

ARCHITECTS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill dissolves the New Zealand Institute of Architects (“the statutory institute”) constituted by section 3 of the Architects Act 1963 (“the principal Act”), thus enabling the affairs of the architecture profession (other than registration) to be handled by a society established under the Incorporated Societies Act 1908 (“the private institute”), and makes consequential amendments to the principal Act.

Clause 1 relates to the Bill’s Short Title.

PART I

SUBSTANTIVE PROVISIONS

Clause 2 dissolves the statutory institute.

Clause 3 vests the assets, etc., of the statutory institute in the private institute.

Clause 4 validates the establishment of the private institute. Because it was established by, and for the purpose of exercising some of the functions of, a body constituted and given functions by statute, there is some uncertainty as to whether its establishment was lawful.

Clause 5 inserts into the principal Act a new *section 38A*, requiring the Board to employ or appoint a Registrar. At present the secretary of the statutory institute is ex officio the Registrar of the Board. If it wishes, the Board will be able to appoint an officer or employee of the private institute.

PART II

SAVING, AND CONSEQUENTIAL AMENDMENTS AND REPEALS

Clause 6 consequentially amends section 2 of the principal Act, which defines certain terms used in the principal Act.

Clause 7 replaces section 15 of the principal Act with a redrafted section to the same effect.

Clause 8 consequentially amends section 33 of the principal Act, which relates to the membership of the Board. At present the Board (which comprises 13 members) includes the president of the statutory institute, and 5 members of the statutory institute appointed by the Minister of Internal Affairs on its

recommendation. In future it will include the president of, and 5 people appointed by the Minister on the recommendation of, the private institute.

The opportunity has been taken to take account of the fact that the University Grants Committee no longer exists, by replacing section 33 (1) (h) of the principal Act (which provides that one member of the Board is to be appointed by the Minister on the nomination of the University Grants Committee) with a provision providing that one member of the Board is to be appointed by the Minister on the nomination of the New Zealand Vice-Chancellors Committee.

The person holding office when the University Grants Committee ceased to exist (having held office since then because it was impossible to appoint a successor) will go out of office on the commencement of the Bill; but will be eligible to be reappointed.

Clause 9 repeals provisions of the principal Act making it a criminal offence to pretend to be a member of the statutory institute.

This does not mean that there will be no consequences if a person pretends to belong to the private institute. In cases of fraud or misrepresentation, the general law will still apply.

Clause 10 effects consequential amendments and repeals.

Hon. Peter Dunne

ARCHITECTS AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Architects Act 1963

BE IT ENACTED by the Parliament of New Zealand as follows:

- 5 **1. Short Title**—This Act may be cited as the Architects Amendment Act 1996, and shall be read together with and deemed part of the Architects Act 1963* (hereinafter referred to as the principal Act).

PART I

SUBSTANTIVE PROVISIONS

- 10 **2. Statutory institute dissolved**—The New Zealand Institute of Architects constituted by section 3 of the principal Act is hereby dissolved.

- 15 **3. Assets of statutory institute**—All rights, assets, liabilities, and debts that the statutory institute had immediately before the commencement of this Act shall on that commencement be deemed to have become rights, assets, liabilities, and debts of the private institute.

Cf. 1992, No. 128, s. 4

*Reprinted R.S. Vol. 15, p. 1

4. Validation—For the avoidance of doubt, the incorporation of the private institute while the statutory institute was in existence is hereby deemed to have been as valid and effectual as it would have been if expressly authorised by the principal Act.

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5. Board to employ or appoint Registrar—The principal Act is hereby amended by inserting, after section 38, the following section:

“38A. The Board shall take all practicable steps to ensure that at all times a person is employed or appointed by it to carry out on its behalf (and subject to any general directions it thinks fit) administrative functions relating to the registration of architects.”

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PART II

SAVING, AND CONSEQUENTIAL AMENDMENTS AND REPEALS

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6. Interpretation—Section 2 of the principal Act is hereby consequentially amended by repealing the definitions of the terms “Institute”, “Registrar”, and “rules of the Institute” (as inserted by section 2 (2) of the Architects Amendment Act 1982), and inserting, in their appropriate alphabetical order, the following definitions:

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“The private institute’ means the society, incorporated under the Incorporated Societies Act 1908, that on the commencement of the Architects Amendment Act 1996 was known as the New Zealand Institute of Architects Inc.:

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“The Registrar’ means the person for the time being employed or appointed under **section 38A** of this Act:

“The statutory institute’ means the New Zealand Institute of Architects constituted by the former section 3 of this Act:”.

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7. Persons entitled to registration—The principal Act is hereby consequentially amended by repealing section 15 (as amended by section 7 of the Architects Amendment Act 1982), and substituting the following section:

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“15. (1) Subject to **subsection (2)** of this section,—

“(a) A person who has obtained from the Board or the High Court a direction for the person’s registration as an architect is entitled to be registered as an architect; and

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“(b) A person who was at any time a member of the statutory institute is entitled to be registered as an architect; and

5 “(c) A person who has previously been registered as an architect is entitled to be registered as an architect again.

“(2) A person—

“(a) Whose name has at any time been removed from the register under section 44 of this Act; or

10 “(b) Who has at any time been expelled from the statutory institute,—

is not entitled to be registered as an architect (or registered as an architect again) unless the Board is satisfied that the person is a fit and proper person to be registered as an architect.”

15 **8. Constitution of Board**—(1) Section 33 (2) of the principal Act is hereby amended by repealing paragraphs (a), (b), and (h), and substituting, respectively, the following paragraphs:

20 “(a) One member who is the president of the private institute, or (whether or not the office exists or, if it exists, whether or not it is vacant) a person appointed by the private institute to act in the president’s place:

25 “(b) Five members appointed by the Minister on the recommendation of the private institute:

“(h) One member appointed by the Minister on the nomination of the New Zealand Vice-Chancellors Committee established by section 240 (1) of the Education Act 1989:”.

30 (2) Every person on the commencement of this Act holding office as a member of the Board under section 33 (2) (b) of the principal Act shall continue in office as if appointed by the Minister on the recommendation of the private institute.

35 (3) The person on the commencement of this Act holding office as a member of the Board under section 33 (2) (h) of the principal Act shall go out of office on that commencement; but may be reappointed.”

40 **9. Improper use of terms implying registration under this Act**—Section 53 of the principal Act is hereby consequentially amended—

(a) By omitting from subsection (1) the words “subsections (1A) and” (as substituted by section 5 (1) of the

Architects Amendment Act 1982), and substituting the word “subsection”; and

- (b) By repealing subsections (1A) (as substituted by section 5 (2) of the Architects Amendment Act 1982), (2), and (3) (as amended by section 3 (2) of the Architects Amendment Act 1979). 5

10. Consequential repeals—The following enactments are hereby consequentially repealed:

- (a) Part I and sections 19 (4) and 51 of the principal Act:
(b) The Architects Amendment Act 1979: 10
(c) Sections 2 to 6 of the Architects Amendment Act 1982:
(d) So much of the Schedule to the Architects Amendment Act 1982 as relates to section 8, section 14, or section 15 of the principal Act.