



ANNO TERTIO

GEORGI VI REGIS.

A.D. 1939.

No. 35 of 1939.

An Act to provide for the registration of architects, to regulate the practice of architecture, and for purposes incidental thereto.

[Assented to 14th December, 1939.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

- Short title.** 1. This Act may be cited as the " Architects Act, 1939 ".
- Commence-
ment.** 2. This Act shall commence on a day to be fixed by the Governor by proclamation.
- Interpretation** 3. In this Act, unless the context otherwise requires or some other meaning is clearly intended—
- " architect " does not include naval architect :
- " architecture " does not include naval architecture :
- " the board " means the Architects Board of South Australia constituted under this Act :
- " the register " means the register of architects kept under this Act :
- " the registrar " means the registrar of the board.

Administrative Provisions.

**The Architects
Board.**

4. (1) There shall be established a board to be called " The Architects Board of South Australia ".

(2) The board shall be a body corporate with perpetual succession and a common seal, and shall have power to purchase, take, hold and dispose of land and other property for the purposes of this Act, and may sue and be sued by the name of The Architects Board of South Australia.

(3) The board shall consist of nine members appointed or elected in accordance with this Act.

(4) The board shall be deemed to be established on the day when notice of the appointment of the first members thereof is published in the *Gazette*.

5. The first members of the board shall be nine architects appointed by the Governor, and those members and any member appointed in place of any of them on the occurrence of a casual vacancy shall, subject to this Act, hold office until the expiration of one year after the establishment of the board.

First members
of the board.

6. The subsequent members of the board shall be—

Subsequent
members of
the board.

(a) three persons appointed by the Governor :

(b) six registered architects elected by registered architects in accordance with by-laws made by the board.

7. (1) Subject to this section every member of the board (other than the first members of the board and any members appointed in lieu of any of those members on a casual vacancy) shall hold office for three years.

Term of office.

(2) Upon the expiration of the second and every subsequent year after the establishment of the board, one of the appointed members and two of the elected members shall retire, but shall be eligible for re-appointment or re-election.

(3) The appointed member to retire in each year shall be he who has been longest in office without re-appointment, and the elected members to retire in each year shall be those who have been longest in office without re-election, and whenever it is necessary to determine which of two or more members, who have been in office an equal time without re-appointment or re-election, shall retire, the matter shall be decided by lot.

(4) If, at the expiration of the term of office of any member, his successor has not then been appointed or elected, that member shall remain in office until his successor is elected or appointed, but the term of office of the successor shall be reckoned from the time when the term of office of his predecessor would have expired in the usual course.

(5) Every person appointed or elected to a casual vacancy on the board—

- (a) shall hold office only for the balance of the term of the member in whose place he was appointed or elected; and
- (b) for the purpose of determining the time of his retirement shall be deemed to have been appointed or elected at the time of the appointment or election of that member.

Time and
mode of
elections and
appointments.

8. (1) Every appointment or election of a member to hold office upon the retirement of a member by effluxion of time shall be made or held during the month preceding the retirement of that member, and shall take effect as from the day following that retirement.

(2) Every appointment or election of a member to fill a casual vacancy shall be made or held as soon as possible after the casual vacancy has occurred.

(3) No appointment or election shall be invalid by reason only of any delay in making or holding it.

(4) Every election shall be held in accordance with by-laws made by the board.

(5) As soon as possible after an election of members of the board has been held the registrar shall give written notice to the clerk of the Executive Council of the name of every person so elected.

(6) If, for any reason, a person is not duly elected to fill any vacancy on the board required to be filled by an elected member, within two months after the occurrence of that vacancy, the Governor may, if he thinks it expedient to do so, appoint a registered architect to fill the vacancy, and every person so appointed shall hold office as if he had been duly elected at the proper time.

(7) The clerk of the Executive Council shall cause notice of every appointment and election of a member of the board to be published in the *Gazette*.

Chairman.

9. (1) The board shall, as early as possible after the establishment of the board, and as early as possible after each subsequent annual appointment and election of members, elect one of its members to be chairman for the next ensuing year: Provided that if the board fails to elect a chairman within two months after the establishment of the board, or as the case may be, after any subsequent annual appointment and election of members, the Governor may appoint the chairman without nomination.

(2) A retiring chairman shall be eligible for re-election as chairman.

(3) The chairman shall preside at every meeting of the board at which he is present. In his absence another member chosen for the purpose by the majority of the members present and voting shall preside.

(4) At meetings of the board the chairman or acting chairman shall have a deliberative vote, and in the event of equality of votes, a casting vote also.

10. (1) The office of a member of the board shall become vacant if he—

Casual vacancies.

(a) dies :

(b) resigns by written notice given to the chairman :

(c) absents himself without permission of the board from more than four consecutive meetings of the board and is declared by resolution of the board to have forfeited his seat :

(d) is removed from his office by the Governor for misbehaviour or mental or physical incapacity to perform his duties as a member :

(e) ceases to hold any qualification which he is required to hold as a member of the board.

(2) A casual vacancy occurring in the office of any elected member of the board within six months before the normal expiration of the term of that office need not be filled unless the board otherwise determines.

11. (1) Subject to subsection (2) of this section any five members of the board shall form a quorum thereof for the transaction of business, and no business shall be transacted at a meeting unless a quorum is present. Every matter coming before the board shall be decided by a majority of the votes of the members present and voting at a duly convened meeting of the board.

Quorum and majority decision.

(2) Every charge of professional misconduct under this Act shall be heard and determined by not less than seven members of the board.

12. (1) The board shall appoint a registrar and may appoint any other officers whom the board deems it necessary to appoint for the purposes of this Act.

Registrar and officers of the board.

(2) The registrar and officers shall act under the control of the board and shall receive such remuneration from the funds of the board, as the board determines.

13. The board may purchase any land or buildings or take any land or buildings on lease or other tenancy for offices or chambers for the use of the board, or for use in doing anything required or permitted to be done under this Act.

Power to acquire land.

Borrowing powers.

14. The board may borrow money for the purchase, taking on lease, or other acquisition of land for the purposes mentioned in the last preceding section, or for the purchase of any other property required by the board or for erecting offices or buildings for the use of the board, or for preliminary expenses.

Powers with respect to property.

15. The board may sell, demise, let, exchange, or mortgage any real or personal property vested in it.

Proceedings of board not invalid by vacancies and defects.

16. (1) No act or proceeding of the board shall be invalid or illegal in consequence only of the number of the members of the board not being complete at the time of such act or proceeding.

(2) All acts and proceedings of the board shall, notwithstanding the subsequent discovery of any defect in the appointment or election of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if such member had been duly appointed or elected and was qualified and entitled to act, and as if the board had been properly and fully constituted.

Meetings of board.

17. (1) The first meeting of the board shall be convened by the Minister and thereafter the meetings of the board shall be convened by the registrar under the instructions of the board, or in accordance with the by-laws of the board and shall be held at times and places determined by the board.

(2) Subject to the by-laws of the board the business of the board shall be conducted in such manner as the board determines.

The Register of Architects.

The register of architects.

18. (1) The registrar shall keep a register to be called the "Register of Architects" for the registration of persons as architects under this Act.

(2) A person shall be registered by entering in the register his name and such other particulars relating to him as are required by this Act, prescribed by by-laws of the board, or directed by the board.

Publication of register.

19. (1) A true copy of the register, certified by the registrar to be a true copy, shall, in the month of January in every year be sent to the Minister and the Minister shall forthwith publish it in the *Gazette* at the expense of the board.

(2) Any person may inspect the register on payment to the board of a fee of one shilling.

20. (1) The registrar shall, at all times, keep the register in such manner that it shows in alphabetical order according to surnames, the names of all registered architects, their addresses, the dates of registration, the descriptions and the dates of the qualifications in respect of which they are registered, and such other particulars as the board directs or as are prescribed by by-laws of the board.

Mode of
keeping the
register.

(2) The register shall also show the firm name, business name or other name or style under which each registered architect carries on business.

21. The registrar shall, from time to time—

Alterations in
register.

- (a) insert in the register any alterations which come to his knowledge in the name, address, or, subject to the next succeeding section, the particulars of any person registered therein ; and
- (b) erase from the register the name of every deceased person ; and
- (c) erase from the register the name of any person de-registered pursuant to this Act ; and
- (d) correct any clerical error in the register.

In the execution of these duties the registrar shall act in each case on any evidence which appears to him to be sufficient or on the direction of the board.

22. Every registered architect who obtains any degree diploma or qualification other than that in respect of which he is registered shall be entitled, on application, to have such other degree, diploma, or qualification inserted in the register, in substitution for or in addition to the qualification therein stated.

Additional
qualifications.

23. The board may order the registrar to de-register any person—

De-registration.

- (a) who applies to the board in writing to de-register him ; or
- (b) whose registration has been obtained by fraud or misrepresentation ; or
- (c) who has ceased to possess or does not possess the qualification in respect of which he was registered ; or
- (d) who, owing to mental defect is proved to the board to be no longer capable of practising as an architect : or

(e) who has been convicted in the State of any felony or misdemeanour, or who has been convicted in any place outside the State of any offence which, if committed in the State, would be a felony or misdemeanour.

Re-registration. 24. The board may at any time on the application of any person who has been de-registered and on being satisfied that the applicant still has the necessary qualifications and is entitled to be registered, order the registrar to re-register him.

Certificate of registration. 25. When any person has become registered, the registrar shall deliver to him a certificate of registration in the form prescribed by by-laws of the board.

Memorandum of suspension. 26. Whenever an architect is suspended under this Act from practice the registrar shall enter in the register a memorandum of that fact, and of the date and cause thereof.

Delivery of certificate on de-registration. 27. Any person who is de-registered shall, within fourteen days after the service by post of a notice under the hand of the registrar demanding the return of his certificate of registration surrender his certificate to the board for cancellation.

Any person who fails to comply with this section shall be guilty of an offence and liable to a fine not exceeding five pounds for every day after the said period of fourteen days during which the certificate is not surrendered.

Registration of Architects.

Obligation to register. 28. (1) If after the expiration of six months from the commencement of this Act any person who is not registered under this Act, uses—

(a) the title or description of architect or architectural practitioner, either alone or in conjunction with any name, title, words, letters, additions, or description ; or

(b) any name, title, words, letters, additions or description implying or leading to the belief that he is registered under this Act,

he shall be guilty of an offence. Penalty : Not exceeding fifty pounds.

(2) Subject to subsection (1) of this section nothing in this Act shall prevent any person from designing and superintending the erection of any building.

(3) For the purposes of this section a person shall be deemed to use a title, description, name, words, letters or addition if in

any way he assumes, takes, uses, adopts or applies to himself or causes to be applied to himself such title, description, name, words, letters or addition.

29. (1) Every application for registration as an architect shall be made in writing in the form prescribed by the by-laws of the board and shall be addressed to the board and sent by post to or lodged with the registrar ; and the statements made therein shall be verified by a statutory declaration made by the applicant in the prescribed form.

Applications
for registration.

(2) Every applicant for registration shall furnish the board with all such information as it reasonably requires to enable it to decide the application, and with all particulars required to be entered in the register.

30. Every application shall be accompanied by a registration fee of two guineas or such other fee not exceeding two guineas as may be prescribed and the fee shall be returned to the applicant if his application for registration is refused.

Registration
fee.

31. Any person who applies, in accordance with this Act, for registration within six months after the commencement of this Act, shall be entitled to be registered as an architect if he proves to the satisfaction of the board that he resides in the State, has attained the age of twenty-one years, and is a person of good character and reputation and—

Qualifications
for registration
where
applicant
applies within
six months
after com-
mencement
of Act.

- (a) that during the period of two years immediately preceding the commencement of this Act he has, for at least six months in the aggregate, been publicly and *bona fide* practising as an architect in the State ; or
- (b) that at some time prior to the commencement of this Act he has, for at least five years in the aggregate, been employed in the State as an architectural draftsman by a practising architect or in a department of the Public Service of the State or the Commonwealth ; or
- (c) that he is possessed of qualifications or experience equal to those mentioned in one or other of the preceding paragraphs of this section ; or
- (d) that at some time prior to the commencement of this Act he has served in Australia for a term of not less than four years as an apprentice in architecture under articles of apprenticeship to an architect publicly practising as such, and that during that term of apprenticeship his work and conduct were satisfactory to his principal.

Permanent
qualifications
for registration.

32. Any person who applies, in accordance with this Act, for registration shall be entitled to be registered as an architect if he proves to the satisfaction of the board that he resides in the State, has attained the age of twenty-one years, and is a person of good character and reputation, and—

- (a) that he has passed the examination for associateship of the Royal Institute of British Architects, or an examination of approximately the same standard as the examination first mentioned and conducted by the Incorporated Association of Architects and Surveyors or some other body approved by the board, and in any case has had at least three years' practical experience in the work of an architect; or
- (b) that he is registered as an architect under any Act of the United Kingdom or of any part of His Majesty's Dominions or is an associate or fellow of the Royal Institute of British Architects or of the Royal Australian Institute of Architects; or
- (c) that he has completed a course of study in architectural subjects at any university, college, school, or educational institution, and has passed the examination prescribed by the by-laws of the board, or an examination specially set by the board, and has had three years practical experience in the work of an architect; or
- (d) that he is an engineer with not less than three years' experience in architectural work, and is in partnership with a registered architect and is proficient in the duties of an architect. In this paragraph "engineer" means a person who, in the board's opinion is a properly qualified structural engineer.

Consideration
of applications.

33. The board shall receive, consider and decide all applications for registration under this Act.

Appeals.

34. The decision of the board on any application for registration under this Act shall be subject to appeal as hereinafter provided in this Act.

Professional Misconduct.

Professional
misconduct.

35. If any registered architect does any of the following things he shall be guilty of professional misconduct within the meaning of that term as used in this Act and shall be liable to be dealt with as prescribed by this Act:—

- (a) If he allows any person except a registered architect in partnership with himself to practise in his name as an architect:

- (b) If he accepts any commission or any substantial valuable consideration from any person who has contracted to execute or is engaged in the execution of any work in connection with any building designed or supervised by him or from any person who has offered or agreed to supply any material fittings or appliances to be used in or in connection with any such building: Provided that nothing in this section shall prevent an architect from selling at a reasonable price plans of any building to any person who has contracted to execute or is engaged in the execution of any work in connection with that building or who has offered or agreed to supply any materials fittings or appliances to be used in or in connection with that building:
- (c) If directly or indirectly he pays or gives, or agrees to pay or give, any person any valuable consideration whatever as a remuneration for securing or attempting to secure for him any employment or work as an architect:
- (d) If he performs any architectural work in connection with any matter which is the subject of dispute or litigation upon condition that only in the event of the said dispute or litigation ending favourably for the party for whom the work is performed, shall payment be made for such work.

36. (1) Any person claiming to be affected by any professional misconduct on the part of a registered architect, or the registrar on the instruction of the board, may lay a charge of professional misconduct against the registered architect.

Charges of professional misconduct.

(2) Neither the board nor any of its members shall be debarred from hearing and determining any such charge by reason of the fact that the board or such members have authorized the laying of the charge or taken part in an investigation or inquiry as to such charge.

(3) Every such charge shall be in writing and the board may require further particulars of any charge or that any charge shall be verified by statutory declaration.

37. The board shall give to the architect against whom a charge is laid a copy of the charge, and a reasonable time within which to prepare his defence, and the opportunity of calling witnesses before the board and of being heard either personally or by counsel.

Notice of charge.

Punishment
for pro-
fessional
misconduct.

38. (1) If the board, upon inquiring into any charge, finds that a registered architect is guilty of professional misconduct it may—

- (a) censure him ; or
- (b) suspend him from practice for such period as the board thinks fit ; or
- (c) order that his name be removed from the register.

(2) No person shall be found guilty of or punished for professional misconduct under this section unless at least five members of the board concur in the finding or, as the case may be, in imposing the punishment.

Effect or
orders

39. (1) When the board removes the name of any person from the register the name of that person shall not again be entered on the register, except by direction of the board or by order of the Supreme Court.

(2) During any period of suspension ordered by the board the architect suspended shall be deemed not to be registered.

(3) If an architect is suspended from practice he shall, during the continuance of such suspension cease to practise as an architect, but he shall be liable to pay any moneys due by him to the board at the date of his suspension.

Appeals and Legal Procedure.

Appeals
against
decision of the
board.

40. (1) There shall be an appeal against any decision, order, or direction of the board given or made in the exercise or purported exercise of any of its powers or functions under this Act.

In this subsection "decision" includes any refusal or failure by the board to approve of a body for the purposes of paragraph (a) of section 32 of this Act.

(2) The appeal shall be to the Supreme Court and shall be instituted within one month from the giving or making of the decision, order, direction, or refusal or failure to approve appealed against. The appeal shall be by way of rehearing.

(3) The Supreme Court may, on the hearing of the appeal, do any one or more of the following things, according to the nature of the case :—

- (a) affirm, quash, or vary the decision, order, or direction appealed against, or substitute, or make or give any decision, order, or direction which ought to have been made or given in the first instance :

- (b) remit the subject matter of the appeal to the board for further consideration or further hearing :
- (c) mitigate any penalty imposed by the board :
- (d) make any further or other order, as to costs or otherwise, which the case requires.

(4) The judges of the Supreme Court, in accordance with the provisions of the Supreme Court Act, 1935, as to the making of rules of court, may make rules of court regulating the practice and procedure on such appeals.

(5) The board shall, if required by any person affected by any decision given by it, state in writing the reason for its decision. If the decision of the board is not given in writing in the first instance, the time within which an appeal may be instituted shall, if the appellant at the time of the decision requested that reasons for the decision should be given in writing, run from the time when the board first gives reasons for its decision in writing.

41. (1) For the purpose of hearing and determining any application for registration, or any charge, or of making any inquiry in the course of carrying out its duties under this Act, the board may—

Power of board to summon witnesses and take evidence.

- (a) by summons signed by any member of the board, or by the registrar acting under the direction of the board, require the attendance before the board of any person whom the board thinks fit to call before it :
 - (b) by notice in writing signed as aforesaid compel the production of any books, papers, or documents :
 - (c) inspect any books, papers, or documents produced before it, and retain them for such reasonable periods as it thinks fit, and make any copies of them or take any extracts of any of the contents of them, which are relevant to the matter being inquired into :
 - (d) examine witnesses on oath, affirmation, or declaration, which may be administered by any member of the board.
- (2) If any person—
- (a) who has been personally served with a summons to attend before the board, and whose reasonable expenses of attendance have been paid or tendered to him, neglects to attend in obedience to the summons ; or
 - (b) wilfully insults the board or any member thereof ; or
 - (c) misbehaves himself before the board ; or
 - (d) interrupts the proceedings of the board ; or

(e) being called or examined as a witness before the board, refuses to be sworn or to affirm or declare, or refuses or neglects to produce any books, papers, or documents mentioned in the notice under this section personally served upon him ; or

(f) refuses to answer any lawful question,

he shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

(3) Any person, who, upon oath, affirmation, or declaration taken or made under this Act, wilfully and corruptly gives any false evidence before the board, shall be guilty of perjury, and liable to imprisonment for any term not exceeding four years.

(4) In this section the term " board " includes any sub-committee of the board.

General Meeting of Architects.

General
meeting of
architects.

42. (1) The board shall hold a general meeting of registered architects once at least in every year, at which meeting every registered architect shall be entitled to be present, and, subject to this Act and the by-laws, to vote in person or by proxy.

(2) The board shall give to each registered architect fourteen days' notice in writing of the time and place of every such general meeting.

(3) Unless otherwise provided by the by-laws of the board one-sixth of the number of registered architects, present in person or represented by proxy at a general meeting and entitled to vote shall constitute a quorum, and all questions shall be determined by a majority of votes. The chairman shall have a deliberative vote, and in case of an equality of votes, a casting vote also.

By-laws.

By-laws.

43. (1) The board may make by-laws for any of the following purposes :—

(a) regulating the nomination of persons for election, and the election of members of the board ;

(b) regulating the meetings and proceedings of the board ;

(c) regulating the time, mode, and place of summoning and holding ordinary and special general meetings of architects and the quorum to be present, and the mode of voting and the conduct of proceedings at such meeting ;

(d) the appointment, duties, and removal of officers of the board ;

(e) fixing the amount of the annual subscription payable by architects and the time of payment of the same ;

(f) and generally for prescribing such matters as it may be necessary or convenient to prescribe for the administration and execution of this Act.

(2) No by-law, and no repeal, alteration, or amendment of any by-law shall be of any force or effect unless and until it has been confirmed by the Governor and published in the *Gazette*.

Annual subscriptions.

44. (1) Every registered architect shall pay an annual subscription to the funds of the board of such amount, not exceeding three guineas, and at such time as prescribed by the by-laws of the board, and the amount of such subscription shall be recoverable by the board by action in any court of competent jurisdiction :

Annual
subscriptions.

Provided that any registered architect who has ceased to practise may, with the approval of the board, remain on the register without liability to pay any subscription, but he shall not, so long as he does not pay subscriptions, be qualified to be a member of the board or be allowed to vote at any meeting of registered architects held under this Act.

(2) The board may remove from the register the name of any registered architect who is in arrear for twelve months in the payment of the annual subscription payable by him ; and on notice of such removal under the hand of the registrar being served on such member, he shall cease to be registered.

(3) Any architect whose name is so removed from the register may, at any time after the date when notice thereof is served on him, pay to the board all subscriptions owing by him and which would be owing if he had continued to be registered, and shall thereupon be entitled to have his name restored to the register.

(4) Any architect to whom subsections (2) and (3) apply, may make representations to the board with the object of obtaining remission of subscriptions in arrear, and the board may, if it should think fit, remit such subscriptions in whole or in part.

(5) All money received by the board under this Act shall be expended by the board in defraying the cost of carrying out its duties, powers and functions under this Act.

Miscellaneous Matters.

45. Any person who—

(a) makes or causes to be made in the register any entry or alteration which is false or not authorized by law ; or

Penalty for
falsifying
register, or
making false
statements, etc.

Architects Act, 1939.

- (b) knowingly makes any false statement, written or oral, in connection with any matter being dealt with or considered by the board, or any sub-committee thereof; or
- (c) falsely states that he has obtained any certificate under this Act, or has been registered under this Act, or causes or permits any such false statement to be made,

shall be guilty of an offence, and liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding six months.

Power of board
as to education.

46. The board may—

- (a) establish and maintain a library for the use of architects and students in architecture:
- (b) take such other measures as it thinks proper for promoting education in architecture, or for assisting students in architecture, whether by the establishment of scholarships or otherwise, or for extending knowledge of architecture among the public.

Annual
balance-sheet
and audit.

47. The board shall, in every year, prepare a balance-sheet showing the income and expenditure of the board for the period of twelve months to the thirty-first day of December then last past, and shall submit such balance-sheet duly audited to the annual general meeting of architects.

Summary
proceedings.

48. Proceedings for offences against this Act shall be disposed of summarily.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. M. BARCLAY-HARVEY, Governor.