

NORTHERN TERRITORY OF AUSTRALIA

ARCHITECTS AMENDMENT ACT 2023

Act No. 28 of 2023

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 28 of 2023

An Act to amend the *Architects Act 1963*

[Assented to 3 November 2023]
[Introduced 31 August 2023]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Architects Amendment Act 2023*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 26 August 2025, it commences on that day.

3 Act amended

This Act amends the *Architects Act 1963*.

4 Section 3 amended (Objects)

- (1) Section 3
omit
are:
insert
are the following:

(2) Section 3(b)

omit

all words after "Territory"

insert

by ensuring architecture is practised, and architectural services are provided, by persons who are:

- (i) appropriately qualified and competent; and
- (ii) registered; and
- (iii) adequately covered by insurance;

(3) Section 3(e)

omit

all words after "including"

insert

by providing for:

- (i) the making of codes of professional conduct to be observed by registered architects; and
- (ii) the holding of inquiries in relation to registered architects; and
- (iii) the making and determination of complaints against registered architects;

(4) Section 3(f)

omit

words ***architect***, ***architecture*** and ***architectural***.

insert

terms "architect", "architecture" and "architectural".

5 Section 4 amended (Definitions)

(1) Section 4

omit

Act, unless the contrary intention appears:

insert

Act:

(2) Section 4, definitions **applicant** and **the Institute**

omit

(3) Section 4

insert

architectural service means a service provided in connection with the design, planning or construction of buildings that is ordinarily provided by architects.

code of professional conduct means a code of professional conduct made and published by the Board under section 5C.

continuing professional development requirements, see section 18(1).

Institute means the Australian Institute of Architects.

prescribed insurance policy, see section 4A(1).

Registrar means the Registrar of the Board.

represent, for Part 6, see section 23F.

(4) Section 4, definition **architect**

omit

a natural person

insert

an individual

-
- (5) Section 4, definition **Register**

omit

12.

insert

16.

- (6) Section 4, at the end

insert

Note for section 4

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

6 Sections 4A and 4B inserted

After section 4, in Part I

insert

4A Meaning of *prescribed insurance policy*

- (1) A ***prescribed insurance policy*** is an insurance policy that:
- (a) is in effect in respect of civil liability that may be incurred for anything done or omitted to be done in the course of providing architectural services; and
 - (b) complies with any requirements prescribed by regulation.
- (2) Without limiting subsection (1)(b), the regulations may provide for:
- (a) the kinds of insurance policy by which a registered architect, or a class of registered architect, may be covered; and
 - (b) the amount of insurance by which a registered architect, or a class of registered architect, is required to be covered; and
 - (c) terms and conditions that may not be included in the insurance policy.

4B Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 4B

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

7 Section 5A amended (Functions of Board)

(1) Section 5A(1)

omit

functions of the Board are:

insert

Board has the following functions:

(2) Section 5A(1)(a) and (b)

omit, insert

(a) to determine applications for the registration, and for the renewal of the registration, of architects, architectural partnerships and architectural companies;

(3) Section 5A(1)(d)

omit

architects; and

insert

architects;

8 Section 5B amended (Powers of Board)

(1) Section 5B, before "The"

insert

(1)

-
- (2) Section 5B, at the end

insert

- (2) The Board may approve forms for this Act.

9 Sections 5C and 5D inserted

After section 5B

insert

5C Codes of professional conduct

- (1) The Board may make codes of professional conduct to establish guidelines and standards to be observed by registered architects in their professional conduct and the practise of architecture.
- (2) The Board must publish any code of professional conduct it makes under subsection (1) in the manner the Board considers appropriate.
- (3) Without limiting subsection (2), the Board may publish a code of professional conduct on the Board's website.

5D Delegation

The Board may delegate any of the Board's powers and functions under this Act to:

- (a) a member; or
- (b) the Registrar; or
- (c) a public sector employee.

10 Section 10 replaced

Section 10

repeal, insert

10 Vacancy in office

- (1) The office of a member becomes vacant if:
- (a) the member resigns by written notice given to the Minister; or
- (b) the member's term of office expires and the member is not reappointed; or

-
- (c) the member dies; or
 - (d) the member is found guilty of an indictable offence, whether in the Territory or elsewhere; or
 - (e) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with creditors or makes an assignment of the member's remuneration for their benefit; or
 - (f) the Minister terminates the member's appointment.
- (2) The Minister may terminate the appointment of a member if the member:
- (a) is absent from 3 consecutive meetings of the Board without the Board's leave and without reasonable excuse; or
 - (b) contravenes section 11A; or
 - (c) is guilty of misbehaviour; or
 - (d) is physically or mentally incapable of satisfactorily performing the functions of the office; or
 - (e) ceases to be eligible for appointment as a member.

11 Section 11 amended (Meetings of the Board)

- (1) Section 11, heading
- omit*
- the**
- (2) Section 11(1)
- omit*
- notice in writing
- insert*
- giving written notice

-
- (3) Section 11(2)
omit
all words from "may by" to "members direct"
insert
may, by written notice given to each of the members, direct
- (4) Section 11(5)
omit
Two
insert
Three
- (5) Section 11(7)
omit
members presiding
insert
presiding member
- (6) Section 11(7)
omit (all references)
have
insert
has

12 Sections 11A and 11B inserted

After section 11, in Part II

insert

11A Disclosure of interest

- (1) If a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board, the member must, as soon as possible after the relevant facts come to the attention of the member, disclose the nature of the interest to

the other members of the Board.

- (2) A member who discloses an interest in a matter:
- (a) must not take part in any deliberation or decision of the Board in respect of the matter after making the disclosure; and
 - (b) must be disregarded for the purpose of constituting a quorum of the Board while the matter is being deliberated and decided by the Board.

11B The Registrar

- (1) The Minister may appoint a public sector employee to be the Registrar of the Board.
- (2) The Registrar has the following functions:
- (a) to maintain the Register;
 - (b) to assist the Board in the performance of its functions;
 - (c) to carry out such other duties as directed by the Board or the Chairperson;
 - (d) to perform any other functions conferred on the Registrar by this Act.

13 Parts III and IIIA replaced

Parts III and IIIA

repeal, insert

Part 3 Registration

Division 1 Registration of architects, architectural partnerships and architectural companies

12 Applications for registration

- (1) An individual may apply to the Board to be registered as an architect.
- (2) The partners of a partnership may jointly apply to the Board for the partnership to be registered as an architectural partnership.
- (3) A company may apply to the Board to be registered as an architectural company.

-
- (4) An application under this section must:
- (a) be in the approved form; and
 - (b) be accompanied by any prescribed fee; and
 - (c) nominate one of the following registration periods:
 - (i) 1 year;
 - (ii) 3 years;
 - (iii) 5 years.
- (5) In considering an application under this section, the Board may, by written notice, request the applicant to give to the Board further information or documents relating to the application within the time specified in the notice.

13 Eligibility for registration as architect

An individual is eligible to be registered as an architect if the individual:

- (a) has a qualification in architecture recognised by the Architects Accreditation Council of Australia; and
- (b) is a fit and proper person to practise as an architect; and
- (c) is covered by a prescribed insurance policy; and
- (d) satisfies any other requirement prescribed by regulation.

13A Eligibility for registration as architectural partnership

A partnership is eligible to be registered as an architectural partnership if:

- (a) at least one of the partners of the partnership:
 - (i) is an architect; and
 - (ii) will be responsible for managing the architectural practice of the partnership and supervising the provision of architectural services by the partnership; and
- (b) for a partnership that includes a company amongst its partners – the company is an architectural company; and

-
- (c) each partner and employee of the partnership who will provide architectural services on behalf of the partnership is covered by a prescribed insurance policy; and
 - (d) the partnership satisfies any other requirement prescribed by regulation.

13B Eligibility for registration as architectural company

A company is eligible to be registered as an architectural company if:

- (a) at least one of the directors or an employee of the company:
 - (i) is an architect; and
 - (ii) will be responsible for managing the company's architectural practice and supervising the provision of architectural services by the company; and
- (b) each officer and employee of the company who will provide architectural services on behalf of the company is covered by a prescribed insurance policy; and
- (c) the company satisfies any other requirement prescribed by regulation.

14 Determination of application for registration

- (1) On an application for registration under section 12, the Board must:
 - (a) register the applicant; or
 - (b) refuse to register the applicant.
- (2) For an application made under section 12(1), the Board must register the applicant as an architect under subsection (1)(a) if the Board is satisfied that the applicant is eligible to be registered in accordance with section 13.
- (3) For an application made under section 12(2), the Board must register the applicant as an architectural partnership under subsection (1)(a) if the Board is satisfied the applicant is eligible to be registered in accordance with section 13A.
- (4) For an application made under section 12(3), the Board must register the applicant as an architectural company under subsection (1)(a) if the Board is satisfied the applicant is eligible to be registered in accordance with section 13B.

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- (5) The Board may register the applicant under subsection (1)(a) subject to any conditions that the Board considers appropriate.
 - (6) The Board may refuse to register the applicant if:
 - (a) the Board gives the applicant a notice under section 12(5); and
 - (b) the applicant fails to give the requested information or documents to the Board within the time specified in the notice.
 - (7) The Board must make its decision under subsection (1):
 - (a) if the Board has given the applicant a notice under section 12(5) – within 3 months of the date on which the applicant gives the requested information or material to the Board; or
 - (b) otherwise – within 3 months of the date on which the application is received by the Board.
 - (8) The Board must give written notice of its decision under subsection (1) to the applicant.
 - (9) If the Board decides to refuse to register the applicant, or to register the applicant subject to conditions, the notice under subsection (8) must:
 - (a) set out the reasons for the Board's decision; and
 - (b) state that the applicant may apply to NTCAT under section 24 for a review of the Board's decision.

14A Giving effect to Board's decision and certificates of registration

- (1) If the Board decides to register an applicant under section 14(1)(a), the Board must:
 - (a) direct the Registrar to enter the applicant's details in the Register; and
 - (b) issue the applicant a certificate of registration.
- (2) For subsection (1)(b), the certificate of registration:
 - (a) is to be in the approved form and signed by the Chairperson or Deputy Chairperson; and
 - (b) must state the registration period for which the applicant's registration remains in force.

14B Duration of registration

- (1) The Board may register an applicant under section 14(1)(a), or renew the registration of an applicant under section 15B(1)(a), for:
 - (a) the registration period nominated by the applicant; or
 - (b) if the applicant nominated a registration period of 3 years – a registration period of 1 year; or
 - (c) if the applicant nominated a registration period of 5 years – a registration period of 1 year or 3 years.
- (2) If the Board registers the applicant, or renews the registration of the applicant, for a shorter registration period than the applicant's nominated registration period under subsection (1)(b) or (c), the Board must refund any excess registration fee paid by the applicant.
- (3) Subject to this Act, the registration of a registered architect remains in force for the registration period decided by the Board under subsection (1).
- (4) For subsection (3), the registration period begins on the date of the Board's decision under section 14(1)(a) or 15B(1)(a).

Division 2 Renewal of registration**15 Applications for renewal of registration**

- (1) An architect may apply to the Board for renewal of the architect's registration.
- (2) A partner of an architectural partnership may apply to the Board for renewal of the architectural partnership's registration.
- (3) An architectural company may apply to the Board for renewal of the architectural company's registration.
- (4) An application under this section must:
 - (a) be made before the expiry of the registered architect's registration; and
 - (b) be in the approved form; and
 - (c) be accompanied by any prescribed fee; and

-
- (d) nominate one of the following registration periods:
 - (i) 1 year;
 - (ii) 3 years;
 - (iii) 5 years.
 - (5) In considering an application under this section, the Board may, by written notice, request the applicant to give to the Board further information or documents relating to the application within the time specified in the notice.

15A Registration continues in force pending determination of application for renewal of registration

- (1) Subsection (2) applies to a registered architect if:
 - (a) the registered architect has made an application for a renewal of the registered architect's registration under section 15; and
 - (b) the application for renewal is not determined by the Board under section 15B before the expiry of the registered architect's registration.
- (2) Subject to subsection (3), the registered architect's registration continues to remain in force until the application for renewal is determined by the Board under section 15B.
- (3) The registration of the registered architect does not continue in force in accordance with subsection (2) if it is otherwise cancelled by the Board under this Act.

15B Determination of application for renewal of registration

- (1) On an application for a renewal of registration under section 15, the Board must:
 - (a) renew the registration of the applicant; or
 - (b) refuse to renew the registration of the applicant.
- (2) For an application made under section 15(1), the Board must renew the registration of the applicant under subsection (1)(a) if the Board is satisfied the applicant:
 - (a) is covered by a prescribed insurance policy; and
 - (b) has complied with the continuing professional development requirements during the applicant's current registration period.

-
- (3) For an application made under section 15(2), the Board must renew the registration of the applicant under subsection (1)(a) if the Board is satisfied that each partner and employee of the architectural partnership who will provide architectural services on behalf of the partnership is covered by a prescribed insurance policy.
 - (4) For an application made under section 15(3), the Board must renew the registration of the applicant under subsection (1)(a) if the Board is satisfied that each officer and employee of the architectural company who will provide architectural services on behalf of the company is covered by a prescribed insurance policy.
 - (5) The Board may renew the registration of the applicant under subsection (1)(a) subject to any conditions the Board considers appropriate.
 - (6) The Board may refuse to register the applicant if:
 - (a) the Board gives the applicant a notice under section 15(5); and
 - (b) the applicant fails to give the requested information or documents to the Board within the time specified in the notice.
 - (7) The Board must give written notice of its decision under subsection (1) to the applicant.
 - (8) If the Board decides to renew the registration of the applicant subject to conditions, or to refuse to renew the registration of the applicant, the notice under subsection (7) must:
 - (a) set out the reasons for the Board's decision; and
 - (b) state that the applicant may apply to NTCAT under section 24 for a review of the Board's decision.

15C Board to issue new certificate of registration

- (1) If the Board decides to renew the registration of a registered architect under section 15B(1)(a), the Board must issue the registered architect a new certificate of registration.
- (2) For subsection (1), the certificate of registration:
 - (a) is to be in the approved form and signed by the Chairperson or Deputy Chairperson; and
 - (b) must state the registration period for which the registration of the registered architect remains in force.

Division 3 Register

16 Register

- (1) The Registrar must keep a register of registered architects (the **Register**).
- (2) The Register must include the following details for each registered architect:
 - (a) the name of the registered architect;
 - (b) a business address for the registered architect;
 - (c) for an architect – the qualifications of the architect;
 - (d) a registration number;
 - (e) the date of the initial registration of the registered architect;
 - (f) any conditions imposed on the registration of the registered architect;
 - (g) if the registration of the registered architect has been suspended by the Board – the period for which the registered architect's registration has been suspended;
 - (h) any other details prescribed by regulation.
- (3) The Registrar may keep the Register in the form the Registrar considers appropriate, including in an electronic form.
- (4) The Registrar must make the Register available for inspection by the public on the website of the Board or Agency.
- (5) A person may inspect the Register during the Agency's normal business hours and, on request, may obtain a copy of a part of the Register.
- (6) The regulations may prescribe a fee payable by a person for inspecting and obtaining a copy of a part of the Register.

16A Amendment of Register

- (1) The Registrar may amend the details contained in the Register for a registered architect to correct an error or omission.
- (2) The Registrar may make an amendment under subsection (1) on the Registrar's own initiative or on the written request of the registered architect.

-
- (3) The Registrar may, by written notice, request a registered architect to give to the Registrar information regarding the details that are required to be contained in the Register for the registered architect.
 - (4) If a registered architect receives a notice under subsection (3), the registered architect must give the Registrar the requested information within the time specified in the notice.

16B Removal from Register

- (1) The Registrar must remove from the Register the details of a registered architect if:
 - (a) for an architect – the architect has died; or
 - (b) for an architectural partnership or an architectural company – the architectural partnership or architectural company has ceased to exist; or
 - (c) the registration of the registered architect has expired; or
 - (d) the registration of the registered architect is cancelled under this Act; or
 - (e) the registration of the registered architect is surrendered in accordance with subsections (3) and (4).
- (2) With the approval of the Board, the Registrar may remove the details of a registered architect from the Register if the registered architect fails to respond to a notice given to the registered architect under section 16A(3).
- (3) A registered architect may, in the approved form, apply to the Board for approval to surrender the registration of the registered architect.
- (4) On an application under subsection (3), the Board may, by written notice given to the registered architect:
 - (a) approve the surrender of the registered architect's registration; or
 - (b) refuse to approve the surrender of the registered architect's registration.
- (5) If the Board approves the surrender of the registered architect's registration under subsection (4)(a), the registration of the registered architect ceases to be in force:
 - (a) on the date specified by the Board in the notice; or

-
- (b) otherwise – the date of the Board's decision.
 - (6) If it appears to the Board that the details of a registered architect have been removed from the Register in error, the Board may direct the Registrar to reinstate the registered architect's details in the Register.
 - (7) The Registrar must reinstate the details of the registered architect in the Register in accordance with a direction given under subsection (6).

Division 4 Miscellaneous matters

17 Architects to be covered by prescribed insurance policy

- (1) Subject to subsections (4) and (6), an architect must not provide architectural services unless the architect is covered by a prescribed insurance policy.
- (2) Subject to subsections (4) and (6), an architectural partnership must ensure that each partner and employee of the partnership who provides architectural services on behalf of the partnership is covered by a prescribed insurance policy.
- (3) Subject to subsections (4) and (6), an architectural company must ensure that each officer and employee of the company who provides architectural services on behalf of the company is covered by a prescribed insurance policy.
- (4) The regulations may exempt a class of registered architect from the prescribed insurance policy requirements under this Act.
- (5) A registered architect may apply to the Board for an exemption from the prescribed insurance policy requirements under this Act.
- (6) On an application under subsection (5), the Board may exempt the registered architect from the prescribed insurance policy requirements under this Act if the Board considers it appropriate to do so.
- (7) The Board may grant an exemption under subsection (6) subject to any conditions that the Board considers appropriate.
- (8) The Board may, by written notice given to a registered architect granted an exemption under subsection (6):
 - (a) revoke the exemption; or
 - (b) revoke or vary the conditions imposed, or impose new conditions, on the exemption.

17A Information relating to insurance

- (1) The Board may, by written notice, require a registered architect to give to the Board information in relation to the insurance cover that is in effect in respect of the registered architect.
- (2) If a registered architect receives a notice under subsection (1), the architect must give the Board the requested information within the time specified in the notice.
- (3) If an architect ceases to be covered by a prescribed insurance policy, the architect must notify the Board within 14 days of the date on which the architect ceased to be covered by a prescribed insurance policy.

18 Continuing professional development requirements

- (1) Subject to subsections (2) and (4), an architect must, in each year of registration, undertake and complete the required further education, training and experience prescribed by regulation (the ***continuing professional development requirements***).
- (2) The regulations may exempt a class of architect from the continuing professional development requirements.
- (3) An architect may apply to the Board for an exemption from the continuing professional development requirements.
- (4) The Board may, on an application under subsection (3) or on its own initiative, exempt an architect from the continuing professional development requirements.
- (5) The Board may grant an exemption under subsection (4) subject to any conditions the Board considers appropriate.
- (6) The Board may, by written notice given to an architect granted an exemption under subsection (4):
 - (a) revoke the exemption; or
 - (b) revoke or vary the conditions imposed, or impose new conditions, on the exemption.

19 Compliance with codes of professional conduct

A registered architect must comply with any code of professional conduct that is applicable to the registered architect.

19A False or misleading statement or document

- (1) A person commits an offence if:
- (a) the person makes a statement to the Board in connection with:
 - (i) an application for registration under section 12; or
 - (ii) an application for renewal of registration under section 15; and
 - (b) the statement is false or misleading in a material particular and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if:
- (a) the person gives a document to the Board in connection with:
 - (i) an application for registration under section 12; or
 - (ii) an application for renewal of registration under section 15; and
 - (b) the document contains information that is false or misleading in a material particular and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units.

- (3) Strict liability applies to subsections (1)(a) and (2)(a).
- (4) A person does not commit an offence against subsection (2) if, when giving the document to the Board, the person identifies how the information contained in the document is false or misleading.

19B Registered architect to notify Board of changes to details

- (1) A registered architect must give written notice to the Board of any change to the details specified in section 16(2)(a) and (b) that are contained in the Register for the registered architect within 28 days of the change to the details.
- (2) A person commits an offence if:
- (a) the person is a registered architect; and
 - (b) the person fails to comply with subsection (1).

Maximum penalty: 10 penalty units.

-
- (3) An offence against subsection (2) is an offence of strict liability.

19C Board may require certificate of registration to be delivered on cancellation of registration

- (1) If the Board cancels the registration of a registered architect under this Act, the Board may, by written notice, require the registered architect to deliver the registered architect's certificate of registration to the Board.
- (2) If the Board gives a notice to a registered architect under subsection (1), the registered architect must deliver the registered architect's certificate of registration to the Board within 14 days of the receipt of the notice.
- (3) A person commits an offence if:
- (a) the person is a registered architect; and
 - (b) the Board gives the registered architect a notice under subsection (1); and
 - (b) the registered architect fails to comply with subsection (2).

Maximum penalty: 10 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.

Part 4 Cancellation of registration

20 Grounds for cancellation of registration of architect

Subject to section 21, the Board may cancel the registration of an architect under section 22(1) if:

- (a) the Board believes on reasonable grounds the architect was registered because of a materially false or misleading statement or document; or
- (b) a qualification that made the architect eligible to be registered is withdrawn or cancelled by the body that conferred the qualification; or
- (c) the architect is convicted of:
 - (i) an offence against this Act; or
 - (ii) an indictable offence against a law of the Territory; or

-
- (iii) an offence against a law of the Commonwealth, a State or another Territory that would, if committed in the Territory, be an indictable offence; or
 - (iv) an offence against a law of the Territory, the Commonwealth, a State or another Territory that the Board considers makes the architect unfit in the public interest to practise architecture; or
 - (d) the architect ceases to be covered by a prescribed insurance policy; or
 - (e) the architect fails to comply with the continuing professional development requirements; or
 - (f) the architect has become mentally or physically incapacitated and the incapacity affects the architect's ability to provide architectural services; or
 - (g) the architect contravenes a condition imposed on the architect's registration; or
 - (h) the architect has engaged in conduct of a kind prescribed by regulation.

14 Part IIIB heading omitted (Deregistration of architectural partnerships)

Part IIIB, heading

omit

15 Section 20A replaced

Section 20A

repeal, insert

20A Grounds of cancellation of registration of architectural partnership

Subject to section 21, the Board may cancel the registration of an architectural partnership under section 22(1) if:

- (a) the architectural partnership ceases to be eligible under section 13A for registration as an architectural partnership; or
- (b) the architectural partnership contravenes a condition imposed on its registration; or

-
- (c) a circumstance or an event of a kind prescribed by regulation occurs in relation to the architectural partnership.

16 Part IIIC heading omitted (Deregistration of architectural companies)

Part IIIC, heading

omit

17 Section 20C replaced

Section 20C

repeal, insert

20C Grounds for cancellation of registration of architectural company

Subject to section 21, the Board may cancel the registration of an architectural company under section 22(1) if:

- (a) the architectural company ceases to be eligible under section 13B for registration as an architectural company; or
- (b) the architectural company contravenes a condition imposed on its registration; or
- (c) a circumstance or an event of a kind prescribed by regulation occurs in relation to the architectural company.

18 Part IIID heading omitted (Inquiries)

Part IIID, heading

omit

19 Section 21 amended (Inquiry to be held)

(1) Section 21(1)

omit, insert

- (1) Before cancelling the registration of a registered architect under section 22(1), the Board must:
 - (a) give the registered architect written notice of the Board's intention to cancel the registration of the registered architect; and
 - (b) hold an inquiry in relation to the registered architect.

-
- (2) Section 21(2) and (3)
omit
an inquiry under subsection (1),
insert
the inquiry,
- (3) Section 21(4)
omit
Board.
insert
Board in the conduct of the inquiry.
- (4) Section 21(5)
omit, insert
- (5) The Board may, by written notice given to the registered architect that is the subject of the inquiry, suspend the registration of the registered architect if the Board reasonably believes that:
- (a) a ground exists under section 20, 20A or 20C to cancel the registration of the registered architect under section 22(1); and
 - (b) it is in the public interest to suspend the registration of the registered architect pending the determination of the inquiry.
- (6) A suspension under subsection (5) remains in force until the earlier of the following:
- (a) the period specified by the Board in the notice of suspension ends;
 - (b) the Board makes its decision under section 22;
 - (c) the Board revokes the suspension.

20 Sections 22 and 23 replaced

Sections 22 and 23

repeal, insert

22 Determination of inquiry

- (1) After conducting an inquiry under section 21, if the Board is satisfied that a ground exists under section 20, 20A or 20C to cancel the registration of the registered architect, the Board may cancel the registered architect's registration.
- (2) The Board may, instead of cancelling the registration of the registered architect under subsection (1):
 - (a) reprimand the registered architect; or
 - (b) suspend the registration of the registered architect for a period not exceeding 6 months.
- (3) The Board must give the registered architect written notice of its decision under subsection (1) or (2).
- (4) If the Board decides to cancel or suspend the registration of the registered architect, or to reprimand the registered architect, the notice under subsection (3) must:
 - (a) set out the reasons for the Board's decision; and
 - (b) state that the registered architect may apply to NTCAT under section 24 for a review of the Board's decision.

21 Section 23A amended (Making complaint)

After section 23A(1)

insert

- (1A) Without limiting subsection (1), a complaint may be made against a registered architect regarding an alleged contravention of the provisions of a code of professional conduct that is applicable to the registered architect.

22 Section 23B replaced

Section 23B

repeal, insert

23B Board to give registered architect opportunity to reply to complaint

- (1) If a complaint against a registered architect is lodged with the Board under section 23A, the Board must, as soon as reasonably practicable, give the registered architect written notice of the complaint.
- (2) The notice under subsection (1) must invite the registered architect to provide a reply to the complaint in accordance with subsection (3).
- (3) The registered architect may give the Board a written reply in relation to grounds on which the complaint was made within 28 days of receiving the notice under subsection (2).
- (4) The Board may, on the registered architect's request, extend the time under subsection (3) for the registered architect to give the Board a reply to the complaint.

23 Section 23D amended (Determination of complaint)

- (1) Section 23D(1)(a), (b), (c), (d) and (e), at the end

insert

or

- (2) Section 23D(2) and (3)

omit, insert

- (1A) If the Board makes a determination under subsection (1)(c), (d), (e), (f) or (g), the Board may order the registered architect to pay to the Board an amount for the costs and expenses reasonably incurred by the Board in investigating the complaint.
- (2) The Board must give written notice of its determination to the registered architect and the complainant.
- (3) The notice under subsection (2) must:
 - (a) set out the reasons for the Board's determination; and

-
- (b) state that the registered architect or the complainant may apply to NTCAT under section 24 for a review of the Board's determination.

(3) Section 23D(4)

omit

(1)(d)

insert

(1)(d), or an amount ordered to be paid under subsection (1A),

24 Section 23E replaced

Section 23E

repeal, insert

23E Publication of determinations and actions taken on complaint

- (1) The Board may publish notice of the following:
- (a) any determination made by the Board on a complaint, including the Board's reasons for its determination;
 - (b) any action taken by the Board against a registered architect under this Act.
- (2) A notice of a determination made or action taken by the Board may be published by the Board under subsection (1) in the manner the Board considers appropriate, including on the Board's website.

25 Sections 23F to 23H replaced

Sections 23F to 23H

repeal, insert

Part 6 Offences

23F Definition

In this Part:

represent includes advertise, claim or hold out.

23G Use of restricted names, titles and descriptions

(1) Subject to subsection (2), the following names, titles or descriptions (a **restricted title**) may only be taken or used by a registered architect:

- (a) the title of "architect", "registered architect", "architectural practitioner", "architectural consultant" or "architectural designer";
- (b) another name, title or description that, in context, indicates or implies that:
 - (i) if taken or used by an individual – the individual is an architect; or
 - (ii) if taken or used in relation to a company – the company is an architectural company; or
 - (iii) if taken or used in relation to a partnership – the partnership is an architectural partnership.

(2) This Part does not prohibit:

- (a) a person from taking or using the title "architectural draftsman", "golf-course architect", "landscape architect", "naval architect" or "computer systems architect"; or
- (b) a person who holds an architectural qualification from describing themselves as holding that qualification; or
- (c) a person from taking or using a name, title or description prescribed by regulation.

(3) An individual commits an offence if:

- (a) the individual intentionally takes or uses a restricted title to describe themselves or a service the individual provides; and
- (b) the individual is not an architect and the individual has knowledge of that circumstance.

Maximum penalty: 1 000 penalty units.

(4) A company commits an offence if:

- (a) the company intentionally takes or uses a restricted title to describe the company or a service the company provides; and

-
- (b) the company is not an architectural company and the company has knowledge of that circumstance.

Maximum penalty: 5 000 penalty units.

- (5) A person commits an offence if:

- (a) the person is a partner of a partnership; and
- (b) the person intentionally takes or uses a restricted title to describe the partnership or a service the partnership provides; and
- (c) the partnership is not an architectural partnership and the person has knowledge of that circumstance.

Maximum penalty: 1 000 penalty units.

- (6) Strict liability applies to subsection (5)(a).

23H Representing unregistered individual to be architect

- (1) An individual commits an offence if:

- (a) the individual intentionally represents themselves to be an architect; and
- (b) the individual is not an architect.

Maximum penalty: 1 000 penalty units.

- (2) Strict liability applies to subsection (1)(b).

- (3) A person commits an offence if:

- (a) the person intentionally represents that an individual is an architect; and
- (b) the individual is not an architect and the person has knowledge of that circumstance.

Maximum penalty: 1 000 penalty units.

23J Representing unregistered company to be architectural company

- (1) A company commits an offence if:

- (a) the company intentionally represents that it is an architectural company; and

(b) the company is not an architectural company.

Maximum penalty: 5 000 penalty units.

(2) Strict liability applies to subsection (1)(b).

(3) A person commits an offence if:

(a) the person is an officer of a company; and

(b) the person intentionally represents that the company is an architectural company; and

(c) the company is not an architectural company and the person has knowledge of that circumstance.

Maximum penalty: 5 000 penalty units.

(4) Strict liability applies to subsection (3)(a).

23K Representing unregistered partnership to be architectural partnership

(1) A person commits an offence if:

(a) the person is a partner of a partnership; and

(b) the person intentionally represents that the partnership is an architectural partnership; and

(c) the partnership is not an architectural partnership and the person has knowledge of that circumstance.

Maximum penalty: 1 000 penalty units.

(2) Strict liability applies to subsection (1)(a).

23L Providing architectural services without prescribed insurance policy

(1) An individual commits an offence if:

(a) the individual is an architect; and

(b) the individual provides architectural services to another person; and

(c) the individual is not covered by a prescribed insurance policy at the time the architectural services are provided and the individual is reckless in relation to that circumstance.

Maximum penalty: 1 000 penalty units.

- (2) Strict liability applies to subsection (1)(a) and (b).

23M Contravention of conditions of registration

- (1) A person commits an offence if:
- (a) the person is a registered architect; and
 - (b) the registration of the registered architect is subject to conditions imposed by the Board under section 23D(1)(d) (the **registration conditions**); and
 - (c) the registered architect engages in conduct; and
 - (d) the registered architect's conduct results in a contravention of the registration conditions and the registered architect is reckless in relation to that result.

Maximum penalty: 1 000 penalty units.

- (2) Strict liability applies to subsection (1)(a), (b) and (c).

26 Sections 24 and 25 replaced

Sections 24 and 25

repeal, insert

24 Review by NTCAT

- (1) NTCAT has jurisdiction to review a decision (a **reviewable decision**) specified in the Schedule.
- (2) An **affected person**, for a reviewable decision, is a person specified in the Schedule for the decision.
- (3) An affected person for a reviewable decision may apply to NTCAT for review of the decision.

Note for section 24

The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to NTCAT for review and other relevant matters in relation to reviews.

27 Sections 26A and 27 replaced

Sections 26A and 27

repeal, insert

27 Power to require person to give evidence or produce documents or evidentiary material

- (1) The Chairperson or Deputy Chairperson may issue a summons requiring a person to appear before the Board at a specified date, time and place to:
 - (a) give evidence; or
 - (b) produce a document or other evidentiary material.
- (2) A summons issued under subsection (1) must:
 - (a) be in the approved form; and
 - (b) be affixed with the seal of the Board; and
 - (c) be addressed to one person only; and
 - (d) identify any document or evidentiary material required to be produced by the person to whom it is issued.
- (3) A summons issued under subsection (1) must be served personally on the person to whom it is addressed.

28 Section 28 amended (Power to examine on oath)

Section 28

omit

to give evidence on oath.

insert

to:

- (a) give evidence on oath; or
- (b) to answer a question.

29 Section 30 replaced

Section 30

repeal, insert

30 Failure to comply with summons

- (1) A person commits an offence if:
- (a) the person is served with a summons under section 27 to appear before the Board to give evidence; and
 - (b) the person intentionally fails to do either or both of the following:
 - (i) to attend as required by the summons;
 - (ii) to appear and report from day-to-day unless excused or released from further attendance by the Board.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if:
- (a) the person is served with a summons under section 27 to appear before the Board to produce a document or other evidentiary material; and
 - (b) the person intentionally fails to do either or both of the following:
 - (i) to attend as required by the summons;
 - (ii) to produce a document or evidentiary material the person is required to produce by the summons.

Maximum penalty: 50 penalty units.

- (3) Strict liability applies to subsections (1)(a) and (2)(a).
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant has a reasonable excuse.

30 Section 31 amended (Refusal to take oath or give evidence)

(1) Section 31(1)

omit, insert

(1) A person commits an offence if:

- (a) the person is appearing before the Board as a witness; and
- (b) the Board requires the person to give evidence on oath under section 28(a); and
- (c) the person intentionally refuses to take an oath.

Maximum penalty: 50 penalty units.

(1A) A person commits an offence if:

- (a) the person is appearing before the Board as a witness; and
- (b) the Board requires the person to answer a question under section 28(b); and
- (b) the person intentionally refuses to answer the question.

Maximum penalty: 50 penalty units.

(1B) Strict liability applies to subsections (1)(a) and (b) and (1A)(a) and (b).

(1C) It is a defence to a prosecution for an offence against subsection (1) or (1A) if the defendant has a reasonable excuse.

(2) Section 31(2)

omit

him or her

insert

the witness

31 Section 34 replaced

Section 34

repeal, insert

34 False or misleading evidence

- (1) A person commits an offence if:
- (a) the person is appearing before the Board as a witness; and
 - (b) the person makes a statement to the Board; and
 - (c) the statement made to the Board is false or misleading in a material particular and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if:
- (a) the person is appearing before the Board as a witness; and
 - (b) the person gives a document to the Board; and
 - (c) the document given to the Board contains information that is false or misleading in a material particular and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units.

- (3) Strict liability applies to subsections (1)(a) and (b) and (2)(a) and (b).
- (4) A person does not commit an offence against subsection (2) if, when giving the document to the Board, the person identifies how the information contained in the document is false or misleading.

32 Section 35A replaced

Section 35A

repeal, insert

35A Offence to disclose certain information

- (1) A person commits an offence if:
- (a) the person obtains information in the course of performing a function connected with the administration of this Act or exercising a power under this Act; and
 - (b) the information is confidential and the person is reckless in relation to that circumstance; and
 - (c) the person intentionally engages in conduct; and
 - (d) the conduct results in the disclosure of the information and the disclosure is not:
 - (i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or
 - (ii) to a person who is otherwise entitled to the information; and
 - (e) the person is reckless in relation to the result and circumstance referred to in paragraph (d).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) If the information referred to in subsection (1) relates to a person, it is a defence to a prosecution for an offence against that subsection if the person has consented to the disclosure of the information.

Note for subsection (3)

In addition to the circumstances mentioned in this section, a person who discloses information mentioned in this section will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

33 Section 37 inserted

After section 36

insert

37 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member of the Board.
- (2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Board in the exercise of a power or performance of a function under this Act.
- (3) Subsections (1) and (2) do not affect any liability the Territory would, apart from those subsections, have for the act or omission.
- (4) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.

34 Part 8 and Schedule inserted

After section 41

insert

Part 8 Transitional matters for Architects Amendment Act 2023

42 Definitions

In this Part:

amending Act means the *Architects Amendment Act 2023*.

commencement means the commencement of section 3 of the amending Act.

43 Application of amendments to existing registered architects

- (1) An existing registered architect is taken to have been registered by the Board under sections 14(1)(a) and 14B, as in force after the commencement, for a registration period of 1 year that begins on the date of the commencement (the **transitional registration**

period).

- (2) An existing registered architect's registration continues to be subject to any condition that, immediately before the commencement, was imposed on the registration of the existing registered architect under section 12B(2) or 23D(1)(e), as in force immediately before the commencement.
- (3) Sections 17(1), (2) and (3), 17A and 23L, as in force after the commencement, do not apply to an existing registered architect during the transitional registration period.
- (4) The Board cannot take action against:
 - (a) an existing architect under sections 20(d) and 22, as in force after the commencement, for not being covered by a prescribed insurance policy during the transitional registration period; or
 - (b) an existing architectural partnership under sections 20A(a) and 22, as in force after the commencement, for not being eligible for registration during the transitional registration period on the basis of section 13A(c); or
 - (c) an existing architectural company under sections 20C(a) and 22, as in force after the commencement, for not being eligible for registration during the transitional registration period on the basis of section 13B(b).
- (5) In this section:

existing architect means an individual who, immediately before the commencement, was registered as an architect under this Act.

existing architectural company means a company that, immediately before the commencement, was registered as an architectural company under this Act.

existing architectural partnership means a partnership that, immediately before the commencement, was registered as an architectural partnership under this Act.

existing registered architect means an existing architect, existing architectural company or existing architectural partnership.

44 Transitional matters for Register

The Register kept by the Board under section 12, as in force immediately before the commencement, is taken to be the Register required to be kept by the Registrar under section 16, as in force after the commencement.

45 Applications for registration not determined before commencement

- (1) This section applies in relation to an application to the Board for registration (a *pending application*) that:
 - (a) was made by an applicant under section 12A before the commencement; and
 - (b) had not been determined by the Board under section 12B before the commencement.
- (2) Subject to subsection (4), the Board must determine the pending application under section 14, as in force after the commencement, as if it had been made by the applicant under section 12 after the commencement.
- (3) For the determination of the pending application under subsection (2), the applicant is to be taken to have nominated a registration period of 1 year.
- (4) Section 14(7), as in force after the commencement, does not apply in relation to the determination of the pending application by the Board.

46 NTCAT review limited to decisions made after commencement

Section 24, as in force after the commencement, applies only in relation to a reviewable decision that is made after the commencement.

47 Appeals to Supreme Court not commenced or determined before commencement

- (1) Subsection (2) applies to a person if, immediately before the commencement, the person:
 - (a) was entitled to appeal to the Supreme Court against a decision of the Board under the former appeal provisions; and
 - (b) had not yet commenced an appeal against the Board's decision.

-
- (2) The person may appeal to the Supreme Court against the decision of the Board in accordance with the former appeal provisions, as if the amending Act had not commenced.
 - (3) The Supreme Court must hear and determine any appeal commenced under subsection (2) in accordance with the former appeal provisions, as if the amending Act had not commenced.
 - (4) Subsection (5) applies in relation to an appeal to the Supreme Court against a decision of the Board that:
 - (a) was commenced by a person under the former appeal provisions before the commencement; and
 - (b) had not been finally determined by the Supreme Court before the commencement.
 - (5) The Supreme Court must continue to hear and determine the person's appeal in accordance with the former appeal provisions, as if the amending Act had not commenced.
 - (6) In this section:

former appeal provisions means section 15A or 23 of this Act, as in force immediately before the commencement.

48 Applications for review not made or determined before commencement

- (1) Subsection (2) applies to a complainant or registered architect if, immediately before the commencement, the complainant or registered architect:
 - (a) was entitled to apply to the Minister for a review of a determination of the Board under the former review provisions; and
 - (b) had not yet made an application for review of the Board's determination.
- (2) The complainant or registered architect may apply to the Minister for review of the Board's determination in accordance with the former review provisions, as if the amending Act had not commenced.
- (3) The Minister must determine any application for review made under subsection (2) in accordance with the former review provisions, as if the amending Act had not commenced.

-
- (4) Subsection (5) applies in relation to an application to the Minister for review of a determination of the Board that:
- (a) was made by a complainant or registered architect under the former review provisions before the commencement; and
 - (b) had not yet been finally determined by the Minister before the commencement.
- (5) The Minister must continue to determine the application for review in accordance with the former review provisions, as if the amending Act had not commenced.
- (6) An appeal to the Local Court against a decision made by the Minister on the review under subsection (3) or (5) may be commenced by the complainant or registered architect in accordance with the former appeal provisions, as if the amending Act had not commenced.
- (7) The Local Court must hear and determine any appeal commenced under subsection (6) in accordance with the former appeal provisions, as if the amending Act had not commenced.
- (8) In this section:

former appeal provisions means sections 23F to 23H of this Act, as in force immediately before the commencement.

former review provisions means section 23E of this Act, as in force immediately before the commencement.

49 Appeals to Local Court not commenced or determined before commencement

- (1) Subsection (2) applies to a complainant or registered architect if, immediately before the commencement, the complainant or registered architect:
- (a) was entitled to appeal to the Local Court against a decision of the Minister under the former appeal provisions; and
 - (b) had not yet commenced an appeal against the Minister's decision.
- (2) The complainant or registered architect may appeal to the Local Court against the Minister's decision in accordance with the former appeal provisions, as if the amending Act had not commenced.

-
- (3) The Local Court must hear and determine any appeal commenced under subsection (2) in accordance with the former appeal provisions, as if the amending Act had not commenced.
- (4) Subsection (5) applies in relation to an appeal to the Local Court against a decision of the Minister that:
- (a) was commenced by a complainant or registered architect under the former appeal provisions before the commencement; and
 - (b) had not been finally determined by the Local Court before the commencement.
- (5) The Local Court must continue to hear and determine the appeal in accordance with the former appeal provisions, as if the amending Act had not commenced.
- (6) In this section:
- former appeal provisions** means sections 23F to 23H of this Act, as in force immediately before the commencement.

Schedule Reviewable decisions

section 24

Item	Reviewable decision	Affected person
1	A decision of the Board under section 14 to: <ul style="list-style-type: none"> (a) refuse to register an applicant; or (b) register an applicant subject to conditions 	The applicant
2	A decision of the Board under section 15B to: <ul style="list-style-type: none"> (a) refuse to renew the registration of an applicant; or (b) renew the registration of an applicant subject to conditions 	The applicant
3	A decision of the Board under section 16B(4) to refuse to approve the surrender of a registered architect's registration	The registered architect

4	A decision of the Board under section 17(6) to:	The applicant for the exemption
	(a) refuse to grant an exemption from the prescribed insurance policy requirements; or	
	(b) grant an exemption from the prescribed insurance policy requirements subject to conditions	
5	A decision of the Board under section 17(8) to:	The registered architect that holds the exemption
	(a) revoke an exemption; or	
	(b) revoke or vary the conditions imposed, or to impose new conditions, on an exemption	
6	A decision of the Board under section 22 to:	The registered architect
	(a) reprimand a registered architect; or	
	(b) suspend the registration of a registered architect; or	
	(c) cancel the registration of a registered architect	
7	A determination of the Board under section 23D(1), including any order made by the Board under section 23D(1A)	The registered architect against whom the complaint was made
		The complainant

35 Act further amended

The Schedule has effect.

36 Repeal of Act

This Act is repealed on the day after it commences.

Schedule Act further amended

section 35

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Part I, heading	whole heading	Part 1 Preliminary matters
Part II, heading	II	2
section 6, heading	the	
section 6(2)	shall	must
section 6(3)	Where	If
	shall	must
section 7(1)	shall hold	holds
	but shall be	and is
section 7(2)	Where	If
	his term	the member's term
	term of office of his predecessor in that office.	member's term of office.
section 9(2)	so appointed shall,	appointed to be the deputy of a member may,
	member of whom he or she is the deputy, be entitled to	member,
	shall be deemed	is taken
section 9(3)	as such shall	must
	his or her	the deputy's

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 9(4)	shall he or she is to be	must the person is
Part III E, heading	III E	5
section 23C, heading	decision of Board	investigation of complaint
Part IV, heading	whole heading	Part 7 Miscellaneous matters
section 26	his <i>(all references)</i>	the architect's
section 33(1)	attend before the Minister shall	appear before the Board is to
section 40	shall	must