

1981 BILL 38

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 38

THE ARCHITECTS AMENDMENT ACT, 1981

THE MINISTER OF HOUSING
AND PUBLIC WORKS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 38

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1981

THE ARCHITECTS AMENDMENT ACT, 1981

(Assented to _____, 1981)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 The Architects Act, 1980 is amended by this Act.

2 Section 1 is amended by adding the following after clause (i):

(i.1) "member of the public" means an individual who

(i) is a Canadian citizen or who has been lawfully admitted to Canada for permanent residence,

(ii) is a resident of Alberta, and

(iii) is not a registered architect or restricted practitioner;

3 Section 3(3) is repealed.

4 Section 5(2) is amended by striking out "section 14 of The Interpretation Act" and substituting "section 16 of The Interpretation Act, 1980".

5 Section 8 is amended

(a) in subsections (3), (4) and (5) by striking out "member of the Council" and substituting "member of the public";

(b) in subsection (7) by striking out "Subject to the regulations

Explanatory Notes

1 This Bill will amend chapter 58 of the Statutes of Alberta, 1980.

2 New definition.

3 Section 3(3) presently reads:

(3) Nothing in section 2(1) applies to an individual registered as a professional engineer under The Engineering and Related Professions Act relating to the practice of professional engineering where the practice of that person is confined to professional engineering.

4 Corrects a reference.

5 Section 8(3), (4), (5) and (7) presently read:

(3) A member of the Council referred to in subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.

(4) The Minister may, after consultation with the Council, revoke the

prescribing a quorum of the Council, the” *and substituting*
“The”.

6 *Section 9 is amended*

(a) *in subsection (1)*

(i) *in clause (i) by striking out* “and restricted practitioners”;

(ii) *in clause (j) by striking out* “and the number of registered architects which constitutes a quorum at meetings of the Association”;

(iii) *by adding the following after clause (j):*

(j.1) respecting the powers, duties and functions of the Practice Review Board including, but not limited to, the referral of matters by that Board to the Council or the Complaint Review Committee and appeals from decisions of that Board;

(iv) *by adding the following after clause (l):*

(l.1) applying all or some of the provisions of this Act, the regulations or by-laws to members of classes or categories of membership in the Association established under the by-laws;

(b) *in subsection (2)(a)(i) by adding* “and voting” *after* “present”.

7 *Section 10(1) is amended*

(a) *in clause (g) by adding* “rights.” *after* “prescribing the”;

(b) *in clause (h) by adding* “of employees of the Association and” *after* “revocation of the appointment”;

(c) *by repealing clause (j) and substituting the following:*

appointment of a member of the Council referred to in subsection (1)(b).

(5) The Minister may pay to a member of the Council referred to in subsection (1)(b) travelling and living expenses incurred by that member for his attendance at any meeting of the Council while away from his usual place of residence and fees in an amount prescribed by the Minister.

(7) Subject to the regulations prescribing a quorum of the Council, the failure of a member of the public appointed pursuant to subsection (1)(b) to attend a meeting of the Council shall not be construed to affect or restrict the Council from exercising any powers or performing any duties under this Act, the regulations and the by-laws at that meeting.

6 Section 9 presently reads in part:

9(1) The Council may make regulations

(i) respecting the fixing of fees, dues and levies payable to the Association by visiting project architects and restricted practitioners;

(l) respecting the procedures for hearings of the Complaint Review Committee, of the Practice Review Board and of the Council in matters relating to the conduct or practice of authorized entities, whether or not a complaint has been made;

(n) respecting registration, licensing, permits and certificates of authorization, the review of complaints, the practice of architecture and the review of the practice of authorized entities, generally;

(2) A regulation under subsection (1) does not come into force unless it has been approved by

(a) a majority of the registered architects

(i) present at a general meeting, or

(ii) voting in a mail vote conducted in accordance with the by-laws,

7 Section 10 presently reads in part:

10(1) The Council may make by-laws

(g) establishing classes or categories of membership in the Association in addition to registered architects, and prescribing the privileges and obligations of the classes or categories of membership so established;

(h) providing for the appointment and the revocation of the appointment of an individual as an Acting Registrar who has all of

(j) governing the establishment, operation and proceedings of committees, the appointment of members of committees, the appointment of acting members and procedures for filling vacancies on committees and the delegation of any powers or duties of the Council under this Act, the regulations or by-laws to a committee established by the Council or under this Act;

(j.1) prescribing the number of registered architects which constitutes a quorum at meetings of the Association;

(d) by repealing clause (k) and substituting the following:

(k) except for the members of the public appointed by the Minister, prescribing fees and expenses payable to members of the Council, the Practice Review Board, the Registration Committee, the Complaint Review Committee or any other board or committee of the Council or Association or for a registered architect representing the Association on a board or committee;

(e) in clause (n) by striking out “and joint firms” and substituting “joint firms, restricted practitioners and persons who are members of other classes or categories of membership in the Association”;

(f) by adding the following after clause (n):

(n.1) governing the nature of the costs in respect of which an order may be made by the Discipline Committee or, on appeal, the Council;

(g) by adding the following after clause (s):

(t) governing the holding of mail votes.

8 Section 12(6) is amended by striking out “15” and substituting “30”.

9 Section 26(2) is amended by adding “and of the employees who are professional engineers or are registered architects” after “officers of the firm”.

the powers and performs all of the duties of the Registrar under this Act, the regulations and the by-laws when the Registrar is absent or unable to act or when there is a vacancy in the office of Registrar;

(k) prescribing fees and expenses payable to members of the Council and of committees and boards for attending to the business of the Association;

(n) respecting the fixing of fees, dues and levies payable to the Association by registered architects, architects corporations and joint firms;

8 Section 12(6) presently reads:

(6) An applicant whose application for registration in accordance with this Part has been refused may, within 15 days of receiving a notice of refusal and the reasons for the refusal, request the Council to review the refusal by serving on the Registrar a written request for review by the Council setting out the reasons why, in his opinion, his registration as a registered architect should be approved.

9 Section 26(2) presently reads:

(2) A joint firm shall advise the Registrar in writing of the names of the individual shareholders, directors and officers of the firm and of any change in them immediately after the change occurs.

10 Section 27 is amended

- (a) in subsection (1)(a) by adding “, costs” after “dues”, and*
- (b) in subsection (2)(a) by adding “, costs” after “dues”.*

11 Section 28(2) is repealed.

12 Section 30 is amended

- (a) by renumbering it as section 30(1);*
- (b) by adding the following after subsection (1)(a):*
 - (a.1) to contravene a code of ethics as established under the regulations;*
- (c) by adding the following after subsection (1):*
 - (2) If an authorized entity fails to comply with or contravenes this Act, the regulations or the by-laws and the failure or contravention is, in the opinion of the review panel, of a serious nature the failure or contravention may be considered to be unprofessional conduct by the review panel whether or not it would be so held under subsection (1).*

13 Section 34 is amended by striking out “, in accordance with the regulations,”.

14 Section 35(1) is amended by striking out “15” and substituting “30”.

10 Section 27 presently reads in part:

27(1) The Registrar may cancel the registration of

(a) an authorized entity in default of payment of any fees, dues or levies payable by it under this Act, the regulations or the by-laws;

(2) The notice under subsection (1) shall state that the Registrar may cancel the registration unless, as the case may be,

(a) the fees, dues or levies are paid as indicated in that notice, or

11 Section 28(2) presently reads:

(2) An authorization under subsection (1) may be granted only in exceptional cases.

12 Section 30 presently reads:

30 Any conduct of an authorized entity that, in the opinion of a review panel or, on appeal, the Council is such as

(a) to be detrimental to the best interests of the public,

(b) to harm or tend to harm the standing of the profession of architecture generally,

(c) to display lack of knowledge of or lack of skill or judgment in the practice of architecture, or

(d) to display lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of architecture,

whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of architecture or unprofessional conduct, whichever a review panel or, on appeal, the Council determines.

13 Section 34 presently reads:

34 If the chairman, in accordance with section 33,

(a) directs that no further action be taken, or

(b) refers a complaint or conduct to the Committee

he shall serve on the person whose conduct was reviewed by the chairman and on the complainant, if any, a copy of the complaint or description of the conduct and a notice, in accordance with the regulations, that no further action will be taken, or that the complaint or conduct has been referred to the Committee, as the case may be.

14 Section 35(1) presently reads:

35(1) A complainant who is served with a notice under section 34 that

15 *Section 38 is amended*

(a) *in subsection (1)(c) by striking out “a registered architect, a restricted practitioner or”;*

(b) *by adding the following after subsection (1):*

(1.1) If the Council fails, within a reasonable time after being requested to do so by the Minister, to make a nomination for the purposes of subsection (1)(c), the Minister may appoint a member of the public to the Practice Review Board without the Council’s nomination.

(c) *in subsection (4)(a) by striking out “Council” and substituting “Practice Review Board”.*

16 *Section 39(1)(a) is amended by striking out “and” at the end of subclause (ii), by adding “and” at the end of subclause (iii) and by adding the following after subclause (iii):*

(iv) the practice of architecture by authorized entities generally,

17 *Section 41(2) is amended by striking out “the chairman or other person conducting a preliminary investigation or before”.*

18 *Section 42(1) is amended by striking out “and on any witness at the hearing”.*

the chairman has directed that no further action be taken may, by notice in writing to the Registrar within 15 days of receipt of the notice, appeal that direction to the Council.

15 Section 38 presently reads in part:

38(1) There is hereby established a board called the Practice Review Board consisting of not less than 5 members as follows:

(c) one member of the public who is not a registered architect, a restricted practitioner or a person mentioned in clause (b) and who is nominated by the Council and appointed by the Minister,

(4) The powers, duties and operations of the Board under this Act, the regulations and by-laws are not affected by

(a) the fact that no member of the public is appointed as a member of the Council pursuant to subsection (1)(c),

16 Section 39(1)(a) presently reads:

39(1) The Board

(a) shall, on its own initiative or at the request of the Council, inquire into and report to and advise the Council in respect of

(i) the assessment of existing and the development of new educational standards and experience requirements that are conditions precedent to obtaining and continuing registration under this Act,

(ii) the evaluation of desirable standards of competence of authorized entities generally, and

(iii) any other matter that the Council from time to time considers necessary or appropriate in connection with the exercise of its powers and the performance of its duties in relation to competence in the practice of architecture under this Act and the regulations,

17 Section 41(2) presently reads:

(2) Proceedings before the chairman or other person conducting a preliminary investigation or before the review panel or the Council shall be held in camera.

18 Section 42(1) presently reads:

42(1)The chairman of a review panel shall direct the Registrar to serve, and the Registrar, on being so directed, shall serve on the investigated person and on any witness at the hearing a notice of hearing stating the date, time and place when the review panel will hold a hearing and

19 *Section 43(2) is repealed and the following is substituted:*

(2) For the purposes of an investigation, hearing or review under this Act, a member of the review panel or, on appeal, the Council is conferred with the power of a commissioner of oaths under *The Commissioners for Oaths Act*.

20 *Section 45(1) is amended by striking out “the chairman or person appointed by him at a preliminary investigation or before”.*

21 *The following is added after section 51(2):*

(2.1) If the Council finds that a complaint is frivolous or vexatious, it may order the complainant to pay the costs of the preliminary investigation and the hearing before the Council determined in accordance with the by-laws.

22 *Section 53(2)(a) is amended by adding “and” at the end of subclause (i), by striking out “and” at the end of subclause (ii) and by repealing subclause (iii).*

23 *Section 55 is amended*

(a) in subsection (4) by striking out “and of the record of the hearing forwarded to him under section 53(1)”;

giving reasonable particulars of the complaint or conduct in respect of which the hearing will be held.

19 Section 43(2) presently reads:

(2) A member of the review panel or, on appeal, the Council may administer an oath to a witness who is to give evidence before the review panel or the Council, as the case may be.

20 Section 45(1) presently reads:

45(1) The attendance of witnesses before the chairman or a person appointed by him at a preliminary investigation or before the review panel or, on appeal, the Council, and the production of plans, drawings, detail drawings, specifications, books, papers and other documents may be enforced by a notice issued by the Registrar requiring the witness to attend and stating the date, time and place at which the witness is to attend and the plans, drawings, detailed drawings, specifications, books, papers and other documents, if any, he is required to produce.

21 New power of Council.

22 Section 53(2) presently reads:

(2) The Registrar shall, on receiving the decision of the review panel or the Council, as the case may be, and the record of the hearing referred to in subsection (1), serve

(a) a copy of the decision on

(i) the investigated person,

(ii) the chairman or vice-chairman of the review panel, and

(iii) each member of the Council,

23 Section 55(4) presently reads:

(4) The Registrar shall, on receiving a notice of appeal under subsection (3), transmit to each member of the Council a copy of the notice of appeal and of the record of the hearing forwarded to him under section 53(1).

(b) by adding the following after subsection (4):

(5) Each member of the Council is entitled on receiving a copy of a notice of appeal, to examine the record or any part of the record of the proceedings before the review panel and to hear any tape recording or examine any mechanical or hand written form of record of any testimony given before the review panel.

24 *Section 57(5) is repealed and the following is substituted:*

(5) The Council may order the investigated person to pay the costs of the appeal determined in accordance with the by-laws.

25 *Section 58(1)(b) is amended by adding “of the Council” after “order”.*

26 *Section 59(1)(b) is amended by adding “of the Council” after “order”.*

27 *The following is added after section 59:*

59.1 The Association shall be named as the respondent in an appeal under section 58 or 59 and the Association’s solicitor may make representations on the hearing of the appeal.

28 *Section 68 is amended*

(a) in subsection (1) by adding “or any person acting on the instructions of any of them” after “employee of the Association”, and

(b) in subsection (2) by adding “or any person acting on the instructions of any of them” after “employee of the Association”.

24 Section 57(5) presently reads:

(5) The Council may make any award as to the costs of an appeal that it considers appropriate.

25 Section 58(1)(b) presently reads:

58(1) An investigated person may appeal to the Court of Queen's Bench on mixed questions of law and fact relating to

(b) any order under section 50 or 51 or finding under section 57, or

26 Section 59(1)(b) presently reads:

59(1) An investigated person may appeal to the Court of Appeal only on a question of law relating to

(b) any order under section 50 or 51 or decision under section 57, or

27 Association is respondent in appeal before the Courts.

28 Section 68 presently reads:

68(1) No action lies against any member of the Registration Committee, the Complaint Review Committee, the Practice Review Board, a member of the Council, the Registrar, the Association or any member, officer or employee of the Association for anything done by him in good faith while purporting to act under this Act, the regulations or the by-laws.

(2) No action for defamation may be founded on a communication that consists of or pertains to conduct of or a complaint regarding an authorized entity if the communication is published to or by the Association, the Registrar, a member of the Council or of the Registration Committee, the Complaint Review Committee, or the Practice Review Board, or any officer or employee of the Association in good faith in the course of investigating the complaint or conduct in the course of any proceedings under Part 5.

29 *Section 76 is amended by adding the following after subsection (6):*

(7) The Council may direct the Registrar to cancel the registration of a restricted practitioner who

(a) is in default of payment of annual fees or any other fees, dues, costs or levies payable under this Act, the regulations or by-laws, or

(b) who is not a professional engineer in good standing under *The Engineering, Geological and Geophysical Professions Act*,

after the expiration of 1 month following the service on the restricted practitioner of a written notice that the Council intends to cancel the registration unless the restricted practitioner on whom the notice is served complies with the notice.

(8) The notice under subsection (7) shall state that the Registrar may cancel the registration unless

(a) the fees, dues, costs or levies are paid as indicated in the notice, or

(b) the restricted practitioner is a professional engineer in good standing under *The Engineering, Geological and Geophysical Professions Act*.

(9) If the registration of a registered practitioner has been cancelled under this section, the restricted practitioner shall forthwith surrender to the Registrar the certificate of authorization and the stamp issued to him.

30 *This Act comes into force on Proclamation.*

29 New.