

NORTHERN TERRITORY OF AUSTRALIA
ARCHITECTS AMENDMENT ACT 2003

Act No. 5 of 2004

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

Act No. 5 of 2004

AN ACT

to amend the *Architects Act*

[Assented to 7 January 2004]
[Second reading 8 October 2003]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Architects Amendment Act 2003*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Architects Act* is in this Act referred to as the Principal Act.

4. Repeal and substitution

The long title to the Principal Act is repealed and the following substituted:

"An Act to provide for the registration of persons who are qualified to practise architecture and the regulation of the practise of architecture, and for related purposes".

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5. New section

The Principal Act is amended by inserting after section 2 the following:

"3. Objects

"The objects of this Act are –

- (a) to establish the Northern Territory Architects Board;
- (b) to provide consumer protection and enhance the welfare, amenity and physical environment of communities in the Territory by ensuring properly qualified and competent persons offer and provide services as architects;
- (c) to provide for the registration of architects, architectural partnerships and architectural companies;
- (d) to establish and maintain a register of registered architects;
- (e) to regulate the professional conduct of registered architects, including by providing for the making and determining of complaints and for the holding of inquiries relating to registered architects; and
- (f) to regulate the use of the words 'architect', 'architecture' and 'architectural'."

6. Definitions

Section 4 of the Principal Act is amended by omitting the definition of "registered" and substituting the following:

" 'registered' means –

- (a) registered under Part III of this Act or by virtue of the *Mutual Recognition Act 1992* of the Commonwealth or the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth; or
- (b) having, in the Territory, deemed registration within the meaning of the *Mutual Recognition Act 1992* of the Commonwealth or the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth;"

7. New sections

The Principal Act is amended by inserting after section 5 the following:

"5A. Functions of Board

"(1) The functions of the Board are –

- (a) to establish and maintain a register or registers for registering architects, architectural companies and architectural partnerships under this Act;
- (b) to accept applications for registration as architects, architectural companies or architectural partnerships, and to authorise the registration of architects, architectural companies and architectural partnerships, in accordance with this Act;
- (c) to recommend to the Architects Accreditation Council of Australia courses conducted in the Territory which, in the Board's opinion, are suitable for qualifying persons to practise architecture;
- (d) to hold inquiries and deal with complaints under this Act in relation to registered architects; and
- (e) to perform any other functions conferred on it by this or any other Act.

"(2) For the purposes of the *Mutual Recognition Act 1992* of the Commonwealth and the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth, the Board is the local registration authority for applications for registration under those Acts relating to registering persons as architects under the law of the Territory.

"5B. Powers of Board

"The Board has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions."

8. Members of Board

Section 6 of the Principal Act is amended –

- (a) by omitting subsection (1) and substituting the following:

"(1) The Board consists of 5 members.

"(1A) Three members are to be persons who are architects.

"(1B) Two members are to be persons who are not architects.

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"(1C) The Minister must, by notice in the *Gazette*, appoint the members.

"(1D) The Minister must not appoint a person to be a member unless –

(a) the Minister is satisfied that the person is a fit and proper person to be a member; and

(b) the person resides in the Territory."; and

(b) by omitting from subsection (5) "his" and substituting "his or her".

9. Temporary appointments

Section 9 of the Principal Act is amended –

(a) by omitting from subsection (2) "he" and substituting "he or she";

(b) by omitting from subsection (3) "his" and substituting "his or her"; and

(c) by omitting from subsection (4) "is qualified to be a member" and substituting "holds qualifications or has knowledge or experience similar to the member of whom he or she is to be the deputy".

10. New Division heading

Part III of the Principal Act is amended by inserting after the heading the following:

"Division 1 – Register".

11. Board to keep register

Section 12 of the Principal Act is amended –

(a) by omitting "(1)"; and

(b) by omitting subsection (2).

12. New section

The Principal Act is amended by inserting after section 12 the following:

"12AA. List of registered architects to be published each year

"The Board must, in April of each year, publish in the *Gazette* a list of the name and address for service of each registered architect specified in the Register at the end of February in that year."

13. New Division heading

Part III of the Principal Act is amended by inserting before section 12A the following:

"Division 2 – Registration of architects etc.".

14. Repeal and substitution

Section 14 of the Principal Act is repealed and the following substituted:

"14. Qualifications for registration as architect

"The Board must authorise the registration of a natural person as an architect if the person satisfies the Board that –

- (a) he or she holds, or is entitled to hold, a certificate from the Architects Accreditation Council of Australia that certifies that the person is suitably qualified to practise architecture; and
- (b) he or she is a fit and proper person to be registered as an architect."

15. Qualifications for registration as architectural partnership

Section 14A of the Principal Act is amended –

- (a) by inserting "that is a partnership" after "registration of an applicant";
- (b) by omitting from paragraph (a) all the words after "within the Territory"; and
- (c) by omitting paragraphs (c), (d) and (e) and substituting the following:

"(c) at least one of the partners of the partnership is an architect and will be responsible for managing the architectural practice of the partnership in the Territory and supervising the provision of architectural services provided by the partnership in the Territory; and

- (d) if the partnership includes a company amongst its partners – the company is an architectural company."

16. Qualifications for registration as architectural company

Section 14B of the Principal Act is amended –

- (a) by omitting from subsection (1) "(1) The Board shall authorize the registration of an applicant" and substituting "The Board must authorise the registration of an applicant that is a company";

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- (b) by omitting from subsection (1)(a) all the words after "within the Territory";
- (c) by omitting subsection (1)(c) and substituting the following:
 - "(c) at least one of the directors of the company or one of the employees of the company is an architect and will be responsible for managing the architectural practice of the company in the Territory and supervising the provision of architectural services provided by the company in the Territory."; and
- (d) by omitting subsections (2), (3) and (4).

17. Surrender of certificate on cancellation of registration

Section 22 of the Principal Act is amended –

- (a) by omitting from subsection (2) "him" and substituting "him or her"; and
- (b) by omitting from subsection (2) all the words after "subsection (1)." and substituting the following:

"Penalty: 5 penalty units and 0.5 penalty units for each day during which the offence continues after the first day on which it is committed."

18. New Part

The Principal Act is amended by inserting after section 23 the following:

"PART IIIE – COMPLAINTS

"23A. Making complaint

"(1) A person may make a complaint regarding the conduct or operations of a registered architect.

"(2) A complaint is to –

- (a) be in writing in an approved form;
- (b) set out the grounds on which the complaint is made and the facts relied on by the person to constitute the grounds;
- (c) be signed by the person making it; and
- (d) be lodged with the Board.

"23B. Opportunity to be given to registered architect to reply to complaint

"(1) The Board must inform the registered architect against whom a complaint is made under section 23A of the complaint within 2 days after the Board receives it.

"(2) The Board must inform the registered architect by sending notice of the complaint to the registered architects address for service.

"(3) The Board must give the registered architect sufficient opportunity to provide a written reply to the complaint.

"23C. Consideration and decision of Board

"(1) The Board must consider a complaint it receives under section 23A, taking into account the written reply of the registered architect, if any, and any other matter it considers relevant.

"(2) In considering a complaint, the Board –

- (a) may conduct the investigations regarding the complaint it thinks appropriate; and
- (b) if requested to do so by the complainant or the registered architect – must permit the complainant or registered architect to appear before it to make submissions or answer questions regarding the complaint.

"23D. Determination of complaint

"(1) On completing its consideration of and investigations into a complaint under section 23C, the Board must make a determination –

- (a) that, in the opinion of the Board, the complaint is of a frivolous, irrelevant or malicious nature, or that the complaint does not set out sufficient grounds on which to base a complaint, and dismiss the complaint;
- (b) that no further action is warranted;
- (c) to reprimand the registered architect;
- (d) to fine the registered architect an amount not exceeding the prescribed amount;
- (e) to impose conditions on or vary the conditions imposed on the registered architect's registration;
- (f) to suspend the registered architect's registration; or

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(g) to cancel the registered architect's registration.

"(2) The Board must, as soon as practicable after it makes its determination, give notice of its determination to the complainant and the registered architect against whom the complaint was made.

"(3) Notice of the determination is to be in writing and is to specify the Board's reasons for its determination.

"(4) A fine imposed under subsection (1)(d) is recoverable as a debt due and payable by the registered architect to the Board.

"23E. Review of determination of complaint

"(1) A complainant, or a registered architect against whom a complaint was made, who is aggrieved by the determination of the Board under section 23D may apply to the Minister to review the determination.

"(2) An application for review is to –

- (a) be in writing;
- (b) be signed by or on behalf of the applicant;
- (c) set out the grounds on which the application is made and the facts relied on to establish the grounds; and
- (d) be lodged with the Board within 14 days after the applicant received notice of the Board's determination.

"(3) The Minister must review the determination in a manner that is fair and expeditious and must give proper consideration to the issues.

"(4) On completing the review, the Minister must, by notice in writing to the applicant –

- (a) affirm the determination;
- (b) vary the determination; or
- (c) revoke the determination and substitute a determination that the Board may make under section 23D.

"(5) Notice under subsection (4) is to specify the Minister's reasons for his or her decision.

"23F. Appeal against outcome of review

"(1) A complainant, or a registered architect against whom a complaint was made, who is aggrieved by the Minister's decision under section 23E may

appeal to the Local Court against the decision on a question of fact, a question of law or a question of law and fact.

"(2) An appeal is to be made within 28 days after the complainant or registered architect receives notice of the Minister's decision.

"23G. Appeal proceeding may be closed to public

"The Local Court may order that the hearing of an appeal or part of an appeal is not to be heard in open court and, on the making of the order, persons other than the parties to the proceedings and the parties' counsel, solicitors or representatives are, unless permitted to be present by the Court, excluded during the hearing of the appeal or the part of the appeal.

"23H. Powers of Local Court

"(1) In determining an appeal under this Part, the Local Court may in the manner in it considers appropriate –

- (a) affirm or vary the decision appealed against;
- (b) quash the decision appealed against and substitute a determination that the Board may make under section 23D; or
- (c) remit the matter to the Board for further consideration.

"(2) In addition, the Court may make any other order (including orders as to costs) that it considers appropriate."

19. New Part heading

The Principal Act is amended by inserting before section 24 the following:

"PART IV – MISCELLANEOUS".

20. Restriction on use of expression "architect", "architectural" etc.

Section 25 of the Principal Act is amended –

- (a) by omitting from subsection (1) all the words after "architecture." and substituting the following:

"Penalty: 10 penalty units and 0.5 penalty units for each day during which the offence continues after the first day on which it is committed."; and

- (b) by omitting subsection (2) and substituting the following:

"(2) If a natural person, partnership or company is not a registered architect but holds a qualification that is usually described or indicated by using

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the word 'architecture' or 'architectural' (whether alone or in combination with any other words or letters) in a name, title or description, the person, partnership or company may describe or indicate that qualification or competence by using the word 'architect' or 'architectural' in the name, title or description.

"(3) The following are names, titles and descriptions that a person, partnership or company may use under subsection (2):

- (a) architectural draftsman;
- (b) golf-course architect;
- (c) landscape architect;
- (d) naval architect.

"(4) Subsection (3) does not limit subsection (2)."

21. Repeal

The heading to Part IV is repealed.

22. Schedule

The Principal Act is amended as set out in the Schedule.

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SCHEDULE

Section 22

Provision	Amendment	
	omit	substitute
Section 17	Penalty: \$200.	Penalty: 2 penalty units.
Section 18	Penalty: \$500.	Penalty: 5 penalty units.
Section 30(1)	his	his or her
	he	he or she
	Penalty: \$100.	Penalty: 1 penalty unit.
Section 31(1)	him	him or her
	Penalty: \$100.	Penalty: 1 penalty unit.
Section 31(2)	him	him or her
Section 35A	\$500	5 penalty units
Section 41(b)	\$40	0.4 penalty units