



# Registered Architects Act 2005

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Date of assent 20 April 2005  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Registered Architects Act 2005.

**2 Commencement**

- (1) Parts 3 and 4 and the Schedule come into force on 1 July 2005.
- (2) The rest of this Act comes into force on 1 July 2006.

**Part 1  
Preliminary provisions**

**3 Purpose**

The purpose of this Act is to reform the law relating to the registration of registered architects and to protect the title of registered architect; and, to those ends, this Act—

- (a) establishes a registration system for registered architects, under which persons who wish to be registered architects must meet minimum standards to be, and continue to be, registered:

- (b) requires a code of ethics and a complaints and disciplinary process to apply to registered architects:
- (c) establishes a statutory body to carry out the functions relating to the registration system, the code of ethics, and the complaints and disciplinary process:
- (d) repeals the Architects Act 1963.

#### 4 Interpretation

In this Act, unless the context otherwise requires,—

**applicable minimum standards for registration** means the minimum applicable standards for registration as a registered architect that are contained in the rules

**Architects Education and Registration Board** means the board constituted under section 33 of the Architects Act 1963

**Board** means the New Zealand Registered Architects' Board established by section 47

**decision** includes—

- (a) any action taken under section 26; and
- (b) an order

**disciplinary matter** means an inquiry into, or complaint about, the conduct of a registered architect or a decision on that inquiry or complaint

**financial year**, in relation to the Board, has the meaning set out in section 66

**member** means a member of the Board

**Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**registered** means registered under section 10

**registered architect** has the meaning set out in section 6

**rules** means the rules referred to in section 67 and approved by the Minister under section 69.

#### 5 Act binds the Crown

This Act binds the Crown.

## Part 2

### Registration, complaints, and discipline

#### *Title of registered architect and its protection*

#### **6 Title of registered architect**

A person is a registered architect if he or she—

- (a) is registered; and
- (b) holds a current certificate of registration.

#### **7 Protection of titles registered architect and architect**

- (1) No person, other than a registered architect, may use in connection with his or her business, trade, employment, calling, or profession—

- (a) the title “registered architect”; or
- (b) any words, initials, or abbreviations of that title that are intended to cause, or that may reasonably cause, any person to believe that the person using those words, initials, or abbreviations is a registered architect.

- (2) No person who designs buildings, prepares plans and specifications for buildings, or supervises the construction of buildings may use the title “architect” unless he or she is a registered architect.

- (3) Despite subsections (1) and (2), a person may use the title “registered architect” or “architect” (or words, initials, or abbreviations of those titles), in accordance with the rules, in representing qualifications or titles awarded by overseas agencies.

- (4) A person who contravenes subsection (1) or subsection (2) commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000.

#### *Registration provisions*

#### **8 Entitlement to registration as registered architect**

An individual, on payment of the fee set by the Board, is entitled to be registered as a registered architect if the individual satisfies the Board—

- (a) that he or she meets the applicable minimum standards for registration; and
- (b) that he or she is not precluded from being registered because of any action taken by the Board under section 26.

**9 Applications for registration**

Every application for registration as a registered architect under this Part must be made to the Board in accordance with the rules.

**10 Board to register applicant or decline application**

- (1) If the Board is satisfied that an applicant is entitled, under section 8, to be registered as a registered architect, the Board must—
  - (a) register the applicant; and
  - (b) notify the applicant that he or she is registered; and
  - (c) issue to the applicant a certificate of registration; and
  - (d) enter the applicant's name in the register.
- (2) If the Board is not satisfied that the applicant is entitled to be registered as a registered architect, the Board must—
  - (a) decline the application; and
  - (b) notify the applicant of its decision and the reasons for it; and
  - (c) notify the applicant of his or her right of appeal against the decision.
- (3) Subsection (2) does not limit section 28.

**11 Expiry of registration**

- (1) A certificate of registration must specify the date of its expiry.
- (2) The date of expiry must not be later than the last day of the period specified in the rules for which a registration is in force.
- (3) A certificate of registration continues in force until the close of the date of its expiry unless it is sooner cancelled or suspended under this Part.

**12 Registered architect must meet applicable minimum standards for registration to continue to be registered**

- (1) The Board must assess at the frequency required by the rules, and may assess at any other time, whether or not a registered architect continues to meet the applicable minimum standards for registration.
- (2) A registered architect who continues to meet those standards is entitled, on payment of the fee set by the Board, to a renewal of his or her registration.

- (3) An application for renewal of registration must be made to the Board in accordance with the rules.

**13 Consequences of failure to meet applicable minimum standards for registration**

- (1) If, after making an assessment under section 12, the Board determines that a registered architect no longer meets the applicable minimum standards for registration, the Board must—
- (a) suspend the person's registration until the person satisfies the Board that he or she meets those standards; and
  - (b) record the suspension in the register.
- (2) If the person does not satisfy the Board that he or she meets the applicable minimum standards for registration within 12 months, or any further period that the Board may determine, the Board must—
- (a) cancel the person's registration; and
  - (b) remove the person's name from the register.

**14 Cancellation of registration**

The Board must cancel a person's registration and remove the person's name from the register—

- (a) if the person dies; or
- (b) if the person, by written notice, requests the Board to cancel his or her registration; or
- (c) in accordance with section 13(2) (consequences of failure to meet applicable minimum standards for registration); or
- (d) in accordance with section 26(1) (disciplinary penalties); or
- (e) in accordance with section 27 (non-payment of fines or costs).

**15 Mandatory suspension of registration**

The Board must suspend a person's registration and record the suspension in the register in accordance with—

- (a) section 13(1) (consequences of failure to meet applicable minimum standards for registration); or
- (b) section 26(1) (disciplinary penalties); or
- (c) section 27 (non-payment of fines or costs).

**16 Voluntary suspension of registration**

The Board may suspend a person's registration and record the suspension in the register if the person, by written notice, requires it (and then for the period required, subject to the rules).

**17 Effect of suspension of registration**

- (1) A person is not a registered architect, for the purposes of this Act, for the period for which his or her registration is suspended.
- (2) At the end of the period of suspension, the person's registration is immediately revived (unless it has been cancelled) and, if the person's registration has expired, the Board may issue a certificate of registration to him or her under section 10.

*Register of registered architects***18 Register of registered architects**

- (1) The Board must establish and maintain, in accordance with this Act and the rules, a register of persons who are currently registered as registered architects under this Part.
- (2) The Board must—
  - (a) enter in the register—
    - (i) the name of every person referred to in subsection (1); and
    - (ii) the information about that person that is specified in section 21; and
  - (b) make any other entries in the register that may be required, permitted, or directed to be entered by or under this Part.

**19 Purpose of register**

The purpose of the register is—

- (a) to enable members of the public to—
  - (i) determine whether or not a person is a registered architect and, if so, the status and relevant history of the person's registration; and
  - (ii) choose a suitable registered architect from a list of registered architects; and
  - (iii) if the address of a registered architect is entered in the register with the consent of the registered

- architect, know how to contact the registered architect; and
- (iv) know which registered architects have been disciplined within the last 3 years; and
- (b) to facilitate the administrative, disciplinary, and other functions of the Board under this Act.

## **20 Form of register**

The register may be kept—

- (a) as an electronic register; and
- (b) in any other manner that the Board thinks fit.

## **21 Matters to be shown in register**

- (1) The register must show the following information, to the extent that the information is relevant, for each registered architect whose name is entered in the register:
  - (a) information about the status and history of the person's registration, particularly—
    - (i) the date on which the person's name was entered in the register; and
    - (ii) the date of expiry of the person's registration or, as the case may be, if the registration is renewed, the date on which the term of the latest renewal of the registration expires; and
    - (iii) any disciplinary penalty imposed on the person in the last 3 years; and
  - (b) the person's contact details, including any electronic contact details, if the person has consented to the register showing these details; and
  - (c) any other information that the Board considers necessary or desirable for the purpose of the register.
- (2) The register must also show—
  - (a) whether a registration is suspended; and
  - (b) if paragraph (a) applies,—
    - (i) the ground under this Act for the suspension (for example, whether for non-payment of a fee set by the Board that was required from the registered architect, or on another ground); and
    - (ii) the period of suspension; and
    - (iii) any conditions for termination of the suspension.

**22 Register to be public**

The Board must—

- (a) keep the register open for public inspection, without fee, during reasonable hours at the head office of the Board and at any other place that the Board determines to be necessary or appropriate; and
- (b) supply to a person copies of all or part of the register on request and on payment of a reasonable charge for the production of the copy.

**23 Alterations to register**

The Board may, at any time, make any amendments to the register that are necessary to—

- (a) reflect any changes in the name of a registered architect or the information specified in section 21; or
- (b) correct a mistake caused by any error or omission on the part of the Board or any person to whom the Board has delegated its functions, duties, or powers.

*Discipline***24 Complaints about registered architects**

- (1) Any person may complain to the Board about the conduct of a registered architect in accordance with the rules.
- (2) The Board must, as soon as practicable after receiving a complaint, investigate the complaint and determine whether or not to proceed with it.
- (3) If the Board determines not to proceed with a complaint because the matter relates to a building practitioner who is licensed under the Building Act 2004, the Board must refer the complaint to the Registrar of Licensed Building Practitioners appointed under that Act.
- (4) A complaint or inquiry, and any decision on the complaint or inquiry, may relate to a person who is no longer a registered architect but who was a registered architect at the time of the relevant conduct.

Compare: 2002 No 17 s 20

**25 Grounds for discipline of registered architects**

- (1) The Board may (in relation to a matter raised by a complaint or by its own inquiries) take any of the actions referred to in section 26 if it is satisfied that—
- (a) both of the following matters apply:
    - (i) a registered architect has been convicted, whether before or after he or she is registered, by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 6 months or more; and
    - (ii) the commission of the offence reflects adversely on the person's fitness to carry out the work of a registered architect; or
  - (b) a registered architect has breached the code of ethics contained in the rules; or
  - (c) a registered architect has practised as a registered architect in a negligent or incompetent manner; or
  - (d) a registered architect has, for the purpose of obtaining registration (either for himself or herself or for any other person),—
    - (i) either orally or in writing, made any declaration or representation knowing it to be false or misleading in a material particular; or
    - (ii) produced to the Board or made use of any document knowing it to contain a declaration or representation referred to in subparagraph (i); or
    - (iii) produced to the Board or made use of any document knowing that it was not genuine.
- (2) The Board may take the action whether or not the person is still a registered architect.

Compare: 2002 No 17 s 21

**26 Disciplinary penalties**

- (1) In any case to which section 25 applies, the Board may—
- (a) do both of the following things:
    - (i) cancel the person's registration and remove the person's name from the register; and
    - (ii) order that the person may not apply to be re-registered before the expiry of a specified period;
  - (b) suspend the person's registration for a period of no more than 12 months or until the person meets specified

- conditions relating to the registration (but, in any case, not for a period of more than 12 months) and record the suspension in the register:
- (c) order that the person be censured:
  - (d) order that the person may, for a period not exceeding 3 years, practise only subject to any conditions as to employment, supervision, or otherwise that the Board may specify in the order:
  - (e) order that the person undertake training specified in the order:
  - (f) order that the person must pay a fine not exceeding \$10,000.
- (2) The Board may take only 1 type of action in subsection (1) in relation to a case, except that—
- (a) it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (c) or (e); or
  - (b) it may order that a person be censured in addition to taking the action under subsection (1)(d) or (e) or (f).
- (3) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.
- (4) In any case to which section 25 applies, the Board may order that the person must pay costs and expenses of, and incidental to, the inquiry by the Board.
- (5) In addition to notifying the action taken by the Board in the register, the Board—
- (a) must notify the Registrar of Licensed Building Practitioners appointed under the Building Act 2004 of the action and the reasons for it; and
  - (b) may publicly notify the action in any other way that it thinks fit.

Compare: 2002 No 17 s 22

## **27 Non-payment of fines or costs**

If money payable by a person under section 26(1)(f) or (4) remains unpaid for 60 days or more, the Board may—

- (a) cancel the person's registration and remove the person's name from the register; or
- (b) suspend the person's registration until the person pays the money and, if he or she does not do so within

12 months, cancel his or her registration and remove his or her name from the register.

Compare: 2002 No 17 s 23

*Decision-making functions and general procedure of Board under this Part*

**28 Specified procedure for making decisions**

In the performance and exercise of its decision-making functions and powers under this Part, the Board must—

- (a) give written notice of, and reasons for, its decision to any person to whom the decision relates; and
- (b) observe the rules of natural justice; and
- (c) comply with any applicable procedures under the rules; and
- (d) comply with any regulations made under section 77.

Compare: 2002 No 17 s 25

**29 Other procedure for making decisions**

Except as otherwise provided in this Act, the Board may regulate its own procedure for making decisions under this Part.

*Powers and procedure of Board on disciplinary matters*

**30 Board may hear evidence for disciplinary matters**

- (1) In relation to a disciplinary matter, the Board may—
  - (a) receive evidence on oath (and for that purpose a member of the Board or an employee of the Board may administer an oath);
  - (b) permit a person appearing as a witness before it to give evidence by tendering a written statement and verifying that statement by oath, statutory declaration, or otherwise.
- (2) A hearing before the Board on a disciplinary matter is a judicial proceeding for the purposes of sections 108 and 109 of the Crimes Act 1961.

Compare: 2002 No 17 s 27

**31 District Court may authorise Board to summon witnesses on disciplinary matters**

- (1) A District Court Judge may, on the application of the Board or the person to whom the proceedings relate, give a certificate authorising the Board to issue a summons under section 32.
- (2) A District Court Judge must not give a certificate under subsection (1) unless satisfied that—
  - (a) the evidence of the witness is or may be material to the hearing of a disciplinary matter by the Board; and
  - (b) it is necessary or desirable that the summons be issued to compel the attendance of the witness at the hearing.

Compare: 2002 No 17 s 28

**32 Issuing of summons by Board**

- (1) The Board must, on production of a certificate referred to in section 31, issue a summons to a person requiring that person to attend a hearing before the Board and to do all or any of the following:
  - (a) give evidence;
  - (b) give evidence under oath;
  - (c) produce documents, things, or information, or any specified documents, things, or information, in the possession or control of that person that are relevant to the hearing.
- (2) The summons must be in writing, be signed by a member of the Board, and state—
  - (a) the date and time when, and the place where, the person must attend; and
  - (b) the documents, things, or information that the person is required to bring and produce to the Board; and
  - (c) the entitlement to be tendered or paid a sum in respect of witnesses' fees, allowances, and expenses; and
  - (d) the penalty for failing to attend.
- (3) The Board may require that any documents, things, or information produced under this section be verified by oath, statutory declaration, or otherwise.

Compare: 2002 No 17 s 29

**33 Serving of summons**

- (1) A summons may be served—
  - (a) by delivering it personally to the person summoned; or

- (b) by posting it to the person summoned at that person's usual place of residence.
- (2) A summons must,—
  - (a) if it is to be served under subsection (1)(a), be served at least 48 hours before the attendance of the witness is required;
  - (b) if it is to be served under subsection (1)(b), be served at least 10 days before the attendance of the witness is required.
- (3) A summons that is posted is treated as having been served when it would have been delivered in the ordinary course of post.

Compare: 2002 No 17 s 30

### **34 Witnesses' fees, allowances, and expenses**

- (1) A witness appearing before the Board under a summons is entitled to be paid witnesses' fees, allowances, and expenses in accordance with the scales prescribed by regulations under the Summary Proceedings Act 1957.
- (2) The person requiring attendance of the witness must pay or tender to the witness the fees, allowances, and expenses at the time the summons is served or at some other reasonable time before the hearing.

Compare: 2002 No 17 s 31

### **35 Failure to comply with summons**

- (1) A person summoned under section 32 commits an offence if he or she, without sufficient cause,—
  - (a) fails to attend in accordance with the summons; or
  - (b) does not give evidence when required to do so; or
  - (c) does not give evidence under oath when required to do so; or
  - (d) does not answer any question that is lawfully asked by the Board; or
  - (e) does not provide any documents, things, or information that the summons requires the person to provide.
- (2) A person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$2,000.
- (3) A person must not be convicted of an offence under this section if witnesses' fees, allowances, and expenses to which

the person is entitled under section 34 have not been paid or tendered to him or her.

Compare: 2002 No 17 s 32

### **36 Protection for members of Board and others for disciplinary matters**

- (1) Neither the Board, nor any committee, member, or employee of the Board is liable for any act or omission done, in good faith, in the performance or intended performance of their functions or duties, or the exercise of their powers, under this Act or the rules in relation to disciplinary matters.
- (2) Every person who does the following things has the same privileges as witnesses have in a court:
  - (a) provides documents, things, or information to the Board in relation to a disciplinary matter; or
  - (b) gives evidence or answers questions at a hearing of the Board in relation to a disciplinary matter.
- (3) Every counsel appearing before the Board in relation to a disciplinary matter has the same privileges and immunities as counsel in a court.

Compare: 2002 No 17 s 33

### **37 Enforcement of orders**

If the Board, acting in accordance with this Act and the rules in relation to a disciplinary matter, takes an action or otherwise exercises any power in respect of a person who is or was a registered architect, that action or other exercise of any power has effect whether or not that person remains a registered architect.

Compare: 2002 No 17 s 34

### *Appeal of decisions*

### **38 Right of appeal**

- (1) A person may appeal to a District Court against any decision of the Board to—
  - (a) decline to register the person as a registered architect; or
  - (b) suspend or cancel his or her registration; or
  - (c) take any action referred to in section 26.
- (2) An appeal—

- (a) must be brought to the District Court by way of notice of appeal in accordance with the rules of court; and
- (b) must be lodged within 20 working days after notice of the decision or action is communicated to the appellant, or within any further time a District Court Judge allows on application made before or after the period expires.

Compare: 2002 No 17 s 35

### **39 Notice of right of appeal**

When notifying a person under this Act of any decision or action against which section 38 gives him or her a right of appeal, the Board must also notify the person in writing of the right of appeal and the time within which an appeal must be lodged.

### **40 Actions to have effect pending determination of appeal**

A decision or action against which an appeal is lodged under this Part continues in force unless the District Court orders otherwise.

Compare: 2002 No 17 s 36

### **41 Procedure on appeal**

- (1) An appeal under this Part must be heard as soon as is reasonably practicable after it is lodged.
- (2) An appeal under this Part is by way of rehearing.
- (3) On hearing the appeal, the District Court—
  - (a) may confirm, reverse, or modify the decision or action appealed against; and
  - (b) may make any other decision or take any other action that the person or body that made the decision or took the action appealed against could have made or taken.
- (4) The Court must not review—
  - (a) any part of a decision or action not appealed against; or
  - (b) any decision or action not appealed against at all.

Compare: 2002 No 17 s 37

### **42 Court's decision final**

Except as provided in section 46, the decision of the District Court on an appeal under this Part is final.

**43 Court may refer matter back for reconsideration**

- (1) Instead of determining an appeal under this Part, the District Court may direct the Board to reconsider, either generally or in respect of any specified aspect, the whole or any part of the decision or action.
- (2) In giving a direction under subsection (1), the Court—
  - (a) must state its reasons for the direction; and
  - (b) may give any other directions it thinks just in relation to the matter referred back for reconsideration.
- (3) Upon being directed to reconsider a matter, the Board—
  - (a) must reconsider the matter; and
  - (b) in doing so, must—
    - (i) take the Court's reasons into account; and
    - (ii) give effect to the Court's directions.

**44 Orders as to costs**

On an appeal under this Part, the District Court may order any party to the appeal to pay to any other party to the appeal any or all of the costs incurred by the other party in respect of the appeal.

**45 Orders as to publication of names**

- (1) On any appeal under this subpart, the District Court may, if in its opinion it is proper to do so, prohibit the publication of the name or particulars of the affairs of a registered architect or any other person.
- (2) In deciding whether to make an order under subsection (1), the Court must have regard to—
  - (a) the interests of any person (including, without limitation, the privacy of any complainant); and
  - (b) the public interest.
- (3) If the District Court prohibits the publication of the name or particulars of the affairs of a registered architect, the Board must remove the name or particulars of the affairs of that registered architect from the register in relation to the matter under appeal to the extent necessary to reflect the Court's prohibition on publication.

**46 Appeal on question of law**

- (1) A party to an appeal under this Part may appeal to the High Court against any determination of law arising in the appeal.
- (2) The appeal must be heard and determined in accordance with the appropriate rules of court.
- (3) Part 4 of the Summary Proceedings Act 1957 (together with the other provisions of that Act that are applied in that Part) applies to the appeal—
  - (a) so far as it is applicable and with all necessary modifications; but
  - (b) only so far as it relates to appeals on questions of law.
- (4) Subsection (3) overrides subsection (2).

**Part 3****New Zealand Registered Architects' Board****47 Establishment of New Zealand Registered Architects' Board**

The New Zealand Registered Architects' Board is established.

**48 Board is body corporate**

The Board—

- (a) is a body corporate; and
- (b) is accordingly a legal entity in its own right separate from its members, office holders, and the Crown.

**49 Capacity and powers**

- (1) Except as provided in this Act or any other Act or rule of law, the Board—
  - (a) has the capacity, rights, powers, and privileges of a natural person; and
  - (b) has the statutory powers conferred by this Act and any other Act.
- (2) The Board may exercise its powers only for the purpose of performing its functions.

**50 Functions of Board**

The Board's functions are—

- (a) to make, and from 1 July 2006 always have, rules relating to registered architects that are prepared and approved in accordance with this Part:

- (b) to register persons, issue certificates of registration, assess whether persons meet the requirements for continued registration, and perform the other functions relating to registration in accordance with Part 2:
- (c) to keep and maintain the register and carry out the other functions relating to the register in accordance with Part 2:
- (d) to receive, investigate, and hear complaints about, inquire into the conduct of, and discipline, registered architects in accordance with Part 2:
- (e) to provide information to the public about the registration system for registered architects:
- (f) to perform any functions or duties, or exercise any powers, that are delegated to the Board under any other enactment.

### **51 Members and their role**

- (1) All decisions relating to the operation of the Board must be made by or under the authority of the Board.
- (2) The Board has all the powers necessary for carrying out its role under subsection (1).

### **52 Composition of Board**

- (1) The Board must have at least 6, but no more than 8, members.
- (2) A member must be appointed by the Governor-General on the recommendation of the Minister.
- (3) The Minister must recommend for appointment as members of the Board—
  - (a) a maximum of 4 people nominated by the New Zealand Institute of Architects; and
  - (b) a maximum of 4 other persons.
- (4) The Minister may accept nominations for membership of the Board, but each member is appointed to undertake the functions and duties of a member rather than to represent the interests of any person.

### **53 Criteria for appointment**

The Minister may only recommend a person for appointment as a member of the Board who, in the Minister's opinion, is qualified for appointment,—

- (a) having regard to the functions, duties, and powers of the Board; and
- (b) because of that person's knowledge, experience, or expertise.

#### **54 Further provisions as to Board and its members**

The Schedule applies to the Board and its members.

#### *Committees of Board*

#### **55 Board may appoint committees**

- (1) The Board may, by resolution, appoint 1 or more committees to—
  - (a) perform any of the Board's functions or duties, or exercise any of the Board's powers, that are delegated to the committee under clause 33 of the Schedule:
  - (b) inquire into, and report to the Board on, any matters within the scope of the Board's functions, duties, or powers that are referred to the committee by the Board.
- (2) The committee is subject in all things to the control of the Board and may, at any time, be discharged, altered, or reconstituted by the Board.

#### **56 Membership of committee**

A committee must consist of at least 2 members of the Board and may include any other persons that the Board thinks fit.

#### **57 Committee to regulate own procedure**

Subject to the Board's direction, a committee may regulate its own procedure.

#### *Reporting by Board*

#### **58 Obligation to prepare annual report**

The Board must prepare an annual report on its operations for each financial year.

#### **59 Form and content of annual report**

- (1) An annual report must contain the following information and reports in respect of the financial year to which it relates:
  - (a) a report on operations, including the information that is necessary to enable an informed assessment to be made

- of the Board's performance during the financial year;  
and
- (b) annual financial statements and a statement of responsibility prepared in accordance with section 60; and
  - (c) the auditor's report in accordance with section 61; and
  - (d) the number of registered architects at the end of the financial year; and
  - (e) the number of persons whom the Board registered and the number of persons whom the Board declined to register during the financial year; and
  - (f) the number of persons whose registration was cancelled, or whose registration was suspended under section 15, during the financial year; and
  - (g) the number of persons against whom the Board took disciplinary action during the financial year; and
  - (h) the amount of the fee for an application for registration or renewal of registration that is set by the Board during the financial year.
- (2) An annual report must be in writing, be dated, and be signed on behalf of the Board by 2 members.

**60 Annual financial statements and statement of responsibility**

- (1) The Board must prepare its annual financial statements with respect to its affairs for each financial year in accordance with generally accepted accounting practice (within the meaning of section 3 of the Financial Reporting Act 1993, applied as if the Board were a reporting entity).
- (2) The annual financial statements must contain—
- (a) a statement of the financial position as at the balance date; and
  - (b) a statement of financial performance for the financial year; and
  - (c) a statement of cash flows reflecting cash flows for the financial year; and
  - (d) a statement of the commitments as at the balance date; and
  - (e) a statement of the contingent liabilities as at the balance date; and
  - (f) a statement of accounting policies; and

- (g) any other statements that are necessary to fairly reflect its financial operations for the financial year and its financial position at the end of the financial year; and
  - (h) in relation to each statement required by paragraphs (a) to (c) and, if appropriate, paragraph (g), budgeted figures for the financial year; and
  - (i) in relation to each statement required by this subsection (other than by paragraph (f)), comparative actual figures for the previous financial year.
- (3) The statement of responsibility for the financial statements must—
- (a) contain a statement of the Board's responsibility for the preparation of the annual financial statements and the judgments in them; and
  - (b) contain a statement of the Board's responsibility for establishing and maintaining a system of internal control that is designed to provide reasonable assurance as to the integrity and reliability of financial reporting.

#### **61 Audit**

- (1) The Board must, within 90 days after the end of each financial year, submit the report on operations, the annual financial statements, and the statement of responsibility required under section 59(1)(a) and (b) to the Auditor-General for audit.
- (2) The Auditor-General must audit those documents, and provide an audit report on them to the Board, within 30 days after receiving them.

#### **62 Obligation for Board to provide annual report to Minister**

The Board must provide the annual report to the Minister as soon as practicable after receiving the audit report.

#### **63 Board to publish reports**

As soon as practicable after giving a report to the Minister under section 62, the Board must—

- (a) publicly notify that the report has been given to the Minister and where copies of the report may be inspected and purchased; and
- (b) make copies of the report available to the public at the place set out in the public notification, on request, for

inspection free of charge and for purchase at a reasonable cost.

**64 Annual reports to be presented to House of Representatives**

The Minister must present a copy of the report given to him or her under section 62 to the House of Representatives no later than 10 parliamentary working days after the date on which the Minister receives that report.

**65 Power of Minister to require information relating to affairs of Board**

- (1) The Board must supply to the Minister any information relating to the affairs of the Board that the Minister requests.
- (2) However, a request may be refused if—
  - (a) withholding the information is necessary to protect the privacy of any person (including a deceased person); or
  - (b) there would, under the Official Information Act 1982, be good reason for withholding the information if—
    - (i) the request had been made under section 12 of that Act and section 9(2)(a) of that Act applied; and
    - (ii) the need to protect the privacy of any person were not outweighed by the Minister's need to have the information in order to discharge the Minister's ministerial duties; or
  - (c) the information relates to a particular matter in respect of which the Board or any person appointed or employed by the Board is required to act judicially.

**66 Financial year of Board**

The financial year of the Board ends on 30 June or on any other date determined by the Minister.

*Rules relating to registered architects*

**67 Board must make rules relating to registered architects**

- (1) The Board must make, and from 1 July 2006 always have, rules containing the following minimum standards (**registered architects standards**):

- (a) minimum standards of competence (including standards relating to knowledge and skills) that must be met; and
  - (b) minimum standards for demonstrating current competence that must be met for continued registration, and for the frequency at which assessments of current competence must be carried out; and
  - (c) a code of minimum standards of ethical conduct for registered architects.
- (2) The Board must also make, and from 1 July 2006 always have, rules that govern all of the following matters:
- Title of registered architect*
- (a) the form of words, initials, and abbreviations that may be used to represent a person as a registered architect (without limiting any others that may be used consistently with this Act):
  - (b) the form of words, initials, and abbreviations that must be used if the title “registered architect” (or words, initials, or abbreviations of that title to which section 7(1)(b) applies) or “architect” is used in representing qualifications or titles awarded by overseas agencies:
- Registration of registered architects*
- (c) the information that must be provided by an applicant for registration, and the way in which this information must be evaluated and decisions on the information must be made and implemented:
  - (d) the period for which a certificate of registration is to be issued:
  - (e) the information that must be provided by a registered architect to demonstrate his or her current competence, and the way in which this information must be evaluated and decisions on the information must be made and implemented:
  - (f) the way in which a proposed cancellation or suspension of registration (that does not relate to a disciplinary matter) is to be considered, decided on, and implemented, and any minimum and maximum periods for suspension:
  - (g) any additional matters that may be recorded on the register and the process for amending the register:

- (h) the charges payable in relation to registration, renewal of registration, and the issue of a certificate of registration, which charges must be reasonable and for the purposes only of recovering the costs of the performance of the functions of the Board under this Act:  
*Disciplining of registered architects*
  - (i) the information that must be provided by complainants, and the way in which this information must be evaluated and decisions on whether or not to proceed with the complaint must be made and implemented:
  - (j) an investigating committee to investigate complaints about, and inquire into the conduct of, registered architects and former registered architects, and the powers and procedures of that committee under this Act:
  - (k) a disciplinary committee to hear complaints and matters referred to it by the investigating committee, and the powers and procedures of that committee under this Act:
  - (l) the way in which a disciplinary matter must be considered and decided on, and the way in which decisions on that matter must be implemented:  
*Rule-making procedures*
  - (m) the making, amendment, and revocation of rules, including the requirements for consultation with persons affected by the rules in the preparation of those proposed rules, amendments, or revocations.
- (3) In addition, the Board may also make any other rules that—
- (a) are necessary or desirable to govern the practice and procedure of the Board's functions under this Act; or
  - (b) the Board considers to be desirable in the interests of natural justice.
- (4) The rules must be consistent with this Act.

Compare: 2002 No 17 s 39

## **68 Particular requirements for preparation and approval of rules**

In preparing a rule, the Board must—

- (a) ensure that the proposed rule is consistent with the purposes of this Act; and

- (b) consult with registered architects and any persons that it reasonably considers to be representative of other persons or classes of persons affected by the proposed rule; and
- (c) take into account international best practice and New Zealand's international obligations.

Compare: 2002 No 17 s 40

### **69 Rules must be approved by Minister**

- (1) The Board must not make a rule unless the proposed rule has been approved by the Minister under this section.
- (2) The Minister must, as soon as practicable after receiving a rule for approval, by notice in writing to the Board,—
  - (a) approve it; or
  - (b) decline to approve it.
- (3) The Minister must not approve a rule unless the Minister is satisfied that the rule is consistent with the rules that apply to other related building occupations.

### **70 Revision of rules**

If the Minister declines to approve a rule,—

- (a) the Minister must indicate the grounds on which he or she declines to approve it; and
- (b) the Minister must direct the Board to prepare and submit a revised rule; and
- (c) the Board must submit a revised rule to the Minister not later than 15 working days after the date on which approval was declined or any later date that the Minister in any case may allow.

### **71 Approval of revised rule**

- (1) As soon as practicable after receiving a revised rule, the Minister must—
  - (a) approve the rule by written notice to the Board; or
  - (b) if the Minister considers that the revised rule requires further amendment,—
    - (i) make any amendments to the rule that the Minister considers necessary; and
    - (ii) approve the rule (as amended) by written notice to the Board, which notice must be accompanied by a copy of the rule as approved.

- (2) Before making any amendments to a rule under this section, the Minister must—
  - (a) advise the Board of the Minister's intention to do so; and
  - (b) give the Board a reasonable opportunity to make submissions on the matter; and
  - (c) consider those submissions.
- (3) The Minister must comply with section 69(3) before approving a rule under this section.

#### **72 Review of rules**

- (1) If the Minister considers that it is necessary to do so for the purposes of ensuring consistency with any relevant legislation, the Minister may require the Board to review and resubmit for approval 1 or more of the rules made under this Act.
- (2) Sections 68 to 71 apply to the review of and resubmission for approval of rules under subsection (1).

#### **73 Requirements relating to amendments and revocations**

The requirements of sections 68 to 71 that apply to making a rule containing a registered architects standard apply also to any amendment or revocation of that rule.

#### **74 Application of Regulations (Disallowance) Act 1989 and Acts and Regulations Publication Act 1989 to rules**

The rules are regulations for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989.

### **Part 4 Miscellaneous provisions**

#### *Miscellaneous*

#### **75 Certificate of Board to be conclusive evidence**

A certificate as to any of the following matters, given in writing by any person authorised by the Board in writing to provide certificates of that type, is conclusive evidence of that matter, in the absence of proof to the contrary:

- (a) as to whether or not a person is registered at any time;
- (b) as to whether or not a person holds a current certificate of registration at any time:

- (c) as to any entry in the register:
- (d) as to any act or proceeding of the Board or of any committee of the Board.

**76 Payment and application of charges, fines, and other money**

- (1) All charges, fines, and other money payable by a person under this Act—
  - (a) are payable to the Board:
  - (b) are recoverable as a debt due to the Board from that person, whether or not he or she remains a registered architect:
  - (c) may be applied by the Board as it considers appropriate in the performance of its functions and duties, and the exercise of its powers, under this Act.
- (2) For the purposes of this section, **fine** does not include a fine imposed in respect of the commission of an offence against a provision of this Act.

**77 Regulations**

The Governor-General may, by Order in Council on the recommendation of the Minister given after consultation with the Board, make regulations providing for any matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

*Transitional and consequential provisions: Outline*

**78 Outline of transitional and consequential provisions**

- (1) The general scheme and effect of the transitional and consequential provisions is as follows:
  - (a) the Board is established on 1 July 2005:
  - (b) between 1 July 2005 and 1 July 2006, the rules must be made:
  - (c) on 1 July 2006,—
    - (i) the rest of this Act comes into force; and
    - (ii) the Architects Act 1963 is repealed; and
    - (iii) people who, at that date, are registered under the Architects Act 1963 (**existing architects**) are deemed to be registered as registered architects under this Act until, at the latest, 30 June 2007:
  - (d) between 1 July 2006 and 30 June 2007,—

- (i) persons may be registered as registered architects under this Act and are subject to this Act in full; and
  - (ii) existing architects are subject to this Act in full, and must apply for registration under this Act at some point before the end of that period, if they wish to continue as registered architects after 30 June 2007:
- (e) on 30 June 2007, the transitional period ends.
- (2) This section is a guide only to the general scheme and effect of these provisions.

*Transitional provisions relating to existing architects*

**79 Persons entitled to retain registration until 30 June 2007**

- (1) Every person who is registered under the Architects Act 1963 immediately before 1 July 2006 is deemed to be registered as a registered architect under this Act until the earlier of the following:
- (a) 30 June 2007; or
  - (b) that person's registration is cancelled under this Act; or
  - (c) that person's current annual practising certificate issued under section 55 of the Architects Act 1963 expires in accordance with section 80(b).
- (2) On and after 1 July 2006, this Act, including section 13 (which entitles the Board to suspend or cancel registration for failure to meet minimum standards for registration), applies in full to every person who is deemed to be registered under subsection (1).

**80 Annual practising certificates issued under Architects Act 1963 to continue in full force**

Every current annual practising certificate issued under section 55 of the Architects Act 1963 to any person who, immediately before 1 July 2006, was registered as an architect under that Act—

- (a) is deemed to be a certificate of registration issued to that person under section 10; and
- (b) continues in full force and effect until the earlier of the following:
  - (i) 30 June 2007; or
  - (ii) it is cancelled under this Act; or

- (iii) the date when it would have expired under the Architects Act 1963.

*Transitional and consequential provisions relating to establishment of Board*

**81 Architects Education and Registration Board to pay start-up amount to Board**

The Architects Education and Registration Board must pay to the Board an amount agreed between the Minister, the Board, and the Architects Education and Registration Board as soon as practicable after 1 July 2005.

**82 Related amendments to other Acts**

- (1) On 1 July 2005, the Ombudsmen Act 1975 is amended by inserting in Part 2 of Schedule 1, after the item relating to The New Zealand Railways Corporation, the following item:

New Zealand Registered Architects' Board and every subsidiary of the New Zealand Registered Architects' Board

- (2) On 1 July 2005, Schedule 2 of the Public Audit Act 2001 is amended by inserting, after the item relating to the New Zealand Maori Arts and Crafts Institute, the following item:

New Zealand Registered Architects' Board

*Other transitional and consequential provisions*

**83 Related amendment to Privacy Act 1993**

On 1 July 2006, Part 1 of Schedule 2 of the Privacy Act 1993 is amended by inserting, in its appropriate alphabetical order, the following item:

Registered Architects Act 2005 sections 18 to 23

**84 Dissolution of Architects Education and Registration Board**

On 1 July 2006,—

- (a) the Architects Education and Registration Board is dissolved; and
- (b) all property of any nature belonging to the Architects Education and Registration Board is vested in the Board, subject to all liabilities, charges, obligations, or trusts affecting the property; and

- (c) all money payable to the Architects Education and Registration Board is payable to the Board; and
- (d) all liabilities and obligations of any nature (other than under contracts of employment), and all rights and authorities of any nature, of the Architects Education and Registration Board are the liabilities, obligations, rights, and authorities of the Board.

#### **85 Repeal of Architects Act 1963**

On 1 July 2006,—

- (a) the Architects Act 1963 is repealed;
- (b) the Architects Regulations 2002 (SR 2002/398) are revoked;
- (c) Schedule 2 of the Public Audit Act 2001 is amended by omitting the item relating to the Architects Education and Registration Board.

#### **86 Existing matters and existing proceedings**

- (1) Despite section 85, the Architects Act 1963 continues to apply in respect of any matters that were commenced, but not completed, under it before its repeal.
- (2) However, any court action or disciplinary or other proceeding that was commenced under the Architects Act 1963 before its repeal must be continued under this Act, but on the basis that no order may be made, or action taken, at the end of the action or proceeding unless the same could have been made or taken under the Architects Act 1963, or the relevant person who was registered as an architect under that Act agrees.

#### **87 Securities Act 1978 amended**

On 1 July 2006, Schedule 2 of the Securities Act 1978 is amended by repealing item 11, and substituting the following item:

- “11 Registration as a registered architect under the Registered Architects Act 2005.”
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**Schedule**  
**Further provisions applying to Board and  
its members**

*Appointment, term, resignation, and removal of members*

**1 Method of appointment**

- (1) The Governor-General appoints a member by sending written notice to the member (with a copy to the Board).
- (2) The notice of appointment must—
  - (a) state the date on which the appointment takes effect; and
  - (b) be given only after the person to be appointed has consented in writing to being a member, certified in writing that he or she is not disqualified from being a member, and disclosed to the Minister all interests that the person would, if he or she were a member, have to disclose under clauses 13 to 16 at the time of the certificate.

**2 Restrictions on persons who may be members**

The following persons are disqualified from being members:

- (a) a person who is an undischarged bankrupt;
- (b) a person who is prohibited from being a member or promoter of, or being concerned or taking part in the management of, a company under section 382, section 383, or section 385 of the Companies Act 1993;
- (c) a person who is subject to a property order made under section 10, section 11, section 12, section 30, or section 31 of the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act;
- (d) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon or served the sentence or otherwise suffered the penalty imposed on the person;
- (e) a person who has failed to disclose interests under clause 1(2);
- (f) a person who is not a natural person.

**3 Term of appointment**

- (1) A member—
- (a) holds office for 5 years or any shorter period stated in the notice of appointment; and
  - (b) may be reappointed; and
  - (c) continues in office despite the expiry of his or her term of office until—
    - (i) the member is reappointed; or
    - (ii) the member's successor is appointed; or
    - (iii) the Governor-General informs the member by written notice (with a copy to the Board) that the member is not to be reappointed and no successor is to be appointed.
- (2) This clause is subject to clause 8.

**4 Concurrent offices**

A person appointed as a member may hold that office concurrently with any other office.

**5 Validity of acts**

The acts of a person as a member are valid even if—

- (a) the person's appointment was defective; or
- (b) the person is not qualified for appointment.

**6 Resignation**

- (1) A member may resign from office by written notice to the Minister (with a copy to the Board) signed by the member.
- (2) The resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice.

**7 Removal from office**

- (1) The Governor-General may, on the advice of the Minister given after consultation with the Attorney-General, remove a member from office by written notice to the member (with a copy to the Board) at any time for any of the following reasons proved to the satisfaction of the Governor-General:
- (a) breach of the member's duties or the Board's collective duties under this schedule; or
  - (b) failure or inability to perform, or inadequate performance of, the member's duties and responsibilities as a member; or

- (c) misconduct by the member; or
  - (d) any other just cause.
- (2) Before giving advice to the Governor-General, the Minister must give the member a reasonable opportunity to make written submissions or be heard on the proposal to remove him or her.
- (3) The notice of removal must state the reason for the removal.
- (4) A member is not entitled to any compensation or other payment or benefit relating to his or her removal from office.

### **8 Members ceasing to hold office**

A member ceases to hold office if he or she—

- (a) resigns in accordance with clause 6; or
- (b) is removed from office in accordance with clause 7 or any other enactment; or
- (c) becomes disqualified from being a member under clause 2; or
- (d) otherwise ceases to hold office in accordance with any enactment.

#### *Duties of members*

### **9 Members accountable to Minister**

- (1) A member is accountable to the Minister for performing his or her duties and responsibilities as a member.
- (2) If the Board breaches any of its duties under clause 11,—
- (a) each member of the Board is accountable to the Minister for the breach; and
  - (b) that breach justifies all or any of the members being removed from office.
- (3) The duties of members and the Board under this schedule are duties owed only to the Minister (in the case of duties under clause 11) and only to the Minister and the Board (in the case of all other duties), and do not provide any ground of action for any other person.

### **10 Duties of members**

A member, when acting as a member, must act—

- (a) in good faith; and
- (b) with reasonable care, diligence, and skill; and
- (c) with honesty and integrity; and

- (d) in accordance with any statement of expectations as to standards of good conduct for members of statutory bodies issued by 1 or more Ministers of the Crown that applies to statutory bodies (or classes of them) generally.

## **11 Collective duties of Board**

The Board must—

- (a) not contravene, or cause any subsidiary of the Board to contravene, this Act; and
- (b) ensure that the Board, and endeavour to ensure that any subsidiary of the Board, acts in a manner consistent with the objectives and functions of the Board, and with the Board's current statement of intent; and
- (c) ensure that the Board, and endeavour to ensure that any subsidiary of the Board, performs its functions efficiently and effectively and in a manner consistent with the spirit of service to the public; and
- (d) ensure that the Board, and endeavour to ensure that any subsidiary of the Board, operates in a financially responsible manner and, for this purpose, endeavour to ensure that it—
  - (i) maintains its long-term financial viability; and
  - (ii) covers all of its annual costs from its net annual income; and
  - (iii) acts as a successful going concern; and
  - (iv) prudently manages its assets and liabilities.

## **12 When members may rely on certain information and advice**

- (1) A member, when acting as a member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
  - (a) an employee of the Board whom the member believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
  - (b) a professional adviser or expert in relation to matters that the member believes on reasonable grounds to be within the person's professional or expert competence;
  - (c) any other member or committee of the Board upon which the member did not serve in relation to matters

within the member's or committee's designated authority.

- (2) A member, when acting as a member, may rely on reports, statements, financial data, and other information supplied by the Minister.
- (3) Subclauses (1) and (2) apply to a member only if the member—
  - (a) acts in good faith; and
  - (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
  - (c) has no knowledge that the reliance is unwarranted.

#### *Disclosure of interests of members in matters of Board*

### **13 Meaning of interested**

- (1) A member is **interested** in a transaction of, or other matter relating to, the Board if, and only if, the member—
  - (a) is a party to, or will or may derive a material financial benefit from, the transaction or matter; or
  - (b) has a material financial interest in another party to the transaction or a person to whom the matter relates; or
  - (c) is a director, officer, member, or trustee of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
  - (d) is the parent, child, or spouse of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
  - (e) is otherwise directly or indirectly materially interested in the transaction or matter.
- (2) However, a member is not interested in a transaction or other matter merely because he or she is a member of a professional architecture body.

### **14 Obligation to disclose interest**

A member who is interested in a transaction or proposed transaction of, or other matter relating to, the Board must disclose the nature of the interest in accordance with clause 15 as soon as practicable after the member becomes aware that he or she is interested.

**15 Method of disclosure of interest**

- (1) If clause 14 applies, the member must disclose the details listed in subclause (2) in an interests register and to—
  - (a) the chairperson or, if there is no chairperson, the deputy chairperson; or
  - (b) if the member concerned is the chairperson or the positions of the chairperson and deputy chairperson are vacant, the Minister.
- (2) The details are—
  - (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
  - (b) the nature and extent of the interest (if the monetary value cannot be quantified).

**16 Consequences of interest**

A member who is interested in a transaction or proposed transaction of, or other matter relating to, the Board—

- (a) must not vote or take part in any deliberation or decision of the Board or any Board committee relating to the matter; and
- (b) must be disregarded for the purpose of forming a quorum for that part of a meeting of the Board or Board committee during which a deliberation or decision relating to the matter occurs or is made.

*Confidentiality of information***17 Confidentiality of information**

- (1) A member who has information in his or her capacity as a member that would not otherwise be available to him or her must not disclose that information to any person, or make use of, or act on, that information, except—
  - (a) for the purposes of the Board; or
  - (b) as required or permitted by law; or
  - (c) in accordance with subclause (2); or
  - (d) in complying with clauses 14 and 15.
- (2) A member may disclose, make use of, or act on the information if—
  - (a) the member is first authorised to do so by the Board; and
  - (b) the disclosure, use, or act in question will not, or will not be likely to, prejudice the Board.

*Liability of Board and others***18 Liability of Board and others**

Neither the Board nor a member, employee, or agent of the Board is liable for any act or omission done, in good faith, in the pursuance or intended pursuance and exercise of the functions and powers of the Board.

*Members' remuneration and allowances***19 Members' remuneration and allowances**

A member is entitled to receive, from the funds of the Board, remuneration and allowances for services as a member in accordance with the framework determined by the Government from time to time for the classification and remuneration of members of statutory and other bodies.

*Chairperson and deputy chairperson***20 Appointment**

- (1) The Minister may appoint a member as the chairperson of the Board by written notice to the member (with a copy to the Board).
- (2) The Minister may appoint another member as deputy chairperson of the Board by written notice to the member (with a copy to the Board).
- (3) The notice of appointment must state the date on which the appointment takes effect.

**21 Term of appointment**

The chairperson and the deputy chairperson each holds that office from the date stated in the notice of appointment until he or she—

- (a) resigns from that office; or
- (b) is removed from it by the Minister; or
- (c) ceases to hold office as a member.

**22 Resignation**

- (1) A chairperson or deputy chairperson may, without resigning as a member, resign from that office by written notice to the Minister (with a copy to the Board).
- (2) The notice of resignation must state the date on which the resignation takes effect.

**23 Removal**

- (1) The Minister may remove a chairperson or deputy chairperson from that office by written notice to the person (with a copy to the Board).
- (2) The notice of removal must state the date on which the removal takes effect.

**24 Exercise of chairperson's functions, duties, and powers during vacancy**

If there is no chairperson or, for any reason, the chairperson is unable to perform his or her functions, duties, and powers as chairperson, the deputy chairperson has all the functions, duties, and powers of the chairperson.

*Procedures of Board***25 Procedure generally**

Except as otherwise provided in this Act, the members may regulate their own procedure.

**26 Dates, times, and places of meetings**

- (1) The Board or the chairperson must appoint the dates, times, and places for meetings of the Board, and give notice of those meetings to each member not present when the appointment is made.
- (2) The chairperson or any 2 members may call a special meeting of the Board by giving at least 7 days' notice of the special meeting, and of the business to be transacted at the meeting, to each member for the time being in New Zealand.
- (3) No business other than that specified in a notice of special meeting may be transacted at a special meeting.

**27 Requirements as to notice of meetings**

Notice of a meeting—

- (a) must be written, and state the date, time, and place of the meeting; and
- (b) may be given by post, delivery, or electronic transmission; and
- (c) must be sent to the member's last known address in New Zealand.

**28 Methods of holding meetings**

A meeting of the Board may be held—

- (a) by a number of the members who constitute a quorum being assembled together at the date, time, and place appointed for the meeting; or
- (b) by means of audio, audio and visual, or electronic communication by which all members participating and constituting a quorum can simultaneously communicate with each other throughout the meeting.

**29 Quorum**

- (1) A quorum for a meeting of the members is—
  - (a) half the number of members (if the Board has an even number of members) or a majority of the members (if the Board has an odd number of members); but
  - (b) in any case, not fewer than 3 members.
- (2) No business may be transacted at a meeting of the Board if a quorum is not present.

**30 Presiding at meetings**

- (1) At a meeting of the Board, the following person presides:
  - (a) if there is a chairperson and he or she is present, the chairperson; or
  - (b) if there is no chairperson or he or she is not present, the deputy chairperson; or
  - (c) in any other case, a member chosen by the members present to be chairperson of the meeting.
- (2) The elected person may exercise all the powers, duties, and functions of the chairperson for the purposes of the meeting.

**31 Voting at meetings**

- (1) Each member has 1 vote.
- (2) A resolution of the Board is passed if it is agreed to by all members present without dissent or if a majority of the votes cast on it are in favour of it.
- (3) A member present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless he or she expressly dissents from, or votes against, the resolution at the meeting.

**32 Unanimous written resolutions**

- (1) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic transmission) by all members is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted.
- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.

*Delegation***33 Ability to delegate**

- (1) The Board may, by resolution and written notice to a member, to an employee, to a committee of the Board, or to any other person or persons, delegate (either generally or specifically) any of the functions, duties, and powers of the Board to that member, employee, committee, or person or persons.
- (2) However, the Board may not delegate its power to make a decision under section 10, section 13, or section 26.

**34 Effect of delegation**

- (1) If any functions, duties, or powers are delegated under clause 33, the delegate—
  - (a) may, unless the delegation provides otherwise, perform the function or duty, or exercise the power, in the same manner, subject to the same restrictions and duties, and with the same effect as if the delegate were the Board; and
  - (b) may delegate the function, duty, or power only if approved by the Minister.
- (2) A delegate who purports to perform a function or duty, or exercise a power, under a delegation is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation.
- (3) A delegation under clause 33—
  - (a) may be revoked at will by resolution of the Board and written notice to the delegate; but
  - (b) does not prevent the Board from performing the function or duty, or exercising the power.

*Method of contracting***35 Method of contracting**

- (1) A contract or other enforceable obligation may be entered into by the Board as provided in subclauses (2) to (4).
- (2) An obligation that, if entered into by an individual, is required to be by deed may be entered into on behalf of the Board in writing, signed under the name of the Board, by—
  - (a) 2 or more of its members; or
  - (b) 1 or more attorneys appointed by the Board in accordance with clause 36.
- (3) An obligation that, if entered into by an individual, is required to be in writing may be entered into on behalf of the Board in writing by a person acting under the Board's express or implied authority.
- (4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of the Board in writing or orally by a person acting under the Board's express or implied authority.
- (5) This clause applies to a contract or other obligation—
  - (a) whether or not that obligation was entered into in New Zealand; and
  - (b) whether or not the law governing that obligation is the law of New Zealand.

**36 Attorneys**

- (1) The Board may, by an instrument in writing executed in accordance with clause 35(2), appoint a person as its attorney either generally or in relation to a specified matter.
- (2) An act of the attorney in accordance with the instrument binds the Board.

**37 Presumptions and saving of certain transactions**

- (1) The validity or enforceability of any deed, agreement, right, or obligation entered into, or incurred, by the Board is not affected by a failure of the Board to comply with any provision of this Act.
- (2) A person purporting to execute any documentation on behalf of the Board under any authority is, in the absence of proof to the contrary, presumed to be acting in accordance with that authority.

*Employees***38 Board to be good employer**

- (1) The Board must, if it employs employees,—
- (a) operate a personnel policy that complies with the principle of being a good employer; and
  - (b) report on its compliance with that policy (including its equal employment opportunities programme) in its annual report.
- (2) For the purposes of this section, a **good employer** is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
- (a) good and safe working conditions; and
  - (b) an equal employment opportunities programme; and
  - (c) the impartial selection of suitably qualified persons for appointment; and
  - (d) recognition of—
    - (i) the aims and aspirations of Māori; and
    - (ii) the employment requirements of Māori; and
    - (iii) the need for involvement of Māori as employees of the Board; and
  - (e) opportunities for the enhancement of the abilities of individual employees; and
  - (f) recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
  - (g) recognition of the employment requirements of women; and
  - (h) recognition of the employment requirements of persons with disabilities.
- (3) For the purposes of this section, an **equal employment opportunities programme** means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

**39 Application of Acts to members and employees**

No person is, by reason only of that person's appointment as a member of, or employment by, the Board, deemed to be employed in the State services for the purposes of the State Sector Act 1988 or in the Government service for the purposes of the Government Superannuation Fund Act 1956.

*Financial provisions***40 Funds of Board**

The funds of the Board consist of—

- (a) all funds received by the Board under this Act; and
- (b) all accumulations of income derived from that money.

**41 Bank accounts**

- (1) The Board must establish, maintain, and operate 1 or more bank accounts at 1 or more registered banks (within the meaning of the Reserve Bank of New Zealand Act 1989).
- (2) All money received by the Board must be paid into that bank account or 1 of those bank accounts as soon as practicable after it has been received.
- (3) The Board must properly authorise the withdrawal or payment of money from any of its bank accounts.

**42 Investment of money**

Any money that belongs to the Board and that is not immediately required may be invested subject to the restrictions in section 161 of the Crown Entities Act 2004 (applied as if the Board were a Crown entity).

**43 Board not to borrow without consent of Minister of Finance**

The Board must not borrow from any person, or amend the terms of any borrowing, without the prior written approval of the Minister of Finance.

**44 Auditor-General to be auditor of Board**

The Board is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

*Subsidiaries***45 Subsidiaries**

The Board must not form, or acquire shares in, any body corporate except as approved by the Minister.

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**Legislative history**

15 October 2003	Introduction (Bill 82-1)
5 November 2003	First reading and referral to Government Administration Committee
14 April 2004	Reported from Government Administration Committee (Bill 82-2)
12 April 2005	Second reading, committee of the whole House, third reading
20 April 2005	Royal assent

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This Act is administered in the Department of Building and Housing.

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