

No. 999 of 1989.

***Architects (Registration) Act 1989.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. of 1989.

***Architects (Registration) Act 1989.***

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Architects (Registration) Act 1989,*

Being an Act—

- (a) to establish a Board of Architects of Papua New Guinea; and
- (b) to provide for the registration of architects; and
- (c) to provide for the establishment of a Register of Architects and for the appointment of a Registrar; and
- (d) to provide for the regulation and control of the profession of architecture; and
- (e) for related purposes.

**PART I. – PRELIMINARY.**

**1. INTERPRETATION.**

In this Act, unless the contrary intention appears—

“**approved architectural company**” means a company for the time being approved by the Board under Part VI;

“**architect**” means a person registered as an architect in accordance with this Act and whose name, at any material time, remains upon the register;

“**architecture**” does not include naval architecture, golf course architecture, landscape architecture, or such other form of architecture as the Minister, by notice in the National Gazette, declares shall, for the purposes of this Act, not be included in the term “architecture”;

“**Board**” means the Board of Architects of Papua New Guinea established under this Act;

“**Chairman**” means the chairman of the Board and includes, where applicable, a member acting in accordance with this Act as chairman of the Board;

“**company**” means a company within the meaning of the *Companies Act 1997*;

“**executive officer**”, in relation to a company, means any person by whatever name called and whether or not he is a director of the company, who is concerned, or takes part, in the management of the company;

“**member**” means a member of the Board and includes, where applicable, a person appointed under this Act to act in the place of a member;

“**register**” means the Register of Architects kept under this Act;

“**Registrar**” means the Registrar of the Board appointed under this Act and includes any person appointed to act as, or for the time being performing the duties of, the Registrar;

“**this Act**” includes the Regulations.



**PART II. – BOARD OF ARCHITECTS OF PAPUA NEW GUINEA.**

**2. ESTABLISHMENT OF THE BOARD.**

- (1) The Board of Architects of Papua New Guinea is hereby established.
- (2) The Board—
  - (a) shall have a seal; and
  - (b) is capable of suing and being sued in its name.

**3. CONSTITUTION OF THE BOARD.**

- (1) The Board shall consist of five members, as follows:—
  - (a) the President of the Papua New Guinea Institute of Architects, who shall be an *ex officio* member;
  - (b) two members, to be nominated and appointed by the Minister, one of whom shall be a representative of a prescribed school of architecture;
  - (c)<sup>1</sup> subject to Subsection (5), two members, who shall be architects registered under this Act and who shall, subject to Subsection (2), be elected by architects in the prescribed manner.

(2) Where there is a vacancy under Subsection (1)(c) and no member has been elected to it, the Minister may appoint an architect, or a person qualified to be registered as an architect, to be a member.

(3) The members appointed under Subsection (1)(b) or (2) or elected under Subsection (1)(c) hold office for two years and are eligible for re-appointment or re-election, as the case may be.

(4) The members shall be paid such fees and allowances as are determined by the Minister.

(5)<sup>2</sup> <sup>3</sup>For the purposes of the membership of the first Board after the coming into operation of this Act, instead of the members elected under Subsection (1)(c), the Minister shall appoint to be members for a period of two years, two persons from a list of persons who are members of the Papua New Guinea Institute of Architects submitted to the Minister by the Executive Committee of the Institute, and the provisions of Subsection (1)(c) are deferred until the expiry of that two year period or the earlier vacation of the office of the two members in accordance with the provisions of Section 7.

**4. CHAIRMAN.**

(1) The members shall appoint one of the members appointed under Section 3(1)(b) to be the Chairman.

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<sup>1</sup> Section 3(1)(c) amended by *Architects (Registration) (Amendment) Act 1991* (No.7 of 1991), s1.

<sup>2</sup> Section 4(5) inserted by *Architects (Registration) (Amendment) Act 1991* (No.7 of 1991), s2.

<sup>3</sup> Section 4(5) inserted by *Architects (Registration) (Amendment) Act 1991* (No.7 of 1991), s2.

(2) Where the Chairman is absent from a meeting of the Board or is unable for any reason to act in relation to a matter, the members present shall elect one of their number as Chairman for that meeting or in relation to that matter.

**5. LEAVE OF ABSENCE.**

(1) The Chairman may grant leave of absence to a member on such terms and conditions as the Chairman determines.

(2) The Minister may grant leave of absence to the Chairman on such terms and conditions as the Minister determines.

**6. OATH AND AFFIRMATION.**

(1) Before entering on the duties of his office, a member shall take an oath or make an affirmation in the form in Schedule 1.

(2) The oath or affirmation referred to in Subsection (1) shall be taken or made before the Minister or a person appointed by the Minister for the purpose.

**7. VACATION OF OFFICE.**

(1) If a member of the Board—

- (a) becomes permanently incapable of performing his functions and duties; or
- (b) resigns his office by writing under his hand addressed to the Minister; or
- (c) is absent, except on leave granted by the Chairman, (or, in the case of the Chairman, except on leave granted by the Minister) from three consecutive meetings of the Board; or
- (d) fails to comply with the provisions of Section 14; or
- (e) who, under Section 3(1), requires a qualification, ceases to hold that qualification; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent persons, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Minister shall terminate his appointment.

(2) The Minister may at any time by written notice inform a member that he intends to terminate the appointment of that member on the grounds of inability, inefficiency or misbehaviour.

(3) Within—

- (a) 14 days of the receipt of a notice under Subsection (2); or
- (b) such shorter period as is specified in the notice,

the member may reply in writing to the Minister who shall consider the reply and as soon as practicable shall give written notice of his decision to the member.

(4) Where the member referred to in Subsection (2) does not, within the period specified in Subsection (3)(a) or (b), reply to the Minister, the appointment of the member is terminated, and the Minister shall notify the member, in writing, of the termination.

(5) Where the appointment of a member is terminated under this section the Minister shall, by notice in the National Gazette, declare the office of that member vacant.

(6) Where an office is declared vacant under Subsection (5), the vacancy shall be filled in accordance with Section 3.

## **8. MEETINGS OF THE BOARD.**

(1) The Board shall meet at such times as, in the opinion of the Chairman, are necessary for the efficient conduct of its business, but shall meet at least once in every two months and such meetings shall be held at such places and times and on such days as the Chairman determines.

(2) At a meeting of the Board—

- (a) not less than one half of the members of the Board shall constitute a quorum; and
- (b) the Chairman, or in the absence of the Chairman a member of the Board appointed by the members present, shall preside; and
- (c) all matters shall be decided by a majority of the votes of the members present and voting; and
- (d) the member presiding has a deliberative and, in the event of an equality of votes on a matter, a casting vote.

(3) Minutes of each meeting shall be—

- (a) kept by the Secretary of the Board who shall be an architect employed in the Department responsible for works matters; and
- (b) confirmed by the Board at the next meeting of the Board; and
- (c) signed by the Chairman or other member presiding.

(4) Subject to this Act, the Board may determine its own procedures.

## **9. CUSTODY AND AFFIXING OF SEAL.**

(1) The seal of the Board—

- (a) shall be kept in the custody of the Chairman or of such officer of the Board as the Board may approve; and
- (b) may be affixed to instruments pursuant to a resolution of the Board and in the presence of the Chairman and one other member.

**10. AUTHENTICATION OF DOCUMENTS ETC.**

The seal of the Board shall be authenticated by the signature of the Chairman and by one member and such seal shall be officially and judicially noticed.

**11. SERVICE OF DOCUMENTS ON THE BOARD.**

Service upon the Board of any order, notice or other document shall be executed by delivering the same or by sending the same by registered post to the Registrar at the office of the Board.

**12. PROTECTION OF THE BOARD.**

No act done or proceeding taken under this Act shall be questioned on the ground—

- (a) of the existence of any vacancy in the membership, or any defect in the constitution, of the Board; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

**13. PROTECTION OF MEMBERS OF THE BOARD.**

No action, suit, prosecution or other proceeding shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

**14. DISCLOSURE OF INTEREST.**

(1) A member who is directly or indirectly interested in a contract made or proposed to be made or being considered by the Board shall, as soon as practicable after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Board.

(3) The member making the disclosure under Subsection (1)—

- (a) shall not, after the disclosure, take part in any deliberation or decision of the Board with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

**PART III. – FUNCTIONS, DUTIES AND POWERS OF THE BOARD.**

**15. FUNCTIONS AND DUTIES OF THE BOARD.**

(1) Subject to this Act, the functions of the Board are—

- (a) the determination of qualifications and standards for registration as an architect; and
- (b) the registration of a person qualified to be registered as an architect; and
- (c) the deregistration of an architect; and
- (d) the conduct of disciplinary procedures under Part VII; and
- (e) such other functions as are given to the Board by this Act or any other law.

(2) In carrying out its functions, the Board shall—

- (a) co-operate on all matters relating to architectural education with relevant Departments and with such other bodies as the Board approves or as are conducting courses approved by the Board; and
- (b) conduct examinations for certificates of registration and issue such certificates; and
- (c) make such public notification of registration as the Minister may direct; and
- (d) carry out such other duties as may be prescribed or as may be required by the Minister from time to time.

**16. POWERS OF THE BOARD.**

Subject to this Act, the Board has, in addition to the powers conferred by this Act, power to do all things that are necessary or convenient to be done in conjunction with the performance of its functions.

s. 17.

*Architects (Registration) 1989*

**PART IV. – FINANCE, ETC.**

**17. APPLICATION OF PART VIII OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995.***

Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the Board.

**PART V. – REGISTRATION OF ARCHITECTS.**

**18. THE REGISTER.**

There shall be a Register of Architects containing the name and address of every person registered as an architect and such other particulars as are prescribed.

**19. REGISTRAR AND OTHER OFFICERS.**

(1) The Board may appoint a person to be Registrar and fix the remuneration for his services.

(2) The Secretary to the Board may also hold the position of Registrar.

(3) The Board may appoint such other persons as it considers necessary as officers.

**20. PUBLICATION OF LIST OF ARCHITECTS.**

(1) The Board shall cause to be published in the National Gazette, as soon as is practicable in each year, a list of the names of architects appearing in the register as at 1 January of that year.

(2) The National Gazette containing a list mentioned in Subsection (1) shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings that the persons whose names appear in the list are registered as architects for the year in which the National Gazette is published.

**21. ROLL FEE.**

(1) Subject to Subsection (2), every person who is registered as an architect shall, upon registration and in respect of the year of registration, pay to the Registrar the prescribed roll fee.

(2) A person who is registered as an architect subsequent to 1 October in any year shall, upon registration, and in addition to the prescribed roll fee for the year of registration, pay to the Registrar the prescribed roll fee for the year commencing on 1 January next following the date of registration of that person.

(3) Every architect shall, on or before 1 October in each year, pay to the Registrar the prescribed roll fee for the year commencing on 1 January next following.

(4) If an architect fails to pay the prescribed roll fee in accordance with Subsection (3), the Registrar shall forthwith notify him by registered mail addressed to him at the address appearing in the register that, if the fee is not paid to the Registrar on or before 1 December next following, the Board may remove his name from the register.

(5) If an architect fails to pay the fee on or before that day, the Board may remove his name from the register, such removal to take effect on and from 1

January next following the date of removal and notification thereof shall be published in the National Gazette as soon as is practicable thereafter.

## **22. QUALIFICATIONS FOR REGISTRATION.**

Subject to this Act, a person shall be entitled to be registered as an architect if he satisfies the Board that he is of good character and reputation and that he—

- (a) has passed a course of study in architecture, the syllabus of which has been approved by the Board; and
- (b) has such practical experience in architectural work and practice as is prescribed and has passed the prescribed examinations or equivalent examinations conducted by a Board, or other body approved by the Board.

## **23. APPLICATION FOR REGISTRATION.**

(1) Application to the Board for registration shall—

- (a) be made as prescribed; and
- (b) be supported by such evidence as the Board may require; and
- (c) be accompanied by—
  - (i) the prescribed registration fee; and
  - (ii) the prescribed roll fee referred to in Section 21(1) or (2) as the case may be; and
  - (iii) the prescribed certificate fee.

(2) Where the Board refuses an application for registration, all fees that accompanied the application shall be refunded.

## **24. REFUSAL BY THE BOARD TO REGISTER A PERSON.**

Where the Board refuses to authorize the registration of a person, or deregisters a person, the Board shall, if the person so requests, state in writing the reason.

## **25. CERTIFICATES OF REGISTRATION.**

Where the Board grants an application for registration it shall issue a certificate of registration as prescribed.

## **26. REMOVAL FROM REGISTER.**

(1) The Board may, in addition to the powers given to it under Part VII, remove from the register the name of any person who—

- (a) has died; or



- (b) applies to the Board in writing to have his name removed from the register; or
- (c) owing to mental illness, is not capable of practising as an architect; or
- (d) does not possess the qualifications in respect of which he was registered.

(2) Before removing the name of a person from the register pursuant to Subsection (1)(c) or (1)(d), the Board shall give the person reasonable opportunity to appear before it, in person or by his lawyer or duly authorized agent, to contest the proposed removal of his name from the register.

(3) A person aggrieved by a decision of the Board pursuant to Subsection (1)(c) or (d) removing his name from the register may appeal to a District Court which shall have jurisdiction to hear and determine the appeal.

(4) If the Board removes the name of a person from the register pursuant to Subsection (1)(a) or (b) it shall cause notice of the removal to be published in the National Gazette.

(5) If the Board removes the name of a person from the register pursuant to Subsection (1)(c) or (d) it shall, at the expiration of a period of 28 days after the date of notification of its decision, cause notice of the removal to be published in the National Gazette unless, within that period, an appeal is instituted against the decision.

(6) If an appeal referred to in Subsection (5) is terminated or dismissed, the Board shall cause notice of the removal to be published in the National Gazette.

## **27. RESTORATION OF NAME OF ARCHITECT TO REGISTER.**

Where the Board, pursuant to Section 21 or 26, removes from the register the name of any person, the Board may, upon application in writing made on behalf of that person, restore the name of that person to the register, either without payment of any fee, or conditional upon the payment of such fees as the Board may direct.

## **28. RE-ISSUE OF CERTIFICATE OF REGISTRATION.**

Where the name of a person is, in accordance with this Act, restored to the register, the Board shall re-issue to him the certificate of registration as prescribed.

## **29. CONTINUATION OF NAME OF DECEASED ARCHITECT.**

(1) Notwithstanding any other provision of this Act, upon the death of an architect the Board may permit his name to remain upon the register, and may authorize his executor, administrator, or trustee to carry on in the name of the deceased architect, in accordance with the provisions of this section, the practice formerly carried on by him.

(2) Subject to Subsections (4) and (5), a practice referred to in Subsection (1) shall be carried on under the personal superintendence of an architect whose name shall be registered as superintendent of the practice.

(3) Subject to Subsections (4) and (5), permission and authority under Subsection (1) shall, in the first instance, be limited to a period not exceeding 12 months, but may from time to time be extended by the Board for a further period or periods not exceeding twelve months at any one time.

(4) The Board may, at any time, if it thinks fit, withdraw its permission and authority and remove from the register the name of the deceased architect.

(5) Notwithstanding any other provision of this Act, the decision of the Board to withdraw its permission and authority and the removal by the Board from the register of the name of a deceased architect shall be final and conclusive and shall not be subject to appeal.

**30. PENALTY FOR FORGING REGISTRATION.**

A person who—

- (a) wilfully makes or causes to be made any false entry in or falsification of the register; or
- (b) who obtains or attempts to obtain registration or approval of any kind under this Act for himself or another person by wilfully making or producing, or wilfully causing to be made or produced, a false representation or declaration (whether verbal or written),

is guilty of an offence.

Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding six months.

**PART VI. – APPROVAL OF ARCHITECTURAL COMPANIES.**

**31. CONDITIONS OF APPROVAL AND APPLICATION.**

(1) Subject to this Part, the Board may approve a company as an approved architectural company if–

- (a) the person having the actual personal supervision and management of the business of the company at each place of business in Papua New Guinea is an architect and is resident in Papua New Guinea; and
- (b) its articles of association provide that at all times–
  - (i) the principal executive officer of the company shall be an architect and a director of the company; and
  - (ii) if the company has only two directors, each shall be an architect or one shall be an architect and the other shall be–
    - (A) a person holding a prescribed qualification; or
    - (B) a relative, as prescribed, of the architect; or
    - (C) a public accountant or lawyer acting for the company; and
  - (iii) if the company has more than two directors, at least two-thirds of the directors shall be architects; and
  - (iv) at least two-thirds of the total voting rights of all directors of the company entitled to vote at a meeting of directors of the company shall be held by architects; and
  - (v) at least two-thirds of the total voting rights of all persons entitled to vote at a general meeting of members of the company shall be held by architects; and
  - (vi) a body corporate shall not be entitled to be a director of the company; and
- (c) at the time when application for approval is made the company complies with its articles of association made in accordance with Paragraph (b).

(2) Application to the Board for approval under Subsection (1) shall–

- (a) be made as prescribed; and
- (b) be supported by such evidence as the Board may require; and
- (c) be accompanied by the prescribed fee.

**32. CERTIFICATE OF APPROVAL AND RENEWAL.**

(1) Where the Board grants an approval pursuant to Section 31 it shall issue a certificate of approval as prescribed that shall take effect on and from the date of its issue and shall expire on the last day of February next following, but may be renewed pursuant to Subsections (2) and (3).

(2) Application to the Board by an approved architectural company for a renewal of its certificate of approval shall—

- (a) be made as prescribed on or before 1 February in each year; and
- (b) be supported by such evidence as the Board may require; and
- (c) be accompanied by the prescribed fee.

(3) The Board may grant a renewal of a certificate of approval for a period of 12 months expiring on the last day of February in any year.

### **33. PUBLICATION OF LIST OF APPROVED ARCHITECTURAL COMPANIES.**

(1) The Board shall cause to be published in the National Gazette, as soon as is practicable in each year, a list of the companies that are approved architectural companies as at 1 March of that year.

(2) Subject to Subsections (3) and (4), a copy of the National Gazette containing a list mentioned in Subsection (1) shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings that the companies mentioned in the list are approved architectural companies for the year in which the National Gazette is published.

(3) A certificate signed by the Registrar stating that a company was or was not on any date or during any period an approved architectural company shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceedings of the matters stated therein.

(4) A copy of the National Gazette referred to in Subsection (2) or (3), stating that the approval of a company as an approved architectural company has been refused or withdrawn shall, upon its production in evidence and until the contrary is proved, be sufficient evidence in all proceeding of the matter stated therein.

### **34. RETURNS BY APPROVED ARCHITECTURAL COMPANIES.**

(1) An approved architectural company shall, within one month after a person becomes or ceases to be a principal executive officer or other director, or a member of the company, lodge with the Registrar a notice stating that fact and the name and residential address of the person and—

- (a) where the company has only two directors, stating whether that person—
  - (i) is an architect; or
  - (ii) holds a prescribed qualification; or
  - (iii) is a relative, as prescribed, of the other director who is an architect; or
  - (iv) is a public accountant or lawyer acting for the company; or
- (b) where the company has more than two directors, stating whether that person is an architect.

(2) An approved architectural company that fails to comply with the provisions of this section or that lodges a notice under this section that is false or misleading in a material particular is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

**PART VII. – DISCIPLINARY POWERS AND FUNCTIONS OF THE BOARD.****35. INTERPRETATION.**

In this Part, unless the contrary intention appears–

“**commission**” means an agreement (whether in writing or not) in which an architect or a company undertakes to provide architectural services to a person (hereinafter in this Part referred to as the “**principal**”) whether or not the agreement provides for the architect or company to receive valuable consideration in respect of the provision of those architectural services;

“**company**” means an approved architectural company.

**36. GROUNDS FOR EXERCISE OF DISCIPLINARY POWERS AGAINST AN ARCHITECT.**

(1) Subject to this Part, the Board may exercise any of the disciplinary powers referred to in Section 40 against an architect on one or more of the following grounds:–

- (a) that he has been convicted in Papua New Guinea of an indictable offence or has been convicted elsewhere of an offence which, if it were committed in Papua New Guinea, would be an indictable offence, or has been convicted in Papua New Guinea or elsewhere of any other offence which other offence renders him unfit to practise as an architect;
- (b) that he fraudulently obtained his registration under this Act;
- (c) that he is not a fit and proper person to be registered as an architect;
- (d) that his registration as an architect in another country is or has been suspended or has been cancelled for a reason other than non-payment of fees;
- (e) that he is guilty of misconduct in a professional respect;
- (f) that he is an executive officer of a company in respect of which disciplinary action has been or is to be taken pursuant to Section 40 unless he satisfies the Board that the act or omission relevant to the proceedings against the company was done or made without his knowledge and that he could not with reasonable diligence have prevented the doing of the act or the making of the omission.

(2) Without limiting the meaning of the expression “**misconduct in a professional respect**” used in Subsection (1)(e), an architect shall be deemed to be guilty of such misconduct if he–

- (a) allows a person, other than another architect with whom he is in partnership, to practise as an architect in his name; or
- (b) in connection with a commission accepted by him, by a firm of which he is a member, or by a company of which he is an executive officer or

employee, intentionally does an act or makes an omission that prejudices the interests or rights of the principal arising out of the commission; or

- (c) signs any account, statement, report, specifications, plan or other document thereby representing, or in any other manner represents, that he has performed architectural services if those services were not performed by him or under his personal supervision or direction; or
- (d) directly or indirectly gives or offers, or agrees to give or offer, a person valuable consideration as a reward or inducement for the person securing or attempting to secure a commission for the architect; or
- (e) undertakes or agrees to undertake a commission in connection with a matter the subject of a dispute if his remuneration for performing the commission depends in any way upon whether or not the dispute is resolved in favour on the principal; or
- (f) fails to provide to the principal regular and accurate statements of the principal's costs arising out of a commission; or
- (g) provides architectural services in respect of a building or other construction and is the builder of that building or other construction without the written consent of the principal.

**37. GROUNDS FOR EXERCISE OF DISCIPLINARY POWERS AGAINST AN APPROVED ARCHITECTURAL COMPANY.**

(1) Subject to this Part, the Board may exercise any of the disciplinary powers referred to in Section 40 against an approved architectural company on one or more of the following grounds:—

- (a) that the company has been convicted in Papua New Guinea or elsewhere of an offence which renders the company unfit to be an approved architectural company; or
- (b) that the company is guilty of misconduct in a professional respect; or
- (c) that an executive officer of the company who is not an architect is not a fit and proper person to be an executive officer of an approved architectural company; or
- (d) that disciplinary action has been, or is to be, taken against an executive officer of the company pursuant to Section 40; or
- (e) that the company fraudulently obtained approval as an approved architectural company; or
- (f) that the company does not or ceases to fulfil the requirements of Section 31 in respect of obtaining approval as an approved architectural company.

(2) Without limiting the meaning of the expression “**misconduct in a professional respect**” used in Subsection (1)(b), a company shall be deemed to be guilty of such misconduct if—

- (a) in connection with a commission accepted by it, it intentionally does an act or makes an omission that prejudices the interests or rights of the principal arising out of the commission; or
- (b) it engages in conduct of the kind referred to in Paragraphs (c) to (g) (both inclusive) of Section 36(2).

(3) For the purposes of Subsection (2), Paragraphs (c) to (g) (both inclusive) of Section 36(2) shall be read and construed as if references to an architect were references to a company.

### **38. COMMENCEMENT OF DISCIPLINARY PROCEEDINGS.**

(1) Subject to this section, the Board may of its own motion or upon the written complaint of any person cause an investigation to be made of the conduct of—

- (a) an architect in respect of a ground mentioned in Section 36; or
- (b) a company in respect of a ground mentioned in Section 37.

(2) The Board may appoint a person to conduct an investigation under Subsection (1).

(3) The Board may refuse to investigate a complaint that is, in its opinion, frivolous or vexatious.

(4) If the Board determines to authorize an investigation pursuant to Subsection (1), it shall, before the commencement of the investigation, give the architect or the company, as the case may be, written notice of its determination accompanied by—

- (a) sufficient particulars to inform the architect or, as the case may be, the company of the matter to be investigated; and
- (b) an invitation to lodge with the Registrar a reply to the particulars contained in the notice, within 21 days after the date shown in the notice.

(5) Subject to Subsection (6), the Board may, after considering—

- (a) the results of any investigation authorized pursuant to Subsection (1); and
- (b) any reply lodged in accordance with Subsection (4),

summon the architect or the company, as the case may be, to show cause, at a time (being not less than 14 days after the date of service of the summons) and place specified in the summons, why disciplinary action should not be taken pursuant to Section 40.

(6) A summons referred to in Subsection (5) shall—



- (a) not be served until a reply is lodged in accordance with Subsection (4)(b) or until the expiration of the period allowed by Subsection (4)(b) for lodging a reply, whichever occurs sooner; and
- (b) be accompanied by a complaint stating the ground or grounds mentioned in Section 36 or 37, as the case may be, on which disciplinary action may be taken, and containing sufficient particulars to inform the architect or the company, as the case may be, of the matter of complaint.

(7) If a complaint against a company alleges a ground mentioned in Section 37(1)(c) or (d) relating to the misconduct of an executive officer, a copy of the complaint shall be served on that executive officer together with a summons requiring him to appear at the time and place appointed for the hearing of the complaint against the company unless the executive officer is summoned to appear at that time and place pursuant to Subsection (5).

(8) A summons required by Subsection (7) to be served on an executive officer shall be served not less than 14 days before the date upon which the complaint against the company is to be heard.

### **39. HEARING.**

At the hearing of a complaint pursuant to this Part—

- (a) the Board may, or if required so to do by a natural person or company summoned pursuant to Section 38, shall order that the hearing take place in public; and
- (b) a natural person summoned pursuant to Section 38 shall attend throughout the duration of the hearing unless excused from so doing by the Board; and
- (c) subject to Paragraph (b), a natural person summoned pursuant to Section 38 may be represented at the hearing by his lawyer; and
- (d) a company summoned pursuant to Section 38 may be represented at the hearing by its lawyer or duly authorized agent; and
- (e) a lawyer or other person appointed by the Board may appear to examine or cross-examine witnesses or to otherwise assist the Board; and
- (f) if a natural person or company summoned pursuant to Section 38 fails to obey the summons then, upon proof of the due service of the summons, the Board may hear and determine the matter in the absence of the person or the company, as the case may be; and
- (g) if the Board believes that instead of or in addition to the ground or grounds specified in the complaint, the architect or the company, as the case may be, should show cause in relation to some other ground or grounds, the architect or company shall, subject to Paragraph (h), show cause in relation to the other ground or grounds; and

- (h) before an architect or a company, as the case may be, is required to show cause pursuant to Paragraph (g), the Board shall give the architect or company particulars of the other ground or grounds and, if required so to do by the architect or company, adjourn the hearing for a period of 7 days or such longer period as the Board may allow.

#### **40. DISCIPLINARY POWERS OF BOARD.**

(1) Where, upon the hearing of complaint pursuant to this Part, the Board is satisfied that a ground referred to in Section 36 or, in the case of proceedings against a company, Section 37, is made out it may do any one or any combination of the following:—

- (a) reprimand the architect or the company, as the case may be;
- (b) order that the architect or the company, as the case may be, pay to the Board within the time limited by the Board a monetary penalty not exceeding K2,000.00;
- (c) order—
  - (i) in respect of an architect, that his name be removed from the register and that he be disqualified from obtaining registration indefinitely or for a period specified in the order;
  - (ii) in respect of a company, that its certificate of approval be withdrawn and that it be disqualified from obtaining approval as an architectural company indefinitely or for a period specified in the order;
- (d) order that the architect or the company, as the case may be, pay to the Board within the time limited by the Board such costs of and incidental to the hearing as it thinks fit (including the fees and allowances payable to the members).

(2) Where, upon the hearing of a complaint against a company pursuant to this Part, the Board is satisfied that an executive officer of the company summoned pursuant to Section 38 is not a fit and proper person to be an executive officer of an approved architectural company it may order—

- (a) that the executive officer be disqualified from being an executive officer of an approved architectural company indefinitely or for such period as is specified in the order; and
- (b) that the certificate of approval of the company be withdrawn until such time as the Board is satisfied that the person, in respect of whom it has made an order under Paragraph (a), is no longer an executive officer or member of the company.

**41. RECOVERY OF MONETARY PENALTY OR COSTS.**

(1) Where, pursuant to Section 40, the Board orders that a monetary penalty or costs be paid and the order is not complied with within the time limited in the order, the Board may recover the amount of the monetary penalty or costs outstanding as a debt due and owing to the Board by action in a court of competent jurisdiction.

(2) A certificate of the Registrar as to the making and terms of such an order and the amount outstanding in respect of the order shall be evidence, and in the absence of evidence to the contrary conclusive evidence, in all proceedings, of the matters contained in the certificate.

**42. APPEAL FROM BOARD'S DECISION.**

If the Board—

- (a) takes disciplinary action against an architect or company pursuant to this Part; or
- (b) makes an order of disqualification in respect of an executive officer pursuant to Section 40(2)(a),

the architect or the company or executive officer, as the case may be, may appeal to the District Court who shall have jurisdiction to hear and determine the appeal.

**43. PUBLICATION OF DECISION.**

(1) If the Board makes an order pursuant to Section 40(1)(c) in respect of an architect or a company, it shall at the expiration of a period of 28 days after the date of notification of its decision, cause notice of the order to be published in the National Gazette unless within that period, an appeal is instituted against the decision.

(2) If an appeal referred to in Subsection (1) is terminated or dismissed, the Board shall cause notice of the order made by it pursuant to Section 40(1)(c) to be published in the National Gazette.

**44. SURRENDER OF CERTIFICATE.**

(1) If an order is made pursuant to Section 40 removing the name of an architect from the register or withdrawing the certificate of approval of a company, the architect or the company, as the case may be, shall surrender the relevant certificate to the Board within 28 days after the date of notification of the Board's decision unless within that period an appeal is instituted against the order.

(2) If an appeal referred to in Subsection (1) is terminated or dismissed, the appellant shall forthwith surrender the relevant certificate to the Board.

(3) An architect who, or a company that, fails to surrender a certificate in accordance with Subsection (1) or (2) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(4) If an order is made pursuant to Section 40 disqualifying an architect or company from obtaining registration or approval for a specified period, as the case may be, then, upon expiration of the period so specified and subject to the provisions of this Act in respect of obtaining registration or approval, as the case may be, the certificate of registration may be re-issued to the architect or the certificate of approval may be re-issued to the company, as the case may be.

(5) The removal of the name of an architect from the register or the withdrawal of a certificate of approval from a company pursuant to an order made under Section 40 shall be effectual notwithstanding the failure to surrender the certificate of registration or the certificate of approval, as the case may be.

(6) Subject to Subsection (4), if an order is made pursuant to Section 40 removing the name of an architect from the register or withdrawing the certificate of approval of a company, the name of the architect shall not be again entered on the register or the company shall not be again approved as an approved architectural company, as the case may be, except—

- (a) on the order of a District Court upon appeal pursuant to Section 42; or
- (b) by direction of the Board in any case where the Board thinks fit upon—
  - (i) application in writing being made to it; and
  - (ii) payment of such fees as the Board may direct, being not greater in any case than the fees payable under this Act in respect of an application for registration as an architect or an application for approval as an approved architectural company, as the case may be.

#### **45. BOARD TO HAVE POWERS OF COMMISSION OF INQUIRY.**

The Board shall, in respect of disciplinary proceedings under Part VII or for the purposes of making any other investigation authorized by this Act—

- (a) have all the powers, authority, protection and jurisdiction of a Commission of Inquiry under the *Commissions of Inquiry Act 1951*; and
- (b) be authorized to take a statutory declaration from any person.

**PART VIII. – REGULATION OF THE PRACTICE OF ARCHITECTURE.**

**46. EMPLOYMENT OF ARCHITECTS WHERE PUBLIC FUNDS ARE INVOLVED.**

(1) A natural person, corporate body, statutory body, Government body or organization that undertakes design and documentation of architectural works using public funds or funds derived from taxation, either wholly or in part, shall, where the estimated value of the works exceeds the amount prescribed in the Regulations, employ architects for such design and documentation of architectural works.

(2) A person who fails to comply with the provisions of Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100,000.00.

**47. PROHIBITED PRACTICES.**

(1) A person who takes or uses or by inference adopts in connection with architecture or the practice of architecture (and whether alone or in conjunction with any other name, title, word, letters or symbol) any name, title, word, letters or symbol implying or which may be construed as implying that he is qualified or entitled to registration as an architect or is qualified to practise architecture other than such name, title, word, letters or symbol as truly indicates or indicate a qualification that he in fact holds is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(2) Subject to Subsection (3), a person other than an architect who—

- (a) advertises that he is or holds himself out as being or in any manner pretend to be or possess the status of an architect; or
- (b) in connection with architecture takes or uses or by inference adopts (either alone or in conjunction with any other name, title, word, letter or symbol)—
  - (i) the title of “architect” or any abbreviation or derivative thereof; or
  - (ii) any name, title, word, letters, or symbol implying or which may be construed as implying that he is an architect, or is qualified to practice architecture,

is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(3) The provisions of Subsection (2) do not apply to an unincorporated body or association of persons consisting wholly of persons who are architects or to an approved architectural company.

(4) An approved architectural company or a body or association of persons consisting wholly of architects that—

- (a) advertises or holds itself out as being qualified to practise architecture; or
- (b) takes or uses or by inference adopts (either alone or in conjunction with any other name, title, word, letters or symbol) any name, title, word, letters or symbol implying, or which may be construed as implying, that it is qualified to practise architecture,

shall, in conjunction therewith, specify the name or names of the architects supervising the performance of architectural services undertaken by the company or the body or association, as the case may be.

(5) A person who—

- (a) advertises that he is, or holds himself out as being, or in any manner pretends to be or to possess the status of a consultant or designer with respect to architecture; or
- (b) takes or uses or by inference adopts (either alone or in conjunction with any other name, title, word, letters, or symbol) any name, title, word, letters or symbol implying, or which may be construed as implying, that he is a consultant or designer with respect to architecture,

shall, if he is not an architect, be deemed to hold himself out as being an architect for the purposes of this section.

(6) A person who advertises or exhibits any degree, diploma, certificate, membership, licence, letters, testimonial or title, status or document, or takes or uses any letters (either alone or in conjunction with any title, word, or letters) which may be construed as implying that he is an architect or is qualified to practise architecture, shall, if he is not an architect, be deemed to hold himself out as being an architect for the purposes of this section.

(7) Nothing contained in Subsections (2), (5) or (6) shall be read so as to—

- (a) apply to any person—
  - (i) with respect to the practice of architecture by that person as an officer of the Public Service of Papua New Guinea, or as an officer or employee of any statutory authority constituted for public purposes; or
  - (ii) with respect to the practice by that person of naval architectural, golf course architecture or landscape architecture, or any other form of architecture referred to in a notice made under Section 1; or
- (b) prevent any employee of an architect from using the title “architectural assistant” or “architectural draftsman” or “architectural technician”; or
- (c) prevent any person from using the term “architectural” *bona fide* to indicate that he carries on the business of the supply of wares, instruments, or materials, used in connection with architecture; or

- (d) prevent any engineer, builder, or other person from designing or superintending the erection of any building.

(8) Nothing in this Act shall debar any person, by reason only that he is not an architect, from obtaining from any Local Authority any permit required for the erection or the supervision of the erection of any work, undertaking, structure, or building, or from designing, erecting or supervising the erection of any work, undertaking, structure or building.

**48. SUPERVISION BY ARCHITECT.**

(1) Architectural services undertaken by an approved architectural company or by a body or association consisting wholly of architects shall at all times be performed under the supervision of an architect.

(2) An approved architectural company that fails to comply with Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(3) If a body or association consisting wholly of architects fails to comply with Subsection (1) each of those architects shall be deemed to be guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(4) It is a defence to a charge of an offence brought against an architect under Subsection (3) to prove that the failure to comply took place without his knowledge and that he could not with reasonable diligence have prevented such failure.

**49. COMPANY TO USE APPROVED NAME.**

An approved architectural company that takes, uses or adopts in connection with architecture or the practice of architecture a name other than its name as shown in the certificate of approval issued to it under Section 32 is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

**PART IX. – MISCELLANEOUS.****50. APPEALS.**

Where by this Act provision is made for appealing to a District Court against a decision of the Board—

- (a) such an appeal shall be by way of re-hearing and shall be instituted by lodging with the Court written notice of the appeal within 28 days after the date of notification of the Board's decision or, if exceptional circumstances exist, such further period as the District Court allows;
- (b) an appellant shall serve a copy of the notice of appeal upon the Registrar within 7 days of lodging the notice with the Court;
- (c) Rules of Court may be made under the *District Courts Act 1963* with respect to the institution, conduct and disposal of such appeals;
- (d) until such Rules of Court are made or in so far as such Rules of Court do not exist the District Court may, in a particular case, give such directions as it thinks fit and such directions shall, according to their tenor, have the force and effect of Rules of Court made for the purposes of this section.
- (e) the District Court may, in respect of the appeal, set aside the order of the Board or vary it in such manner as it thinks fit, or may disallow the appeal and confirm the order of the Board, and may, in any case, make such order as to the costs of the appeal as it thinks fit.

**51. OFFENCE BY APPROVED ARCHITECTURAL COMPANY.**

(1) A director of an approved architectural company that commits an offence against this Act shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge and that he could not with reasonable diligence have prevented its commission.

(2) This section applies so as not to limit or affect in any way the liability of an approved architectural company to be proceeded against and punished for an offence against this Act.

**52. SERVICE OF DOCUMENTS.**

(1) Subject to this Act, where any notice, complaint, summons or other document is to be given to any person under or for the purposes of this Act it shall be taken—

- (a) that the notice, requisition or other document has been duly given to that person upon evidence that the same has been sent by registered mail to or left at the address last known to the person by whom the same was sent or left as the place of residence or place of business of



that person or where that person is an incorporated person, as the registered office of that incorporated person; and

- (b) that, where service was effected by registered mail, the notice, complaint, summons or other document was received by the addressee at the time when the registered mail would have been delivered at the address to which it was sent in the ordinary course of post.

(2) Where service is to be effected on a body corporate, it may be effected on any person who is concerned or takes part in the management of the body corporate, or on the secretary thereof, or on any person who is apparently in charge of any premises in or from which the business of the body corporate is conducted and service so effected shall be deemed to be service on the body corporate.

### **53. REPORTS BY BOARD.**

(1) The Board shall, not later than 31 March in each year, furnish to the Minister a report on the Board's operations during the year ended 31 December in that year.

(2) The report shall include the Annual Statements of Account.

(3) The Minister shall, within 14 sitting days after a report of the Board is received, cause the report to be tabled before the Parliament.

### **54. EVIDENCE.**

(1) In any proceeding by or on behalf of the Board under this Act it shall not be necessary to prove the appointment or election of the members, Chairman, or Registrar.

(2) A writing certified by the Registrar to be a true copy of or a true extract from any register, book, certificate, notice, list, document, or writing of any nature whatsoever that, pursuant to this Act, is in the custody of the Board or of the Registrar or of any other officer of the Board shall, upon its production in evidence, and until the contrary is proved, be sufficient evidence in any proceeding of the original of which it purports to be a copy or extract and shall be receivable in evidence to the same extent as the original.

(3) An averment in a complaint of the date on which the commission of an offence came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence in all proceedings of that averment.

### **55. OFFENCES.**

(1) Proceedings for an offence against this Act may be instituted at any time within twelve months after the commission of the offence, or within six months after the commission of the offence comes to the knowledge of the complainant, whichever period is later to expire.

(2) Any person who contravenes or fails to comply with any of the provisions of this Act shall be guilty of an offence against this Act.

(3) Any person guilty of an offence against this Act shall be liable, if no specified penalty is prescribed for that offence, to a fine not exceeding K2,000.00.

(4) All penalties and fees recovered by the Board under this Act shall be paid to the Board and become part of its funds.

#### **56. JUDICIAL NOTICE.**

For the purposes of this Act the signatures of the Chairman and the registrar shall be judicially noticed.

#### **57. REGULATIONS.**

The Head of State, acting on advice, may, from time to time, make regulations, not inconsistent with this Act, prescribing all matters and things that are necessary or convenient for carrying out or giving effect to this Act, and, without limiting the generality of the foregoing provisions, in particular may make regulations for—

- (a) regulating the election of members; and
- (b) regulating the duties of the Registrar and other officers; and
- (c) prescribing what schools of architecture shall be recognised by the Minister for the purpose of representation on the Board; and
- (d) prescribing the appointment of examiners, and regulating the holding of examinations and prescribing the standards of subjects of and fees for such examinations; and
- (e) prescribing the practical experience in architectural work and the practice of architecture required of an applicant for registration as an architect; and
- (f) regulating the conduct of disciplinary proceedings under Part VII; and
- (g) prescribing fees payable under this Act including fees for inspection of any register or record, and for the making and supply of any copy thereof or extract therefrom; and
- (h) prescribing forms to be used for the purpose of this Act; and
- (i) prescribing the manner of keeping the register; and
- (j) prescribing the amount of any penalty for any breach of the regulations which penalty shall not exceed in any particular case K1,000.00; and
- (k) prescribing all matters and things required or permitted by this Act to be prescribed.

**SCHEDULE 1 – OATH AND AFFIRMATION OF OFFICE.**

Sec. 57

*Oath.*

“I, . . . , do swear that I will well and truly serve the Independent State of Papua New Guinea in the Office of member of the Board of Architects of Papua New Guinea.

So help me God ”

*Affirmation.*

“I, . . . , do solemnly and sincerely promise that I will well and truly serve the Independent State of Papua New Guinea in the Office of member of the Board of Architects of Papua New Guinea.”

Office of Legislative Counsel, PNG