



BILL NO. 115

Government Bill

*1st Session, 60th General Assembly
Nova Scotia
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An Act Respecting the Practice of Architecture

CHAPTER 12
ACTS OF 2006

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 23, 2006**

The Honourable Murray K. Scott
Minister of Justice

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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An Act Respecting the Practice of Architecture

Be it enacted by the Governor and Assembly as follows:

- 1 This Act may be cited as the *Architects Act*.
- 2 In this Act,
 - (a) "architect" means any person who engages in the practice of architecture;
 - (b) "Association" means the Nova Scotia Association of Architects;
 - (c) "Board" means the Board of Registration of the Association established pursuant to the regulations;
 - (d) "building" means any structure used or intended for supporting or sheltering any use or occupancy;
 - (e) "by-laws" means by-laws of the Association;
 - (f) "corporate permit" means a permit issued to a partnership or corporation in accordance with the regulations;
 - (g) "Council" means the Council of the Association;
 - (h) "design and technical documents" means designs, drawings, specifications, studies and other technical reports prepared in the course of practising architecture;
 - (i) "designated architectural certification board" means any architectural certification board designated by the regulations;
 - (j) "designated architectural registration board" means any architectural registration board designated by the regulations;
 - (k) "good character" means such character as will enable a person to discharge the fiduciary duties of an architect to that person's client and to the public for the protection of health, safety and welfare and evidence of the inability to discharge such duties includes the commission of an offence justifying discipline under Section 48;
 - (l) "judge" means a judge of the Supreme Court of Nova Scotia;
 - (m) "licence" means the document issued pursuant to Section 23 and the renewal of that document pursuant to Section 27;
 - (n) "licensed architect" means an architect holding a current licence;
 - (o) "member" means, except where the context otherwise requires, a person who has been issued a licence pursuant to Section 23 or a renewal of such licence pursuant to Section 27, or any person whose name appears in the register and in any class of membership as prescribed by the regulations;
 - (p) "membership" means membership in any class of members as prescribed by regulations;

(q) "practice of architecture" means rendering or offering to render services, hereinafter described, in connection with the design and construction, enlargement or alteration of a building or group of buildings and the space within the site surrounding the buildings, that have as their principal purpose human occupancy or habitation and those services include pre-design services, programming, planning, providing designs, drawings, specifications and other technical submissions, the administration of construction contracts and the co-ordination of any elements of technical submissions prepared by others;

(r) "President" means the President of the Association;

(s) "professional engineer" means a person authorized to practise professional engineering pursuant to the *Engineering Profession Act*;

(t) "public use" means use by members of the public or any segment of the public, whether by virtue of express or implied invitation by the owners or occupants;

(u) "public representative" means a person appointed to the Council, the Board or a committee who is not a member of the Association;

(v) "Registrar" means the Registrar of the Association;

(w) "responsible control" means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care and, for greater certainty does not include, reviewing, or reviewing and correcting, technical submissions after they have been prepared by others;

(x) "technical submissions" means drawings and specifications issued for the purpose of a building permit, construction contract or construction, or where otherwise required by law;

(y) "temporary licence" means an authorization issued by the Association in accordance with the regulations that permits the practice of architecture on a temporary or project-specific basis and that is subject to any conditions or restrictions set out in the temporary licence.

ASSOCIATION

3 The Nova Scotia Association of Architects, as constituted immediately before the coming into force of this Act, continues to be a body corporate and politic with perpetual succession and a common seal with its head office at Halifax.

4 (1) There shall be a Council of the Association to be elected or appointed in the manner provided for in this Act and the by-laws.

(2) The Council consists of

(a) the President;

(b) the immediate past president;

(c) a member of the academic staff of a school or faculty of architecture within the Province designated annually by the board of governors of that institution;

(d) six members of the Association appointed in the manner provided for in the by-laws; and

(e) one or two public representatives appointed in the manner provided for in the by-laws.

(3) Subject to subsections (4) and (5), the term of all members of the Council is as set out in the by-laws.

(4) Upon the coming into force of this Act, the members of the Council are those persons who are authorized at that time as officers and members and those persons hold office until the first annual meeting of the Association after the coming into force of this Act.

(5) At the first annual meeting of the Association after the coming into force of this Act, six members of the Council shall be elected in the manner prescribed by the by-laws, three of whom hold office only until the adjournment of the next annual meeting of the Association.

5 Subject to this Act, the regulations and the by-laws, the Council shall govern, control and administer the affairs of the Association and may exercise all powers vested in it by this Act, the regulations and the by-laws.

6 (1) The officers of the Association are the President, Vice-president and Secretary-treasurer and those officers shall exercise the powers and have the duties set out in the by-laws.

(2) The President shall be elected by a majority vote of the members taken in the manner prescribed by the by-laws.

(3) No individual is eligible for election as President unless that individual

(a) is a licensed architect; and

(b) has served on Council for at least one year.

(4) No individual shall be nominated for the office of President while serving a second consecutive year as President of the Association.

(5) Upon the coming into force of this Act, the officers of the Association are those persons who are authorized at that time as officers and those persons hold office until the first annual meeting of the Association after the coming into force of this Act.

7 At its first meeting after election, the Council shall

(a) elect from its members who are licensed architects a Vice-president, Secretary-treasurer and a Registrar and appoint from among the members of the Association a Board of Registration; and

(b) make such other appointments as it deems appropriate to carry out its mandate.

8 (1) Meetings of the Association and Council shall be called, held and governed in the manner prescribed in the by-laws.

(2) An annual meeting of the Association shall be held at a time and date specified in the by-laws.

9 The Association has as its purposes

- (a) the protection of the public through
 - (i) the maintenance of professional competence and ethical conduct of its members, and
 - (ii) the enforcement of this Act with respect to illegal practice;
- (b) the advancement of the knowledge, skill and proficiency of its members in all matters relating to the practice of architecture; and
- (c) the promotion of the architectural profession and architectural services in the public interest.

10 (1) The Association may make by-laws for the governance of the Association and the management and conduct of the Association including, without limiting the generality of the foregoing,

- (a) the calling, conduct and manner of governance of meetings of the Association, the Board and the Council;
- (b) the nomination and election of members of the Council and prescribing the duties and functions of members of the Council;
- (c) the appointment to and term of office of members of the Council and prescribing those persons' powers, duties and functions;
- (d) the term of office of members of the Board;
- (e) the power to fill vacancies on the Council or in any other office or on any committee created by the Association;
- (f) the number required to constitute a quorum at meetings of the Association, meetings of Council and meetings of committees and the Board;
- (g) prescribing fees and reimbursement for expenses payable to members of the Council, the Board or any committee of the Council or the Association or for a member representing the Association;
- (h) the establishment of and payment of sums of money for scholarships, fellowships and any other educational incentive or benefit programs that the Council or the Association considers appropriate;
- (i) the issuance of, the information to be engraved on and the use to be made of seals and stamps held by persons holding a licence;
- (j) the provision of entries and deletion of names and information from the register;
- (k) the prescribing of forms to be used for membership, obtaining a licence and any other form or document that may be required for the purpose of this Act, the regulations and the by-laws;

(l) the ability of the Association to acquire, hold and dispose of real and personal property;

(m) the ability to lease or erect buildings for the use of the Association;

(n) the ability to borrow money for the Association and to give security for any money so borrowed on any of the real, personal or mixed property of the Association by way of mortgage, pledge, charge or otherwise;

(o) the ability to invest the funds of the Association from time to time in such investments as are authorized for investment of trust funds under the *Trustee Act*;

(p) the criteria for and the manner in which the title of honorary member will be bestowed on members or non-members of the Association.

(2) The Association may make by-laws with respect to

(a) the standards of ethical conduct for members including, without limiting the generality of the foregoing, the adoption of canons of ethics governing the conduct of members;

(b) a guide for fees for architectural services;

(c) a guide for proposal calls for architectural services.

(3) The *Regulations Act* does not apply to by-laws of the Association.

(4) No by-law of the Association comes into force until the by-law has been passed by three fourths of the licensed architects present at a special or general meeting of the Association.

11 (1) The Association may make regulations

(a) respecting the establishment, operation and proceedings of the Complaints Committee, the Discipline Committee, the Board or other committees, the appointment of members to such committees or the Board and procedures for filling vacancies on committees or the Board and the delegation to such committees or the Board of any powers or duties of the Association or the Council under this Act;

(b) prescribing the academic qualifications of, training requirements for and the conditions under which applicants for membership shall be admitted into the Association;

(c) governing the evaluation by the Board of the academic or other qualifications of and training requirements for applicants for a licence;

(d) prescribing or incorporating technical standards and professional competence for the practice of architecture;

(e) establishing the disciplinary procedures for all members of the Association;

(f) establishing other classes of membership in addition to the class of licensed architect which may include classes of membership to be known as intern architect, honorary member, student member, retired member and associate member;

(g) establishing requirements for registration of applicants for any class of membership, including the academic qualifications, work experience, examination requirements, membership fees and such other qualifications as may be determined by the Association;

(h) designating the descriptive title that may be used by individuals within any class of membership in the Association other than licensed architect;

(i) conferring the right, if any, to attend meetings of the Association and the right, if any, to vote at meetings of the Association to be held by an individual under any class of membership;

(j) establishing the rights, duties and obligations of individuals registered under any class of membership, including the requirement to abide by the Association's standards of ethical conduct, notice required for and conditions of resignation from the Association and such other matters as the Association prescribes by regulation;

(k) respecting the granting of a temporary licence to practise to a qualified applicant and the academic qualifications, work experience, examination requirements, fees requirements and other qualifications required to obtain such temporary licence to practise and the rights, duties and obligations of the holders of a temporary licence;

(l) designating architectural registration boards for the purpose of this Act;

(m) designating architectural accreditation boards for the purpose of this Act;

(n) establishing and prescribing the powers of any joint practice board or joint practice boards pursuant to Section 55;

(o) respecting requirements for professional liability insurance and circumstances when such insurance is not required;

(p) prescribing criteria and requirements for the issuance of a licence or corporate permit to individuals, partnerships or corporations from outside or within the Province;

(q) respecting the requirements for professional development activities necessary for renewal of a licence, and the interim procedures applicable when professional development requirements have not been met;

(r) establishing rules for the payment of the costs by a respondent arising from any action taken by the Association, the Council, the Complaints Committee or the Discipline Committee;

(s) prescribing circumstances in which the Discipline Committee may impose a publication ban;

(t) governing appeals to Council from the Board's refusal to grant a licence or the renewal of a licence;

(u) prescribing policies and procedures for investigating and dealing with complaints about the mental or physical incapacity of a member.

(2) No regulation of the Association made pursuant to subsection (1) comes into force until

- (a) the Registrar certifies that
 - (i) a copy of the proposed regulation was mailed to each member of the Association at least thirty days before the day on which the regulation was considered by a meeting of the Association, and
 - (ii) the regulation was passed by three fourths of the licensed architects present at the meeting; and
- (b) the regulation is approved by the Governor in Council.

(3) Any regulation made pursuant to clause (1)(n) comes into effect only upon the passing by such other professional association or associations of identical regulations pursuant to the legislation governing such other professional association or associations subject only to such changes in references to the applicable legislation and applicable association required of the context.

(4) The exercise by the Association of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

MEMBERSHIP

12 The Association shall maintain a class of membership known as licensed architect and the Association may establish and maintain, pursuant to the regulations, other classes of membership as determined from time to time.

13 An individual shall be registered as a licensed architect of the Association if that individual holds a current licence issued by the Board.

14 An individual applying for a class of membership other than that of a licensed architect shall apply in the manner and in the form provided for in the by-laws and shall provide such evidence of the individual's qualifications, work experience, examinations and other qualifications as may be prescribed by the regulations.

15 An individual applying for a class of membership other than as a licensed architect shall pay such fees as are required by the Association pursuant to the by-laws.

16 A licensed architect is entitled to

- (a) vote at any meeting of the Association; and
- (b) use "architect" or any of its abbreviations or derivatives as a descriptive title with respect to that member.

17 A member in any class of membership shall

- (a) observe the Association's standards of ethical conduct including, without limiting the generality of the foregoing, all canons of ethics adopted by the by-laws; and
- (b) give notice, in writing, to the Registrar of any intention to resign from the Association and, only with the approval of the Council, resign from the Association.

18 One month after the fees of a member of any class become payable, the Council may strike that member's name from the register if the annual fees have not been paid.

LICENSING

- 19** (1) Every individual applying to the Board for a licence shall
- (a) submit an application in the form approved by the by-laws;
 - (b) pay the fee approved by Council;
 - (c) submit evidence satisfactory to the Board that such individual holds a certificate from a designated architectural certification board or has completed such other education as the Board deems equivalent;
 - (d) submit evidence satisfactory to the Board that such person has completed practical work experience required by the Board;
 - (e) provide confirmation of liability insurance as prescribed by the regulations;
 - (f) have successfully completed examinations as required by Council;
 - (g) provide evidence satisfactory to the Board to establish the applicant is of such good character as to safely and ethically engage in the practice of architecture; and
 - (h) complete such other requirements for licensing as set out in the regulations.
- (2) No licensed architect, holder of a corporate permit or holder of a temporary licence shall engage in the practice of architecture unless
- (a) insured against professional liability in accordance with the regulations;
- or
- (b) exempted by the regulations from the requirement to hold professional liability insurance.

20 The Board may exempt an applicant from the examination requirements of clause 19(f) if the applicant holds a certification issued by any designated architectural registration board.

21 The Council shall cause to be kept by the Registrar a register, to be known as the Register of the Nova Scotia Association of Architects, in which shall be entered the particulars of each member, including the class of membership to which the member belongs.

22 Every individual who, immediately before the coming into force of this Act, was registered as a member of the Association shall be registered as a member under this Act and is deemed to hold a licence until the expiration of the current calendar year.

23 The Association shall issue a licence to each individual who meets the requirements of Section 19.

24 Every license issued and remaining in force is *prima facie* evidence in any legal proceeding that the individual named therein is legally registered as an architect for the period for which it is issued, and of all other facts stated therein.

25 Every licence is effective upon issuance and continues in effect until the end of the calendar year in which it is issued, unless restricted in time in accordance with Section 28 or suspended or revoked in accordance with this Act.

LICENCE RENEWAL

26 Before the expiry of a licence, a member shall apply to the Board for the renewal of the licence by submitting

- (a) an application form for renewal as set out in the by-laws;
- (b) the fee approved by Council;
- (c) information that verifies the member is not currently subject to any disciplinary proceeding that would prohibit the practice of architecture;
- (d) information that satisfies the Board that the member continues to be of such character as to safely and ethically engage in the practice of architecture;
- (e) confirmation of liability insurance in the amount prescribed by the regulations;
- (f) proof that the applicant has completed such professional development activities as required by the regulations; and
- (g) such other information as set out in the regulations.

27 Subject to Section 28, where an applicant for a renewal of a licence has satisfactorily provided the Board with the information set out in Section 26, the Board shall issue a new licence.

28 Where an applicant for a renewal of a licence has met all of the requirements of Section 26, except clause (f), the Board may issue a licence for a limited period of time to allow the applicant to complete the required professional development activities.

29 Any holder of a licence who fails to renew the holder's licence on or before the prescribed date shall, before again engaging in the practice of architecture within the Province,

- (a) meet the requirements of Section 26;
- (b) be required to apply for re-instatement;
- (c) pay the prescribed fee; and
- (d) in circumstances deemed appropriate by the Board, be required to be re-examined.

DISPLAY OF LICENCE

30 Every architect having a place of business or employment within the Province shall display that architect's licence in a conspicuous place in such place of business or employment.

31 A new licence, to replace a lost, destroyed or mutilated licence, shall be issued by the Board upon payment of a fee established by Council and such licence shall be stamped or marked "duplicate".

SEAL

32 Every licensed architect must have a seal of a design authorized by the regulations.

33 All technical submissions prepared by a licensed architect, or under the architect's responsible control, shall be sealed with the seal of the licensed architect and signed by the licensed architect, signifying that the licensed architect was in responsible control of the content of the technical submissions and has applied the required standard of care.

34 No licensed architect may sign or seal technical submissions unless prepared by or under the responsible control of the architect, except that

(a) the architect may sign or seal those portions of the technical submissions that were prepared by or under the responsible control of persons who are licensed under this Act if the architect has reviewed and adopted in whole or in part such portions and has either co-ordinated their preparation or integrated them into the architect's work; and

(b) the architect may sign or seal those portions of the technical submissions that are not required by this Act to be prepared by or under the responsible control of an architect if the architect has reviewed and adopted in whole or in part such submissions and integrated them into the architect's own work.

35 Any licensed architect signing or sealing technical submissions not prepared by that architect, but prepared under that architect's responsible control by persons not regularly employed in the office where the architect is resident, shall maintain and make available to the Board upon request for at least five years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the architect's control over and detailed knowledge of such technical submissions throughout their preparation.

DISCIPLINE

36 In Sections 37 to 50,

(a) "complaint" means any complaint in writing initiated by the Board, any committee of the Association, any employee of the Association, the Registrar or any other person regarding the conduct, actions, professional competence or character of a member;

(b) "licence " includes a reference to a temporary licence to practise;

(c) "member" includes

(i) an individual holding any class of membership,

(ii) an individual holding a temporary licence, and

(iii) a partnership or corporation holding a corporate permit,

either currently or at the time of the subject matter giving rise to a complaint;

(d) "respondent" means the member who is the subject of a complaint.

37 All complaints shall be sent to the Complaints Committee and the Committee shall mail by registered mail or otherwise cause to be delivered to the respondent, at that person's last known address, a copy of the complaint, inviting a response to the complaint in writing to the Committee within fourteen days from receipt of the correspondence.

38 (1) The Complaints Committee shall consider and investigate the complaint, including examining or making every reasonable effort to examine all records and documentation relating to the complaint and, as part of its investigation of a complaint, the Committee may require the respondent to undergo such relevant examinations as it may direct.

(2) A member of the Complaints Committee may act as the Association's investigating officer and may carry out an investigation of a complaint.

(3) An investigation conducted pursuant to subsection (2) may include

(a) requests for further and additional written or oral explanations from the respondent, the complainant and, where directed by the chair of the Complaints Committee, third parties; and

(b) requests for an informal interview of the respondent by one or more members of the Complaints Committee.

(4) The Complaints Committee may, during its investigation, where it determines that it may be desirable or in the public interest to do so, suspend the respondent from practice or order conditions or restrictions on the licence of the respondent pending the completion of the investigation and, where the matter is referred to the Discipline Committee, may continue such suspension, conditions or restrictions during the hearing and adjudication of such complaint by the Discipline Committee.

(5) During an investigation, the respondent shall co-operate fully in respect of the investigation with the Complaints Committee or anyone acting on its behalf.

(6) During an investigation the Complaints Committee may investigate any other matter that may constitute professional misconduct, conduct unbecoming an architect or professional incompetence relating to the respondent that arises in the course of the investigation.

39 (1) The Complaints Committee, in accordance with the information it receives, shall

(a) where a determination is made that

(i) the complaint is not within the jurisdiction of the Association,

(ii) the evidence that may reasonably be believed could not support a finding of professional misconduct, conduct unbecoming or professional incompetence, or would not merit a counsel or caution, or

(iii) the complaint is otherwise incapable of substantiation,

dismiss the complaint and, where considered useful by the Complaints Committee, provide guidance to the complainant, the respondent or any other person associated with the complaint; or

(b) provide the complainant, the respondent or other persons, a reasonable opportunity to appear before the Complaints Committee and to submit representations or explanations, and then

(i) dismiss the complaint and, where considered useful by the Complaints Committee, provide guidance to the complainant, the respondent or any other person associated with the complaint,

(ii) counsel the respondent,

(iii) caution the respondent,

(iv) with the consent of the respondent, order that the respondent receive a reprimand and that the reprimand be communicated to the respondent and the complainant and such other persons as the Complaints Committee considers appropriate,

(v) where a determination is made that the matter or matters before the Complaints Committee warrant a hearing, refer the matter or matters to the Discipline Committee,

(vi) informally resolve the complaint; or

(vii) order any combination of subclauses (i) to (vi).

(2) The Complaints Committee shall send its decision, in writing, by pre-paid first-class mail to the complainant and to the respondent.

40 (1) Where the Complaints Committee, in its absolute discretion, at any time after the receipt or institution of a complaint deems it necessary or advisable, it may, without a hearing, require the respondent to undergo such examinations as the Committee may designate in order to determine whether the member has adequate skill and knowledge to practise architecture and, where the member fails to undergo any such examination, the Association may, upon recommendation of the Committee, without further notice, revoke or suspend the member's licence or membership until the member undergoes such examinations.

(2) Where the Complaints Committee, in its absolute discretion, at any time after the receipt or institution of a complaint deems it necessary or advisable, it may, without a hearing, require any member to submit to an audit or other examination of its business, books and records by such person or persons as the Committee may designate and, where the member or holder of a corporate permit fails to submit to such audit or examination, the Committee may, without further notice, revoke or suspend the licence or corporate permit until this Section is complied with.

41 (1) Where the Association believes that a matter referred to a Discipline Committee may be resolved by settlement, the Association may tender in writing to the respondent a settlement proposal which shall include an admission or admissions by the respondent to one or more of the allegations set out in the notice of hearing and the respondent's consent to a specified disposition, conditional upon the acceptance of the settlement proposal by the Complaints Committee and the Discipline Committee.

(2) Where both parties are in agreement with a settlement proposal tendered pursuant to subsection (1), the Association shall forward the settlement proposal to the Complaints Committee for consideration.

(3) In preparing a settlement proposal, the parties, where agreeable, may use a mediator, and the costs of the mediator shall be divided equally between the Association and the respondent, unless otherwise agreed by the parties.

(4) The Association may, in its discretion, recommend acceptance of a settlement proposal if satisfied that

- (a) the public is protected;
- (b) the conduct or its causes can be, or has been, successfully remedied; and
- (c) settlement is in the best interests of the public and the profession.

(5) Where the Complaints Committee does not recommend acceptance of a settlement proposal, the Committee shall

- (a) recommend changes to the settlement proposal that
 - (i) where agreed upon by the parties, will result in acceptance by the Committee, or
 - (ii) where not agreed upon by the parties, will result in rejection by the Committee; or
- (b) reject the settlement proposal and forward the matter referred to the Complaints Committee to the Discipline Committee for hearing.

(6) The Complaints Committee retains jurisdiction over a complaint until the commencement of a hearing or the acceptance of a settlement proposal by the Discipline Committee.

(7) Where the Complaints Committee recommends acceptance of a settlement proposal, the Committee shall refer the settlement proposal to the Discipline Committee.

(8) Where the Discipline Committee accepts a settlement proposal,

- (a) the settlement proposal must form part of the order of the Discipline Committee disposing of the matter; and
- (b) subject to subsection (13), there shall be no hearing before the Discipline Committee.

(9) Where the Discipline Committee does not accept a settlement proposal, it shall

- (a) suggest amendments to the settlement proposal and return it to the parties for review and
 - (i) where both parties do not agree with the amendments to the settlement proposal, the settlement proposal is deemed to be rejected and the matter shall be referred to another panel of the Discipline Committee for a hearing, or
 - (ii) where both parties agree with the amendments to the settlement proposal, the settlement proposal shall be sent back to the Complaints Committee which may
 - (A) accept the settlement proposal, or

(B) reject the settlement proposal and refer the matter to another panel of the Discipline Committee for a hearing; or

(b) reject the settlement proposal, in which case the matter shall be forwarded to another panel of the Discipline Committee for a hearing.

(10) Where a settlement proposal has been rejected, the hearing shall proceed without reference to the settlement proposal or any admissions contained in the settlement proposal until such time as the Discipline Committee has determined whether professional misconduct, conduct unbecoming an architect or professional incompetence has been proven.

(11) The persons who sat on the Discipline Committee that reviewed a rejected settlement proposal shall not sit on the Discipline Committee that conducts the hearing.

(12) Before reaching a decision to award costs in a hearing, the Discipline Committee may be given a copy of any settlement proposals exchanged between the parties.

(13) Any alleged breach by a respondent of an undertaking given in, or a condition of, a settlement proposal that is accepted by the Discipline Committee, shall be referred to a Discipline Committee and may form the subject of a hearing before the Discipline Committee.

(14) A settlement proposal may include any disposition that could be ordered by the Discipline Committee pursuant to Section 48.

42 The Discipline Committee shall

(a) hear and determine matters referred to it by the Complaints Committee in accordance with the regulations; and

(b) perform such other duties as are assigned to it by the Council.

43 The Discipline Committee, in the discharge of its functions,

(a) has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*; and

(b) may impose a publication ban in circumstances prescribed in the regulations.

44 In proceedings before a Discipline Committee, the Association and the respondent are the parties to the proceedings.

45 The respondent

(a) is entitled to at least thirty days notice of the hearing, which notice must be given by personal service, registered mail or substituted service as determined by the Discipline Committee;

(b) is entitled to have legal counsel at the hearing at the respondent's expense; and

(c) is entitled to cross-examine adverse witnesses and to produce evidence and witnesses in the respondent's own defence.

46 (1) Evidence is not admissible before a Discipline Committee unless the opposing party has been given, at least ten days before the hearing,

- (a) in the case of written documentary evidence, an opportunity to examine the evidence;
- (b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and
- (c) in the case of evidence of a witness, the identity of the witness.

(2) Notwithstanding subsection (1), a Discipline Committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (1) and may make directions it considers necessary to ensure that a party is not prejudiced.

47 (1) A Discipline Committee may, after a hearing, dismiss the complaint or find that the respondent is guilty of

- (a) conduct unbecoming an architect;
- (b) professional misconduct;
- (c) professional incompetence;
- (d) a contravention of this Act, the regulations or by-laws; or
- (e) obtaining membership or a licence by fraud, deceit or misrepresentation.

(2) A Discipline Committee is entitled, but not bound, to find a member guilty of professional misconduct if the member is found to have breached any canon of ethics or rule of ethical conduct approved or adopted by the Association pursuant to any by-law.

48 (1) Where the Discipline Committee makes a finding of guilt under Section 47, it may, by order, impose any sanction, penalty or remedial measures it considers appropriate including any one or more of the following:

- (a) revoke the membership or the licence of the respondent, or both;
- (b) suspend the respondent or the licence of the respondent, or both, for a stated period;
- (c) reprimand the respondent and direct that the fact of the reprimand be recorded on the Register;
- (d) impose conditions or restrictions on the licence of the respondent;
- (e) fine the respondent such amount as it may decide being not greater than ten thousand dollars;
- (f) require the respondent to pay all or a portion of the Association's costs with regard to the discipline process including, solicitor/client costs, disbursements incurred by the Discipline Committee and the Complaints Committee, costs of the investigation and any and all costs associated with the investigation and resolution of the complaint.

(2) Subject to any publication bans imposed by the Discipline Committee, where the Discipline Committee has made a finding of guilt pursuant to Section 47 and has imposed a

sanction pursuant to this Section, the Committee shall cause to be published in an official publication of the Association a summary of the decision, and may publish in such other publications as the Committee may direct the full decision or a summary of the decision.

(3) Where the Discipline Committee makes a finding of guilt pursuant to Section 47 and imposes a sanction pursuant to this Section, the Committee shall determine whether a copy of the decision or a summary of the decision shall be forwarded to individuals who may be affected by the decision, subject to such publications bans as the Committee deems appropriate.

(4) Where the Discipline Committee imposes a suspension or revocation of a licence and in other circumstances that may be prescribed by the Governor in Council from time to time, the Committee shall cause to be published in a newspaper or newspapers distributed throughout the Province, notification to the public of the suspension, revocation or other sanction.

(5) Where the Discipline Committee imposes a suspension or revocation of a licence and in other circumstances that may be prescribed by the Governor in Council from time to time, the Committee shall cause notices of the suspension, revocation or other sanction to be provided to those individuals specified in the regulations.

(6) The Discipline Committee shall cause a determination by the Committee that allegations against a respondent were unfounded to be published in an official publication of the Association upon the request of the respondent and may publish such order in detail or in summary in any other publication as the Committee may direct.

(7) A fine or costs ordered to be paid pursuant to subsection (1) is a debt due to the Association recoverable by civil action for debt in addition to any other remedy available to the Association for non-payment of a fine or costs.

(8) The jurisdiction of the Complaints Committee and the Discipline Committee is not affected by the fact that a person who is the subject of a complaint or proceeding pursuant to this Act ceases to be registered as a member of the Association or ceases to hold or be named on a licence.

(9) Where a licence has been revoked by a Discipline Committee, the member may apply to a Re-instatement Committee appointed by the Council for the re-instatement of the licence, in the manner prescribed by the regulations.

(10) For the purpose of subsection (9), Council shall appoint a re-instatement committee, comprised of not fewer than three and not more than five members of the Council, at least one of whom must be a public representative.

(11) The Council shall appoint the chair of the re-instatement committee.

(12) The re-instatement committee has all the powers conferred by this Act and the regulations in the discharge of its functions as well as the powers, privileges and immunities of commissioners appointed under the *Public Inquiries Act*.

(13) The Governor in Council may make regulations deemed necessary or advisable to carry out effectively the intent and purpose of this Section.

(14) The exercise by the Governor in Council of the authority contained in subsection (13) is regulations within the meaning of the *Regulations Act*.

49 Within sixty days of the findings of the Discipline Committee pursuant to Section 48, the Committee shall provide its decision in writing with reasons respecting findings made pursuant to both Sections 47 and 48.

50 (1) A party may appeal on any point of law or mixed law and fact from the decision of the Discipline Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal shall be filed at the Nova Scotia Court of Appeal and served upon the other party not later than thirty days after service of the decision of the Discipline Committee pursuant to Section 49.

(3) The record on appeal from the findings of the Discipline Committee consists of a copy of the transcript of the proceedings, the decision of the Committee, the evidence before the Committee certified by the chair of the Committee and such other materials as the court determines are required for a fair hearing of the appeal.

(4) The *Civil Procedure Rules*, governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal, that are not inconsistent with this Act, apply *mutatis mutandis* to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the Discipline Committee takes effect immediately unless the Court of Appeal, upon application, grants a stay.

PRACTICE

51 Except as set forth in Section 56, no person shall directly or indirectly engage in the practice of architecture in the Province or use the title "Architect", "Registered Architect", "Architectural Designer", or display or use any words, letters, figures, titles, sign, card, advertisement or other symbol or device indicating or tending to indicate that such person is an architect or is practicing architecture, unless the person is licensed under this Act, except that a person licensed in another jurisdiction may use the title "Architect" when identifying the person's profession in circumstances that would not lead a reasonable person to believe that the person using the title "Architect" is offering to perform any of the services that the practice of architecture comprises.

52 (1) No person shall build, erect, alter, enlarge or cause to be built, erected, altered or enlarged a building if the preparation or design of plans for the building, erection, alteration or enlargement falls within the practice of architecture, unless the plans for such building, erection, alteration or enlargement are prepared or designed by a licensed architect.

(2) Notwithstanding subsection (1), plans prepared or designed by a licensed architect are not required when one or more of the exceptions set forth in Section 54 or 56 applies.

53 Nothing in this Act shall be construed as preventing either an architect or a professional engineer from being the prime design consultant in respect of the building, erection, alteration or enlargement of a building.

54 Notwithstanding anything contained in this Act, nothing in this Act

(a) applies to or limits or restricts a professional engineer or a partnership, association of persons or a body corporate authorized under the *Engineering Profession Act* to engage in the practice of professional engineering, in the performance of any act of planning, designing or advising on the design of the erection, construction, alteration of or addition to a building, the preparation of plans, drawings, detailed drawings or specifications or graphic representations with respect thereto or reviewing work or assessing the performance of work in respect thereof, if the professional engineer responsible has relevant experience and is competent in the services provided;

(b) otherwise prevents a professional engineer or a partnership, association of persons or a body corporate authorized under the *Engineering Profession Act* from engaging in the practice of professional engineering; or

(c) applies to or limits or restricts a person authorized to practise interior design under the *Interior Designers Act* in the practice of interior design in accordance with the *Interior Designers Act* or a person in carrying out interior design work under the supervision of such a person in accordance with the *Interior Designers Act*.

55 The Association may establish one or more joint practice boards with any other professional association or associations including, without limiting the generality of the foregoing, an association of professional engineers with the power to review and make recommendations to the Council and any council of such other professional association or associations on professional practice issues of mutual concern.

56 (1) In this Section, unless the context otherwise requires, the expression

(a) “assembly occupancy” means the occupancy or the use of a building, or part thereof, by a gathering of persons for civic, political, travel, religious, social, educational, recreational or like purposes, or for the consumption of food or drink;

(b) “building area” means the greatest horizontal area of a building above grade within the outside surface of exterior walls or within the outside surface of exterior walls and the centre line of firewalls;

(c) “building height”, in storeys, means the number of storeys contained between the roof and the floor of the first storey;

(d) “business and personal services occupancy” means the occupancy or use of a building, or part thereof, for the transaction of business or the rendering or receiving of professional or personal services;

(e) “emergency” means an earthquake, eruption, flood, storm, hurricane or other catastrophe that has been designated as a major disaster or emergency by the Prime Minister of Canada or the Premier or other duly authorized official of the Province;

(f) “high hazard industrial occupancy” means an industrial occupancy containing sufficient quantities of highly combustible and flammable or explosive materials that, because of their inherent characteristics, constitute a special fire hazard;

(g) “low hazard industrial occupancy” means an industrial occupancy in which the combustible content is not more than 50 kilograms per square metre or 1,200 megajoules per square metre of floor area;

(h) “medium hazard industrial occupancy” means an industrial occupancy in which the combustible content is more than 50 kilograms per square metre or 1,200 megajoules per square metre of floor area and not classified as high hazard industrial occupancy;

(i) “mercantile occupancy” means the occupancy or use of a building, or part thereof, for the displaying or selling of retail goods, wares or merchandise;

(j) “residential occupancy” means the occupancy or use of a building, or part thereof, by persons for whom sleeping accommodation is provided but who are not harboured or detained to receive medical care or treatment or are not involuntarily detained.

(2) Nothing in this Act prevents

(a) the practice of architecture by persons other than licensed architects in connection with a building as constructed, enlarged or altered, and used for one or more of the following occupancies, unless a licensed architect is otherwise required by law or by the building authority having jurisdiction over the project:

(i) a one-dwelling or two-dwelling unit,

(ii) of three storeys or less in building height, having a building area not exceeding 450 square metres classified as

(A) residential occupancy,

(B) business and personal services occupancy,

(C) mercantile occupancy, or

(D) low and medium hazard industrial occupancy,

(iii) an assembly occupancy of not more than one storey in building height, having a building area of not more than 200 square metres, or

(iv) a high hazard industrial occupancy of not more than one storey in building height, having a building area of not more than 200 square metres;

(b) the preparation of submissions to architects by the manufacturer, supplier or installer of any materials, assemblies, components or equipment incidental to the design of the entire project that describes or illustrates the use of such items;

(c) the preparation of any details or shop drawings required of a contractor by the terms of the construction documents;

(d) the management of construction contracts by persons customarily engaged in contracting work;

(e) the preparation of design and technical documents or the administration of construction contracts by persons acting under the responsible control of a licensed architect;

(f) for greater certainty, officers and employees of the Government of Canada from engaging in the practice of architecture as employees of the Government of Canada;

(g) for greater certainty, officers and employees of Her Majesty in right of the Province from engaging in the practice of architecture as employees of Her Majesty in right of the Province;

(h) a partnership, including a limited liability partnership that meets the requirements of the *Partnership Act*, or any other type of partnership, or company, including a professional corporation, a limited liability company or any other form of corporate entity from performing or holding itself out as able to perform any of the services involved in the practice of architecture provided that

(i) the partnership or company meets the criteria for and holds a current corporate permit issued in accordance with the regulations,

(ii) any agreement to perform such services is executed on behalf of the partnership or company by the partner or partners or by the director or directors who hold a licence issued pursuant to this Act and who will exercise responsible control over the particular services contracted for by the partnership or company, and

(iii) the partnership or company or corporation furnishes the Board with such information about its organization and activities as the Board requires by regulation;

(i) a non-resident who holds the equivalent from another jurisdiction of a licence to practise architecture issued by any designated architectural registration board, from offering to render professional services involved in the practice of architecture in the Province, so long as that person does not perform any of the professional services involved in the practice of architecture until issued a licence pursuant to this Act, and so long as that person provides a letter to the Board, copied to every potential client to whom the applicant offers to render architectural services,

(i) enclosing a copy of the licensing document from the other jurisdiction,

(ii) confirming the person is not licensed to practise architecture in the Province,

(iii) confirming the person will be present in the Province to offer architectural services, and

(iv) confirming the person will apply to the Board for a licence if selected as the architect for the project;

(j) a non-resident who holds the equivalent from another jurisdiction of a licence to practise architecture issued by any designated architectural registration board, from seeking an architectural commission by participating in an architectural design competition for a project in the Province, so long as that person provides a letter to the Board, copied to every person conducting an architectural design competition in which the applicant participates,

(i) enclosing a copy of the licensing document from the other jurisdiction,

(ii) confirming the person is not licensed to practise architecture in the Province,

(iii) confirming the person will be present in the Province to offer architectural services, and

(iv) confirming the person will apply to the Board for a licence if selected as the architect for the project;

(k) a person who is not currently licensed in the Province but who is currently licensed, certified or registered to practise architecture in a province of Canada or a state of the United States of America, from providing uncompensated, other than reimbursement of expenses, professional services at the scene of an emergency at the request of a public officer, public safety officer or municipal or county building inspector acting in an official capacity;

(l) a person currently employed under the responsible control of a licensed architect, and who maintains in good standing a record with a designated architectural certification board, from using the title "intern architect" in conjunction with the person's current employment if such person complies with all the regulations applicable to intern architects and such person does not engage in the practice of architecture except to the extent permitted by this Act or the regulations;

(m) a person holding a temporary licence issued in accordance with the regulations from engaging in the practice of architecture to the extent provided in the temporary licence; or

(n) a prescribed activity by a prescribed person.

(3) The Governor in Council may prescribe activities and persons for the purpose of clause (2)(n).

(4) The exercise by the Governor in Council of the authority contained in subsection (3) is regulations within the meaning of the *Regulations Act*.

ENFORCEMENT

57 (1) Where any building is being erected, altered or enlarged contrary to this Act, in addition to any other remedy or penalty provided by this Act, any person may apply to a judge by way of originating notice for an order restraining construction or any other order, and the judge may grant such order restraining construction or any other order that, in the opinion of the judge, the justice of the case requires.

(2) A copy of every order restraining construction granted by the Supreme Court of Nova Scotia shall be served upon the defendant and such other persons as the judge may direct and when so served shall remain in force until varied or revoked by the Court.

(3) An order restraining construction granted by the Supreme Court of Nova Scotia may be varied or revoked by the Court upon being satisfied that the building will be proceeded with without the commission of any further violation of this Act and that all fines and costs levied have been paid.

58 (1) A person who violates this Act is guilty of an offence and liable upon summary conviction to a fine

- (a) for a first offence, not exceeding five thousand dollars;
- (b) for a second offence, not exceeding ten thousand dollars; or
- (c) for a third or subsequent offence, not exceeding fifteen thousand dollars,

or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

(2) The *Summary Proceedings Act* applies in addition to any penalty provided for in this Act or the regulations.

(3) Any information to be laid pursuant to this Act or the *Summary Proceedings Act* may be laid by the Registrar or any person authorized by the Registrar.

(4) For the purpose of this Act or the regulations, proof of the performance by a non-member of one act in the practice of architecture is sufficient to establish that the person has engaged in the practice of architecture.

59 Every person who knowingly makes any false statement, verbal or written, with intent to obtain membership in the Association or a licence, is guilty of an offence.

60 Every officer of the Association who knowingly makes any false entry in the records of the Association or issues any false certificate is guilty of an offence.

61 A certificate purporting to be under the hand of the Registrar and the seal of the Association that the person named therein on the date or within the period therein stated was or was not a member or the holder of a licence or was or was not suspended from the Association or that membership of the person named therein was or was not cancelled on the date specified in the certificate shall be received in evidence in any court as *prima facie* proof of the facts therein stated.

GENERAL

62 (1) Where, pursuant to Chapter 21 of the Revised Statutes, 1989, the *Architects Act*, referred to in this Section as the "former Act", and regulations made pursuant to that Act, a complaint is made before the coming into force of this Act, and the proceedings in respect of the complaint have not been concluded before the coming into force of this Act, the complaint and all proceedings in relation thereto shall be dealt with under the former Act and regulations made pursuant to it as if the former Act remained in full force and effect.

(2) Notwithstanding subsection (1), where the Association and the respondent agree, this Act may apply to the processing and resolution of a complaint referenced in subsection (1).

(3) Any proceedings in respect of a complaint made pursuant to this Act that are commenced after the coming into force of this Act shall be dealt with under this Act and the regulations and by-laws made pursuant to this Act, notwithstanding that the acts, conduct or events to which the complaint relates occurred, in whole or in part, prior to the coming into force of this Act.

(4) Every order, decision, direction or other disposition of any complaint made pursuant to the former Act and any regulations made pursuant to the former Act continue in full force and effect notwithstanding the coming into force of this Act.

63 (1) The relationship of a member to a partnership or company that is engaged in the practice of architecture, whether as a shareholder, director, officer, partner or employee, does not affect, modify or diminish the application to the member of this Act, the regulations and the by-laws.

(2) The liability of an individual arising from that individual or any other individual engaging in the practice of architecture, or any other practices authorized under this Act, is not affected by reason only that the services are provided by a partnership or company.

(3) Nothing in this Act affects, modifies or limits any law, standard of practice or the Code of Ethics applicable to or required of members.

64 No action lies against the Association, the Board, the Council, persons on the Council, committees of the Association, persons on such committees, the Registrar or any other officers, agents or employees of the Association for

(a) any act or failure to act or any proceeding initiated or undertaken in good faith under this Act or in carrying out duties and obligations under this Act; or

(b) a decision, order or resolution made or enforced in good faith under this Act.

65 Chapter 21 of the Revised Statutes, 1989, the *Architects Act*, is repealed.

66 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
