



# NORTHERN TERRITORY OF AUSTRALIA

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No. 53 of 1983

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## AN ACT

To amend the *Architects Act*

[Assented to 8 November 1983]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Architects Amendment Act 1983*.

2. COMMENCEMENT

This Act shall come into operation on a date to be 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. DEFINITIONS

Section 4 of the Principal Act is amended -

(a) by omitting the definition of "'architect' or 'architecture'" and substituting the following:

"'applicant' means -

- (a) a natural person who makes;
  - (b) persons in a partnership who jointly make;  
or
  - (c) a company which makes,
- an application under section 12A;

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'approved' means approved by the Board;

'architect' means a natural person who is registered as an architect;

'architectural company' means a company which is registered as an architectural company;

'architectural partnership' means a partnership which is registered as an architectural partnership;"  
and

(b) by omitting the definition of "Register" and substituting the following:

"'Register' means the Register kept under section 12;

'registered' means registered under this Act;

'registered architect' means an architect, architectural partnership or architectural company;"

5. MEMBERS OF THE BOARD

Section 6 of the Principal Act is amended by omitting -

(a) from sub-section (1) "Northern";

(b) sub-section (1)(d) and substituting the following:

"(d) are qualified under section 14 for registration as architects."; and

(c) from sub-section (2) "Northern".

6. REPEAL AND SUBSTITUTION

Sections 12, 13, 14 and 15 of the Principal Act are repealed and the following substituted:

"12. REGISTER

"(1) The Board shall keep a Register, in such form as it thinks fit, for the registration of -

(a) architects;

(b) architectural partnerships; and

(c) architectural companies.

"(2) The Board shall publish in the *Gazette*, in April of each year, a list of architects, architectural partnerships and architectural companies appearing, at the end of February in the same year, in the Register as registered architects.

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"12A. APPLICATION FOR REGISTRATION

"A person, partnership or company wishing to become registered shall apply in writing to the Board in the approved form.

"12B. DETERMINATION OF APPLICATION

"(1) Subject to sub-section (2), the Board may determine an application under section 12A by -

- (a) authorizing the registration of the applicant as an architect, architectural partnership or architectural company, as the case may be; or
- (b) refusing to authorize the registration of the applicant.

"(2) Where the Board determines under sub-section (1)(a) to authorize the registration of an applicant, it may authorize the registration of the applicant unconditionally or subject to such conditions as it thinks fit.

"13. MODE OF REGISTRATION

"(1) Where the Board has authorized the registration of an applicant, the registration shall be effected by entering in the Register -

- (a) the name;
- (b) the address for service of notices to the applicant which, in the case of a proposed architectural company, is the address of the registered office of the company for the purposes of the *Companies Act*;
- (c) the qualifications;
- (d) the registration number;
- (e) the date of registration; and
- (f) such other prescribed particulars,

of or in relation to the applicant.

"(2) Where an applicant is registered, the Board shall cause to be issued to the applicant a certificate of registration in an approved form and under the hand of the Chairman or Deputy Chairman.

"14. QUALIFICATIONS FOR REGISTRATION AS ARCHITECT

"(1) Subject to sub-section (3), the Board shall authorize the registration of a natural person as an architect where the person satisfies the Board that he is a fit and proper person to be registered as an architect and -

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- (a) he holds a certificate from the Architects Accreditation Council of Australia; or
- (b) he is otherwise qualified in accordance with sub-section (2).

"(2) For the purposes of sub-section (1), a person is otherwise qualified where -

- (a) he holds a degree or diploma in architecture conferred by a prescribed institution or an institution recognized by the Institute or the Architects Accreditation Council of Australia as an institution competent to confer the degree or diploma;
- (b) he is a corporate member of the Institute; or
- (c) he is registered as an architect under the laws of a State or Territory of Australia; and
- (d) he has acquired 2 years approved practical architectural experience of which at least one year was acquired after obtaining the qualification referred to in sub-section (2)(a); and
- (e) he satisfies the Board, by an approved examination, that he possesses knowledge and skill for the practice of architecture.

"(3) The Board may require an applicant to attend personally before it and, where the applicant fails to attend as required, the Board may refuse to authorize the registration of the applicant.

### "14A. QUALIFICATIONS FOR REGISTRATION AS ARCHITECTURAL PARTNERSHIP

"The Board shall authorize the registration of an applicant as an architectural partnership where the Board is satisfied that -

- (a) the partnership has a place of business or is carrying on business within the Territory and that at least one of the applicants is an architect who has the actual personal supervision and management of the business of the partnership in the Territory;
- (b) the partnership carries on business within the Territory under the names of the partners or a name registered under the *Business Names Act*;
- (c) the partnership is constituted in pursuance of a deed of partnership which is approved by the Board and which contains a condition that no variation of the deed shall be made or have

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effect in the Territory without the prior approval of the Board;

- (d) in the case of a partnership where not all partners are architects - not less than two-thirds of the partners of the partnership are architects; and
- (e) in the case of a partnership which includes a company amongst its partners - the company is an architectural company.

"14B. QUALIFICATIONS FOR REGISTRATION AS ARCHITECTURAL COMPANY

"(1) The Board shall authorize the registration of an applicant as an architectural company where the company satisfies the Board that -

- (a) it has a place of business or is carrying on business within the Territory and that the principal executive officer of the company in the Territory is an architect;
- (b) its memorandum or, in the case of a foreign company, its charter, statute or other instrument constituting or defining its constitution, is acceptable to the Board and contains provisions that -
  - (i) the Board be notified of an intention to amend the memorandum, charter, statute or other instrument, as the case may be, and be furnished with a copy of a proposed resolution to give effect to that intention; and
  - (ii) a body corporate shall not be eligible to be a director of the company; and
- (c) subject to sub-section (4), not less than two-thirds of the directors of the company are architects who between them hold not less than two-thirds of the total voting rights -
  - (i) of all directors entitled to vote at a meeting of directors of the company; and
  - (ii) of all persons entitled to vote at a general meeting of members of the company.

"(2) The Board may require that, where the beneficial interest in a share in an architectural company is owned by or devolves on a person who the Board determines is ineligible to hold that interest, the remaining shareholders acquire that interest within such reasonable time as the Board shall specify, and that devolution shall not of itself render the company ineligible for the purposes

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of this section until the expiry of the period so specified by the Board in its requisition.

"(3) For the purposes of this section, 'principal executive officer' means the person for the time being who has actual personal supervision and management of the business of the company in the Territory.

"(4) A company which has 2 directors, shall be deemed to have met the requirements of sub-section (1)(c) where one director is an architect and that director holds not less than two-thirds of the total voting rights of all persons entitled to vote at a general meeting of members of the company.

"15. NOTICE OF REFUSAL

"Where the Board determines to refuse to authorize the registration of an applicant, or authorizes the registration of an applicant subject to conditions, the Board shall serve on the applicant, within 28 days of its determination, a notice setting out the reasons of the Board for refusing to authorize the registration or authorizing the registration subject to the conditions.

"15A. APPEALS

"(1) Where an applicant is served with a notice under section 15, the applicant may appeal to the Supreme Court against the determination of the Board.

"(2) An appeal under sub-section (1) shall be in the nature of a rehearing, but the Supreme Court may have regard to the material that was before the Board.

"(3) The Supreme Court has, by virtue of this section, jurisdiction to hear and determine an appeal.

"PART IIIA - OFFENCES BY AND DEREGISTRATION OF ARCHITECT".

7. REPEAL AND SUBSTITUTION

Section 18 of the Principal Act is repealed and the following substituted:

"18. CHANGE OF PARTICULARS TO BE NOTIFIED

"A registered architect shall within 7 days of a change of a particular recorded in the Register, notify the Board of that change of particular.

Penalty: \$500."

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8. ALTERATION OF REGISTER

Section 19 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "registered architects who have died" and substituting "architects who have died and in the case of an architectural partnership or architectural company which has ceased to exist";
- (b) by omitting sub-section (2) and substituting the following:

"(2) The Board may, by notice to a registered architect, posted or otherwise delivered to the address recorded in the Register in respect of that registered architect, inquire whether any particular recorded in the Register is still correct or require payment of any annual fee which is overdue for payment."; and

- (c) by omitting from sub-section (3) -
  - (i) "6" and substituting "3";
  - (ii) "3 months" and substituting "28 days"; and
  - (iii) "architect" and substituting "registered architect".

9. NEW SECTION

The Principal Act is amended by inserting after section 19 the following:

"19A. ANNUAL STATEMENT

(1) An architectural company and an architectural partnership shall in the month of July in each year lodge with the Board an annual statement in a form approved by the Board.

(2) The annual statement referred to in sub-section (1) shall contain -

- (a) in respect of an architectural company -
  - (i) the full name and usual address of every person who on 30 June preceding the lodging of the annual statement was a director of the company;
  - (ii) in relation to each director, whether he is an architect; and
  - (iii) any other matter necessary or convenient to the administration of the Act, which is indicated in the form; and

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- (b) in respect of an architectural partnership -
  - (i) the full name and usual address of every person who on 30 June preceding the lodging of the annual statement was a member of the partnership;
  - (ii) in relation to each member, whether he is an architect; and
  - (iii) any other matter necessary or convenient to the administration of the Act, which is indicated in the form."

10. REPEAL AND SUBSTITUTION

Sections 21 and 22 of the Principal Act are repealed and the following substituted:

"PART IIIB - DEREGISTRATION OF ARCHITECTURAL PARTNERSHIPS

"20A. DEREGISTRATION OF ARCHITECTURAL PARTNERSHIP

- "(1) Subject to sub-section (2), where -
  - (a) the deed of partnership of an architectural partnership has been amended without the prior approval of the Board;
  - (b) an architectural partnership no longer fulfills the criteria under section 14A which enabled the Board to authorize the registration of the partnership;
  - (c) a requirement under this Act as to the lodging with the Board of an annual statement or other information has not been complied with; or
  - (d) a condition of registration has not been complied with,

the Board may cancel the registration of the architectural partnership by causing the name of the partnership to be removed from the Register.

"(2) Before the Board cancels the registration of an architectural partnership, it shall serve on the architectural partnership a notice of its intention to cancel the registration of that partnership not less than 14 days after the date of the notice.

"20B. DISSOLUTION OF ARCHITECTURAL PARTNERSHIP UPON DEATH, &c.

"(1) Notwithstanding a contrary provision of the partnership deed of an architectural partnership or *The Partnership Act, 1891* of the State of South Australia in



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its application to the Territory as a law of the Territory, for the purposes of this Act, when a partner dies or ceases to be a partner, the partnership dissolves.

"(2) When a partnership dissolves by virtue of sub-section (1), the partnership shall be deemed to continue for a period of 60 days or such further period determined by the Board.

"(3) Where an application for extension of the period in which a partnership is deemed to continue is made in an approved form, the Board may, as it thinks fit, determine a further period during which the partnership is deemed to continue.

"(4) At the expiration of 60 days or such further period determined by the Board referred to in sub-section (2), the registration of the architectural partnership -

- (a) if no variation of that registration has been approved - is cancelled; or
- (b) if variation of that registration is approved - shall continue subject to the variation of the partnership as approved.

"(5) An application for variation of the terms of registration of an architectural partnership for the purposes of sub-section (4) shall be in an approved form and accompanied by the prescribed fee.

"(6) Where variation of an architectural partnership is approved under sub-section (4)(b), the Board shall issue such certificates of registration as are necessary to reflect the variation of the architectural partnership.

#### "PART IIIC - DEREGISTRATION OF ARCHITECTURAL COMPANIES

##### "20C. DEREGISTRATION OF ARCHITECTURAL COMPANY

- "(1) Subject to sub-section (2), where -
- (a) the memorandum or, in the case of a foreign company, its charter, statute or other instrument constituting or defining the constitution, of an architectural company has been amended without prior approval of the Board;
  - (b) an architectural company no longer fulfills the criteria under section 14B which enabled the Board to authorize its registration;
  - (c) a requirement under this Act as to the lodging with the Board of an annual statement or other information has not been complied with; or

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- (d) a condition of registration has not been complied with,

the Board may cancel the registration of the architectural company by causing the name of the company to be removed from the Register.

"(2) Before the Board cancels the registration of an architectural company, it shall serve on the architectural company a notice of its intention to cancel the registration of that company not less than 14 days after the date of the notice.

### "PART IIID - INQUIRIES

#### "21. INQUIRY TO BE HELD

"(1) Before taking action in relation to a registered architect in pursuance of section 20, 20B or 20C, the Board shall hold an inquiry.

"(2) At an inquiry under sub-section (1), a registered architect may be represented by a legal practitioner or an agent, who may examine witnesses and address the Board on behalf of the registered architect.

"(3) In conducting an inquiry under sub-section (1), the Board is not bound by rules of evidence or legal procedure, but may inform itself in such manner as it thinks fit.

"(4) The Minister may appoint a legal practitioner to assist the Board.

"(5) Pending an inquiry under sub-section (1), the Board may suspend the registration of the registered architect.

#### "22. SURRENDER OF CERTIFICATE ON CANCELLATION OF REGISTRATION

"(1) Where the name of a registered architect is removed from the Register or the registration of a registered architect is suspended, the Board may require the registered architect, by notice served on that registered architect, to deliver the certificate of registration to the Board for cancellation, within 14 days after the date of the notice.

"(2) A registered architect shall not fail to comply with a notice served on him under sub-section (1).

Penalty: \$500 and \$50 for each day during which the offence continues."

#### 11. APPEAL

Section 23 of the Principal Act is amended by omitting -

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(a) from sub-section (1) "A person" and substituting "A person, partnership or company"; and

(b) sub-section (4) and substituting the following:

"(4) Where the Supreme Court allows an appeal under sub-section (1), the Board shall, as soon as possible, cause the original registration of the appellant to be restored and return the appellant's certificate of registration or, where the certificate has been cancelled, cause a new certificate to be issued to the appellant, which shall be deemed to have been issued as from the date of the original registration."

12. REPEAL AND SUBSTITUTION

Section 25 of the Principal Act is repealed and the following substituted:

"25. ONLY REGISTERED ARCHITECT TO USE TITLE OF ARCHITECT, &c.

"(1) Subject to sub-section (2), a person, partnership or company, other than a registered architect, shall not take or use, either alone or in combination with any other words or letters, the title of 'architect', 'architectural practitioner', 'architectural consultant', 'architectural designer' or a name, title, addition or description (including initials or letters placed after the name of the person, partnership or company) indicating or implying that the person, partnership or company is a registered architect or that the person, partnership or company carries on the practice of architecture.

Penalty: \$1,000 and \$50 for each day during which the offence continues.

"(2) A person who, or a partnership or company which, is -

- (a) a naval architect and is not involved in the practice of architecture except naval architecture;
- (b) eligible to be a corporate member of the Australian Institute of Landscape Architects;
- (c) a golf-course architect; or
- (d) a draftsman who is employed by a registered architect,

may describe himself or itself as a naval architect, landscape architect, golf-course architect or an architectural draftsman, as the case may be."

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### 13. NEW SECTION

The Principal Act is amended by inserting after section 35 the following:

#### "35A. OFFENCES AND PENALTIES

"A person who contravenes or fails to comply with a provision of this Act, the Regulations or an order of the Board for which a penalty is not provided by a provision of this Act or the Regulations, other than this section, is punishable upon conviction by a fine of \$500 or imprisonment for 3 months."

### 14. MONEYS RECEIVED BY BOARD

Section 36 of the Principal Act is amended by omitting all words after "Board" and substituting "are Territory moneys."

### 15. FURTHER AMENDMENTS

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

### 16. SAVINGS AND TRANSITIONAL

(1) The Register of Architects immediately before the commencement of this Act shall, after that commencement, form part of the Register for the purposes of the Principal Act as amended by this Act.

(2) Where, immediately before the commencement of this Act, a person was registered as an architect under the Principal Act, that person continues, subject to section 20 of the Principal Act, as amended by this Act, to be registered as an architect under the Principal Act as amended by this Act.

(3) Where, before the commencement of this Act, a natural person had applied to the Board to be registered, but the Board had not determined whether the registration of the person should be authorized, the Board shall treat the application as an application in an approved form under section 12A of the Principal Act as amended by this Act.

(4) Where, immediately before the commencement of this Act, a person had appealed to the Supreme Court under section 15(2) or 23(1) of the Principal Act -

- (a) the person's right to appeal to the Supreme Court; and
- (b) the jurisdiction of the Supreme Court to hear and determine the appeal,

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is not affected by that commencement, except that where the Supreme Court allows the appeal, it may order that the appellant be registered under the Principal Act as amended by this Act.

(5) Where, immediately before the commencement of this Act, an inquiry under section 21 of the Principal Act -

- (a) was being held, the inquiry shall continue to be held under that section; and
- (b) was to be held, the inquiry shall be held as an inquiry under section 21 of the Principal Act as amended by this Act.

(6) Section 25 of the Principal Act as amended by this Act does not apply to or in relation to -

- (a) a partnership of registered architects; or
- (b) a company, where the majority of directors of the company are registered architects,

which was, immediately before the commencement of this Act, carrying on a business of architecture, until the expiration of 6 months after the commencement of this Act.

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SCHEDULE

Section 15

| Provision            | Amendment                                     |   |
|----------------------|---|---|
|                      | omit  | substitute  |
| Section 16(1)        | "registered under this Act"                   | "registered"  |
| Section 17           | "\$200"                                       | "\$1,000"   |
| Section 20(1)(e)(iv) | "registered"                                  |   |
| Section 24           | "a person"                                    | "a person, partnership or company"  |
|                      | "in pursuance of section 20, he"              | "in pursuance of section 20, 20A or 20C respectively, that person, partnership or company, as the case may be," |
| Section 26           | "a registered architect"<br>(first occurring) | "an architect"  |
|                      | "an architect"                                | "a registered architect"  |
| Section 30(1)        | "\$100"                                       | "\$500"   |
| Section 31(1)        | "\$100"                                       | "\$500"   |
| Section 41(b)        | "\$40"  | "\$500"   |

