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ARCHITECTS ACT

[RSBC 1996] CHAPTER 17

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Definitions

1 In this Act:

"architect" or **"member"** means an individual who is a member of the institute;

"architectural corporation" means a corporation for which a certificate of practice has been issued;

"architectural firm" means a sole proprietorship, partnership or corporation entered on the register of the institute;

"building" means a structure consisting of foundations, walls or roof, with or without other parts;

"certificate of practice" means a certificate of practice issued under section 27 and includes a renewal of a certificate of practice;

"council" means the council under sections 5 and 6;

"disciplinary committee" means a disciplinary committee established under section 46 or 47 to conduct an inquiry;

"institute" means the institute continued under section 2;

"licensee" means a person licensed under section 38;

"professional engineer" means a person registered under the *Engineers and Geoscientists Act* as a professional engineer;

"register" means the register of The Architectural Institute of British Columbia referred to in section 33;

"registrar" means the registrar appointed under section 19.

Institute continued as a corporation

- 2** (1) The Architectural Institute of British Columbia is continued as a corporation.
- (2) The institute
- (a) has perpetual succession,
 - (b) must have a common seal,
 - (c) may sue and be sued,
 - (d) may acquire and dispose of property, and
 - (e) may borrow money and mortgage or otherwise encumber the property of the institute to secure money borrowed for the purposes of the institute.

Members

- 3** The members of the institute are
- (a) those persons who were, on March 15, 1955, registered members of the institute and resident in British Columbia, and
 - (b) those persons who are subsequently registered as members.

Head office

- 4** The head office of the institute must be in the City of Vancouver.

Council and powers

- 5** Subject to this Act and the bylaws of the institute, the council governs the affairs of the institute and may by resolution make rules necessary for that purpose.

Members of council

- 6** (1) The council consists of 15 council members.
- (2) The Lieutenant Governor in Council must appoint 4 persons who are not members of the institute to be members of the council holding office at pleasure.
- (3) The director of the School of Architecture and Landscape Architecture of The University of British Columbia, or a full time member of the faculty of that school nominated by that director, is one of the council members.
- (4) Ten council members must be elected by and from among the members of the institute.

Eligibility

- 7** (1) Any member of the institute in good standing is eligible for nomination and election as a member of the council.
- (2) A retiring member of the council is eligible for re-election.

Election

- 8** (1) An election for members of council to fill vacancies must be held on the day set for the annual meeting of the institute.
- (2) Subject to this Act, each person elected under subsection (1) holds office until the election held on the day set for the annual meeting in the second calendar year following election.
- (3) If no election is held on the day set,
- (a) the members of council remain in office until their successors are elected,
 - (b) the council may set a day for an election, and
 - (c) the term of office of persons elected at the election under paragraph (b) ends on the same day as if the election had been held on the day originally set.

Voting

- 9** Only members of the institute in good standing may vote.

Successful candidates

- 10** (1) A candidate who receives the highest number of votes is elected.
- (2) In the event of a tie vote, the person last holding the office of president, if not one of the candidates, may resolve the tie, otherwise the council may set a day for a tie breaker election.
- (3) Immediately after an election the registrar must certify the persons elected as members of the council.
- (4) The certificate is, subject to section 11, conclusive evidence that the persons named have been elected members of the council.

Election disputes

- 11** (1) A member of the institute may question a certificate of election of a person within 30 days of the date of the certificate by petition to the

Supreme Court setting out the grounds on which the member questions the certificate.

(2) The petition must be served on the registrar and on the person certified to be elected.

(3) A petition must be heard in a summary way.

(4) The court may give directions on procedure and other persons to be served with the petition.

(5) The court may decide that a person was elected or may order a new election and give directions.

(6) A decision of the court is not subject to appeal and the institute and all other persons must be governed by it.

(7) After an election under this section, the registrar must certify the person elected a member of the council at that election.

(8) The certificate has the same effect as a certificate following the annual election.

(9) The term of office of a person elected under this section expires on the same day as if the person had been elected at the questioned election.

Council vacancy

12 A member of the council ceases to hold office if the member

- (a) resigns by notice in writing delivered to the registrar,
- (b) ceases to be a member in good standing of the institute,
- (c) is absent from 3 consecutive meetings of the council, unless excused by the council,
- (d) ceases to reside in British Columbia, or
- (e) becomes a mentally disordered person.

Filling vacancy

13 (1) If there is a vacancy among the elected members of council, the remaining members of council must, within one month, appoint a member of the institute in good standing to be a member of the council.

(2) The term of office of a person elected or appointed under this section is for the remaining portion of the term of the member previously occupying the place on the council to which the member is elected or appointed.

Council meetings

14 (1) Subject to this Act, the council may make rules regulating council meetings.

(2) Failure of a council member to receive a notice does not, if the member attends the meeting, invalidate the meeting.

Quorum

15 A majority of council members is a quorum.

Votes at council

16 (1) All acts of the council must be decided by a majority of members present.

(2) Each member present has one vote.

(3) The chair does not have a second or casting vote.

(4) On a tie vote, the question is lost.

Resolution of council members

17 A resolution signed by all members of the council has the same effect as a resolution passed at a regularly convened meeting of the council.

Fees and expenses

18 Council members may be paid the fees for attendance and reasonable travelling and other expenses set by bylaw of the institute.

Officers

19 (1) At its first meeting after an election, the council

(a) must elect from its members a president, one or more vice presidents and a treasurer,

(b) must appoint a member of the institute as registrar, and

(c) may appoint other officers.

(2) An appointed person holds office during pleasure of the council.

(3) If they continue as members of the council and subject to the pleasure of the institute, the elected members hold office until the conclusion of the next annual meeting.

(4) The council may set the salaries or fees, if any, to be paid to an appointed person, to employees of the council or institute and to examiners appointed under this Act.

Committees

- 20** (1) The council may appoint committees or boards and delegate to them powers as it sees fit.
- (2) The president is a member of all committees.
- (3) The council may remove a member of a committee.

Institute meetings

- 21** (1) The institute must hold an annual meeting in each year at a time and place the council designates.
- (2) The council may call a meeting of the institute at any time and must call a meeting on the written request of 15 members.
- (3) The council must give written notice of a meeting to each member of the institute in good standing, at least 15 days before the meeting, by prepaid post addressed to the residence of the member as shown on the register.
- (4) The president or, in the president's absence, the vice president must preside at all business meetings of the institute.
- (5) In the absence of the president and vice president a chair must be elected by the meeting.
- (6) A quorum at a meeting of the institute is 10 members in good standing, or a greater number set by bylaw of the institute.
- (7) Each member in good standing present at a meeting of the institute has one vote.

Reports by president

- 22** The president must report on the affairs of the institute at each annual meeting and file the auditors' report for the last fiscal year.

Auditors

- 23** Auditors must be appointed at each annual meeting to hold office until their successors are appointed.

Bylaws

24 (1) The institute may make bylaws considered necessary for the regulation of the institute, its members, architectural firms, licensees and associates.

(2) Without limiting subsection (1), the bylaws may provide for one or more of the following:

- (a) institute meetings;
- (b) the nomination and election of the council;
- (c) admission to the practice of the profession of architecture;
- (d) the setting by the council of fees or fines payable to the institute and, in the case of fees payable on registration or being licensed, designating, if the council considers it advisable, different classes of applicants;
- (e) a tariff of fees for an architect's services;
- (f) the conduct, discipline and standards of honour of the institute's members, architectural firms, licensees and associates, and the maintenance of the dignity and honour of the profession;
- (g) a code of ethics and professional conduct for members, architectural firms, licensees and associates, and prohibiting acts or conduct by them considered by the institute unprofessional or detrimental to the welfare of the profession;
- (h) requiring members, architectural firms and licensees to maintain insurance to provide indemnity against professional liability claims, including establishing classes of members, architectural firms and licensees for this purpose and allowing the council to exempt a member, architectural firm or licensee, or a class of any of them, from an insurance requirement;
- (i) the institute acting as agent for members, architectural firms and licensees to obtain insurance, including the insurance described in paragraph (h);
- (j) establishing, administering, maintaining and operating a professional liability insurance scheme utilizing fees paid under paragraphs (k) and (l);
- (k) the setting by the council of fees or levies for professional liability insurance, including establishing classes of registrants, and allowing the council to exempt a registrant or class of registrant from payment of all or part of the fees or levies;

- (l) designating classes of practice with respect to which a fee is payable by a registrant to the institute to fund the professional liability insurance scheme and allowing the council to set the amount of the fee for each class of practice;
- (m) the registering of architectural firms, including establishing the terms and conditions under which a firm is entitled to be registered and establishing different classes of firms;
- (n) appropriate inclusions and exclusions in the name of an architectural firm and the approvals that must be obtained before a name is chosen;
- (o) the disposition of shares of a member of an architectural firm if the member ceases to be a member, is suspended from practice, is removed from the register or dies;
- (p) the kinds of activities that may be undertaken by an architectural firm;
- (q) the issue and renewal of certificates of practice, including
 - (i) setting fees by the council for obtaining a certificate of practice or a renewal of a certificate of practice, and
 - (ii) establishing different classes of certificates of practice;
- (q.1) the designation of specialized areas of architecture;
- (q.2) the qualification and certification of members, licensees or architectural firms as specialists in areas of architecture designated under paragraph (q.1);
- (q.3) the prohibition of members, licensees or architectural firms from holding themselves out as specialists in a designated area of architecture unless the member, licensee or architectural firm is certified under a bylaw made under paragraph (q.2);
- (r) the minimum percentage of each class of voting shares that must be owned by architects to satisfy section 26 (3) (c).

(3) The bylaws, fees and levies under subsections (1) and (2) may be different for different classes of members, architectural firms, licensees or associates.

Filing of bylaws

- 25** (1) The registrar must file with the minister a certified copy of each bylaw made under this Act within 7 days of its making.

(2) A bylaw comes into force 45 days after it is filed under subsection (1), unless the Lieutenant Governor in Council disallows the bylaw within this 45 day period.

Registration of firms

26 (1) The council may permit the registration of a sole proprietorship, partnership or corporation as an architectural firm.

(2) Subject to subsection (3), the council may permit the registration of a corporation under subsection (1), but only if the following requirements are met:

(a) the corporation is a company or an extraprovincial company, within the meaning of the *Business Corporations Act*, and is in good standing under that Act;

(b) the majority of each class of voting shares of the corporation is legally and beneficially owned by architects;

(c) the majority of the directors of the corporation are architects;

(d) the chief executive officer of the corporation is an architect;

(e) all the persons who will be practising architecture on behalf of the corporation are architects or are under the direct supervision of an architect who is a continuing employee or shareholder of the corporation.

(3) The council may permit the registration under subsection (1) of a corporation that will practise the profession of architecture together with carrying on the practice of professional engineering as defined in section 1 of the *Engineers and Geoscientists Act*, but only if the following requirements are met:

(a) the corporation holds a current certificate of authorization issued under the *Engineers and Geoscientists Act*;

(b) the corporation is a company or an extraprovincial company, within the meaning of the *Business Corporations Act*, and is in good standing under that Act;

(c) the majority of each class of voting shares of the corporation is legally and beneficially owned by architects and professional engineers and any bylaws under section 24 (2) (r) of this Act, are met;

(d) architects and professional engineers constitute the majority

of the directors of the corporation;

(e) the chief executive officer of the corporation is an architect or professional engineer;

(f) all the persons who will be practising architecture on behalf of the corporation are architects or are under the direct supervision of an architect who is a continuing employee or shareholder of the corporation.

(4) The council may refuse to register a corporation under subsection (1) if

(a) the corporation has previously had its certificate of practice or registration cancelled, or

(b) a shareholder of the corporation was a shareholder of a corporation that previously had its certificate of practice or registration cancelled.

Certificate of practice

27 (1) The council may issue a certificate of practice to an architectural firm, member or licensee.

(2) A person must not practise or offer to practise the profession of architecture unless the person

(a) is a holder of a current certificate of practice, or

(b) practises as authorized by this Act through an architectural firm that is a holder of a current certificate of practice.

Prohibition against corporation carrying on business

28 A corporation that has words as part of its name to indicate that it practises architecture must not carry on any business unless it holds a valid certificate of practice.

Right to practise through a corporation

29 Subject to this Act and the bylaws, an architectural corporation may practise or offer to practise the profession of architecture through one or more persons each of whom is

(a) an architect, or

(b) an employee of the architectural corporation under the direct supervision of an architect who is a continuing employee or a shareholder of the architectural corporation.

Voting agreements prohibited

30 (1) A shareholder of an architectural corporation described by section 26 (2) must not enter into a voting trust agreement, proxy or any other type of agreement that vests in another person who is not an architect the authority to exercise the voting rights attached to any or all of the shares if the exercise of those voting rights could result in persons who are not architects holding the majority voting control of the architectural corporation.

(2) A shareholder of an architectural corporation described by section 26 (3) must not enter into a voting trust agreement, proxy or any other type of agreement that vests in another person who is not an architect or professional engineer the authority to exercise the voting rights attached to any or all of the shares if the result is that the architectural corporation ceases to meet the applicable qualifications for registration under section 26 (2) or (3).

Responsibility of members

31 (1) The liability for professional negligence of an architect carrying on the practice of architecture is not affected by the fact that the architect is carrying on that practice as an employee on behalf of an architectural corporation.

(2) The relationship of an architect to an architectural corporation, whether as a shareholder, director, officer or employee of the corporation, does not affect, modify or diminish the application to the architect of the provisions of this Act and the bylaws made under it.

(3) Nothing in this Act affects, modifies or limits any law applicable to the fiduciary, confidential or ethical relationships between an architect and a person receiving the professional services of the architect.

(4) The relationship between an architectural corporation carrying on business as permitted under this Act and a person receiving architectural services provided by the architectural corporation is subject to all applicable law relating to the fiduciary, confidential and ethical relationships that exist between an architect and the architect's client.

Officers and employees of an architectural firm

32 All shareholders, directors, officers and employees of an architectural firm may be

- (a) compelled to give evidence at a proceeding under this Act, or
- (b) required to produce all files and records that are in their possession or power and that are relevant to matters raised in a proceeding under this Act.

Register

- 33** (1) The registrar must keep the register of the institute in which must be entered, on application or on direction of the council, the name, the residence or business address and other particulars directed by the council respecting
- (a) each person registered under section 36, 37, 39 or 40,
 - (b) each architectural firm registered under section 26, and
 - (c) each member, architectural firm or licensee holding a current certificate of practice.
- (2) A person whose name is entered in the register is registered unless the registration is cancelled or the person is suspended from practice.

Resignation

- 34** (1) A member in good standing may voluntarily resign from the institute in writing.
- (2) If a person resigns, the person's name must be removed from the register and the person ceases to be a member of the institute.
- (3) The council, on conditions it determines, may restore to the register the name of a person who resigned under this section.

Removal

- 35** (1) The council may remove from the register a name or other entry that has, in its opinion, been entered by fraud or misrepresentation or has been incorrectly made.
- (2) The registrar must promptly notify, in writing, the person whose name or entry has been removed under this section.
- (3) The person may at any time apply to have the person's name or the entry restored to the register.
- (4) The council may in its discretion refuse to restore the name or entry.

Membership: qualification for registration

36 (1) A person who is at least age 19, who produces evidence satisfactory to the council of identification, good moral character, his or her qualifications and, if the person has practised as an architect, of good professional conduct, and any further information required by the council, and who passes examinations required by the institute or the council is entitled, on payment of the fee for registration, to be registered under this Act, if the person is

(a) a member of an organization governing the practice of architecture in a jurisdiction where the architectural training required for admission is approved by the council, is entitled to practise architecture in that jurisdiction, or

(b) a graduate of a school of architecture in a course approved by the council and who, after graduation and before the application for membership, has for a cumulative total of 3 years been actively engaged in the practice of architecture or employed in the office of a member of the institute or a practising architect approved by the council.

(2) The council may reduce the 3 year period referred to in subsection (1) (b) to not less than 2 years if the applicant has other related experience that the council accepts as part of the 3 years.

Alternative qualifications

37 The council may admit to registration in the institute a person nominated in writing for membership by 5 members of the institute and who has passed an examination required by council, if the person has

(a) for 15 years been employed in the office of a member or members of the institute,

(b) for 15 years been employed in the office of a person outside British Columbia who, in the opinion of the council, is a qualified and capable architect, or

(c) for 8 years practised as a qualified architect outside British Columbia.

Temporary licence

38 (1) On payment of the specified fee, the council may grant to an architect a temporary licence to practise as an architect in British Columbia in collaboration with an architect registered under this Act.

(2) The temporary licence may be for the period of time determined by the council, may be restricted to a specified architectural work in British Columbia and may be cancelled by the council for a breach of the licence.

(3) A person who, on March 15, 1955, was registered as a member of the institute but not a resident of British Columbia is deemed, from that date, to hold a temporary licence to continue for the period of time determined by the council.

Honorary membership

39 (1) The institute may confer honorary membership on a person nominated by the council, including a person who, in the council's opinion, has been outstanding in the practice of architecture or in service to the institute.

(2) Honorary membership confers all the rights of ordinary membership, but no fees are payable and an honorary member may not, by reason only of membership under this section, practise architecture unless he or she has actively practised the profession.

Associates

40 The council may admit any person as an associate of the institute, may divide associates into different classes and set the qualifications for each class.

Associate's rights

41 (1) An associate is not entitled to vote, hold office in the institute or receive notices.

(2) An associate may only practise the profession of architecture as an employee working for and under the supervision of a member of the institute.

Registrar's certification

42 (1) The registrar may prepare a certificate under the seal of the institute specifying that

(a) a person or an architectural firm is registered or is not registered, or

(b) a person or an architectural firm currently holds or does not hold a certificate of practice.

(2) A certificate prepared under subsection (1) is evidence in any court or before any tribunal that

- (a) the fact specified as described in subsection (1) is true,
- (b) the signature on the certificate is the signature of the registrar, and
- (c) the seal on the certificate is the seal of the institute.

Inspection of register

43 (1) The register must be open to inspection by any person whenever the office of the institute is open.

(2) On payment of a fee set by the council, a person may obtain a certificate under section 42.

Conviction of offence

44 (1) A person who has been convicted of an offence is not entitled to be registered.

(2) The council may remove from the register the name of an architectural firm or member convicted of an offence.

(3) The council may permit a person convicted of an offence to become or remain a member or may restore the person's name to the register.

(4) Registration must not be refused and a name must not be removed on conviction for a political offence or for an offence which should not, in the opinion of the council, either from the nature of the offence or from the circumstances of the case, disqualify a person from practising under this Act.

Inquiries and appeals

45 Sections 46 to 57 apply to an architectural firm as though it were an architect.

Inquiry

46 (1) The council may order an inquiry by a disciplinary committee into a complaint against a member, architectural firm or licensee or into the conduct, capability or fitness to practise of a member, architectural firm or licensee.

(2) Subject to section 47, a disciplinary committee consists of 3 or more

council members selected by the council for the purposes of the inquiry.

Judge as member

- 47** (1) The disciplinary committee may appoint a judge of the Supreme Court as a member of the committee.
- (2) The council or disciplinary committee may employ, at the expense of the institute, the legal or other assistance it may think necessary.
- (3) The complainant and the person whose conduct is the subject of inquiry may be represented by counsel and submit evidence.

Hearing

- 48** (1) At least 2 weeks before the commencement of the hearing, a notice of the inquiry, the time and place of the hearing of the disciplinary committee and the subject matter of the inquiry must be delivered to the complainant and the member, architectural firm or licensee that is the subject of the inquiry.
- (2) The testimony of witnesses must be taken under oath.
- (3) There is to be the full right to cross examine witnesses and to call other witnesses.
- (4) If the complainant or the person whose conduct is being examined does not attend, the committee, on proof by affidavit or otherwise of personal delivery of the notice of hearing, may proceed with the inquiry without that person being present and make its decision without further notice.
- (5) The evidence given at an inquiry hearing must be taken down and transcribed.

Subpoena and witness fees

- 49** (1) The council, disciplinary committee or a party may, without leave or order, obtain from the Supreme Court a subpoena for the attendance and examination of any witness, and for the production of documents, production of which could be compelled in an action, before the disciplinary committee, at the time and place stated in the subpoena.
- (2) A person whose attendance is required is entitled to the conduct money and payment of expenses and for loss of time paid on attendance at a trial in the Supreme Court.
- (3) Failure to attend or produce a document is deemed to be contempt of

court.

Orders

50 (1) At the conclusion of an inquiry ordered under section 46 the disciplinary committee may make one or more orders under subsection (3) if it considers that a member, architectural firm or licensee

- (a) has been unprofessional,
- (b) has contravened this Act or a bylaw,
- (c) has been negligent or guilty of misconduct in the execution of a duty of office,
- (d) is incompetent or unfit to practise architecture or is incapable of practising architecture, or
- (e) is an architectural corporation that has ceased to meet the applicable qualifications for registration under section 26 (2) or (3).

(2) Instead of making an order under subsection (3), the disciplinary committee may dismiss the complaint if it considers that subsection (1) does not apply in the circumstances.

(3) The orders that may be made respecting a member, architectural firm or licensee are as follows:

- (a) reprimand of the member, architectural firm or licensee or a member who is an officer, partner, shareholder or employee of the architectural firm;
- (b) imposition of conditions on the certificate of practice of the member, architectural firm or licensee;
- (c) suspension of the member, architectural firm or licensee from practice for a specified period of time;
- (d) removal of the name of the member, architectural firm or licensee from the register;
- (e) cancellation of the licence of the licensee or certificate of practice of the member, architectural firm or licensee;
- (f) imposition of a fine on the member, architectural firm or licensee, payable to the institute and not greater than \$10 000.

(4) If the certificate of practice of an architectural corporation is cancelled under this section, the registrar must inform the Registrar of Companies of

this action.

(5) In making an order under subsection (3), the disciplinary committee may include a further provision that the order not take effect if the member, architectural firm or licensee complies with the conditions specified in the order.

(6) If a condition specified under subsection (5) is not met within the time specified in the order, the order under subsection (3) to which the condition applies takes effect without further notice or hearing.

Costs of disciplinary proceedings

51 (1) The disciplinary committee may direct that the costs of the disciplinary committee incurred in holding the inquiry, including fees paid on behalf of the disciplinary committee to lawyers and witnesses, are payable to the institute by the member, architectural firm or licensee against whom the complaint was made, in the amount and within the time specified by the disciplinary committee.

(2) The disciplinary committee may direct that the inquiry costs of the member, architectural firm or licensee against whom the complaint was made, including fees paid on behalf of the member, architectural firm or licensee to lawyers and witnesses, are payable by the institute to the member, architectural firm or licensee against whom the complaint was made, in the amount and within the time specified by the disciplinary committee.

(3) The disciplinary committee may make a direction under subsection (1) or (2) without determining the amount payable.

(4) If a direction is made under subsection (1) or (2) without determining the amount payable, the institute or the member, architectural firm or licensee in whose favour an order of costs was made may apply to a registrar of the Supreme Court to determine the amount, and the certificate of the registrar determining the amount payable is enforceable as if it were an order of the court.

(5) If a member, architectural firm or licensee does not pay costs as required under subsection (1) or (4) within the time specified for their payment, the disciplinary committee may, without giving notice or holding a hearing, suspend the member, architectural firm or licensee from practice until the costs are paid.

Effect of suspension

- 52** If a member, architectural firm or licensee is suspended from practice, then during the period of suspension, the member, firm or licensee is deemed
- (a) to be removed from the register,
 - (b) not to be a member of the institute, and
 - (c) not to be the holder of a current certificate of practice.

Reinstatement

- 53** (1) If the disciplinary committee removes the name of a person or other entry from the register, the name or entry may only be restored on the direction of the disciplinary committee or by order of the Supreme Court or Court of Appeal.
- (2) A direction under subsection (1) may include a provision that a fee set by the council under a bylaw made under section 24 be dispensed with or be paid as a condition of the restoration.

Civil liability

- 54** (1) An action for damages does not lie and may not be brought against the council, a disciplinary committee, the registration board or the members, officers or employees of the institute or any of these bodies because of anything done or omitted in good faith
- (a) in the performance or purported performance of any duty under this Act, or
 - (b) in the exercise or purported exercise of any power under this Act.
- (2) Subsection (1) does not absolve the institute from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force.

Appeal

- 55** (1) If a disciplinary committee makes an order under section 50 (3) or dismisses the complaint, the member, architectural firm or licensee that has been disciplined, or the person whose complaint was heard by the disciplinary committee, may appeal the order or dismissal to the Supreme Court within 30 days of the date of the order or dismissal.
- (2) An appeal under this section must be an originating application commenced by filing a petition in any registry of the Supreme Court.

- (3) The petition commencing an appeal under this section must be served
 - (a) on the institute, effected by service on the registrar, within 14 days of its filing in the court registry,
 - (b) on the member, architectural firm or licensee referred to in subsection (1), if the appellant was the complainant, and
 - (c) on the complainant, if the complainant gave oral evidence at the disciplinary committee hearing.
- (4) The persons required to be served under subsection (3) may be parties to an appeal under subsection (1) and the institute is entitled to full party status in the appeal.
- (5) On the hearing of an appeal under this section, the court may
 - (a) confirm, vary or reverse the order,
 - (b) refer the matter back to the disciplinary committee for reconsideration, with or without directions, or
 - (c) make any other order it considers appropriate in the circumstances.
- (6) A decision of the Supreme Court on an appeal under subsection (1) may be appealed to the Court of Appeal if leave to appeal is granted by a justice of the Court of Appeal.

Notice of appeal and procedure

- 56** (1) The Rules of Court, other than Rule 49, apply to an appeal under section 55.
- (2) The registrar of the institute must, on request, provide to a person desiring to appeal, a certified copy of all proceedings, reports and documents on which the disciplinary committee acted in making the order or direction complained of, and of the order or direction.
- (3) If the evidence on the inquiry was taken by a stenographer or other person, the registrar is not required to provide a transcript, but the person desiring to appeal must obtain the transcript from the stenographer or other person.
- (4) The person appealing must deposit in the court registry the certified copy and the transcript, if any.
- (5) The appeal must be heard and determined on the material filed.
- (6) The person appealing must give to the registrar of the institute 7 clear

days' notice in writing of the time and place for hearing the appeal together with a copy of the material filed in the court.

Appeal on merits

- 57** (1) An appeal or further appeal must be heard and determined by the court on the merits, despite any lack of form.
- (2) The court may give directions it considers necessary to enable the proper hearing and adjudication of the appeal.

Inquiry into the conduct of associates

- 58** (1) A disciplinary committee may inquire into the conduct of an associate and, based on the inquiry, it may cancel the associate's admission as an associate if it considers the associate's conduct detrimental to the interests of the institute or contrary to this Act or the bylaws.
- (2) The provisions of this Act respecting an inquiry commenced under section 46 apply to an inquiry under this section.

Practice of architecture

- 59** A person is deemed to practise the profession of architecture within the meaning of this Act if the person
- (a) is engaged in the planning or supervision of the erection or alteration of buildings for the use or occupancy of persons other than himself or herself, or
 - (b) by advertisement, sign or statement of any kind, written or oral, alleges or implies that the person is an architect or that the person is, or holds himself or herself out as being, qualified, able or willing to do any act set out in this section.

Exceptions

- 60** Section 27 (2) does not prevent any of the following:
- (a) a person who is a professional engineer registered under the *Engineers and Geoscientists Act* from practising professional engineering or from doing any act set out in paragraph (b);
 - (b) a chemical, civil, electrical, forest, geological, mechanical, metallurgical, mining or structural engineer from designing or supervising the erection, alteration or repair of a structure usually

designed or supervised for these purposes by an engineer;

(c) a person from doing any act set out in paragraph (b) for the erection of a warehouse to store produce by an agricultural association;

(d) a person from making plans or specifications for or supervising the erection or alteration of all or a part of a building that is a one or 2 family dwelling on the person's own property, if the building or part is to be used and occupied by the person and the person's household;

(e) a corporation acting through members of its regular staff or other qualified persons from making plans or specifications for or supervising the erection or alteration of all or part of a building to be occupied and used exclusively by the corporation, its subsidiaries or lessees, as part of an industrial plant operated by it;

(f) a person employed by a registered architect as a drafter, student, clerk of work, superintendent or in any other capacity from acting under the supervision of the registered architect;

(g) a superintendent of buildings paid by the owner from acting under the direction and control of a member of the institute;

(h) a person from advising on, planning, designing or supervising the erection, alteration or repair of a building other than

(i) an apartment or residential building containing 5 or more dwelling units,

(ii) a hotel or similar occupancy containing 11 or more guest rooms for transient or permanent occupancy,

(iii) a commercial or industrial building, or combination of both with other occupancies, in excess of 470 m² gross area, being the aggregate area of all floors,

(iv) a one story building, other than a school building, to be used for public assembly, if the gross area exceeds 275 m² or the unsupported span exceeds 9 m,

(v) a building of more than one story, other than a school building, to be used for public assembly, if the gross area exceeds 235 m²,

(vi) a building, other than a veterinary hospital, to be used as a hospital, sanatorium or as a home for the aged and

with a capacity of over 12 beds,

(vii) any other building in excess of 470 m² gross area, being the aggregate area of all floors, or

(viii) any alteration to an existing building placing it within any of subparagraphs (i) to (vii);

(i) a person employed in the actual service of Her Majesty's Forces, or in the service of the government of Canada or British Columbia, from acting as an architect in the course of that employment or service;

(j) a person who is employed as an architect by a public service corporation or a public utility or government ministry whose business is normally carried on in 2 or more provinces and who, by reason of that employment, is required to practise as an architect in a province other than that of his or her residence, from practising as an architect in the course of that employment;

(k) a landscape architect or naval architect from describing himself or herself by that title.

Offence

61 A person must not erect, alter or repair a building, or cause a building to be erected, altered or repaired under plans and specifications prepared or approved by a person in contravention of section 27 (2).

Saving

62 This Act does not require the registration under this Act of a person registered as a professional engineer under any Act relating to the practice of engineering if the professional practice of the person is confined to professional engineering.

Further prohibitions

63 (1) Subject to this Act, a person not registered as a member or as an architectural firm must not use or be held out under the title "architect" or any similar title or description or use, and must not advertise or be held out under any name, title, addition or description implying, or likely to lead the public to infer, that a registration under this Act applies.

(2) A person or architectural firm that does not hold a certificate of practice must not be held out or implied to hold a certificate of practice.

(3) A person not licensed under this Act must not be held out or implied to be licensed under this Act.

False representation

64 A person must not obtain or attempt to obtain

- (a) registration,
- (b) a certificate of practice,
- (c) a licence, or
- (d) admission as an associate

under this Act for himself or herself or for another person by intentionally making or causing to be made any false representation, either verbally or in writing.

Partnership with non-architect

65 (1) A member, architectural firm or licensee must not practise architecture in partnership with a person not entitled to practise architecture, or make an agreement or arrangement or do an act that will enable the person to practise architecture contrary to this Act.

(2) A person registered or licensed under this Act may enter into a partnership with a professional engineer registered under the laws of British Columbia for the practice of the person's profession.

Exemplary damages

66 (1) An act prohibited in section 27 (2), 28, 63, 64 or 65 (1) is a tort actionable by the institute without proof of damage.

(2) A person who contravenes any prohibition contained in section 27 (2), 28, 63, 64 or 65 (1) is liable to pay exemplary damages not greater than \$25 000 to the institute whether or not the person has been convicted of an offence related to the contravention.

(3) In an action under subsection (1), it is sufficient proof of the contravention if it is proved that the defendant has committed a single act of the kind prohibited.

Proof in proceedings

67 (1) In a prosecution, it is sufficient proof of an offence under this Act if it is proved that the defendant has committed a single act of unlawful practice or

has committed on one occasion any act prohibited by this Act.

(2) In a proceeding or prosecution under this Act, if it is shown that a name, title, designation or descriptive term has been used indicating that a person has held himself or herself out, or has been held out by another person, as being an architect or registered under this Act or willing to perform architectural services, it is not necessary to prove that the name, title, designation or descriptive term was used by the defendant or with the defendant's knowledge, but the onus is on the defendant to establish that the name, title, designation or descriptive term was not used by the defendant or with the defendant's knowledge.

Injunction

68 (1) In the event of a violation or threatened violation by a person of a provision in sections 27 (2), 28, 61, 63 and 83, the institute is entitled to apply by action for an injunction to restrain the person from continuing or committing the violation.

(2) Until the adjudication of an action on application to the court showing the violation or threatened violation and on the court being satisfied that there is reason to believe that the person committed or is likely to commit the violation, the institute is entitled to an interim injunction.

Registration board

69 (1) After each annual election to the council, the council must appoint a registration board consisting of

- (a) the director of the School of Architecture and Landscape Architecture of The University of British Columbia or a full time member of the faculty of that school nominated by that director,
- (b) a member of the council who is a member of the institute, and
- (c) 4 or more members of the institute who are actively engaged in the practice of architecture.

(2) The members of the registration board hold office until their successors are appointed.

Duties of the registration board

70 Subject to this Act and the approval of the council, the registration board must

- (a) set examinations for the purposes of this Act,
- (b) hold, supervise and mark the examinations,
- (c) report to the council the result of each candidate's examination,
- (d) consider and report to council on the qualifications of an applicant for admission as a member of the institute or as an associate, and
- (e) perform other duties referred to it by the council.

Decision of council final

- 71** The decision of the council on whether a person has or has not passed an examination is final.

Fees

- 72** (1) A person, on registration or admission as a member of the institute, architectural firm, licensee or associate, or on applying for examination or a certificate of practice, must pay the fee determined by the bylaws.
- (2) Every member of the institute, architectural firm, licensee or associate must pay the annual fee determined by the bylaws.
- (3) Annual fees are payable on or before February 1 in the year for which they are imposed.
- (4) Fees are payable to the institute.
- (5) The annual fee is a debt due to the institute and is recoverable in a court of competent jurisdiction.

Default

- 73** (1) A member, architectural firm, licensee or associate who fails to pay the annual fee on or before February 1 ceases to be in good standing.
- (2) If a member, architectural firm or licensee has not paid the annual fee within 30 days of the making of a demand for payment by the registrar by registered letter addressed to the address appearing in the register for that person or firm,
- (a) that person or firm must be suspended from practice, and
 - (b) the registrar must cancel that person's or firm's certificate of practice and remove that person's or firm's name from the

register or cancel that person's or firm's licence.

(3) If a member or licensee suspended under subsection (2) pays all annual fees payable if the person had not been suspended, and any fine imposed by the bylaws

(a) the member must, subject to further examination, be reinstated, and

(b) the registrar must re-enter the person's name in the register or reissue the licence.

Further examination

74 The council may require a person whose name has been removed from the register for failure to pay annual fees to pass an examination before reinstatement.

Wrongful conduct

75 Subject to appeal to the council, the registrar may refuse to re-enter the name of a person who the registrar believes has been guilty of conduct for which the registration, had it continued, could have been erased or who could have been suspended from practice.

Default by associate

76 The council may direct that an associate who fails to pay the annual fee on or before February 1 ceases to be an associate.

Architect's seal

77 (1) An architect must apply a seal, with signature and date, to letters of assurance, certificates, drawings and specifications prepared by or under the architect's supervision, direction or control if the architect practises architecture

(a) as a member of the institute holding a current certificate of practice,

(b) as a sole proprietor or partner of an architectural firm, or

(c) on behalf of an architectural corporation as a continuing employee or shareholder of the corporation.

(2) An architect may have a seal which must

(a) be obtained from the institute,

(b) leave an impression of the name of the architect and the words "Registered Architect, British Columbia", and

(c) be used only in the manner and circumstances described in subsection (1).

(3) If an architect ceases to be a member, the architect must promptly return the seal to the institute.

(4) If an architect who ceased to be a member again becomes a member, the institute must return the seal to the architect.

Use of seal

78 A member of the institute or a licensee must not affix his or her seal to a plan, working drawing, detail drawing, specification or other document unless it was prepared by or under the supervision, direction or control of the member or licensee.

Report to government

79 When required by the Lieutenant Governor in Council, the registrar must send to the Provincial Secretary a return certified under the seal of the institute setting out the required information and particulars relating to the institute.

Execution of deeds

80 All deeds of the institute must be signed by the president and the registrar, or another person designated by the council, and sealed with the common seal of the institute.

Notices

81 (1) A notice or document sent by prepaid post is deemed to have been received by the person to whom it is addressed at the time when the envelope containing it would be delivered in the ordinary course of the mail and, in proving the sending, it is sufficient to prove that the envelope containing the notices or documents was prepaid and properly addressed and mailed.

(2) Notices and documents sent to the council or other authority are deemed to be properly addressed if addressed to the council or authority, or to an officer of the council or authority, at the principal place of business of the council or authority.

(3) Notices and documents sent to a person registered under this Act are deemed to be properly addressed if addressed to the person according to the person's address in the register.

Funds of institute

82 (1) The funds of the institute must be paid to the treasurer and applied in accordance with the rules and directions made by the council.

(2) The treasurer may invest the funds of the institute in any property or securities authorized by law for investment by trustees and authorized by the council.

Employment, retention or engagement

83 A person must not employ, retain or engage the services of a person to practise the profession of architecture if that person is not authorized under this Act to practise.

No recovery of fees for work done contrary to Act

84 A person is not entitled to recover in a court a fee or remuneration for services rendered or work done contrary to this Act.

Offence Act

85 Section 5 of the *Offence Act* does not apply to this Act or to a bylaw made under this Act.