

CLAUSE NOTES

Architects Amendment Bill 2020

- Clause 1** **Short title**
This clause provides that, once passed, the Bill will be cited as the *Architects Amendment Act 2020*
- Clause 2:** **Commencement**
All provisions of this Bill will commence on a day or days to be proclaimed.
- Clause 3:** **Principal Act**
The *Architects Act 1929* is referred to as the Principal Act that is being amended.
- Clause 4:** **Section 2 amended (Interpretation)**
Definitions of “complaint”, “complainant”, “professional misconduct” and “unprofessional conduct” are added to support complaint handling processes introduced in Part 5.
A definition of “continuing professional development requirement” is introduced, by allowing the Board to determine this under section 20G.
The definition of “Registrar” redefined to reflect the role appointed under section 7.
- Clause 5** **Section 2A inserted**
Clarification that this Act will not affect the operation of Mutual Recognition laws.
- Clause 6** **Section 4 amended (Constitution of Board)**
Provides for appointment to the Board of Architects Tasmania of representatives of consumers or of the community, on the recommendation of the Minister.
Allows for the Australian Institute of Architects to make necessary arrangements for the election of two of its members, who are then eligible for appointment to the Board. Prescriptive election procedures can then be removed from the Architects Regulations.
Removes gender specific language wherever occurring in this section.
Board members are entitled to be paid a sitting fee and for travel expenses. Allowances are to be fixed by the Minister.
- Clause 7** **Section 6 amended (Vacancies)**
Removes gender specific language wherever occurring in this section.
- Clause 8** **Section 9 amended (Register of architects)**
Allows for any conditions imposed on a registration to be recorded.
Allows the Registrar to remove a person from the register if their registration has been cancelled.
Allows the Registrar to alter the class of registration or conditions imposed on a registration.
- Clause 9** **Section 11 substituted**
Repeals section 11. Registration renewal fees are now provided for in the substituted section 14.
The substituted section 11 allows for the restoration of registration and name on the register where such a registration has previously been cancelled.

Clause 10 Sections 12, 13, 14, 15, 16, 17, 17A, 17B and 18 substituted

A new section 12 provides for the requirements of an application for registration to be specified by the Board.

A new section 13 specifies the factors that should be considered when determining an application for registration, including that the person is a fit and proper person to be registered as an architect.

The Board may specify the eligibility requirements (qualifications and experience) for registration as an architect. The Board may recognise particular courses of study or set examinations.

The grounds under which an application may be refused are also specified.

The Board may provide for different classes of registration and may impose conditions on the registration of a person.

A new section 14 allows the Board to create registration application procedures and receive a fee to process applications.

A new section 15 specifies the application and determination process under which the Board may grant renewal of registration of an architect, including specifying requirements that must be met for renewal of registration:

- Satisfactory completion of required continuing professional development activities;
- Has maintained good character as a fit and proper person;
- Complied with the Codes of Practice that govern the work and conduct of an architect;
- Is covered by a policy of professional indemnity insurance required under s14A;
- Satisfies any other prescribed requirements.

A new section 16 provides a requirement that a person is to provide evidence of being covered by a policy of professional indemnity insurance before they can be registered. Architects who work as an employee of an architectural firm, covered by a policy purchased by that firm, are then considered to have sufficient insurance.

A new section 17 gives the Board the authority to issue a certificate of registration.

A new section 18 provides a right of appeal to a person who has been refused registration or renewal of registration.

Clause 11 Section 19 amended (Prohibited practices)

Updates gender specific language.

The amendment to subsection (4) updates the penalty for offences (including purporting to be an architect) from a dollar amount to penalty units, with the same units for similar licensing offences in the *Occupational Licensing Act 2005*.

Clause 12 Section 20 amended (Continued use of name)

Removal of gender specific language.

Clause 13

Part 5 inserted

After section 20 of the Principal Act a new Part 5 is inserted to provide for the handling of complaints and disciplinary matters.

A new section 20A provides for the making of a complaint to the Board regarding a registered architect's conduct.

A new section 20B provides that a complaint may be withdrawn at any time by the complainant. The Board is given the power to dismiss complaints that are vexatious, frivolous or trivial.

A new section 20C provides that the Board is to notify the architect of a complaint made, give particulars of it and allow for representations to be made to the Board.

A new section 20D allows the Board to determine the manner of an investigation of a complaint.

A new section 20E provides the Board with a greater variety of sanctions that it may impose on an architect found guilty of unprofessional conduct or professional misconduct and allows the Board to notify parties of the outcome of a decision regarding a complaint, including the complainant, the Department of Justice and interstate architect registration bodies.

A new section 20F affects the jurisdiction of courts:

- Section 17A of the Act allows for an appeal against a decision of the Board to be made in the Supreme Court. The Bill provides that appeals will instead be made in the Magistrates Court (Administrative Appeals Division).
- Section 17B provides that an application for removal of an architect from the register on grounds of professional incompetence, is to be made in the Supreme Court. The Bill provides that such applications are instead made in the Magistrates Court (Administrative Appeals Division).

These reviews or applications are more appropriately administered through the Magistrates Court due to lower costs and shorter timeframes for resolution. The proposed changes to the Act are consistent with how appeals are dealt with in other licensing legislation, including the *Occupational Licensing Act 2005*, with the Magistrates Court having that jurisdiction.

Appeals on points of law from the Magistrates Court to the Supreme Court will remain.

Clause 14

Section 20G inserted

Provides for the Board to determine the continuing professional development (CPD) requirements for registered architects.

Architects licensed under the *Occupational Licensing Act 2005* are already subject to CPD requirements.

Clause 15

Section 22 amended (Power to summon witnesses)

Updates gender specific language.

The penalty in subsection (2) has been updated to 125 penalty units, the same units for a similar offence in the *Occupational Licensing Act 2005*.

Clause 16

Section 25A inserted

A new section 25A is inserted in Part 6 to allow for transitional provisions.

Section 25A ensures that existing registrations, renewals, applications, payment of fees and orders are carried forward under the amended Act.

Complaints may be made in relation to an activity or behaviour of an architect either before or after the commencement day.

Clause 17 Section 26 amended (Regulations)

Paragraph (ba) relating to the appointment of examiners by the Board is no longer required.

Clause 18 Repeal of Act

This amendment Act is to be repealed after its provisions have commenced and been incorporated into the Principal Act.