

TASMANIA

ARCHITECTS REGULATIONS 2023
STATUTORY RULES 2023, No. 68

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SCHEDULE 1 – LEGISLATION RESCINDED

ARCHITECTS REGULATIONS 2023

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council and upon the recommendation of the Board of Architects Tasmania, make the following regulations under the *Architects Act 1929*.

Dated 16 October 2023.

B. BAKER
Governor

By Her Excellency's Command,

M. OGILVIE
Minister for Workplace Safety and Consumer Affairs

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the *Architects Regulations 2023*.

2. Commencement

These regulations take effect on the day on which the *Architects Amendment Act 2020* commences.

3. Interpretation

In these regulations –

Act means the *Architects Act 1929*;

approved means approved by the Board;

architectural firm means a sole trader, company, partnership or trust that provides architectural services;

chairperson means the chairperson of the Board;

committee means a committee referred to in regulation 14;

council means the council of the Institute;

election means an election referred to in regulation 5;

registered architect means a person who is registered as an architect under the Act.

PART 2 – ELECTIONS

4. Filling of vacancy

An election for the purposes of section 4(5) of the Act is to be held on a day appointed by the council.

5. Timing of election

For the purposes of section 4(7) of the Act –

- (a) the prescribed time within which an election is to be held by the council is no later than 2 months after a vacancy occurs on the Board; and
- (b) a member appointed by the Governor under that subsection holds office for the rest of the term of appointment of the member who is replaced.

PART 3 – PROCEEDINGS OF BOARD

6. Meetings

- (1) The first meeting of the Board in any year is to be held at a time and place determined by the Board.
- (2) Any subsequent meeting of the Board in that year is to be held at a time and place determined by the chairperson.
- (3) Meetings of the Board or a committee are to be conducted in accordance with this Part.

7. Chairperson

- (1) The chairperson for any year is to be elected by the members from their number at the first meeting of the Board in that year.
- (2) The chairperson is to preside at all meetings of the Board.
- (3) In the absence of the chairperson from any meeting, or part of any meeting, of the Board, the other members present are to choose one of their number to preside at that meeting or for part of that meeting.
- (4) Any member presiding at a meeting of the Board has, and may exercise, all the powers of the chairperson.

8. Notice of meeting

- (1) A notice convening a meeting of the Board or a committee is to be –
 - (a) in writing; and
 - (b) delivered or sent by the Registrar to each member of the Board or committee at least 7 days before the meeting is to be held.
- (2) A notice under subregulation (1) may be delivered or sent to a member by –
 - (a) leaving it at, or sending it by post to, the member's postal address; or
 - (b) emailing it to the member's email address.
- (3) Anything done, or agreed to be done, at a meeting of the Board or a committee is not invalid because –
 - (a) a member of the Board or committee did not receive a notice of that meeting; and
 - (b) as a result of non-receipt of the notice, that member was not present at the meeting.

9. Voting at meetings

- (1) A member present at a meeting of the Board is eligible to vote at that meeting.

- (2) A question arising at a meeting of the Board is to be decided by –
 - (a) open voting; and
 - (b) a majority of votes.
- (3) If there are equal votes on any question, the chairperson has a casting vote.
- (4) The chairperson has a deliberative vote.

10. Adjournment of meeting

- (1) The chairperson may adjourn a meeting of the Board.
- (2) If a quorum is not present within half an hour after the time appointed for a meeting, the members present, or the Registrar if no member is present, may –
 - (a) adjourn the meeting; and
 - (b) arrange for the meeting to be held not later than 7 days after the day on which the meeting was adjourned.

11. Special meeting

The Registrar is to call a special meeting of the Board if requested to do so by –

- (a) the chairperson; or
- (b) any 3 members of the Board.

12. Minutes

The Board is to ensure that accurate minutes of proceedings at meetings of the Board and its committees are kept by the Registrar.

13. Rescission or amendment of previous resolutions

An act done or authorised to be done, or resolution passed, at or by a meeting of the Board may not be rescinded or amended at a subsequent meeting of the Board unless –

- (a) notice of the intended rescission or amendment is given in the notice convening that meeting; and
- (b) the rescission or amendment is passed by that meeting.

14. Committees

- (1) The Board may establish such committees as it considers necessary for the purpose of assisting it in the performance of any of its functions or the exercise of any of its powers.
- (2) A committee consists of such persons as the Board appoints.
- (3) A member of the Board may be a member of a committee.
- (4) Subject subregulation (5), the Board may pay a member of a committee remuneration and allowances.

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- (5) A member of a committee who is a State Service officer or State Service employee is not to be paid remuneration or allowances mentioned in subregulation (4) unless the Minister administering the *State Service Act 2000* determines otherwise.
- (6) The Board may give written directions to a committee and the committee must comply with those directions.
- (7) A committee is to keep accurate minutes of its proceedings.
- (8) A committee is to regulate its proceedings in accordance with any directions given by the Board but may otherwise regulate its own proceedings.

15. Authentication of documents

A document issued by the Board under the Act or these regulations has the authority of the Board if it is signed by –

- (a) the Registrar; or
- (b) any 2 members.

PART 4 – DUTIES OF REGISTRAR

16. General duties

- (1) The Registrar is to undertake any duties that the Board directs.
- (2) The Registrar is responsible for the safe custody of –
 - (a) the seal of the Board; and
 - (b) all documents and property belonging to the Board.

17. Keeping of register

- (1) The Registrar is to keep a register of architects.
- (2) The register –
 - (a) is to include any information that the Board or Registrar considers necessary or convenient to ensure compliance with the requirements of the Act; and
 - (b) may be kept in any form that allows its contents to be easily read.
- (3) The Board is to –
 - (a) make the register, or a current extract of the register, available for public inspection during normal business hours; and

- (b) publish the register, or a current extract of the register, on its website.

18. Funds of Board

- (1) The Registrar is to pay money received by the Board or the Registrar into the funds of the Board within 7 days after the money is received.
- (2) For the purposes of section 23 of the Act, the Registrar is to prepare and present to the Board at the end of each year a statement showing the receipts and disbursements of the Board during that year.

19. Annual report

- (1) The Board is to, on or before 31 October after the end of each financial year, prepare and present to the Minister a report on its operations for that financial year.
- (2) The report is to contain –
 - (a) the Board’s audited statement of accounts prepared for the financial year; and
 - (b) the number of names that the Board entered in the Register during the financial year; and
 - (c) a statement specifying the number and nature of complaints that the Board received in respect of architects during the financial year; and

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- (d) a statement specifying how the Board handled complaints during the financial year, setting out the number it dismissed, the number it dealt with itself and the number outstanding at the end of the financial year; and
 - (e) a statement giving details of any disciplinary action that the Board took against architects during the financial year.
- (3) The Board must include in the report any further information required by the Minister and may include any other information that it considers appropriate.

PART 5 – REGISTRATION

20. Application for registration

- (1) An application under section 12(1) of the Act is to be –
 - (a) in the approved form; and
 - (b) accompanied by the prescribed fee.
- (2) In determining under section 13(2)(b) of the Act whether a person is a fit and proper person to be registered as an architect, the Board is to take into account the following matters:
 - (a) whether the person has previously had a registration, or a licence, as an architect refused, suspended or cancelled in Tasmania or another State or a Territory;
 - (b) whether, in the case of a natural person –
 - (i) the person is an undischarged bankrupt; and
 - (ii) if the person has made a composition or arrangement with creditors, the debts to which the composition or arrangement relates have been paid in full or the terms of the composition or arrangement have been fulfilled;
 - (c) whether, in the case of a partnership or a trust –

- (i) the partnership or trust is in liquidation; and
 - (ii) a member of the partnership, or a trustee of the trust, is an undischarged bankrupt; and
 - (iii) if the partnership or trust has made a composition or arrangement with creditors, the debts to which the composition or arrangement relates have been paid in full or the terms of the composition or arrangement have been fulfilled;
- (d) whether, in the case of a company –
- (i) the company is in receivership or liquidation; and
 - (ii) the company has taken proceedings for voluntary winding-up, except for the purposes of re-organisation; and
 - (iii) the company has a winding-up order made in respect of it by the Supreme Court.
- (3) The Board may require an applicant to –
- (a) attend personally before the Board or a person nominated by the Board; and

- (b) answer any oral or written questions put by the Board or a person nominated by the Board; and
 - (c) undertake a practice examination; and
 - (d) provide proof of identity documentation specified by the Board.
- (4) In this regulation –

practice examination means the architectural practice examination set by the Architects Accreditation Council of Australia.

21. Renewal of registration

For the purposes of section 15(4)(f) of the Act, the following requirements are prescribed:

- (a) that the person has not previously had a registration, or a licence, as an architect refused, suspended or cancelled in Tasmania or another State or a Territory;
- (b) in the case of a natural person –
 - (i) that the person is not an undischarged bankrupt; and
 - (ii) that, if the person has made a composition or arrangement with creditors, the debts to which the composition or arrangement relates have been paid in full or

the terms of the composition or arrangement have been fulfilled;

- (c) in the case of an architectural firm –
 - (i) that the firm is not in receivership or liquidation; and
 - (ii) that the firm has not taken proceedings for voluntary winding-up, except for the purposes of re-organisation; and
 - (iii) that the firm does not have a winding-up order made in respect of it by the Supreme Court.

22. Classes of registration

The Board may determine classes of registration of architects in any manner that it thinks fit.

23. Registration as architectural firm

- (1) A registered architect may apply, on behalf of an architectural firm, to register the firm as an architectural firm if the registered architect is –
 - (a) a permanent employee, a director, a partner or a trustee of an architectural firm who is nominated by the firm to apply on behalf of the firm; or
 - (b) a sole trader trading as an architectural firm.

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Part 5 – Registration

- (2) If an architect nominated by a firm under subregulation (1)(a) ceases to be the nominated architect in respect of the registration of the firm, the architect must, within 7 days, notify the Board of that fact and of his or her replacement.

Penalty: Fine not exceeding 20 penalty units.

- (3) The registration of an architectural firm is revoked if –
- (a) a registered architect is nominated by the firm in respect of the registration of the firm; and
 - (b) the architect ceases to be the nominated architect in respect of the registration of the firm; and
 - (c) the Board is not notified of another registered architect to be the nominated architect in respect of the registration of the firm within 7 days, or such other period as the Board specifies, after the architect in paragraph (a) ceases to be so nominated.

24. Registration revoked or suspended if insufficient insurance

- (1) The Board may revoke or suspend the registration of an individual, or an architectural firm, if the Board is not satisfied that the individual or firm has a sufficient level of professional indemnity insurance.

- (2) For the purposes of section 16(1) of the Act and these regulations, the Board is to determine the sufficient level of professional indemnity insurance.

25. Prescribed qualifications

- (1) For the purposes of section 13(5)(a)(i) of the Act, the following architectural qualifications are prescribed:
- (a) a qualification in a list approved by the Board and published on its website;
 - (b) a qualification that is recognised by the Board as being equivalent to one referred to in paragraph (a).
- (2) For the purposes of section 13(5)(a)(ii) of the Act, a course of study that meets the criteria is a course of study in a list approved by the Board and published on its website.

26. Certificate of registration

A certificate of registration under section 17 of the Act is to be –

- (a) in the approved form; and
- (b) only issued on the payment by the applicant for registration of a fee of 10 fee units.

27. Fees

The following fees are prescribed:

- (a) for an application for a new registration – 50 fee units;
- (b) for an application for registration if the applicant makes an application within 30 days after having received his or her results for the practice examination – 18 fee units;
- (c) for an application for the reinstatement of a registration where a reassessment is required – 50 fee units;
- (d) annual registration fee for an architect (including an architectural firm) – 45 fee units;
- (e) certificate fee – 10 fee units.

28. Removal from register

- (1) The Board, by notice in writing, may require a person whose name is removed from the register under the Act to return his or her certificate of registration to the Board.
- (2) A person referred to in subregulation (1), or the executor, administrator or trustee of that person, is to return the certificate of registration to the Board within 14 days after receiving the notice referred to in subregulation (1).

PART 6 – MISCELLANEOUS

29. Code of practice

- (1) The Board may issue or approve a code of practice for the purposes of the Act and may vary or revoke a code of practice.
- (2) The Board may only approve, vary or revoke a code of practice after consultation with persons or bodies that the Board considers representative of the interests of architects, consumers, the community and the Administrator of Occupational Licensing.
- (3) The Board is to cause the code of practice, and any variation to it, to be –
 - (a) provided to each registered architect electronically or, if electronic provision is not possible, physically; and
 - (b) published in such a manner as to be easily available to members of the public.
- (4) A registered architect must –
 - (a) comply with a code of practice issued or approved under this regulation; and
 - (b) provide, within 7 days of being requested by the Board, information relating to the architect’s compliance with such a code.

Penalty: Fine not exceeding 20 penalty units.

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Part 6 – Miscellaneous

- (5) A code of practice issued or approved under this regulation must specify the level of professional indemnity insurance that the Board determines to be sufficient for the purposes of section 16(1) of the Act.

30. Savings provision

A person who, immediately before the day on which these regulations take effect, was a member of the Board under the *Architects Regulations 2018* continues on and from that day to be a member of the Board until the member's term of office expires.

31. Legislation rescinded

The legislation specified in Schedule 1 is rescinded.

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SCHEDULE 1 – LEGISLATION RESCINDED

Regulation 31

Architects Regulations 2018 (No. 72 of 2018)

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 25 October 2023.

These regulations are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations –

- (a) provide for various matters under the *Architects Act 1929*, including –
 - (i) the election of members of the Board of Architects of Tasmania; and
 - (ii) the duties of the Registrar of that Board; and
 - (iii) the establishment of committees; and
 - (iv) the registration of architects; and
- (b) rescind the *Architects Regulations 2018*.