

# Architects Act 1921 No 8

[1921-8]



New South Wales

## Status Information

### Currency of version

Repealed version for 7 July 2003 to 29 June 2004 (accessed 16 August 2024 at 19:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by the [Architects Act 2003 No 89](#), sec 86 (a) with effect from 30.6.2004.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Architects Act 1921 No 8



New South Wales

An Act to provide for the registration and to regulate the practice of architects; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act and commencement

This Act may be cited as the *Architects Act 1921* and shall come into force on a date to be proclaimed by the Governor in the Gazette.

### 2 (Repealed)

### 3 Definitions

(1) In this Act, except where the context or subject-matter otherwise indicates or requires:

**Architect** means a person registered as an architect in accordance with this Act.

**Architect** or **architecture** does not include naval architect or naval architecture.

**Board** means the Board of Architects of New South Wales established by this Act.

**Chartered architect** means an architect who is enrolled as a chartered architect in the register.

**Division** means a division of the register.

**Member** means member of the board.

**Non-chartered architect** means an architect who is enrolled as a non-chartered architect in the register.

**Person** includes corporation, company, society, association, and firm.

**Practise**, in relation to architecture, refers to practising architecture as a principal for fee or reward, or as an officer of the Public Service of New South Wales or the Commonwealth, or as an employee of any statutory authority constituted for public purposes.

**Prescribed** means prescribed by this Act or regulation thereunder.

**Register** means the Register of Architects kept under this Act.

**Registrar** means registrar of the board.

**Regulations** means regulations under this Act.

(2) A reference in this Act to:

(a) enrolment as a chartered architect is a reference to enrolment in the division of chartered architects kept in the register, and

(b) enrolment as a non-chartered architect is a reference to enrolment in the division of non-chartered architects kept in the register.

## **Part 2 The board**

### **4 Incorporation of board**

(1) A board, to be called the “Board of Architects of New South Wales”, is hereby established.

(2) The board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name.

### **5 Constitution of board**

(1) The board shall consist of 10 members, being:

(a) 3 ex officio members, comprising:

(i) the President and immediate Past President of the New South Wales Chapter of the Royal Australian Institute of Architects, and

(ii) the Government Architect,

(b) 3 elected members, comprising 3 architects, at least 2 of whom shall be chartered architects, elected respectively in the manner and by the persons prescribed, and

(c) 4 appointed members, comprising:

(i) 2 architects appointed in the prescribed manner by the prescribed institutions responsible for the teaching of architecture, and

(ii) 2 persons appointed by the Minister, one of whom shall be a chartered architect and the other of whom shall not be an architect.

(2), (3) (Repealed)

(4) Where, for the purposes of subsection (1) (b) or (c) (i), a person is not elected or

appointed in accordance with this Act or the regulations, the Minister may appoint any architect to be a member instead of the person required to be elected or appointed.

- (5) Nothing in subsection (4) permits the appointment of a non-chartered architect to hold office as an elected member pursuant to subsection (1) (b) instead of a person required by that paragraph to be a chartered architect.
- (6) A person appointed by the Minister to hold office as an elected member shall be deemed to be a member elected pursuant to subsection (1) (b) and to have been elected at the time of his or her appointment by the Minister.
- (7) A person appointed by the Minister to hold office instead of a person required to be appointed under subsection (1) (c) (i) shall be deemed to be a member appointed pursuant to that subparagraph and to have been appointed by an institution referred to in that subparagraph at the time of his or her appointment by the Minister.

#### **5A Election of president**

One of the members shall be elected by the members as president of the board.

#### **6 Tenure and remuneration of members**

- (1) Subject to this Act, the term of office of a member, other than an ex officio member, shall be 4 years.
- (1A) A member, other than an ex officio member, is eligible for reappointment or re-election, as the case may be.
- (1B) A member appointed or elected shall take office upon:
  - (a) the day on which he or she is appointed or elected, or
  - (b) the expiration of his or her predecessor's term of office,whichever is the later.
- (2) If the office of a member becomes vacant during the term for which he or she is appointed or elected, a deputy shall be appointed or elected for the remainder of such term:

Provided that where the office of an elected member becomes vacant within the last 6 months of the term of office of such member, the Minister may, on the application of the board, order that an election shall not be held, and may, on the like application, revoke any such order.
- (3) If a member is likely from any cause to be absent from meetings of the board for more than 3 months, the Minister may appoint a deputy to act for such member during his or her absence.

- (4) A deputy shall have the same powers, rights, and duties as the member in whose place he or she is appointed or elected.
- (5) A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him or her.

## **7 Vacancies etc**

- (1) The office of a member, other than an ex officio member, shall become vacant if such member:
  - (a) dies,
  - (b) resigns his or her office by writing under his or her hand addressed to the Minister,
  - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,
  - (d) is absent without leave of the board from three consecutive meetings of which due notice has been given to him or her personally or in the ordinary course of post,
  - (e) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the [Mental Health Act 1958](#) or a person under detention under Part 7 of that Act,
  - (f) being a member elected pursuant to section 5 (1) (b) and being, at the time of his or her election, a chartered architect, ceases to be a chartered architect,
  - (f1) being a member elected pursuant to section 5 (1) (b) and being, at the time of his or her election, a non-chartered architect, ceases to be such an architect,
  - (f2) being a member appointed pursuant to section 5 (1) (c) (i), ceases to be an architect,
  - (f3) being the member appointed pursuant to section 5 (1) (c) (ii), ceases to be a chartered architect,
  - (f4) being the member appointed pursuant to section 5 (1) (c) (ii) (other than the member referred to in paragraph (f3)), becomes an architect, or
  - (g) (Repealed)
  - (h) is removed from office by the Minister.

The Minister may for any cause which appears to him or her sufficient remove any member from office.

- (2) The validity of any act or resolution of the board shall not be affected by any informality or irregularity in its constitution, and the fact that the office of any or every member is vacant shall not of itself operate to dissolve the corporation.

## **8 Registrar and other officers**

- (1) The board may appoint a registrar and such other officers as the board may think fit for carrying out the provisions of this Act, and may at any time remove any persons so appointed.
- (2) For the purpose of exercising and performing its powers, authorities, duties and functions, the board may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers or employees, of any Department of the Government or any public authority.

## **8A Architects Fund**

- (1) For the purposes of this Act there shall be constituted a fund, to be called the Architects Fund.
- (2) All moneys received by the board or the registrar shall be paid into the Architects Fund which shall be under the control of the board and shall be operated by the board in pursuance of this Act, and the board shall for its purposes cause to be kept such accounts relating to the deposit and withdrawal of money as it shall deem proper.
- (3), (4) (Repealed)
- (5) The allowances and fees of members and the salaries and emoluments of the officers appointed under this Act, and all other expenses of and incidental to the administration of this Act, shall be paid out of the Architects Fund.
- (6) Any money in the Architects Fund which is not required for the purposes of subsection (5) may be expended by the board for the purposes of the advancement of architecture in such manner as it may determine or invested in any securities in which trustees are authorised by law to invest trust funds.

## **Part 3 Register**

### **9 Register of Architects**

- (1) There shall be a Register of Architects to be kept as prescribed.
- (2) There shall be, in the register, a division of chartered architects and a division of non-chartered architects.
- (3) Subject to the regulations, the divisions of the register shall be established and kept in such manner and form as the board thinks fit.



## **9A Registration**

- (1) A person is registered as an architect while his or her name is enrolled in a division of the register.
- (2) On application made in accordance with this Act by a person entitled to be enrolled as a non-chartered architect, the registrar shall enrol the applicant's name, and such other particulars as are prescribed, in the division of non-chartered architects.
- (3) On application made in accordance with this Act by a person entitled to be enrolled as a chartered architect, the registrar shall enrol the applicant's name, and such other particulars as are prescribed, in the division of chartered architects.
- (4) An architect who, though registered as an architect, is not enrolled in the division of chartered architects shall be deemed to be enrolled in the division of non-chartered architects.
- (5) A person is not entitled to be enrolled at the same time as both a non-chartered architect and a chartered architect.

## **10 Roll of architects**

- (1) The registrar shall, as soon as practicable after 1 April in each year, certify a copy of the register to be correct up to 1 April in that year and the board shall thereupon cause it to be printed and published as a roll of architects.
- (2) A document purporting to be a certificate under the hand of the registrar and stating that any person was or was not on any date or during any period mentioned in the certificate registered under this Act, or enrolled as a non-chartered architect or as a chartered architect, shall in all courts and before all persons and bodies authorised by law to receive evidence be prima facie evidence of the facts stated.

## **11 Annual roll fee**

- (1) Every architect shall before the thirty-first day of March in each year pay to the registrar the prescribed roll fee for the year commencing on the first day of January immediately preceding the said thirty-first day of March.
- (2) If any architect fails to pay the prescribed roll fee on or before 31 March in any year, the board shall forthwith remove his or her name from the register.
- (3) If the name of any architect is removed from the register under this section, the board shall, upon application in the prescribed form, restore his or her name to the register upon payment of such fees as are prescribed. The regulations may provide for the waiver of such fees or part thereof as the board may in a particular case deem proper.

## **Part 4 Architects**

### **12 Good character and age**

No person shall be entitled to be registered as an architect unless he or she has attained the age of 21 years and satisfies the board that he or she is of good fame and character.

### **13 Entitlement to registration**

- (1) Subject to this Act, a person is entitled to be enrolled as a non-chartered architect if he or she:
  - (a) has passed an examination conducted by the board for the purposes of this subsection,
  - (b) has passed an examination which, in the opinion of the board, is equivalent to the examination referred to in paragraph (a),
  - (c) has a prescribed qualification,
  - (d) has a qualification which, in the opinion of the board, is equivalent to a prescribed qualification, or
  - (e) in the opinion of the board:
    - (i) has such special qualifications, and
    - (ii) has had such special experience,as would justify his or her enrolment as a non-chartered architect.
- (2) Subject to this Act, a person is entitled to be enrolled as a chartered architect if he or she has a qualification entitling him or her to enrolment as a non-chartered architect and:
  - (a) has:
    - (i) in the opinion of the board, completed in aggregate not less than 2 years or, where the regulations prescribe some other period, that other period, of practical experience in some architectural capacity approved by the board, at least one year (or where the regulations prescribe some other period, that other period) of which has been subsequent to obtaining the qualification entitling him or her to be enrolled as a non-chartered architect, and
    - (ii) passed an examination in architectural practice, being an examination approved by the board for the purposes of this subparagraph,
  - (b) has passed an examination in architectural practice, being an examination approved by the board for the purposes of this paragraph and not being an

examination the same in its entirety as an examination referred to in paragraph (a) (ii), or

(c) in the opinion of the board:

(i) has such special qualifications, and

(ii) has had such special experience,

as would justify his or her enrolment as a chartered architect.

#### **14 Application for registration**

Application to the board for registration shall:

(a) be made as prescribed,

(b) be supported by such evidence as the board may require, and

(c) be accompanied by the prescribed fee.

#### **15 Certificates of registration**

The board may issue certificates of registration as prescribed.

#### **16 (Repealed)**

#### **17 Removal from register**

(1) The board may remove from the register the name of any person who:

(a) has died,

(b) does not possess the qualifications in respect of which he or she is registered,

(c) is convicted in New South Wales of an indictable offence that is punishable by imprisonment for 12 months or upwards, or if he or she is convicted elsewhere than in New South Wales of an indictable offence that, if committed in New South Wales, would be an offence so punishable,

(d) has been registered by means of any false or fraudulent representation or declaration made either verbally or in writing,

(e) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the [Mental Health Act 1958](#) or a person under detention under Part 7 of that Act,

(f) applies in writing to have his or her name removed from the register, or

(g) is guilty of improper conduct in a professional respect.

- (2) Without limiting the meaning of the expression “improper conduct in a professional respect” in subsection (1), an architect shall be deemed guilty of any such conduct who:
- (a) in connection with any contract in respect of the design or construction of any building, enters into collusion with the builder or any other person in any way prejudicial to the owner’s interests and rights under the contract,
  - (b) being a chartered architect, allows any person other than a chartered architect who is his or her partner to practise as a chartered architect in his or her name or, being a non-chartered architect, allows any person to practise as an architect in his or her name,
  - (c) directly or indirectly gives or offers, or agrees to give or offer, any person any valuable consideration whatever as a remuneration for securing or attempting to secure for him or her any employment or work as an architect,
  - (d) fails to render to the client upon demand at the completion of the contract between the client and the builder an accurate and detailed statement of accounts,
  - (e) carries out any work in respect of the design or construction of any building and is the builder with respect to that building without the full knowledge and consent of the client,
  - (f) commits an offence against this Act or the regulations, whether or not he or she has been convicted of the offence,
  - (g) without reasonable cause, commits a breach of a contract in respect of the design or construction of any building,
  - (h) in the course of carrying out a contract in respect of the design or construction of any building, fails to comply with the requirements of any Act, regulation, by-law, ordinance or rule with respect to the design or construction of the building,
  - (i) commits any fraud or makes any misrepresentation in connection with any contract for the design or construction of any building, or
  - (j) is or was at any relevant time the managing director or manager or person having the management and supervision of the business relating to the design or construction of buildings of a firm or corporation which does anything referred to in paragraph (a), (c), (e), (f), (g), (h) or (i) or fails to do anything referred to in paragraph (d), except where he or she satisfies the board that:
    - (i) the firm or corporation did or failed to do any such thing without his or her knowledge,

- (ii) he or she was not in a position to influence the conduct of the firm or corporation in relation to its doing or failing to do any such thing, or
  - (iii) he or she, being in such a position, used all due diligence to prevent the firm or corporation from doing or failing to do any such thing.
- (3) The board shall remove from:
- (a) the division of non-chartered architects the name of any person who becomes a chartered architect, and
  - (b) the division of chartered architects the name of any person who becomes a non-chartered architect.
- (4) The board may, under subsection (1) (c), (d), (e), (f) or (g), remove from the register the name of any person either for an indefinite period or for such finite period as may be determined by the board.
- (5) The board as an alternative to removing from the register the name of any person who is guilty of improper conduct in a professional respect may reprimand the person or impose a fine on the person not exceeding 2 penalty units.
- (6) The board as an alternative to removing from the register the name of any chartered architect who is guilty of improper conduct in a professional respect may cause him or her to be enrolled as a non-chartered architect for such finite period as may be determined by the board.
- (7) The imposition of a fine under subsection (5) shall operate as an order for the payment of money under the [Local Courts \(Civil Claims\) Act 1970](#) and be enforceable as such under the provisions of that Act.
- (8) Where the board removes from the register or the division of chartered architects the name of a person for a finite period under subsection (4) or (6), his or her name shall be deemed to be restored thereto upon the expiration of that period.
- (9) A person shall not have his or her name removed from the register or the division of chartered architects:
- (a) pursuant to subsection (1) (paragraphs (a) and (f) excepted) or (6) until he or she has been given an opportunity by the board to show cause why his or her name should not be so removed, or
  - (b) on account of his or her having committed an offence (whether or not he or she has been convicted thereof) which, though within the provisions of this section, does not, either from the trivial nature of the offence or from the circumstances under which it was committed, render it expedient in the public interest that his or her name should be so removed.

(10)-(13) (Repealed)

### **17A Complaints etc against architects**

- (1) The board may hear any complaint or charge made to it against an architect.
- (2) The board may refuse to hear any complaint or charge referred to in subsection (1) where, in the opinion of the board, the complaint or charge is frivolous or vexatious.
- (3) The board may delegate to a committee of 3 members the hearing of any complaint or charge made to it under this section.
- (4) Where the hearing of any complaint or charge is delegated to a committee as referred to in subsection (3), the committee shall hear the complaint or charge and report to the board its findings and recommendations with respect to the complaint or charge.
- (5) The board may, of its own motion, conduct an inquiry into the conduct or practice of an architect, where the board has reasonable cause to suspect that the architect is liable to have his or her name removed from the register under section 17.
- (6) For the purpose of the hearing of any complaint or charge or the conduct of an inquiry under this section, the board may inquire into the conduct of a firm or corporation carrying on a business relating to the design or construction of buildings.

### **18 Restoration of name**

- (1) Where the board removes the name of any person from the register, the name of that person shall not be again entered on the register except by direction of the board or by order of a court of competent jurisdiction.
- (2) The board may, if it thinks fit in any case, restore to the register any name removed therefrom without payment of fee or on payment of such fee, not exceeding the registration fee, as the board may direct.

### **19 Prohibited practices**

- (1) A person shall not use or publish in connection with architecture, or the practice of architecture, any title, name, words, or letters which indicate that he or she is qualified or entitled to registration as an architect other than such title, name, words, or letters as truly indicate a qualification which he or she in fact holds.
- (2) An architect shall not accept any commission or substantial service or favour from any person who has contracted to execute or is engaged in the execution of any work in connection with the design or construction of any building or from any person who has offered or agreed to supply any materials, fittings, or appliances to be used in or in connection with such building.
- (3) A person shall not use the title "chartered architect" or any abbreviation or derivative

thereof or any title, name, words or letters implying or which are capable of being construed as implying that he or she is a chartered architect, or advertise or hold himself or herself out as being a chartered architect, unless he or she is a chartered architect.

- (3A) A person shall not use the title “architect” or any abbreviation or derivative thereof or any title, name, words or letters implying or which are capable of being construed as implying that he or she is an architect, or advertise or hold himself or herself out as being an architect, unless:
- (a) he or she is an architect,
  - (b) in the case of a corporation or firm, at least one-third in number of the directors or partners are chartered architects, or
  - (c) he or she is a person who has passed an examination prescribed for the purposes of this paragraph and is practising architecture as an officer of the Public Service of New South Wales.
- (3B) A person shall not, in carrying out work of a prescribed class or description, being work carried out by him or her or any other person for fee, gain or reward, use the title “architect” or any abbreviation or derivative thereof, or any title, name, words or letters implying or which is or are capable of being construed as implying that he or she is an architect, unless the work is carried out under the immediate supervision of a chartered architect.
- (3C) Nothing in this section prohibits:
- (a) a person practising naval architecture from using the title “naval architect”,
  - (b) an employee of a chartered architect from using the title “architectural assistant” or “architectural draftsman”,
  - (c) a person from using the word “architectural” only as indicating that he or she carries on the business of supplier of wares, instruments or materials used in connection with architecture, or
  - (d) a person from using any prescribed title, name, words or letters, or any title, name, words or letters of a prescribed class or description, or from using any such title, name, words or letters in any prescribed circumstances.
- (4) Any person who commits a breach of this section, and any member of a firm or officer or employee of a corporation which commits such a breach, shall be guilty of an offence against this Act and shall be liable, on conviction, for each offence to a penalty not exceeding 20 penalty units and to a further penalty not exceeding 2 penalty units for each day the offence continues.

- (5) It is a sufficient defence to a prosecution against a member of a firm or officer or employee of a corporation in respect of a breach by the firm or corporation of any of the provisions of this section if the member or officer or employee satisfies the court that:
  - (a) the breach occurred without his or her knowledge,
  - (b) he or she was not in a position to influence the conduct of the firm or corporation in relation to the breach, or
  - (c) he or she, being in such a position, used all due diligence to prevent the breach.
- (6) Nothing in this section shall be construed as precluding the application of any provision of this section to any person as defined in section 3 (1).

## **20 Reviews of certain decisions by the Administrative Decisions Tribunal**

- (1) Subject to subsection (2), any person whose application to be enrolled in a division of the register has been refused by the board may apply to the Administrative Decisions Tribunal for a review of the refusal.
- (2) A person is not entitled to apply to the Tribunal for a review of a refusal of an application to the board for enrolment if the application to the board was refused on the ground that the person had not passed an examination referred to in section 13 (1) (a) or (b) or (2) (a) (ii) or (b).
- (3) A person may apply to the Tribunal for a review of any of the following decisions made under section 17 by the board:
  - (a) a decision removing the name of the person from the register or the division of chartered architects,
  - (b) a decision reprimanding or fining the person.

## **Part 5 Miscellaneous**

### **21 Power of board to examine on oath**

- (1) The board may, for the purposes of this Act, examine any person on oath or take a statutory declaration from any person.
- (2) If any such person wilfully makes any false statement, or declaration, or utters or attempts to utter or put off as true before the board any false, forged or counterfeit certificate, diploma, licence, letter, testimonial, or other document, he or she shall be guilty of an offence against this Act and shall be liable, on conviction, to imprisonment for a term not exceeding 12 months.



## **22 Power to summon witnesses**

- (1) The president of the board, or by consent of the majority of the members present at any meeting of the board, a member may in writing under his or her hand summon any person to attend before the board for the purpose of being examined with respect to any matter within the jurisdiction of the board.
- (2) Every person duly summoned as aforesaid who does not attend after reasonable expenses have been paid or tendered to him or her, or refuses to be sworn or to make a statutory declaration, or to answer any lawful question, shall be guilty of an offence against this Act and shall be liable, on conviction, to a penalty not exceeding 2 penalty units.

## **23 Penalty for forging registration**

Any person who wilfully makes or causes to be made any false entry in or falsification of the register, and any person who wilfully procures or attempts to procure himself or herself or any other person to be registered under this Act by making or producing, or causing to be made or produced any false or fraudulent representation or declaration either verbally or in writing, and any person aiding or assisting therein shall be guilty of an offence against this Act and shall be liable, on conviction, to imprisonment for a term not exceeding 12 months.

## **23A Financial year of board**

- (1)-(7) (Repealed)
- (8) The financial year of the board shall be the year commencing on 1 July.

## **23B (Repealed)**

## **23C Proceedings for offences**

Proceedings for an offence against this Act or the regulations may be taken before a Local Court.

## **24 Fees payable to registrar**

- (1) The fees payable and all penalties recovered under this Act or any regulation made thereunder shall be paid to the registrar.
- (2), (3) (Repealed)

## **24A Examinations conducted by board**

- (1) The board may conduct such examinations as may be required for the purposes of this Act, and may appoint examiners in respect of those examinations.
- (2) The subjects to be examined shall be such as may, from time to time, be determined

by the board.

- (3) The fees to be paid to examiners and the fees to be paid by candidates for examination shall be such as may, from time to time, be determined by the Minister.

## **25 Regulations**

- (1) The Governor, upon the recommendation of the board, may make regulations for carrying out the provisions of this Act, and in particular for:
- (a) regulating the appointment and election of members, and the proceedings and meetings of the board, and fixing the quorum of the board,
  - (ai) regulating the manner of, and the procedures associated with, the exercise by the board of its powers under sections 17 and 17A, including the manner of making complaints or charges to the board as referred to in section 17A,
  - (b) regulating the duties of officers,
  - (c) (Repealed)
  - (d) prescribing the standard of educational attainments required of candidates at an examination conducted by the board, and
  - (e) prescribing fees payable under this Act.
- (1A) The regulations may provide for the exemption of any class of persons from the provisions of the regulations relating to the prescribed standard of educational attainments.
- (1B) A provision of a regulation may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
- (1C) Without limiting any provision of this section, the regulations may prescribe different fees for the purposes of this Act according to whether they are payable in respect of enrolment in the division of non-chartered architects or the division of chartered architects.
- (2) Such regulations may prescribe a penalty not exceeding 2 penalty units for any breach thereof.

(3) (Repealed)