persons may, by



simple majority, select one of their number to have a casting vote to resolve the matter in respect of those candidates.

**9. Nominations not exceeding vacancies**

If the number of names in the list of candidates does not exceed the number of members to be elected —

- (a) it is not necessary to conduct an election under regulations 7 and 8; and
- (b) each candidate in the list of candidates is to be taken to be elected at the time by which nominations are to be received by the Board; and
- (c) if a vacancy remains, the members of the Board who are also registered persons may, by simple majority, select one of their number to elect a registered person to fill the vacancy and that person is to be taken to be elected at the time the Board receives the person's acceptance of his or her election under this regulation.

**10. Names of elected members to be published on website**

The Board must publish on a website maintained by or on behalf of the Board the names of the persons —

- (a) who are elected under regulations 7 and 8; or
- (b) who, under regulation 9(b) or (c), are to be taken to be elected.

*[Regulation 10 amended: SL 2021/7 r. 4.]*

**11. Electors to vote once only**

- (1) A registered person must not vote more than once in an election under this Division.

Penalty: a fine of \$2 000.

- (2) In subregulation (1) —

*vote* does not include a casting vote under regulation 8(3) or the election of a Board member under regulation 9(c).

## **Part 3 — Registration and licensing**

### **Division 1 — Registration**

#### **12. Registration requirements**

For the purposes of section 29(b), the requirements in relation to a natural person are that the person —

- (a) either —
  - (i) holds a qualification obtained as a result of the successful completion of an architectural education course that has been accredited by the Board under section 10(c); or
  - (ii) holds a qualification that in the opinion of the Board is equivalent to such a qualification (after having regard to the advice of the Architects Accreditation Council of Australia where relevant); or
  - (iii) has otherwise attained a standard in relation to the practice of architecture that is acceptable to the Board (after having regard to the advice of the Architects Accreditation Council of Australia where relevant);
- and
- (b) has been assessed as eligible to sit, and has passed, the examinations mentioned in regulation 13; and
- (c) has not been convicted of an offence, whether in this State or elsewhere, the nature of which renders the person unfit to be a registered person; and
- (d) is otherwise a fit and proper person.

**13. Examinations to be passed**

The examinations to be passed by a person desiring to be registered are —

- (a) the version of the written examination, known as the National Examination Paper, set by the Architects Accreditation Council of Australia for use at the time the person takes the examination; and
- (b) the examination, known as the Examination by Interview, conducted in accordance with the Guide for Candidates published by the Architects Accreditation Council of Australia, as that document is in force from time to time.

**14. Conduct of examinations**

- (1) The Board may conduct examinations of the kind mentioned in regulation 13 at such times and at such intervals as it thinks fit.
- (2) A person who wishes to take an examination (including an assessment for eligibility for taking an examination) must pay the Board the fee prescribed by regulation 21 in relation to the examination.
- (3) A person employed, engaged or appointed by the Board to supervise an examination who has reasonable grounds to believe that a candidate is cheating in, or is otherwise acting in an improper manner during, an examination —
  - (a) may, at any time during the examination, direct the candidate to leave the examination room; and
  - (b) is to give a written report about the incident to the Board.
- (4) The Board, in such manner as it thinks fit —
  - (a) is to notify each candidate for an examination conducted by the Board of the candidate's results; and

- (b) is to inform each unsuccessful candidate of his or her areas of weakness.

## **Division 2 — Licensing**

### **15A. Extended meaning of *corporation***

Each entity specified in the Table is prescribed as a body corporate for the purposes of paragraph (b) of the definition of *corporation* in section 4(1).

**Table**

<b>Item no.</b>	<b>Entity</b>
1.	An Aboriginal and Torres Strait Islander corporation as defined in the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (Commonwealth) section 700-1.
2.	A transitional corporation as defined in the <i>Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Act 2006</i> (Commonwealth) Schedule 3 item 1(1).

[Regulation 15A inserted: Gazette 30 Jun 2009 p. 2621-2.]

### **15. Licensing requirements**

For the purposes of section 31(b), the requirements in relation to a corporation are that —

- (a) the corporation's constitution is, or the rules governing the corporation's internal management are, acceptable to the Board; and
- (b) each of the directors of the corporation is acceptable to the Board; and
- (c) all architectural work to be done by the corporation is to be done under the direct control and supervision of a

- registered person who is an officer or employee of the corporation; and
- (d) the means by which the corporation proposes to comply with paragraph (c) are acceptable to the Board; and
  - (e) the person who will have ultimate responsibility for the architectural work to be done by the corporation is a registered person who is an officer or employee of the corporation; and
  - (f) the name under which the corporation proposes to carry on the practice of architecture is acceptable to the Board.

### **Division 3 — The register**

#### **16. Divisions of the register — registered persons**

The divisions of the register in relation to registered persons are —

- (a) division 1 for registered persons who are currently practising architecture;
- (b) division 2 for registered persons who are not currently practising architecture.

### **Division 4 — Other matters relating to registration and licensing**

*[Heading inserted: Gazette 28 Dec 2007 p. 6412.]*

#### **16A. Duration of registration and licences**

For the purposes of section 35 —

- (a) a registration that occurs after 2007 has effect until 30 June in the year following that in which the registration occurs; and
- (b) a licence that is granted after 2007 has effect until 30 June in the year following that in which the licence is granted.

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**Part 3** Registration and licensing

**Division 4** Other matters relating to registration and licensing

**r. 16A**

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*[Regulation 16A inserted: Gazette 28 Dec 2007 p. 6412.]*



**16B. Renewal period**

For the purposes of section 36(1), the renewal of a registration or a licence in 2008 is to be for a period of 18 months.

*[Regulation 16B inserted: Gazette 28 Dec 2007 p. 6412.]*

**16C. When renewal fees fall due**

- (1) For the purposes of section 37(1), the day on which the fee for the renewal, in 2008, of a person's registration or a corporation's licence falls due is —
  - (a) 31 March 2008; or
  - (b) the day set by the Board under subregulation (3).
- (2) A registered person may apply to the Board for the Board to set a day after 31 March 2008 to be the day on which the fee for the renewal of the person's registration in 2008 falls due.
- (3) On an application under subregulation (2) the Board, if satisfied that the applicant is experiencing hardship, may set a day after 31 March 2008 but before 1 October 2008 to be the day on which the fee for the renewal of the person's registration in 2008 falls due.
- (4) For the purposes of section 37(1), the day on which the fee for the renewal, in a year after 2008, of a person's registration or a corporation's licence falls due is —
  - (a) 30 September of that year (the *renewal year*); or
  - (b) the day set by the Board under subregulation (6).
- (5) A registered person may apply to the Board for the Board to set a day after 30 September of the renewal year to be the day on which the fee for the renewal of the person's registration in that year falls due.
- (6) On an application under subregulation (5) the Board, if satisfied that the applicant is experiencing hardship, may set a day after 30 September in the renewal year but before 1 April in the

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**Part 3** Registration and licensing

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**r. 16C**

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following year to be the day on which the fee for the renewal of the person's registration in the renewal year falls due.

*[Regulation 16C inserted: Gazette 28 Dec 2007 p. 6412-13.]*

**[16D.** *Deleted: SL 2022/121 r. 5.]*

## Part 4 — Insurance

### 17. Amount of insurance cover

- (1) For the purposes of paragraph (b) of the definition of *architect insurance* in section 4(1), the insurance must provide a minimum cover of \$1 000 000.
- (2) For the purposes of section 32(2)(c), the minimum amount of insurance cover is \$1 000 000.

*[Regulation 17 amended: SL 2022/121 r. 6.]*

### 18. Information about insurance cover — registered persons

- (1) For the purposes of section 54(1), the information in relation to the insurance cover that is in effect in respect of a registered person is a document from the insurer or a broker showing —
  - (a) the period in respect of which the insurance cover is in effect; and
  - (b) the amount of the insurance cover; and
  - (c) the categories of persons in respect of whose acts and omissions the insurance cover applies.
- (2) For the purposes of section 54(2), the time for giving the information referred to in subregulation (1) is —
  - (a) 30 September each year; and
  - (b) if the insurer or any of the information referred to in subregulation (1) changes — 14 days after the change occurs.
- (3) However, subregulation (2)(a) does not apply to a registered person in a particular year if the registered person gives the information to the Board under another obligation, or at the request of the Board, within the period of 3 months ending on 30 September that year.

*[Regulation 18 amended: SL 2022/121 r. 7.]*

**19. Information about insurance cover — licensed corporations**

- (1) For the purposes of section 54(1), the information in relation to the insurance cover that is in effect in respect of a licensed corporation is a document from the insurer or a broker showing —
  - (a) the period in respect of which the insurance cover is in effect; and
  - (b) the amount of the insurance cover; and
  - (c) the categories of persons in respect of whose acts and omissions the insurance cover applies.
- (2) For the purposes of section 54(2), the time for giving the information referred to in subregulation (1) is —
  - (a) in the case of the initial grant of the licence, 28 days after the day on which the licensed corporation is advised of the grant of the licence; and
  - (b) in the case of a renewal of a licence, 14 days after the day on which the licensed corporation is advised of the renewal; and
  - (c) in any case where the insurer, the period of insurance or the amount or type of cover is changed after the period mentioned in paragraph (a) or (b), 14 days after the change occurs.

*[Regulation 19 amended: SL 2022/121 r. 8.]*

## Part 5 — Disciplinary proceedings

### 20. Unprofessional conduct as an architect

For the purposes of section 56(2), the following conduct of a person (*person 1*) constitutes unprofessional conduct as an architect —

- (a) holding out or in any way implying that person 1's name is entered in a particular division of the register if the name is not entered in that division of the register;
- (b) using, in connection with an architectural service provided by person 1 —
  - (i) the name of a registered person who is not a partner or employee of person 1; or
  - (ii) the name of a licensed corporation of which person 1 is not an officer, employee or partner;
- (c) allowing a natural person (*person 2*) to practise in person 1's name in connection with an architectural service provided by person 2 if —
  - (i) person 2 is not registered; or
  - (ii) person 2 is registered but is not a partner or employee of person 1;
- (d) allowing a corporation to practise in person 1's name in connection with an architectural service provided by the corporation if —
  - (i) the corporation is not a licensed corporation; or
  - (ii) the corporation is a licensed corporation but person 1 is not an officer of the corporation;
- (e) signing an account, statement, report, specification, plan or other document purporting to represent any architectural work as having been done by person 1 in circumstances where the work has not been done under person 1's direct control or supervision;

- (f) accepting architectural work on condition or promise that person 1 will give or receive, or because person 1 has given or received, any remuneration, discount, gift or commission directly or indirectly to or from another person, other than remuneration to be received by person 1 from the client;
- (g) failing to disclose to a client a direct or indirect pecuniary interest (other than an interest in a public company) that person 1 has in any product or service that person 1 —
  - (i) specifies or recommends for use in connection with the project in respect of which person 1's services are engaged; or
  - (ii) uses or causes to be used in connection with that project;
- (h) using, or causing to be used, in connection with a project in respect of which person 1's services are engaged, a product or service in which person 1 has an interest of a kind referred to in paragraph (g) without having —
  - (i) the client's written acknowledgment of the disclosure of the interest; and
  - (ii) the client's written consent to the use of the product or service.

## Part 6 — Fees

### 21. Fees

The fee set out in column 3 of Schedule 1 in respect of a matter is prescribed in relation to the matter.

### 22. **Reduction, waiver or refund of fee payable or paid under s. 44(2) or 45**

The Board may, if it considers it appropriate in the circumstances of the case to do so, reduce, waive or refund a fee payable or paid in any of the following circumstances —

- (a) by a person applying under section 44(2) to obtain a certified copy of a part of, or entry in, the register;
- (b) by a registered person or a licensed corporation applying under section 45 to amend the particulars entered in the register.

*[Regulation 22 inserted: SL 2021/7 r. 5.]*

## **Part 7 — Miscellaneous**

### **23. Certificates of registration, licence documents to be available for inspection**

- (1) A registered person must ensure that a certificate of registration issued to the person is available for inspection by any person during business hours at the person's registered address.
- (2) A licensed corporation must ensure that a licence document issued to the corporation is available for inspection by any person during business hours at the corporation's registered address.

Penalty applicable to subregulations (1) and (2): a fine of \$1 000.

### **24. Advice about changes in practising status**

- (1) A registered person whose name is entered in division 2 of the register must give the registrar written advice if the person starts practising architecture.
- (2) A registered person whose name is entered in division 1 of the register must give the registrar written advice if the person stops practising architecture.
- (3) The advice referred to in subregulation (1) or (2) must be given no later than 30 days after the change occurs.

### **25. Consent to use a name other than a name recorded in the register**

- (1) An application for the Board's consent to a registered person's or a licensed corporation's practising architecture under any name other than the name of the person or corporation as recorded in the register is to be —
  - (a) made in writing in a manner and form determined by the Board; and



- (b) accompanied by the fee prescribed by regulation 21 in relation to the application.
- (2) The applicant is to provide the Board with any further information that the Board requires in any particular case and is to verify the information by statutory declaration if required by the Board to do so.
- (3) Without limiting the kinds of condition that the Board may impose in relation to the name of the practice, the Board may impose as a condition of the giving of its consent —
  - (a) a requirement that the name and registration number of the registered person who has ultimate responsibility for the architectural work done by the applicant is displayed on all the applicant's stationery, advertisements, job signs and other information given to the public about the applicant's architectural work;
  - (b) a requirement that the applicant must ensure that a certificate of registration issued to the registered person who has ultimate responsibility for the architectural work done by the applicant is available for inspection by any person during business hours at the applicant's registered address.

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## Schedule 1 — Fees

[r. 21]

*[Heading inserted: SL 2022/59 r. 4.]*

Provision of Act or regulations	Subject matter	Fee (\$)
s. 33(1)(b)(i)	Application for registration	175.00
s. 33(1)(b)(i)	Application for grant of licence	315.00
s. 33(1)(b)(ii)	Registration fee	250.00
s. 33(1)(b)(ii)	Licence fee	440.00
s. 37(1)	Renewal of registration	300.00
s. 37(1)	Renewal of licence	545.00
s. 37(2)(c)	Restoration of name to the register if name removed under s. 37(1)	70.00
s. 44(2)	Certified copy of part of, or entry in, the register	85.00
s. 45	Amendment of particulars entered in the register	32.00
s. 51(2)	Restoration of name to the register if name removed under s. 47 or 49	32.00
s. 51(5)	Restoration of name to the register if name removed by way of disciplinary action	60.00
s. 71(2)(j) and r. 14(2)	Assessment of eligibility for, and taking, the National Examination Paper examination	465.00

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<b>Provision of Act or regulations</b>	<b>Subject matter</b>	<b>Fee (\$)</b>
s. 71(2)(j) and r. 14(2)	Taking the Examination by Interview	395.00
	Supplementary Examination by Interview	395.00
s. 71(2)(j) and r. 25(1)(b)	Application for Board's consent to a name under which a person or corporation can carry on the practice of architecture	175.00

*[Schedule 1 inserted: SL 2022/59 r. 4.]*

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## Notes

This is a compilation of the *Architects Regulations 2005* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

### Compilation table

<b>Citation</b>	<b>Published</b>	<b>Commencement</b>
<i>Architects Regulations 2005</i>	15 Nov 2005 p. 5608-19	16 Nov 2005 (see r. 2 and <i>Gazette</i> 15 Nov 2005 p. 5597)
<i>Architects Amendment Regulations 2007</i>	28 Dec 2007 p. 6411-14	r. 1 and 2: 28 Dec 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2008 (see r. 2(b))
<b>Reprint 1: The Architects Regulations 2005 as at 17 Apr 2009</b> (includes amendments listed above)		
<i>Architects Amendment Regulations 2009</i>	30 Jun 2009 p. 2621-2	r. 1 and 2: 30 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2009 (see r. 2(b))
<i>Architects Amendment Regulations 2013</i>	27 Jun 2013 p. 2659-60	r. 1 and 2: 27 Jun 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2013 (see r. 2(b))
<i>Commerce Regulations Amendment (Fees and Charges) Regulations 2017 Pt. 2</i>	23 Jun 2017 p. 3213-52	1 Jul 2017 (see r. 2(b))
<b>Reprint 2: The Architects Regulations 2005 as at 24 May 2019</b> (includes amendments listed above)		
<i>Architects Amendment Regulations 2021</i>	SL 2021/7 29 Jan 2021	r. 1 and 2: 29 Jan 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Jan 2021 (see r. 2(b))
<i>Commerce Regulations Amendment (Fees and Charges) Regulations 2021 Pt. 2</i>	SL 2021/86 21 Jun 2021	1 Jul 2021 (see r. 2(b))
<i>Commerce Regulations Amendment (Fees and Charges) Regulations 2022 Pt. 2</i>	SL 2022/59 20 May 2022	1 Jul 2022 (see r. 2(b))

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Citation	Published	Commencement
<i>Commerce Regulations Amendment (Mutual Recognition) Regulations 2022 Pt. 2</i>	SL 2022/121 30 Jun 2022	1 Jul 2022 (see r. 2(b))

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### Uncommenced provisions table

To view the text of the uncommenced provisions see *Subsidiary legislation as made* on the WA Legislation website.

Citation	Published	Commencement
<i>Commerce Regulations Amendment (Fees and Charges) Regulations 2023 Pt. 2</i>	SL 2023/35 5 May 2023	1 Jul 2023 (see r. 2(b))

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## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
person 1 .....	20
person 2 .....	20
registered address .....	3
renewal year .....	16C(4)
return day .....	3
section .....	3
vote .....	11(2)