

2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Planning)

## Architects Bill 2004

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(As presented)

(Minister for Planning)

## **Architects Bill 2004**

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### **A Bill for**

An Act about the provision of architectural services, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Architects Act 2004*.

4 **2 Commencement**

5 This Act commences on 1 July 2004.

6 *Note* The naming and commencement provisions automatically commence on  
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Dictionary**

9 The dictionary at the end of this Act is part of this Act.

10 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
11 Act, and includes references (*signpost definitions*) to other terms  
12 defined elsewhere.

13 For example, the signpost definition '*architects board*—see section 64.'  
14 means that the term 'architects board' is defined in that section.

15 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
16 the entire Act unless the definition, or another provision of the Act,  
17 provides otherwise or the contrary intention otherwise appears (see  
18 Legislation Act, s 155 and s 156 (1)).

19 **4 Notes**

20 A note included in this Act is explanatory and is not part of this Act.

21 *Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.



1     **5           Offences against Act—application of Criminal Code etc**

2           Other legislation applies in relation to offences against  
3           this Act.

4           *Note 1   Criminal Code*

5           The Criminal Code, ch 2 applies to all offences against this Act (see  
6           Code, pt 2.1).

7           The chapter sets out the general principles of criminal responsibility  
8           (including burdens of proof and general defences), and defines terms  
9           used for offences to which the Code applies (eg *conduct*, *intention*,  
10          *recklessness* and *strict liability*).

11          *Note 2   Penalty units*

12          The Legislation Act, s 133 deals with the meaning of offence penalties  
13          that are expressed in penalty units.

1 **Part 2** **Objects and important concepts**  
2 **for Act**

3 **6** **Objects**

- 4 (1) The objects of this Act include the following:
- 5 (a) to establish a board to regulate the provision of architectural  
6 services by architects;
- 7 (b) to ensure that architects provide services to the public  
8 professionally and competently;
- 9 (c) to provide ways to discipline architects who are found to have  
10 acted unprofessionally or incompetently;
- 11 (d) to ensure that the public has access to information about the  
12 qualifications and competence of architects;
- 13 (e) to establish a register of architects to provide that information.

- 14 (2) In this section:  
15 *architect* means a registered person.

16 **7** **Meaning of *architectural service* for Act**

- 17 (1) In this Act:  
18 *architectural service* means a service about architecture that is  
19 ordinarily provided by a person eligible to be registered under this  
20 Act.
- 21 (2) The regulations may prescribe services that are, and are not,  
22 architectural services.

1 **Part 3 Registration**

2 **Division 3.1 Registration of architects**

3 *Note about application of the Mutual Recognition Act 1992 (Cwlth) and the*  
4 *Trans-Tasman Mutual Recognition Act 1997 (Cwlth) (the **Commonwealth Acts**)*

5 The Commonwealth Acts allow people registered in certain occupations in a local  
6 jurisdiction to carry on the occupations in another local jurisdiction and set out the  
7 method of applying for registration in the ACT or a local jurisdiction. The  
8 requirements for registration under this Act cannot validly require anything of people  
9 being registered under the Commonwealth Acts that would be inconsistent with those  
10 Acts. Accordingly, provisions of this part, such as the requirements for applications,  
11 do not apply to the registration of people under the Commonwealth Acts. Also, the  
12 Commonwealth Acts set out when conditions may be placed on people registered  
13 under those Acts by a registration board. For more information, see the  
14 Commonwealth Acts.

15 **8 Eligibility for registration**

- 16 (1) An individual is eligible to be registered if the individual has  
17 relevant expertise and relevant experience.
- 18 (2) An individual has *relevant expertise* if the individual—
- 19 (a) has—
- 20 (i) a qualification prescribed under the regulations; or
- 21 (ii) successfully completed a course of study accredited by  
22 the architects board; or
- 23 (iii) qualifications gained outside Australia that the board is  
24 satisfied are adequate to allow the individual to practise  
25 architecture in the ACT; and
- 26 (b) has passed an examination arranged or approved by the board  
27 to assess the person's competence to practise architecture.

- 1 (3) An individual has *relevant experience* if—  
2 (a) the individual has at least 2 years practical experience in the  
3 practice of architecture, of which—  
4 (i) at least 1 year is postgraduate experience; and  
5 (ii) at least 1 year is in Australia; and  
6 (b) the architects board is satisfied that the period and kind of  
7 practise are adequate to allow the individual to competently  
8 practise architecture in the ACT.

9 **Example for par (a)**

10 a person worked as an undergraduate in architectural services in Brussels for  
11 18 months, then graduated and worked providing architectural services for 1 year  
12 in Melbourne

13 *Note* An example is part of the Act, is not exhaustive and may extend, but  
14 does not limit, the meaning of the provision in which it appears (see  
15 Legislation Act, s 126 and s 132).

- 16 (4) The architects board may, in writing, accredit a course for  
17 subsection (2) (a) (ii).  
18 (5) An accreditation is a notifiable instrument.

19 *Note* A notifiable instrument must be notified under the Legislation Act.

20 **9 Decision on registration application**

- 21 (1) If an individual applies for registration, the architects board must  
22 register, or refuse to register, the individual.  
23 (2) The architects board must refuse to register the individual as an  
24 architect if—  
25 (a) the board is not satisfied that the applicant is eligible to be  
26 registered; or  
27 (b) the individual is disqualified from applying for registration.

28 *Note* An individual may be disqualified from applying for registration under  
29 s 46 (g) or (h).

- 1 (3) The architects board may refuse to register the individual if, because  
2 of a relevant circumstance in relation to the individual, the board is  
3 satisfied that the public interest will or might be endangered if the  
4 individual is allowed to practice architecture in the ACT.
- 5 (4) Each of the following is a *relevant circumstance* in relation to an  
6 individual:
- 7 (a) the individual is bankrupt, is applying to take the benefit of any  
8 law for the relief of bankrupt or insolvent debtors, is  
9 compounding with creditors or making an assignment of  
10 remuneration for the benefit of creditors;
- 11 (b) the individual has been convicted or found guilty of an offence  
12 against this Act;
- 13 (c) the individual has been convicted or found guilty of an offence  
14 against a Commonwealth, Territory or State law punishable by  
15 imprisonment for 1 year or longer;
- 16 (d) the individual's registration (however described) under the  
17 corresponding law of a local jurisdiction has been cancelled or  
18 suspended because of an act or omission of the individual that  
19 would, if the individual were registered in the ACT and the act  
20 or omission had happened here, have allowed the individual's  
21 registration to be cancelled or suspended.
- 22 *Note* *Corresponding law*—see dict.
- 23 (5) To remove any doubt, the architects board may only register an  
24 individual.
- 25 (6) Registration may be conditional.

26 **10 Registration conditions**

- 27 (1) The architects board may put a condition on a person's  
28 registration—  
29 (a) on registration; or

- 1 (b) when the registration is renewed.
- 2 *Note* A condition may also be put on a person's registration because of  
3 disciplinary action taken against the person (see s 46 (1) (c)).
- 4 (2) A condition on registration may relate to—
- 5 (a) the term of the registration; or
- 6 (b) the kind of architecture the person is registered to practise; or
- 7 (c) anything else relating to the practice of architecture that the  
8 architects board considers appropriate.
- 9 (3) In considering whether to place a condition on a person's  
10 registration, the architects board must take into consideration the  
11 following:
- 12 (a) any relevant experience;
- 13 (b) any history of complaints about the person's conduct in  
14 relation to the provision of architectural services;
- 15 (c) any disciplinary action taken in relation to the person under  
16 this Act or a corresponding Act of a local jurisdiction;
- 17 (d) the need to protect the public from harm, for example, by  
18 limiting the public's exposure to a financially insecure provider  
19 of architectural services.
- 20 *Note* An example is part of the Act, is not exhaustive and may extend, but  
21 does not limit, the meaning of the provision in which it appears (see  
22 Legislation Act, s 126 and s 132).

23 **11 Inclusion of details in register**

- 24 (1) If the architects board registers a person, the board must include in  
25 the register details of the person's registration.
- 26 (2) The regulations may prescribe the details required to be included in  
27 the register on registration.

1   **12**       **Term of registration**

- 2           (1) Registration is for 1 year.
- 3           (2) However, a condition on a person's registration may provide a  
4           shorter registration period.

5   **Division 3.2**           **Architects register**

6   **13**       **Registrar**

- 7           (1) The chief executive must appoint a public servant as registrar.

8           *Note 1* For the making of appointments (including acting appointments), see  
9           Legislation Act, pt 19.3.

10          *Note 2* In particular, a person may be appointed for a particular provision of a law  
11          (see Legislation Act, s 7 (3)) and an appointment may be made by naming a  
12          person or nominating the occupant of a position (see s 207).

- 13          (2) The registrar is responsible for managing the administration of the  
14          architects board and maintaining the register.

- 15          (3) The registrar must exercise a function under subsection (2) in  
16          accordance with any direction from the architects board.

17   **14**       **Board to keep register**

- 18          (1) The architects board must keep a register (the *register*) that allows  
19          the public to get information about who is registered to provide  
20          architectural services in the ACT.

- 21          (2) The register may be kept in any form, including electronically, that  
22          the architects board decides.

- 23          (3) The register may be kept in 1 or more parts, as the architects board  
24          considers appropriate.

- 1 (4) The register must be open for free inspection by the public at  
2 reasonable times.

3 **Example**

4 the register may be available on a website

5 *Note* An example is part of the Act, is not exhaustive and may extend, but  
6 does not limit, the meaning of the provision in which it appears (see  
7 Legislation Act, s 126 and s 132).

- 8 (5) This section is subject to section 15.

9 **15 Exception to public inspection**

10 (1) This section applies to a decision of the architects board to take  
11 disciplinary action against a person.

12 (2) A matter included in the register in relation to the disciplinary action  
13 may be open for public inspection under section 14 only if—

14 (a) the time for any review of the decision has ended and no  
15 application for appeal or review has been made; or

16 (b) an application for review has been made, the decision has been  
17 confirmed on review and the time for further appeal has ended.

18 (3) If the decision has been reversed or set aside, a matter included in  
19 the register in relation to the decision must not be open for public  
20 inspection.

21 (4) If the decision has been changed (for example, by substitution), this  
22 section applies to a matter included in the register in relation to the  
23 decision as changed.

24 *Note* An example is part of the Act, is not exhaustive and may extend, but  
25 does not limit, the meaning of the provision in which it appears (see  
26 Legislation Act, s 126 and s 132).

27 **16 Correction of errors**

28 With the approval of the architects board, the registrar may correct a  
29 mistake, error or omission in the register.



1    **17**           **Information may be shared**

2           Information on the register, including information that is not  
3           available for public inspection, may be given to a local registering  
4           authority for use as part of a joint register of architects between  
5           local jurisdictions.

6           *Note*     *Local registering authority*—see dict.

7    **18**           **Notice of intention to remove from register**

8           (1) This section applies if the architects board intends to remove  
9           someone's details from the register under section 19 (2) or  
10          section 20.

11          (2) The architects board must not remove the person's details unless the  
12          board has—

13                  (a) given the person written notice of the board's intention to take  
14                  action; and

15                  (b) taken into consideration any response received from the person  
16                  in accordance with the notice.

17          (3) A notice under subsection (2) (a) must—

18                  (a) state the action the architects board intends to take; and

19                  (b) tell the person why the board intends to take the action; and

20                  (c) tell the person that he or she may, within 12 business days after  
21                  the day the person is given the notice, give a written response  
22                  to the board about the matters in the notice.

23    **19**           **Requirement to remove register information**

24          (1) The architects board must remove from the register details of a  
25          person's registration if—

26                  (a) the person dies; or

27                  (b) the person asks for the person's registration to be cancelled; or

- 1 (c) the person is no longer registered (for example, if the person  
2 fails to renew registration or pay for renewal); or
- 3 (d) the person's registration is cancelled.
- 4 *Note* An example is part of the Act, is not exhaustive and may extend, but  
5 does not limit, the meaning of the provision in which it appears (see  
6 Legislation Act, s 126 and s 132).
- 7 (2) The architects board must remove from the register details of a  
8 person's registration if the board is satisfied that—
- 9 (a) the person has become mentally or physically incapacitated  
10 and the incapacity affects the person's ability to provide  
11 architectural services; or
- 12 (b) the person is not eligible to be registered.
- 13 (3) However, the architects board must not remove a person's details  
14 under subsection (2) until 15 business days after the day the person  
15 is given notice of the intention to remove the details under  
16 section 18.

17 **20 Register information may be removed**

- 18 (1) The architects board may remove from the register details of a  
19 person's registration if—
- 20 (a) the person becomes bankrupt, applies to take the benefit of any  
21 law for the relief of bankrupt or insolvent debtors, compounds  
22 with creditors or makes an assignment of remuneration for the  
23 benefit of creditors; or
- 24 (b) the person is convicted or found guilty of an offence against a  
25 Commonwealth, Territory or State law punishable by  
26 imprisonment for 1 year or longer.
- 27 (2) However, the architects board must not remove a person's details  
28 under subsection (1) until 15 business days after the day the person  
29 is given notice of the intention to remove the details under  
30 section 18.

1 **Division 3.3** **Nominees**

2 **21** **Meaning of *mandatory requirement* for div 3.3**

3 In this division:

4 *mandatory requirement*, of a nominee of a firm, means a written  
5 requirement by the nominee that the firm do something, or not do  
6 something, to comply with this Act.

7 **22** **Appointment of nominees**

8 (1) A firm may, in writing given to the architects board, appoint an  
9 eligible person to be a nominee for the firm.

10 (2) The appointment must state—

11 (a) that the person appointed is nominee in relation to all  
12 architectural services provided by the firm and is the primary  
13 nominee; or

14 (b) if there is, or is to be, more than 1 nominee for the firm—

15 (i) the services in relation to which the person appointed is to  
16 be nominee; and

17 (ii) the name of the primary nominee.

18 (3) The appointment must also include the details of the person's  
19 eligibility to be a nominee.

20 (4) For subsection (1), a person is *eligible* to be a nominee for a firm if  
21 the person—

22 (a) is registered; and

23 (b) is a director or partner in the firm, or employed by the firm;  
24 and

25 (c) agrees in writing to the appointment.

- 1            (5) A firm may change the architectural services for which a nominee is  
2            responsible by written notice to the nominee and the architects  
3            board.

4            **23            Only nominee is primary nominee**

5            If a firm has only 1 nominee, the nominee is the firm's primary  
6            nominee.

7            **24            Primary nominee in partnership**

- 8            (1) This section applies if a firm that is a partnership has more than  
9            1 nominee.
- 10           (2) If only 1 nominee is a partner in the firm, that nominee is the firm's  
11           primary nominee.
- 12           (3) If more than 1 nominee is a partner in the firm, the firm must  
13           nominate 1 nominee who is a partner to be the firm's primary  
14           nominee.
- 15           (4) If no nominee is a partner, the firm must nominate a nominee to be  
16           the firm's primary nominee.

17           **25            Primary nominee in corporation**

- 18           (1) This section applies if a firm that is a corporation has more than  
19           1 nominee.
- 20           (2) If only 1 nominee is a director of the firm, that nominee is the firm's  
21           primary nominee.
- 22           (3) If more than 1 nominee is a director of the firm, the firm must  
23           nominate 1 nominee who is a director to be the firm's primary  
24           nominee.
- 25           (4) If no nominee is a director, the firm must nominate a nominee to be  
26           the firm's primary nominee.

1    **26**            **Change of primary nominee**

2                    A firm may change its primary nominee by written notice to the  
3                    architects board.

4    **27**            **When person no longer nominee**

5                    A nominee of a firm automatically stops being a nominee if the  
6                    nominee ceases to be eligible to be a nominee.

7    **28**            **Nominee's resignation**

8                    (1) A nominee of a firm may resign his or her appointment only with  
9                    the architects board's approval.

10                   (2) The architects board may approve the resignation of the nominee  
11                   only if satisfied that—

12                    (a) the firm has refused to comply with a mandatory requirement  
13                    of the nominee; or

14                    (b) the nominee cannot exercise his or her functions because of  
15                    mental or physical incapacity; or

16                    (c) the nominee, or firm that appointed the nominee, has arranged  
17                    for another nominee to take over the nominee's functions; or

18                    (d) it is otherwise appropriate to approve the resignation.

19    **29**            **Revocation of nominee's appointment**

20                    (1) A firm may revoke a nominee's appointment only with the  
21                    architects board's approval.

22                    (2) The architects board may approve the revocation of the nominee's  
23                    appointment only if satisfied that—

24                    (a) the nominee cannot exercise his or her functions because of  
25                    mental or physical incapacity; or

26                    (b) the nominee, or firm that appointed the nominee, has arranged  
27                    for another nominee to take over the nominee's functions; or

1 (c) it is otherwise appropriate to approve the resignation.

2 **30 Role of nominees**

3 (1) A nominee of a firm has the following functions:

4 (a) to supervise the architectural services of the firm for which the  
5 nominee is responsible (the *relevant architectural services*);

6 (b) to ensure that the relevant architectural services comply with  
7 this Act.

8 (2) The nominee commits an offence if—

9 (a) the nominee has been given a copy of the nominee's  
10 appointment and any change to the appointment; and

11 (b) the nominee fails to—

12 (i) adequately supervise the relevant architectural services;  
13 or

14 (ii) ensure that the relevant architectural services comply with  
15 this Act.

16 Maximum penalty: 50 penalty units.

17 *Note* A reference to an Act includes a reference to the statutory instruments  
18 made or in force under the Act, including regulations (see Legislation  
19 Act, s 104).

20 (3) Subsection (2) does not apply to a failure of a nominee of a firm  
21 if—

22 (a) the nominee had given the nominee's firm a mandatory  
23 requirement in relation to the matter that made up the failure;  
24 and

25 (b) the nominee had given the architects board a copy of the  
26 mandatory requirement; and

27 (c) the failure would not have happened if the mandatory  
28 requirement had been complied with.

- 1 (4) A firm that is a corporation commits an offence if a nominee of the  
2 firm fails to—
- 3 (a) adequately supervise the relevant architectural services; or
- 4 (b) ensure that the relevant architectural services comply with this  
5 Act.
- 6 Maximum penalty: 50 penalty units.
- 7 (5) A partner in a firm that is a partnership commits an offence if a  
8 nominee of the firm fails to—
- 9 (a) adequately supervise the relevant architectural services; or
- 10 (b) ensure that the relevant architectural services comply with this  
11 Act.
- 12 Maximum penalty: 50 penalty units.
- 13 (6) It is a defence to a prosecution for an offence for contravening  
14 subsection (5) if the partner proves—
- 15 (a) that—
- 16 (i) the partner did not know about the failure; and
- 17 (ii) reasonable precautions were taken and appropriate  
18 diligence was exercised to avoid the failure; or
- 19 (b) that the partner was not in a position to influence the other  
20 partners in relation to the architectural services or their  
21 supervision.
- 22 (7) An offence against this section is a strict liability offence.

23 **31 Legislation Act and nominee appointments**

24 The Legislation Act, part 19.3 (Appointments) does not apply to the  
25 appointment of a nominee.

1    **32            Firm to tell board about nominee ceasing**

2            (1) This section applies if a nominee of a firm ceases to be the firm's  
3            nominee other than because the nominee resigns or the nominee's  
4            appointment is revoked.

5            (2) The firm must tell the architects board in writing about the nominee  
6            ceasing within 1 week after the day the nominee ceases to be  
7            nominee.

8            Maximum penalty: 50 penalty units.

9            (3) An offence against this section is a strict liability offence.



1     **Part 4**                                   **Complaints**

2     **33**             **Meaning of *architect* for pt 4**

3             In this part:

4             ***architect***, in relation to an act or omission, means a registered  
5             person or a person who was registered at the time of the act or  
6             omission.

7     **34**             **Who may complain?**

8             Anyone who believes a disciplinary ground exists in relation to an  
9             architect may complain to the architects board.

10            **Examples of people who may complain**

11            a board member, a member of the public, the user of a service

12            *Note 1*    **Disciplinary ground**—see s 42.

13            *Note 2*    An example is part of the Act, is not exhaustive and may extend, but  
14            does not limit, the meaning of the provision in which it appears (see  
15            Legislation Act, s 126 and s 132).

16     **35**             **Form of complaint**

17            (1) A complaint must—

18            (a) be in writing; and

19            (b) be signed by the person making the complaint (the  
20            ***complainant***); and

21            (c) include the complainant's name and address.

22            (2) However, the architects board may accept a complaint for  
23            consideration even if it does not comply with subsection (1).

- 1                      (3) If the architects board accepts for consideration a complaint that is  
2                                      not in writing, the board must require the complainant to put the  
3                                      complaint in writing unless there is a good reason for not doing so.

4                      **36                      Withdrawal of complaints**

- 5                      (1) A complainant may withdraw the complaint at any time by written  
6                                      notice to the architects board.
- 7                      (2) If the complainant withdraws the complaint, the architects board—
- 8                                      (a) need take no further action on the complaint; but
- 9                                      (b) may continue to act on the complaint if the board considers it  
10    appropriate to do so; and
- 11                                      (c) need not report to the complainant under section 40 (Action  
12    after investigating complaint) on the results of any action on  
13    the complaint.

14                      **37                      Further information about complaint etc**

- 15                      (1) The architects board may, at any time, require a complainant—
- 16                                      (a) to give the board further information about the complaint; or
- 17                                      (b) to verify all or part of the complaint by statutory declaration.
- 18                      (2) When making a requirement under this section, the architects board  
19                                      must give the complainant a reasonable period of time to satisfy the  
20                                      requirement and may extend that period, whether before or after it  
21                                      ends.
- 22                      (3) If the complainant does not comply with a requirement under  
23                                      subsection (1), the architects board need not, but may, take further  
24                                      action in relation to the complaint.

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1    **38**           **Investigation of complaint**

2           The architects board must take reasonable steps to investigate each  
3           complaint the board accepts for consideration.

4           *Note*     A complaint must be in writing, but the registrar may accept a  
5           complaint that is not in writing (see s 35).

6    **39**           **No further action on complaint**

7           The architects board must not take further action on a complaint if  
8           satisfied that—

- 9           (a) the complaint lacks substance; or  
10          (b) the complaint is frivolous, vexatious or was not made  
11          genuinely; or  
12          (c) the complaint has been adequately dealt with.

13          *Note*     The architects board may also take no further action on a complaint if  
14          the complainant has not complied with a requirement made under  
15          s 37 (1) (see s 37 (3)).

16   **40**           **Action after investigating complaint**

17          (1) After investigating a complaint against an architect, the architects  
18          board must—

- 19          (a) if the board is satisfied that a disciplinary ground exists in  
20          relation to the complaint—  
21               (i) give the architect a disciplinary notice; and  
22               (ii) tell the complainant in writing that the notice has been  
23               given; or  
24          (b) if the board is not satisfied that a disciplinary ground exists in  
25          relation to the complaint—  
26               (i) tell the complainant in writing that the board will take no  
27               further action on the complaint; and

**Part 4**            Complaints

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1                            (ii) take no further action on the complaint.

2            (2) Subsection (1) (b) (ii) does not prevent the architects board from  
3            taking further action in relation to a complaint if the board becomes  
4            satisfied that a disciplinary ground exists in relation to the  
5            complaint.

6            *Note*        The registrar need not notify the complainant under s (1) if the  
7            complainant has withdrawn the complaint (see s 36).

1 **Part 5** **Disciplinary matters**

2 **Division 5.1** **Disciplinary proceedings**

3 **41** **Meaning of *architect* for pt 5**

4 In this part:

5 *architect*, in relation to an act or omission, means a registered  
6 person or a person who was registered at the time of the act or  
7 omission.

8 **42** **Disciplinary grounds**

9 (1) Each of the following is a *disciplinary ground* in relation to an  
10 architect:

- 11 (a) the architect has contravened, or is contravening, this Act;
- 12 (b) if a professional conduct code has been adopted under this  
13 Act—the architect has contravened a requirement of the code;
- 14 (c) the architect has contravened, or is contravening, a condition of  
15 his or her registration;
- 16 (d) the architect has been convicted, or found guilty, of an offence  
17 against a corresponding law of a local jurisdiction;

18 *Note* **Corresponding law**—see dict.

- 19 (e) the architect has been found guilty, in the ACT or elsewhere,  
20 of an offence involving fraud, dishonesty or violence that is  
21 punishable by imprisonment for 1 year or more.

22 (2) A disciplinary ground applies to an architect who is no longer  
23 registered if the disciplinary ground applied to the architect while  
24 registered.

1 **43 When disciplinary notice may be given**

2 If the architects board is satisfied that a disciplinary ground exists,  
3 or may exist, in relation to an architect, the board may give the  
4 architect a disciplinary notice.

5 **44 Disciplinary notices**

6 A notice (a *disciplinary notice*) given to an architect must—

- 7 (a) state each disciplinary ground which caused the notice to be  
8 given; and  
9 (b) state details of each ground that the architects board is satisfied  
10 would allow a reasonable person to identify the circumstances  
11 that give rise to the ground; and  
12 (c) tell the architect that he or she may, within 12 business days  
13 after the day the architect is given the notice, give a written  
14 response to the board about the notice.

15 **45 Decision about disciplinary action**

- 16 (1) This section applies if the architects board has given an architect a  
17 disciplinary notice.  
18 (2) The architects board may take disciplinary action in relation to the  
19 architect if satisfied on reasonable grounds that a disciplinary  
20 ground is established in relation to the architect.  
21 (3) In making a decision about whether to take disciplinary action in  
22 relation to the architect, the architects board—  
23 (a) must take into account—  
24 (i) any response given to the board in accordance with the  
25 disciplinary notice; and  
26 (ii) the considerations mentioned in section 46 (2); and  
27 (b) may hold an inquiry under division 5.2 (Disciplinary inquiries).

- 1 (4) If the architects board takes disciplinary action against the  
2 architect—
- 3 (a) the board must tell the architect in writing about the board’s  
4 decision; and
- 5 (b) the action takes effect when the notice is given to the architect  
6 or on the later date stated in the notice.

7 **46 Disciplinary action**

- 8 (1) If the architects board may take disciplinary action in relation to an  
9 architect, the board may do 1 or more of the following:
- 10 (a) reprimand the architect;
- 11 (b) require the architect to complete a stated course of training to  
12 the satisfaction of the board or another stated person;
- 13 (c) impose a condition on the architect’s registration, or amend an  
14 existing condition;
- 15 (d) impose a financial penalty of \$1000 or less;
- 16 (e) suspend the architect’s registration for a stated period or until a  
17 stated thing happens;
- 18 (f) cancel the architect’s registration;
- 19 (g) cancel the architect’s registration and disqualify the architect  
20 from applying for registration for a stated period or until a  
21 stated thing happens;
- 22 (h) disqualify the architect from applying for registration for a  
23 stated period or until a stated thing happens.
- 24 (2) In deciding what disciplinary action to take in relation to the  
25 architect under subsection (1), the architects board must consider the  
26 following:
- 27 (a) the degree of responsibility of the architect for the act or  
28 omission that made up the disciplinary ground;

- 1 (b) any injury, loss or damage caused, or that could have been  
2 caused, by the act or omission that made up the disciplinary  
3 ground;
- 4 (c) the extent to which it is necessary to discourage the architect  
5 and others from doing something, or not doing something, that  
6 made up the disciplinary ground;
- 7 (d) whether, and the extent to which, it is necessary to protect the  
8 public from the architect;
- 9 (e) the desirability of making the architect responsible for the  
10 consequences of the architect's actions or omissions;
- 11 (f) the desirability of maintaining public confidence in the  
12 regulatory system set up by this Act.
- 13 (3) The architects board may consider any other relevant consideration.

14 **47 Public notice of disciplinary action**

- 15 (1) If the architects board decides to take disciplinary action against an  
16 architect, the board—
- 17 (a) must tell the public about the disciplinary action by publishing  
18 the relevant details of the action in a daily ACT newspaper;  
19 and
- 20 (b) may tell the public about the disciplinary action by publishing  
21 the relevant details of the action in any other way the board  
22 considers appropriate.
- 23 (2) However, the details of the disciplinary action may be published  
24 under this section only if—
- 25 (a) the time for any review of the decision to take the disciplinary  
26 action has ended and no application for appeal or review has  
27 been made; or
- 28 (b) an application for review has been made, the decision has been  
29 confirmed on review and the time for further appeal has ended.



1 (3) If the decision has been reversed, details of the disciplinary action  
2 must not be published under this section.

3 (4) If the decision has been changed (for example, by substitution), this  
4 section applies in relation to the decision as changed.

5 *Note* An example is part of the Act, is not exhaustive and may extend, but  
6 does not limit, the meaning of the provision in which it appears (see  
7 Legislation Act, s 126 and s 132).

8 (5) In this section:

9 *relevant details*, of the disciplinary action, means—

10 (a) the name and any other identifying details of the architect; and

11 (b) a short description of the disciplinary ground on which the  
12 disciplinary action was based; and

13 (c) a description of the disciplinary action.

14 **48 Giving local registering authorities information about**  
15 **certain disciplinary action**

16 (1) This section applies if the architects board cancels or suspends an  
17 architect's registration or disqualifies an architect from applying for  
18 registration.

19 (2) The architects board must give each local registering authority the  
20 following information about the architect:

21 (a) the name and any other identifying details of the architect; and

22 (b) a short description of the disciplinary ground on which the  
23 disciplinary action was based; and

24 (c) whether the registration has been cancelled or suspended or the  
25 architect disqualified; and

26 (d) if the registration has been suspended—the period of  
27 suspension; and

1 (e) if the architect has been disqualified—the period of  
2 disqualification.

3 (3) This section does not limit any other requirement or power, under  
4 this Act or another law in force in the ACT, to give information to a  
5 local registering authority.

## 6 **Division 5.2 Disciplinary inquiries**

### 7 **49 Notice of inquiry**

8 (1) If the architects board decides under section 45 (3) to hold an  
9 inquiry in relation to an architect, the board must give the architect  
10 at least 12 business days written notice of the inquiry.

11 (2) The notice must—

12 (a) be accompanied by a copy of the disciplinary notice given to  
13 the architect; and

14 (b) state whether the board considers that any disciplinary ground  
15 no longer applies, or has changed, because of any written  
16 response made by the architect in accordance with the  
17 disciplinary notice and, if a ground has changed, how the  
18 ground has changed; and

19 (c) explain that the inquiry may result in the taking of disciplinary  
20 action against the architect; and

21 (d) tell the architect where and when the inquiry will be held.

22 *Note* If a form is approved under s 91 for a notice, the form must be used.

### 23 **50 Inquiry procedure**

24 (1) The architects board may decide any procedure for an inquiry that is  
25 not prescribed under this Act.

26 (2) The architects board may adjourn an inquiry.

1    **51           Evidence at inquiry**

- 2           (1) At an inquiry, the architects board—
- 3               (a) may take evidence on oath or affirmation; and
- 4               (b) must comply with the rules of natural justice; and
- 5               (c) is not bound by rules of evidence but may inform itself in the
- 6                     way it considers appropriate.
- 7           (2) At an inquiry, the architect whose actions are being inquired into
- 8               may call witnesses.

9    **52           Legal representation at inquiry**

- 10           (1) An architect may be represented at an inquiry by a lawyer who may
- 11               examine witnesses and address the registrar on behalf of the
- 12               architect.
- 13           (2) The architects board may appoint a lawyer to examine witnesses in
- 14               an inquiry and advise the board in relation to the inquiry.

15    **53           Board may require appearance, information or**

16               **documents**

- 17           (1) For an inquiry, the architects board may, in writing, require a person
- 18               to appear before the inquiry on a stated date—
- 19               (a) to give evidence; or
- 20               (b) to give evidence and produce a document or thing in the
- 21                     possession, custody or control of the person; or
- 22               (c) to produce a document or thing in the possession, custody or
- 23                     control of the person.

24           *Note*       The Legislation Act, s 170 and s 171 deal with the application of the

25                     privilege against selfincrimination and client legal privilege.

- 1 (2) The architects board may give a party to the inquiry leave, subject to  
2 any condition, to—
- 3 (a) inspect a document or thing produced under this section; and  
4 (b) make copies of, or take extracts from, a produced document for  
5 the inquiry.
- 6 (3) A person is taken to have complied with a requirement under  
7 subsection (1) (c) if the person gives the document or thing to the  
8 architects board before the date stated in the requirement.
- 9 (4) The architects board may set aside a requirement under  
10 subsection (1).
- 11 (5) A person commits an offence if the person fails to comply with a  
12 requirement made of the person under this section.
- 13 Maximum penalty: 50 penalty units.
- 14 (6) An offence against this section is a strict liability offence.

15 **54 Confidentiality and client communications**

- 16 (1) This section applies if—
- 17 (a) an architect is required to give confidential information to the  
18 architects board for an inquiry in relation to the architect; or
- 19 (b) the architect believes on reasonable grounds that it is necessary  
20 to give confidential information to the board to explain an act  
21 or omission of the architect.
- 22 (2) The architect is not civilly liable for giving the information to the  
23 architects board.
- 24 (3) In this section:
- 25 *confidential information*, in relation to an architect, means  
26 information given to the architect by a client in confidence.

1    **55           Witness expenses**

2           (1) A requirement under section 53 (1) (a) or (b) must be accompanied  
3           by—

4               (a) an undertaking to appear to be signed by the person and  
5               returned to the architects board by the stated date; and

6               (b) a form to be completed by the person to claim the reasonable  
7               costs and expenses of attendance at the inquiry.

8           (2) A person is not entitled to refuse to comply with the requirement  
9           only because the requirement was not accompanied by the form.

1 **Part 6 Offences**

2 **56 Individual not registered or nominee for pt 6**

3 For this part—

4 (a) an individual is taken not to be registered if the individual's  
5 registration is suspended; and

6 (b) an individual is taken not to be a nominee if the individual's  
7 registration is suspended.

8 **57 Individual pretending to be registered**

9 (1) An individual must not pretend to be registered.

10 Maximum penalty: 100 penalty units.

11 **Example of pretending to be registered**

12 using 'architect' or 'registered architect' on letterhead, entry sign or other  
13 advertisement

14 *Note* An example is part of the Act, is not exhaustive and may extend, but  
15 does not limit, the meaning of the provision in which it appears (see  
16 Legislation Act, s 126 and s 132).

17 (2) Subsection (1) does not apply to the use of a term prescribed under  
18 the regulations.

19 **58 Firm offering architectural services without nominee**

20 (1) A corporation must not offer an architectural service unless the  
21 corporation has a nominee.

22 Maximum penalty: 100 penalty units.

23 (2) Each partner in a partnership commits an offence if—

24 (a) the partnership offers an architectural service; and

- 1 (b) the partnership does not have a nominee.  
2 Maximum penalty: 100 penalty units.
- 3 (3) It is a defence to a prosecution for an offence for contravening  
4 subsection (2) if the partner proves—
- 5 (a) that—
- 6 (i) the partner did not know that the partnership did not have  
7 a nominee; and
- 8 (ii) reasonable precautions were taken and appropriate  
9 diligence was exercised to avoid the contravention; or
- 10 (b) that the partner was not in a position to influence the other  
11 partners in relation to the appointment of a nominee.

12 **59 Unregistered individual advertising**

- 13 (1) An individual commits an offence if—
- 14 (a) the individual advertises that the individual provides, or will  
15 provide, an architectural service; and
- 16 (b) the individual is not registered.
- 17 Maximum penalty: 50 penalty units.
- 18 (2) An offence against this section is a strict liability offence.

19 **60 Individual advertising without details**

- 20 (1) An individual commits an offence if—
- 21 (a) the individual advertises that the individual provides, or will  
22 provide, an architectural service; and
- 23 (b) the individual does not include the following in the  
24 advertisement:
- 25 (i) his or her name as recorded in the register;

1 (ii) his or her registration number.

2 Maximum penalty: 50 penalty units.

3 **Example**

4 An individual's registered name is D&E Smith Architects. The individual trades  
5 under the name ABC Architects. When advertising, the individual must include  
6 the registered name in the advertisement to allow the public to check the  
7 individual's register entry.

8 *Note* An example is part of the Act, is not exhaustive and may extend, but  
9 does not limit, the meaning of the provision in which it appears (see  
10 Legislation Act, s 126 and s 132).

11 (2) An offence against this section is a strict liability offence.

12 **61 Firm advertising without details**

13 (1) A corporation commits an offence if the corporation—

14 (a) advertises that it provides, or will provide, an architectural  
15 service; and

16 (b) does not include the following in the advertisement:

17 (i) the name of the corporation's primary nominee, as  
18 recorded in the register;

19 (ii) the primary nominee's registration number.

20 Maximum penalty: 10 penalty units.

21 (2) A partner commits an offence if the partnership—

22 (a) advertises that it provides, or will provide, an architectural  
23 service; and

24 (b) does not include the following in the advertisement:

25 (i) the name of the partnership's primary nominee as  
26 recorded in the register;



- 1 (ii) the primary nominee's registration number.
- 2 Maximum penalty: 10 penalty units.
- 3 (3) It is a defence to a prosecution for an offence for contravening
- 4 subsection (2) if the partner proves—
- 5 (a) that—
- 6 (i) the partner did not know that the partnership had not
- 7 included the information in the advertisement; and
- 8 (ii) reasonable precautions were taken and appropriate
- 9 diligence was exercised to avoid the contravention; or
- 10 (b) that the partner was not in a position to influence the other
- 11 partners in relation to the advertisement.
- 12 (4) An offence against this section is a strict liability offence.

13 **62 Firm's business correspondence without required details**

- 14 (1) A corporation commits an offence if the corporation—
- 15 (a) provides, or advertises that it will provide, an architectural
- 16 service; and
- 17 (b) does not include the following in each item of written business
- 18 correspondence:
- 19 (i) the name of the corporation's primary nominee, as
- 20 recorded in the register;
- 21 (ii) the primary nominee's registration number.
- 22 Maximum penalty: 10 penalty units.
- 23 (2) A partner commits an offence if the partnership—
- 24 (a) provides, or advertises that it will provide, an architectural
- 25 service; and

- 1 (b) does not include the following in each item of written business  
2 correspondence:
- 3 (i) the name of the partnership's primary nominee, as  
4 recorded in the register kept under this Act;
- 5 (ii) the primary nominee's registration number.
- 6 Maximum penalty: 10 penalty units.
- 7 (3) It is a defence to a prosecution for an offence for contravening  
8 subsection (2) if the partner proves—
- 9 (a) that—
- 10 (i) the partner did not know that the information was not  
11 included in the business correspondence; and
- 12 (ii) reasonable precautions were taken and appropriate  
13 diligence was exercised to avoid the contravention; or
- 14 (b) that the partner was not in a position to influence the other  
15 partners in relation to the business correspondence.
- 16 (4) An offence against this section is a strict liability offence.

17 **63 Provision of architectural services by third party**

- 18 A person commits an offence if—
- 19 (a) the person offers an architectural service to be provided by  
20 someone else; and
- 21 (b) the provider of the service is not a registered architect; and
- 22 (c) the person is reckless about whether the provider is a registered  
23 architect.
- 24 Maximum penalty: 100 penalty units.

1 **Part 7** **Architects board**

2 **Division 7.1** **Establishment and functions of board**

3 **64** **Establishment of board**

- 4 (1) The Australian Capital Territory Architects Board (the *architects*  
5 *board*) is established.
- 6 (2) The board—
- 7 (a) is a body corporate; and
- 8 (b) must have a seal.

9 **65** **Board functions**

- 10 (1) The architects board has the following functions:
- 11 (a) to register architects;
- 12 (b) to investigate complaints given to the board about registered  
13 people and people who have been registered;
- 14 (c) to consider whether it is necessary to take disciplinary action  
15 against registered people and people who have been registered  
16 and, if it is, to take the necessary action;
- 17 (d) to consider and report to the Minister about issues referred to  
18 the board by the Minister for advice;
- 19 (e) to advise the Minister in relation to the practice of architecture,  
20 for example, about codes of professional conduct;
- 21 (f) to further a common and harmonious approach to the  
22 administration of legislation about architects by cooperation  
23 with local jurisdictions;
- 24 (g) to accredit courses of study in architecture;

- 1 (h) to provide general advice to consumers about the professional  
2 conduct and standards of competence expected of registered  
3 architects.

4 **Example for par (f)**

5 the board chairperson or registrar, or both, becoming a member of an  
6 accreditation organisation for architects in local jurisdictions

7 *Note* An example is part of the Act, is not exhaustive and may extend, but  
8 does not limit, the meaning of the provision in which it appears (see  
9 Legislation Act, s 126 and s 132).

- 10 (2) The architects board may exercise any other function given to the  
11 board under this Act or another Territory law.

12 *Note* A provision of a law that gives an entity (including a person) a function  
13 also gives the entity powers necessary and convenient to exercise the  
14 function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

15 **66 Exercise of board functions**

- 16 (1) The architects board must exercise its functions independently,  
17 impartially and in the public interest.  
18 (2) This section is subject to section 68 (Board to comply with  
19 directions under s 67).

20 **67 Ministerial directions to board**

- 21 (1) The Minister may give a written direction to the architects board  
22 about the exercise of the board's functions if satisfied that it is in the  
23 public interest to do so.

24 **Examples of directions**

- 25 1 direct the board to report on a particular issue within a particular time  
26 2 direct the board to follow a policy, standard or other instrument applying to  
27 an administrative unit

1                   3    direct the board to give the Minister a proposed professional conduct code, or  
2                            an amendment of a professional conduct code, relating to particular  
3                            behaviour (see s 87)

4                   *Note*    An example is part of the Act, is not exhaustive and may extend, but  
5                            does not limit, the meaning of the provision in which it appears (see  
6                            Legislation Act, s 126 and s 132).

7                   (2) However, the Minister must not direct the board about any of the  
8                            following:

- 9                           (a) whether to register or refuse to register a person;  
10                           (b) whether to renew or refuse to renew a person's registration;  
11                           (c) whether or not to cancel someone's registration or take other  
12                            disciplinary action in relation them.

13                   **Example of direction not prevented by s (2)**

14                           the Minister may have received complaints about a particular architect and may  
15                           direct the architects board to give the Minister information about any action being  
16                           taken in relation to the architect

17                   (3) Before giving a direction, the Minister must—

- 18                           (a) tell the architects board about the proposed direction; and  
19                           (b) give the board reasonable opportunity to comment on the  
20                            proposed direction; and  
21                           (c) consider any comment made by the board.

22                   (4) A direction is a notifiable instrument.

23                   *Note*    A notifiable instrument must be notified under the Legislation Act.

1 **68 Board to comply with directions under s 67**

2 The architects board must comply with a direction given under  
3 section 67.

4 **Division 7.2 Board members**

5 **69 Board membership**

- 6 (1) The Board consists of the following members (the *board members*):
- 7 (a) 1 member nominated in writing by a representative body;
- 8 (b) 1 member who is, or has recently been, an academic architect;
- 9 (c) 1 member who is registered;
- 10 (d) 1 member who is a commercial lawyer;
- 11 (e) 1 member to represent community interests who is not  
12 registered.
- 13 (2) The Minister must appoint the board members.

14 *Note 1* For the making of appointments (including acting appointments), see  
15 Legislation Act, pt 19.3.

16 *Note 2* Certain Ministerial appointments require consultation with an Assembly  
17 committee and are disallowable (see Legislation Act, div 19.3.3).

- 18 (3) In this section:

19 *academic architect* means a person who teaches architecture at an  
20 educational institution.

21 *commercial lawyer* means a lawyer with experience in either or  
22 both of the following areas:

- 23 (a) consumer protection law;
- 24 (b) trade practices law.

1            ***representative body*** means an entity that has as a main purpose the  
2            promotion of the interests of architects.

3            *Note*     The board can still function with a vacancy in membership (see  
4            Legislation Act, s 199 (5)).

5            **70            Term of board member appointments**

6            An appointment must be for a term of not longer than 3 years.

7            *Note*     A person may be reappointed to a position if the person is eligible to be  
8            appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
9            def *appoint*).

10          **71            Board chairperson and deputy chairperson**

11          (1) This section applies if there is no chairperson or no deputy  
12          chairperson for the architects board.

13          (2) The board members must elect a member to be the board  
14          chairperson or deputy chairperson .

15          (3) However, the board members must not elect a member to be the  
16          board chairperson or deputy chairperson unless the member is  
17          registered.

18          (4) The board deputy chairperson acts in the position of board  
19          chairperson—

20                (a) during all vacancies in the position; and

21                (b) during all periods when the board chairperson cannot for any  
22                reason exercise the functions of the position.

23          *Note*     The Legislation Act, div 19.3.2, deals with acting appointments

24          **72            Disclosure of interests by board members**

25          (1) A board member who has a relevant interest in an issue being  
26          considered by the architects board or about to be considered by the  
        board must, as soon as practicable after the relevant facts have come

- 1 to the board member's knowledge, disclose the nature of the interest  
2 at a board meeting.
- 3 (2) The disclosure must be recorded in the board's minutes and, unless  
4 the board otherwise decides, the board member must not—
- 5 (a) be present when the board considers the issue; or  
6 (b) take part in a decision of the board on the issue.
- 7 (3) Any other board member who also has a relevant interest in the  
8 issue must not—
- 9 (a) be present when the board considers whether to make a  
10 decision under subsection (2); or  
11 (b) take part in the decision.
- 12 (4) In this section:
- 13 *relevant interest*, in an issue, means a direct or indirect financial or  
14 other interest in the issue.

### 73 Ending appointment of board member

- 15 (1) The Minister must end the appointment of a board member if the  
16 Minister becomes aware that the member—
- 17 (a) has failed to comply with section 72 without reasonable  
18 excuse; or  
19 (b) has at any time been convicted, in Australia or elsewhere, of an  
20 offence punishable by imprisonment for 1 year or longer.
- 21 (2) The Minister may end the appointment of a board member—
- 22 (a) if the member is absent from 3 consecutive meetings of the  
23 board other than on leave approved by the Minister; or  
24 (b) if the Minister is satisfied that the member is no longer  
25 qualified to be appointed to the member's position; or



- 1 (c) for misbehaviour or physical or mental incapacity, if the  
2 incapacity affects the exercise of the member's functions; or
- 3 (d) if the member becomes bankrupt, applies to take the benefit of  
4 any law for the relief of bankrupt or insolvent debtors,  
5 compounds with creditors or makes an assignment of  
6 remuneration for the benefit of creditors.
- 7 *Note* A person's appointment also ends if the person resigns (see Legislation  
8 Act, s 210).

9 **Division 7.3 Board proceedings**

**74 Calling board meetings**

- 10 (1) The architects board meets at the times and places the board  
11 chairperson decides.
- 12 (2) However, the architects board must meet at least 4 times each year.
- 13 (3) The board chairperson must ensure that board members have  
14 reasonable notice of meetings.

15 **75 Board procedures**

- 16 (1) The board chairperson presides at meetings of the architects board.
- 17 (2) However, if the chairperson is absent from a meeting, the deputy  
18 chairperson presides at the meeting.
- 19 (3) Business may be carried on at a board meeting only if—
- 20 (a) at least 3 board members are present, including at least  
21 2 architects; and
- 22 (b) the board chairperson or deputy chairperson is present.
- 23 (4) A question arising at a meeting may be decided by a majority of the  
24 votes of members present and voting.

- 1 (5) If the votes of the architects board on a question are equally divided,  
2 the decision of the member presiding is the decision of the board on  
3 the question.
- 4 (6) The board may decide its own procedure in relation to anything for  
5 which a procedure is not provided under this Act.
- 6 (7) The board must keep minutes of its meetings.

7 **Division 7.4 Board committees**

**76 Establishment of committees**

8 The architects board may establish committees to help the board in  
9 the exercise of its functions.

**77 Exercise of committee functions**

- 10 (1) The architects board may decide—
- 11 (a) how a committee is to exercise its functions; and
- 12 (b) the procedure to be followed for meetings of the committee,  
13 including—
- 14 (i) the calling of meetings; and
- 15 (ii) the number of committee members to be present at  
16 meetings (including requirements that particular members  
17 be present); and
- 18 (iii) the committee member who is to preside at meetings; and
- 19 (iv) how questions arising at a meeting are to be decided; and
- 20 (v) the keeping of minutes of meetings.
- 21 (2) Subject to any decision of the architects board under subsection (1),  
22 a committee may decide its own procedures.

**78 Membership of committees**

1 (1) A committee consists of the people appointed by the architects  
2 board.

3 *Note 1* For the making of appointments (including acting appointments), see  
4 Legislation Act, div 19.3.

5 *Note 2* In particular, an appointment may be made by naming a person or  
6 nominating the occupant of a position (see s 207).

7 (2) A committee may consist completely or partly of board members.

**79 Reimbursement for committee members**

8 (1) A committee member is not entitled to be paid for the exercise of  
9 the member's functions.

10 (2) However, the Territory must reimburse a committee member for  
11 expenses reasonably incurred in the exercise of the member's  
12 functions.

13 (3) This section does not apply to a committee member who is also a  
14 board member.

1 **Part 8 Protection and information**

2 **80 Definitions for pt 8**

3 For this part:

4 *informed person* means anyone who is, or has been, an official.

5 *official* means—

6 (a) a member of the architects board; or

7 (b) the registrar; or

8 (c) anyone acting under the direction or authority of the board.

9 **81 Protection of participants and people reporting**

10 (1) This section applies to a person who is or has been a complainant or  
11 participant in a proceeding about a complaint.

12 (2) A proceeding does not lie against a person to whom this section  
13 applies in relation to anything done, or omitted to be done, honestly  
14 in that capacity.

15 **82 Protection of officials**

16 (1) An official does not incur civil or criminal liability for an act or  
17 omission done honestly and without negligence for this Act.

18 (2) A civil liability that would, apart from this section, attach to an  
19 official, attaches instead to the Territory.

20 **83 Secrecy**

21 (1) In this section:

22 *court* includes any tribunal, authority or person with power to  
23 require the production of documents or the answering of questions.

1            *produce* includes allow access to.

2            *protected information* means information about a person that is  
3 disclosed to, or obtained by, an informed person because of the  
4 exercise of a function under this Act.

5            (2) A person commits an offence if—

6                    (a) the person is an informed person; and

7                    (b) the person—

8                            (i) makes a record of protected information; or

9                            (ii) directly or indirectly, divulges or communicates protected  
10 information to someone else; and

11                    (c) the record is not made, or the information is not divulged or  
12 communicated, in relation to the exercise of a function, as a  
13 protected person, under this Act.

14            Maximum penalty: 50 penalty units, imprisonment for 6 months or  
15 both.

16            (3) Subsection (2) does not apply if the informed person makes the  
17 record, or divulges or communicates the information, in relation to  
18 the exercise of a function, as a protected person, under this Act or  
19 another Territory law.

20            (4) Subsection (2) does not prevent an informed person from divulging  
21 or communicating protected information—

22                    (a) with the consent of the person from whom the information was  
23 obtained; or

24                    (b) to a person administering or enforcing a corresponding law of a  
25 local jurisdiction; or

26                    (c) to a law enforcement authority.

27            *Note*        *Corresponding law*—see dict.

**Part 8** Protection and information

Section 83

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- 1 (5) An informed person need not divulge or communicate protected  
2 information to a court, or produce a document containing protected  
3 information to a court, unless it is necessary to do so for this Act or  
4 another Act.

1       **Part 9**                               **Review of decisions**

2       **84**           **Reviewable decisions**

3           The following decisions of the architects board are *reviewable*  
4           *decisions*:

- 5           (a) refusing to register a person under section 9;
- 6           (b) registering a person under section 9 subject to a condition;
- 7           (c) deciding to remove a person's name from the register under  
8           section 19 (2) or section 20;
- 9           (d) refusing to approve a nominee's resignation under section 28;
- 10          (e) refusing to approve the revocation of a nominee's appointment  
11          under section 29;
- 12          (f) taking disciplinary action against a person under section 46.

13       **85**           **Review of decisions**

- 14          (1) Application may be made to the AAT for review of a reviewable  
15          decision.
- 16          (2) If the architects board makes a reviewable decision, the board must  
17          give a written notice of the decision to each person affected by the  
18          decision.
- 19          (3) The notice must be in accordance with the requirements of the code  
20          of practice in force under the *Administrative Appeals Tribunal Act*  
21          1989, section 25B (1).

1 **Part 10** **Miscellaneous**

2 **86** **Board examinations**

- 3 (1) The architects board may—
- 4 (a) conduct an examination if it considers it appropriate to do so
- 5 for this Act; and
- 6 (b) if it decides to conduct an examination—appoint an examiner
- 7 to conduct the examination.
- 8 (2) The architects board may, in writing, determine—
- 9 (a) the fees to be paid to examiners; and
- 10 (b) the fees to be paid by candidates for examination.
- 11 (3) A determination is a notifiable instrument.

12 *Note* A notifiable instrument must be notified under the Legislation Act.

13 **87** **Code of professional conduct**

- 14 (1) The regulations may adopt, completely or partly, a code of
- 15 professional conduct (a *professional conduct code*) that sets out
- 16 guidelines to be followed by architects in their professional practice.
- 17 (2) The regulations may adopt a professional conduct code with or
- 18 without amendment or modification.

19 *Note* The Minister may give the architects board directions about a

20 professional conduct code (see s 67).

21 **88** **Registered architect to give evidence of insurance**

- 22 (1) Before providing an architectural service to a person (the *client*), a
- 23 registered architect must give the client evidence of what
- 24 professional indemnity insurance the architect holds in relation to
- 25 the service to be provided.



- 1 (2) The registered architect may ask the client to sign an  
2 acknowledgment that the client has been told about the architect's  
3 professional indemnity insurance.
- 4 (3) The acknowledgment must state the time and date it was given.
- 5 *Note* If a form is approved under s 91 for an acknowledgment, the form must  
6 be used.
- 7 (4) If the client signs the acknowledgment, the registered architect must  
8 immediately give the client a copy of it.
- 9 (5) The architects board may assume that the client was not told about  
10 the professional indemnity insurance the registered architect holds  
11 if—
- 12 (a) a question arises whether the client was told about the  
13 architect's insurance; and
- 14 (b) an acknowledgment under this section is not produced; and
- 15 (c) it is not proved that the architect told the client about the  
16 insurance.
- 17 (6) The registered architect is taken to have given evidence of what  
18 insurance the architect holds before providing an architectural  
19 service to a person if the architect advertised the insurance held at  
20 the time of providing the services in a way likely to come to the  
21 attention of the client.

22 **Example of advertising insurance held**

- 23 1 including details of insurance in the telephone directory, if the details are  
24 correct at the time the service is provided
- 25 2 having details of insurance on the vehicle used to provide the service or  
26 transport to the location to provide the service, if the details are correct at the  
27 time the service is provided

28 *Note* An example is part of the Act, is not exhaustive and may extend, but  
29 does not limit, the meaning of the provision in which it appears (see  
30 Legislation Act, s 126 and s 132).

- 1 **89 Evidentiary certificates**
- 2 (1) The architects board may issue a certificate, signed by the board—
- 3 (a) stating that on a date or during a period stated a named person
- 4 was or was not registered; and
- 5 (b) if the person was registered—including details of the person’s
- 6 registration.
- 7 (2) The architects board may issue a certificate, signed by the board—
- 8 (a) stating that on a date or during a period stated, a named person
- 9 was or was not a nominee, or the primary nominee, for a firm;
- 10 and
- 11 (b) if the person was a nominee—including details of the person’s
- 12 registration.
- 13 (3) A certificate under this section is evidence of the matters stated in it.
- 14 (4) Unless the contrary is proved, a document that purports to be a
- 15 licence or certificate under this section is taken to be such a
- 16 document.
- 17 **90 Determination of fees**
- 18 (1) The Minister may, in writing, determine fees for this Act.
- 19 *Note* The Legislation Act contains provisions about the making of
- 20 determinations and regulations relating to fees (see pt 6.3).
- 21 (2) A determination is a disallowable instrument.
- 22 *Note* A disallowable instrument must be notified, and presented to the
- 23 Legislative Assembly, under the Legislation Act.
- 24 **91 Approved forms**
- 25 (1) The architects board may approve forms in relation to registration
- 26 and nominees for this Act.

1 (2) If the architects board approves a form for a particular purpose, the  
2 approved form must be used for that purpose.

3 *Note* The Legislation Act contains provisions about forms (see s 255).

4 (3) An approved form is a notifiable instrument.

5 *Note* A notifiable instrument must be notified under the Legislation Act.

6 **92 Regulation-making power**

7 (1) The Executive may make regulations for this Act.

8 *Note* Regulations must be notified, and presented to the Legislative  
9 Assembly, under the Legislation Act.

10 (2) The regulations may make provision in relation to who may be  
11 nominated to be a board member and how the person may be  
12 nominated.

1 **Part 11 Transitional**

2 **93 Meaning of *repealed Act* for pt 11**

3 In this part:

4 *repealed Act* means the *Architects Act 1959* (repealed).

5 **94 Legislation repealed**

6 The following legislation is repealed:

- 7 • *Architects Act 1959* A1959-3
- 8 • *Architects (Board) Appointment 2001* DI2001-253
- 9 • *Architects (Fees) Revocation and Determination 2003 (No 2)*
- 10 DI2003-308.

11 **95 Members of architects board**

12 (1) A member of the board under the repealed Act (the *previous*

13 *member*) is taken to be a member of the architects board until a

14 member of the architects board is appointed under this Act.

15 (2) However, the appointment of the previous member under

16 subsection (1) is taken to end 3 months after the day this section

17 commences.

18 **96 Architects registered under repealed Act**

19 (1) A person who was registered under the repealed Act immediately

20 before its repeal is taken to be registered under this Act.

21 (2) The person's registration under this Act ends on 30 June 2005.

22 (3) Any information about the person in the register under the repealed

23 Act must be included in the register under this Act.

- 1 (4) The registrar may ask the person for any information in relation to  
2 the person that is required to be included in the register under this  
3 Act that was not included in the register under the repealed Act.

4 *Note* A failure to comply with this section is a disciplinary ground.

- 5 (5) To remove any doubt—

6 (a) this section applies whether or not the person had a practising  
7 certificate under the repealed Act; and

8 (b) the person need not be eligible to be registered under this Act  
9 to be registered under this section.

10 **97 Suspended registration**

11 (1) This section applies if, immediately before the repeal of the repealed  
12 Act, a person's registration under that Act was suspended.

13 (2) The person's registration under this Act is taken to be suspended  
14 until the time the suspension would have ended if the repealed Act  
15 had not been repealed.

16 **98 Inquiry under repealed Act**

17 (1) This section applies if—

18 (a) an inquiry had been begun under the repealed Act; and

19 (b) immediately before the repeal of the repealed Act—

20 (i) the inquiry had not been finished; or

21 (ii) the inquiry had been finished but no action had been  
22 taken in relation to the findings of the inquiry.

23 (2) The inquiry is taken to be, or have been, a disciplinary inquiry under  
24 this Act, division 5.2.

25 (3) The inquiry is not affected only because something required to be  
26 done in relation to the inquiry under this Act was not required to be  
27 done under the repealed Act.

1 **99 Disciplinary grounds for s 42**

2 In section 42:

3 *this Act*, in relation to a contravention, includes the repealed Act.

4 **100 Appeals under repealed Act**

5 (1) This section applies to a decision made under the repealed Act if,  
6 immediately before the repeal, the time for appealing against the  
7 decision had not ended.

8 (2) A person entitled to appeal against the decision under the repealed  
9 Act may appeal against the decision to the Supreme Court until the  
10 time for appeal under the repealed Act would have ended if that Act  
11 had not been repealed.

12 **101 New regulations**

13 (1) The provisions set out in schedule 1 are taken, on the  
14 commencement of this section, to be regulations made under this  
15 Act, section 92 (Regulation-making power).

16 (2) To remove any doubt and without limiting subsection (1), the  
17 provisions set out in schedule 1 may be amended or repealed as if  
18 they had been made as regulations by the Executive under this Act,  
19 section 92.

20 (3) To remove any doubt, the regulations mentioned in subsection (1)  
21 are taken—

22 (a) to have been notified under the Legislation Act on the day this  
23 Act is notified; and

24 (b) to commence on the day this Act commences; and

25 (c) not to be required to be presented to the Legislative Assembly  
26 under the Legislation Act, section 64 (1).

1 (4) Subsections (1), (2) and (3) are laws to which the Legislation Act,  
2 section 88 (Repeal does not end effect of transitional laws etc)  
3 applies.

4 (5) This section expires on the day it commences.

5 **102 Transitional regulations**

6 (1) The regulations may prescribe transitional matters necessary or  
7 convenient to be prescribed because of the enactment of this Act.

8 (2) The regulations may modify the operation of this Act to make  
9 provision in relation to anything that, in the Executive's opinion, is  
10 not, or not adequately, dealt with in this part.

11 **103 Building and Construction Industry Training Levy**  
12 **Regulations 2001, regulation 3 (1) (b)**

13 *substitute*

14 (b) an architect registered under the *Architects Act 2004* or a  
15 corresponding State law; or

*Note* *State* is defined in the Legislation Act, dict, pt 1.

16 **104 Expiry of pt 11**

17 This part expires on 30 June 2005.

1      **Schedule 1      New regulations**

2      (see s 101)



Australian Capital Territory

3      **Architects Regulations 2004**

4      **Subordinate Law SL2004-**

5      made under the

6      *Architects Act 2004*



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1 **Part 1** **Preliminary**

2 **1** **Name of regulations**

3 These regulations are the *Architects Regulations 2004*.

4 **2** **Dictionary**

5 The dictionary at the end of these regulations is part of these  
6 regulations.

7 *Note 1* The dictionary at the end of these regulations defines certain terms used  
8 in this Act.

9 *Note 2* A definition in the dictionary applies to the entire regulations unless the  
10 definition, or another provision of the regulations, provides otherwise or  
11 the contrary intention otherwise appears (see Legislation Act, s 155 and  
12 s 156 (1)).

13 **3** **Notes**

14 A note included in these regulations is explanatory and is not part of  
15 these regulations.

16 *Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.



- 
- 1     **6           Use of terms not pretending registration—s 57 (2)**
- 2           The Act, section 57 (1), does not apply to the use of the following
- 3           terms:
- 4           (a) landscape architect;
- 5           (b) naval architect;
- 6           (c) computer systems architect.
- 7     **7           Use of *architectural*—Act, s 57 (2)**
- 8           (1) The Act, section 57 (1) does not apply to the use of the term
- 9           *architectural* by a person who carries on a business that supplies
- 10           goods in relation to architecture to indicate that the person carries on
- 11           that business.
- 12           (2) The Act, section 57 (1) does not apply to the use of the following
- 13           terms by an employee of a registered architect to describe the
- 14           employee:
- 15           (a) architectural assistant;
- 16           (b) architectural technician;
- 17           (c) architectural drafter.
- 18     **8           Use of *architect* and *registered architect*—Act, s 57 (2)**
- 19           (1) The Act, section 57 (1) does not apply to the use of the terms
- 20           *architect* and *registered architect* by an interstate architect if—
- 21           (a) the use of the term is accompanied by something that indicates
- 22           the local jurisdiction where the architect is registered; and
- 23           (b) before the use, the architect told the architects board in writing
- 24           that the architect would be using the term in the ACT.
- 25           (2) In this regulation:
- 26           *interstate architect* means an architect who—
-

- 1 (a) is registered (however described) in a local jurisdiction; and  
2 (b) is normally resident in that jurisdiction.

3 **9 Use of term describing architectural qualification—Act,**  
4 **s 57 (2)**

5 The Act, section 57 (1) does not apply to the use by a person of a  
6 term describing an architectural qualification held by the person.

7 **10 Nominations for architects board member**

- 8 (1) Within the prescribed period for the appointment of an architects  
9 board member, the registrar must publish a notice in a daily ACT  
10 newspaper—  
11 (a) asking for registered people to nominate themselves for  
12 appointment as an architects board member (a *new member*);  
13 and  
14 (b) stating that only registered people may nominate; and  
15 (c) stating the date for close of nominations (the *close date*);  
16 (d) stating the information required for nomination.  
17 (2) The date stated for close of nominations must be not less than  
18 2 weeks after the day the notice is published.  
19 (3) A nomination must—  
20 (a) be in writing, signed by the nominee; and  
21 (b) include the following:  
22 (i) the nominee's contact details;  
23 (ii) the nominee's registration number;  
24 (iii) a brief description of the nominee's experience as a  
25 registered architect in the ACT.

- 
- 1 (4) The registrar must tell each nominee whether his or her nomination  
2 was received before the close date as soon as practicable after  
3 receiving the nomination.
- 4 (5) The Minister must tell each nominee whose nomination was  
5 received before the close date in writing about the appointment of  
6 the new member.
- 7 (6) In this regulation:
- 8 *prescribed period*, for the appointment of an architects board  
9 member, means the period starting 7 months before the day the term  
10 of the architects board member's appointment ends and ending 6  
11 months before that day.

1      **Schedule 1      Prescribed qualifications**

2      (see reg 4)

<b>column 1 item</b>	<b>column 2 issuing institution</b>	<b>column 3 name of higher education award</b>
1	University of Canberra	Bachelor of Architecture
2	University of Sydney	Bachelor of Architecture
3	University of New South Wales	Bachelor Architecture
4	University of Technology, Sydney	Bachelor of Architecture Diploma of Technology (Architecture)
5	University of Newcastle	Bachelor of Architecture
6	Queensland University	Bachelor of Architecture Master of Architectural Studies
7	Queensland University of Technology General Practice Stream	Bachelor of Architecture Graduate Diploma of Architecture Diploma of Architecture
8	University of Adelaide	Bachelor of Architecture
9	University of South Australia	Bachelor of Architecture Diploma of Technology (Architecture)

<b>column 1 item</b>	<b>column 2 issuing institution</b>	<b>column 3 name of higher education award</b>
10	University of Tasmania	Bachelor of Architecture Graduate Diploma of Architecture Diploma of Architecture
11	University of Melbourne	Bachelor of Architecture Master of Architecture (Coursework) - Option C
12	Royal Melbourne Institute of Technology	Bachelor of Architecture Associate Diploma in Architecture Fellowship Diploma in Architecture
13	Deakin University	Bachelor of Architecture Master of Architecture (Practice)
14	University of Western Australia	Bachelor of Architecture
15	Curtin University of Technology or West Australian Institute of Technology	Bachelor of Architecture Associate in Architecture





# Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- disallowable instrument (see s 9)
- function
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- under.

***architect***—

(a) for part 4 (Complaints)—see section 33.

(b) for part 5 (Disciplinary matters)—see section 41.

***architectural service***—see section 7.

***architects board***—see section 64.

***board members***—see section 69 (1).

***corresponding law*** means any law of a local jurisdiction that regulates architects in the jurisdiction.

***daily ACT newspaper*** means a newspaper published and circulating in the ACT.

***disciplinary ground***—see section 42 (1).

***disciplinary notice***—see section 44.

***firm*** means a corporation or partnership.

***informed person***, for part 8 (Protection and information)—see section 80.

***local jurisdiction*** means the Commonwealth, a State or New Zealand.

- 1            *local registering authority* means the entity responsible for  
2            regulating the architect profession under a corresponding law.
- 3            *mandatory requirement*, for division 3.3 (Nominees)—see  
4            section 21.
- 5            *official*, for part 8 (Protection and information)—see section 80.
- 6            *registered* means a person registered under this Act.
- 7            *register* means the register kept under this Act.
- 8            *registrar* means the registrar appointed under section 13.
- 9            *registration number*, for a person, means a unique identifying  
10           number given to the person on registration.
- 11           *reviewable decision*—see section 84.

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## Endnotes

- 1        Presentation speech**  
Presentation speech made in the Legislative Assembly on        2004.
- 2        Notification**  
Notified under the Legislation Act on        2004.
- 3        Republications of amended laws**  
For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).
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