

1983 BILL 6

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First Session, 20th Legislature, 32 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 6

ARCHITECTS AMENDMENT ~~ACT, 1983~~

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THE MINISTER OF PUBLIC WORKS,  
SUPPLY AND SERVICES

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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Bill 6

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1983

### ARCHITECTS AMENDMENT ACT, 1983

(Assented to \_\_\_\_\_, 1983)

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

- 1 *The Architects Act is amended by this Act.*
- 2 *Section 33(1) is amended by repealing clause (a) and substituting the following:*
  - (a) direct that no further action be taken if he is of the opinion that
    - (i) the complaint is frivolous or vexatious, or
    - (ii) there is insufficient evidence of unskilled practice of architecture or unprofessional conduct, or
- 3 *Section 35(2) is repealed and the following is substituted:*
  - (2) The Council shall determine whether
    - (a) the complaint is frivolous or vexatious,
    - (b) there is insufficient evidence of unskilled practice of architecture or unprofessional conduct, or
    - (c) the complaint should be referred to the Committee,and shall notify the complainant and the chairman in writing of its decision.
- 4 *Section 42(1) is repealed and the following is substituted:*

**42(1)** The Registrar shall serve on the investigated person a notice of hearing stating the date, time and place at which the review panel will hold a hearing, giving reasonable particulars of the complaint or conduct in respect of which the hearing will be held.

## Explanatory Notes

**1** This Bill will amend chapter A-44.1 of the Revised Statutes of Alberta 1980.

**2** Section 33(1) presently reads:

*33(1) The chairman shall immediately on the conclusion of a review of a complaint made in writing*

*(a) direct that no further action be taken, if he is of the opinion that the complaint is frivolous or vexatious, or*

*(b) refer the complaint to the Committee, if he is of the opinion that the conduct should be considered by the Committee.*

**3** Section 35(2) presently reads:

*(2) The Council shall determine whether the complaint is frivolous or vexatious or should be referred by the chairman to the Committee for an investigation and hearing in accordance with this Part and shall notify the complainant and the chairman in writing of its decision accordingly.*

**4** 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 a notice of hearing stating the date, time and place when the review panel will hold a hearing and giving reasonable particulars of the complaint or conduct in respect of which the hearing will be held.*

5 *Section 51(1) is amended*

(a) *in clause (a), by striking out “the costs” and substituting “all or part of the costs”;*

(b) *by repealing clause (b) and substituting the following:*

(b) a penalty not exceeding \$10 000 for each finding of unskilled practice of architecture or unprofessional conduct, or

6 *Section 53 is amended*

(a) *by repealing subsection (1)(b);*

(b) *in subsection (2), by striking out “and the record of the hearing referred to in subsection (1)”.*

7 *Section 54 is amended*

(a) *in subsections (1) and (4), by striking out “, 58”;*

(b) *in subsection (1), by striking out “, the Court of Queen’s Bench”.*

**5** Section 51(1) presently reads:

*51(1) The review panel or, on appeal, the Council may, in addition to or instead of dealing with the conduct of an investigated person in accordance with section 50, order that the investigated person pay*

- (a) the costs of the hearing or appeal in accordance with the by-laws,*
- (b) a penalty not exceeding \$10 000 to the Association, or*
- (c) both the costs under clause (a) and the penalty under clause (b).*

**6** Section 53 presently reads:

*53(1) When the review panel or Council has made a decision, the chairman or vice-chairman of the review panel or Council shall immediately forward to the Registrar*

- (a) the decision, and*
- (b) the record of the hearing, consisting of all evidence presented before it, including*
  - (i) all exhibits,*
  - (ii) all documents, and*
  - (iii) a transcript of all testimony given before it, whether recorded electronically, mechanically or in handwritten form.*

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

- (a) a copy of the decision on*
  - (i) the investigated person, and*
  - (ii) the chairman or vice-chairman of the review panel,*
  - (iii) repealed 1981 c5 s22,*

*and*

- (b) a notice of the nature of the decision on the complainant, if any.*

*(3) A person served under subsection (2)(a) with a copy of a decision of a review panel or, on appeal, of the Council is entitled to examine the record or any part of the record of the proceedings before the review panel or appeal before the Council, as the case may be, and to hear any tape recording or examine any mechanical or handwritten form of record of any testimony given before the review panel or the Council, as the case may be.*

**7** Section 54 presently reads:

*54(1) Notwithstanding an appeal under section 55, 58 or 59, a review panel or the Council, as the case may be, may, on the conclusion of a hearing, suspend the registration of the investigated person until the time that the Council, the Court of Queen's Bench or the Court of Appeal, as the case may be, makes its decision on the appeal.*

8 *Section 57(5) is amended by striking out “the costs” and substituting “all or part of the costs”.*

9 *The heading “**Appeals to Court of Queen’s Bench or Court of Appeal**” preceding section 58 is repealed and the heading “**Appeals to Court of Appeal**” is substituted.*

10 *Section 58 is repealed.*

11 *Section 59(1) is repealed and the following is substituted:*

**59(1)** An investigated person may appeal to the Court of Appeal any finding or order made by the Council under this Part.

*(2) An investigated person whose registration has been suspended under subsection (1) may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the Registrar, apply for an order to remove the suspension pending the determination of the appeal under section 55.*

*(3) The Court of Queen's Bench may hear an application made under this section not less than 10 days after the originating notice has been served on the Registrar.*

*(4) On hearing an application made under this section the Court of Queen's Bench may, subject to any conditions that it considers proper, remove the suspension pending the determination of the appeal under section 55, 58 or 59, as the case may be.*

**8** Section 57(5) presently reads:

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

**9** There is no longer an appeal to the Court of Queen's Bench.

**10** Section 58 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*

*(a) a finding made by the Council in accordance with section 49,*

*(b) any order of the Council under section 50 or 51 or finding under section 57, or*

*(c) both a finding referred to in clause (a) or (b), and any order referred to in clause (b).*

*(2) An appeal under this section shall be commenced*

*(a) by filing an originating notice with the clerk of the Court of Queen's Bench, and*

*(b) by serving a copy of the originating notice on the Registrar*

*both within 30 days from the date on which the decision of the Council is served under section 53.*

*(3) An appeal under this section shall be dealt with by the Court of Queen's Bench as a new trial.*

**11** Section 59(1) presently reads:

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

*(a) a finding made by the Council in accordance with section 49,*

*(b) any order of the Council under section 50 or 51 or decision under section 57, or*

*(c) both a finding referred to in clause (a), and any order or decision referred to in clause (b).*

12 *Section 59.1 is amended by striking out “58 or”.*

13 *Section 60 is repealed and the following is substituted:*

**60** The appellant may, after commencing an appeal and on notice to the Registrar, apply to the Court of Appeal for an order staying all or any part of the decision of the Council appealed.

14 *Section 61 is amended by striking out “58 or”.*

15 *Section 62 is amended*

*(a) by striking out “Court of Queen’s Bench or the” wherever it occurs;*

*(b) in subsection (1), by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding the following after clause (c):*

**(d)** direct that a new trial of any mixed questions of law and fact relating to a finding or order or to both a finding and an order of the Council made under this Part be held before the Court of Queen’s Bench.

*In accordance with section 4(1) of the Interpretation Act, this Bill comes into force on the date it receives Royal Assent.*



**12** Section 59.1 presently reads:

*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.*

**13** Section 60 presently reads:

*60 The appellant may, after commencing an appeal and on notice to the Registrar, apply to the Court of Queen's Bench or the Court of Appeal, as the case may be, for an order staying all or any part of an order or decision of the Council.*

**14** Section 61 presently reads:

*61(1) An appeal under section 58 or 59 shall be supported by copies, certified by the Registrar, of the decision of the Council and the record of the appeal before the Council.*

*(2) The Registrar, on being paid any disbursements and expenses in connection with a request made by the appellant or his solicitor or agent, shall furnish to the appellant or his solicitor or agent the number of copies so requested of the documents mentioned in subsection (1).*

**15** Section 62 presently reads:

*62(1) The Court of Queen's Bench or the Court of Appeal on hearing the appeal may*

*(a) make any finding that in its opinion ought to have been made,*

*(b) quash, confirm or vary the order or decision of the Council or any part of it, or*

*(c) refer the matter back to the Council for further consideration in accordance with any direction of the Court.*

*(2) The Court of Queen's Bench or the Court of Appeal may make any award as to the costs of an appeal to it that the Court considers appropriate.*