

ARCHITECTS AMENDMENT BILL

AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL
GOVERNMENT COMMITTEE

COMMENTARY

Recommendation

The Internal Affairs and Local Government Committee has examined the Architects Amendment Bill and recommends that it be passed with the amendments shown in the bill.

Conduct of the examination

The Architects Amendment Bill was introduced and referred to the Internal Affairs and Local Government Committee on 27 August 1996, during the Forty-fourth Parliament and carried over to the current Parliament.

The purpose of the bill is to dissolve the New Zealand Institute of Architects ("the statutory institute") constituted by section 3 of the Architects Act 1963, to enable the affairs of the architecture profession to be handled by a society established under the Incorporated Societies Act 1908 ("the private institute").

The closing date for submissions was 18 April 1997. The committee received and considered six submissions from architecture organisations and other interested groups and individuals. Three submissions were heard orally.

The committee spent some time discussing the limited nature of this bill, and the desirability of an extensive review of the Architects Act 1963. One hour and 5 minutes were spent on the hearing of evidence and consideration took 1 hour and 37 minutes.

Advice was received from the Department of Internal Affairs.

This commentary sets out the details of the committee's consideration of the bill and the major issues addressed by the committee.

Background

The Architects Act 1963 established the statutory institute, the Architects Education and Registration Board and the Architects Investigation Committee

(which investigates complaints against architects). It also provides for a Council which manages the affairs of the statutory institute.

Five members of the Architects Education and Registration Board and two members of the Architects Investigation Committee are appointed on the nomination or recommendation of the Council. Effectively, this bill enables the statutory institute and its Council to be replaced by the private institute.

A review of occupational registration, concluded in 1990, recommended that the New Zealand Architects Institute and its Council be replaced by the new Society, along with:

- The reconstitution of the Architects Education and Registration Board as a nine member body, including three lay members, with the primary functions of registration of architects and the preparation of a code of conduct for architects.
- The replacement of the Architects Investigation Committee with a committee comprising two lay members and two architects, to investigate both complaints against architects and consumer complaints (with the power to settle complaints by conciliation and mediation).

Issues and comment

Some submissions suggested that all the matters, referred to in the review of occupational registration, should be dealt with by this bill. Other submissions suggested that the bill should provide greater protection for the consumers of the services provided by architects. Although inclined to agree, we could deal with only matters that fell within the scope of the bill as introduced, as the matters raised by submissions on some of the recommendations clearly lay outside the scope of the bill.

The amendments we have recommended (apart from a small technical amendment involving the legal name of the new Society) relate solely to this matter of consumer protection.

Given that the private institute will replace the statutory institute and recommend the appointment of members to the Architects Education and Registration Board, we have decided that the private institute should recommend only four (rather than the five that the Council of the statutory institute currently recommends) with the other member to be appointed on the recommendation of the Minister of Internal Affairs after consultation with the Minister of Consumer Affairs.

Similarly, where two members of the Architects Investigation Committee are nominated by the Council of the statutory institute, only one member will be nominated by the private institute, and the other will be nominated by the Minister of Internal Affairs after consultation with the Minister of Consumer Affairs.

KEY TO SYMBOLS USED IN REPRINTED BILL
AS REPORTED FROM A SELECT COMMITTEE

New (Unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon. Jack Elder

ARCHITECTS AMENDMENT

ANALYSIS

| | |
|----------------|--|
| Title | |
| 1. Short Title | |
| | PART 2 |
| | SAVING, AND CONSEQUENTIAL AMENDMENTS AND REPEALS |
| | 6. Interpretation |
| | 7. Persons entitled to registration |
| | 8. Constitution of Board |
| | 8A. Investigation Committee |
| | 9. Improper use of terms implying registra- tion under this Act |
| | 10. Consequential repeals |

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 is part of the Architects Act 1963*
("the principal Act").

PART 1

SUBSTANTIVE PROVISIONS

- 10 **2. Statutory institute dissolved**—The New Zealand
Institute of Architects constituted by section 3 of the principal
Act is 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 are
deemed to have become rights, assets, liabilities, and debts of
the private institute on that commencement.

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 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 amended by inserting, after section 38, the following section:

“38A. The Board must 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 2

SAVING, AND CONSEQUENTIAL AMENDMENTS AND REPEALS

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6. Interpretation—Section 2 of the principal Act is amended by repealing the definitions of the terms “Council”, “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.*) Incorporated;

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“‘The Registrar’ means the person for the time being employed or appointed under **section 38A**;

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

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7. Persons entitled to registration—The principal Act is 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)**,—

“(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; 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 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:

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

25 *New (Unanimous)*

30 “(ba) One member appointed by the Minister after consultation with the Minister of Consumer Affairs (or if there is for the time being no Minister of Consumer Affairs, with a Minister of the Crown nominated by the Prime Minister for the purposes of this paragraph):

35 “(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.”

(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 continues in office as if appointed by the Minister on the recommendation of the private institute.

(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 goes out of office on that commencement; but may be reappointed.”

New (Unanimous)

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8A. Investigation Committee—Section 38 (2) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraphs:

“(b) One registered architect nominated by the private institute:

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“(c) One person nominated by the Minister after consultation with the Minister of Consumer Affairs (or if there is for the time being no Minister of Consumer Affairs, with a Minister of the Crown nominated by the Prime Minister for the purposes of this paragraph).”

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9. Improper use of terms implying registration under this Act—Section 53 of the principal Act is 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

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(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).

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10. Consequential repeals—The following enactments are repealed:

(a) Part I and sections 19 (4) and 51 of the principal Act:

(b) The Architects Amendment Act 1979:

(c) Sections 2 to 6 of the Architects Amendment Act 1982:

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(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.