



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

ARCHITECTS ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to December 2, 2015. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office

Tel: (902) 368-4292

Email: legislation@gov.pe.ca



ARCHITECTS ACT

Table of Contents

| Section | Page |
|---|-----------|
| 1. Definitions..... | 5 |
| PART I - ADMINISTRATION | 6 |
| 2. Association..... | 6 |
| 3. Objects | 6 |
| 4. Powers..... | 6 |
| 5. Membership | 7 |
| 6. Annual meeting..... | 7 |
| 7. Council..... | 7 |
| 8. Bylaws | 8 |
| 8.1 Joint Practice Committee with professional engineers..... | 9 |
| PART II - REGISTRATION AND LICENSING | 10 |
| 9. Designation as architect | 10 |
| 10. Registration | 10 |
| 11. Licensing..... | 10 |
| 12. Registers..... | 11 |
| 13. Practice..... | 11 |
| 14. Corporate, etc., practice | 11 |
| 15. Certificate of practice..... | 13 |
| 16. Stamps..... | 13 |
| PART III - DISCIPLINE | 14 |
| 17. Complaints | 14 |
| 18. Examination, health | 14 |
| 19. Committee of inquiry..... | 15 |
| 20. Procedure | 15 |
| 21. Definitions..... | 17 |
| 22. Costs..... | 18 |
| 23. Amendment of registers | 19 |
| PART IV - APPEALS | 19 |
| 24. Appeal..... | 19 |
| PART V - OFFENCES | 20 |
| 25. Unauthorized practice of architecture | 20 |
| 26. Offences <i>re</i> membership | 21 |
| 27. Unlawful use of stamp | 21 |
| 28. Penalty | 21 |
| 29. Limitation period | 22 |
| 30. Injunction | 22 |

| | |
|------------------------------------|-----------|
| PART VI - GENERAL | 22 |
| 31. Liability | 22 |
| 32. Annual fees | 22 |
| 33. Resignation | 22 |
| 34. Limitation of actions | 22 |
| 35. Service of notices | 23 |
| PART VII - TRANSITIONAL | 23 |
| 36. Existing membership, etc. | 23 |
| 37. Repeal | 23 |





ARCHITECTS ACT

CHAPTER A-18.1

1. Definitions

In this Act

- (a) “**architect**” means a member or licensee of the Association;
- (b) “**Association**” means the Architects Association of Prince Edward Island;
- (c) “**Board**” means the Board of Examiners of the Association;
- (d) “**building**” means a structure consisting of a wall, roof and floor, or any one or more of them;
- (e) “**bylaw**” means a bylaw of the Association;
- (f) “**certificate of practice**” means a certificate of practice issued pursuant to section 15;
- (g) “**certificate of registration**” means a certificate of registration issued pursuant to section 10;
- (h) “**construction**” means the erection, installation, enlargement, alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere;
- (i) “**Council**” means the Council of the Association;
- (j) “**design**” means a plan, sketch, drawing, graphic representation or specification intended to govern the construction of a building or part of a building and related site development;
- (k) “**general review**”, in relation to the construction of a building, means an examination of the building to determine whether the construction is in general conformity with the design governing the construction, and reporting thereon;
- (l) “**graphic representation**” means a representation produced by electrical, electronic, photographic, hand-drawn or printing methods, and includes a representation produced on a video display terminal;
- (m) “**license**” means a license issued pursuant to section 11;
- (n) “**licensee**” means a person who holds a license issued pursuant to section 11;
- (o) “**member**” means a member of the Association;
- (p) “**practice of architecture**” means
 - (i) the preparation or provision of a design to govern the construction of a building,
 - (ii) evaluating, advising on, or reporting on the construction of a building, or
 - (iii) a general review of the construction of a building;
- (q) “**prescribed**” means prescribed by bylaw;
- (r) “**proprietorship**” means a business entity owned by a person carrying on business under a name other than his own and, in the case of the practice of architecture,

means an architect engaged in the practice of architecture under a name other than his own;

- (s) “**Registrar**” means the Registrar of the Association;
- (t) “**registration**” means the admission of a person to membership in the Association and the enrollment of that person’s name in a register maintained pursuant to section 12. *1990,c.4,s.1.*

PART I - ADMINISTRATION

2. Association

The Architects Association of Prince Edward Island is hereby continued as a body corporate. *1990,c.4,s.2.*

3. Objects

The objects of the Association are

- (a) to promote and advance the knowledge, skill and proficiency of its members in all matters relating to the practising of the profession of architecture and to this end
 - (i) to assist in the establishment and maintenance of exhibitions or lectures in architecture,
 - (ii) to collaborate with educational institutions in the advancement of knowledge, skill and research in all aspects of architecture; and
 - (iii) to facilitate interchange of professional knowledge among its members;
- (b) to ensure the general public of high standards of technical competence and ethical conduct by the members in the practice of their profession and to this end
 - (i) to regulate admission to the practice of architecture, and
 - (ii) to regulate standards of professional conduct by its members; and
- (c) to do all such other things as may be necessary for or conducive to the advancement of architecture in the province. *1990,c.4,s.3; 2015,c.36,s.6(2).*

4. Powers

The Association may

- (a) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;
- (b) engage employees;
- (c) expend the moneys of the Association in the advancement of its objects;
- (d) establish and maintain offices and agencies;
- (e) invest and deal with any moneys and funds of the Association;
- (f) borrow money for the use of the Association on its credit, issue bonds, debentures, debenture stock and other securities on the credit of the Association, and pledge or sell such securities; and
- (g) do such things as it considers appropriate to advance the objects of the Association. *1990,c.4,s.4.*



5. Membership

The membership of the Association shall consist of such classes of members as may be prescribed and the qualifications, rights, privileges and obligations of each class shall be as prescribed. *1990, c.4, s.5.*

6. Annual meeting

An annual meeting of the members shall be held in accordance with the bylaws at such time and place as the Council may determine. *1990, c.4, s.6.*

7. Council

- (1) The Association shall elect or appoint a Council of the Association who shall control, govern and manage the business and affairs of the Association and all aspects of the practice of architecture.

Council, membership

- (2) The Council shall consist of not less than five and not more than fifteen councillors, as prescribed by the bylaws, who shall have the prescribed qualifications and shall be elected by the members from the membership of the Association at each annual meeting in the manner and for the prescribed terms, together with the Registrar who shall be a member having the qualifications prescribed by bylaw and appointed annually by the other members of the Council.

Termination of membership

- (3) A member of the Council ceases to be a member of the Council if
- (a) he ceases to hold the qualifications required to be a member of the Council as prescribed by the bylaws;
 - (b) he resigns from the Council; or
 - (c) he is removed by a resolution of the members duly passed at a meeting of the members called for that purpose.

Officers

- (4) The officers of the Association shall consist of a President, a Vice-President and a Treasurer who shall be elected in the manner and for the prescribed terms by the members of the Council from the membership of the Council at the first meeting of the Council.

President

- (5) The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and the Council.

Vice-President

- (6) The Vice-President shall have such duties and responsibilities as may be prescribed and, in the absence or inability of the President to act, shall assume the duties and responsibilities of the President.

Treasurer

- (7) The Treasurer shall have such duties and responsibilities as may be prescribed.

Executive Secretary

- (8) The Council may appoint an Executive Secretary of the Association who shall hold office during the pleasure of the Council and who shall have such duties and responsibilities as may be prescribed.

Registrar

- (9) The Registrar shall have such duties and responsibilities as may be prescribed.

Acting President

- (10) In the event that the office of President becomes vacant, the Vice-President shall assume the office of President until the first meeting of the Council following the annual meeting.

Vacancy

- (11) In the event of a vacancy in any other office of the Association or in the Council, other than in the office of the immediate Past-President, the Council may fill such vacancy by the appointment thereto of any duly qualified person. *1990,c.4,s.7.*

8. Bylaws

- (1) The Council may make bylaws not inconsistent with the provisions of this Act respecting
- (a) the management of the Association and its property and affairs;
 - (b) classes of members and licensees of the Association, and the qualifications, rights, privileges and obligations thereof;
 - (c) the duties and responsibilities of officers and employees of the Association;
 - (d) the holding of annual and other meetings of the members and of the Council and the rules of procedure to govern the conduct of meetings;
 - (e) the discipline and honour of the profession, and the discipline and control of the members, licensees and persons authorized to practise architecture;
 - (f) the fixing, levying and collecting of annual and other fees from members, licensees and persons authorized to practise architecture;
 - (g) the standards for qualification, examination and admission or approval of members or licensees;
 - (h) the form, class and duration of and the terms and conditions upon which licenses may be issued;
 - (i) the form and duration of certificates of practice and the terms and conditions upon which a certificate of practice may be issued;
 - (j) the qualifications, terms and manner of election of members of the Council and officers of the Association, and the acceptance of resignations therefrom;
 - (k) conditions of engagement between architect and client;
 - (l) a schedule of recommended minimum fees;
 - (m) standards of practice, professional conduct and advertising, an inspection program, and a code of ethics;
 - (n) minimum requirements of professional liability insurance to be maintained by persons authorized to practise architecture;
 - (o) the definition of terms used in this Act or in the bylaws;
 - (p) the registration of members and licensing of non-members, and the educational, residential and other qualifications of applicants for membership or licensing;
 - (q) the qualifications of applicants for a certificate of practice;



- (r) the establishment of a Board of Examiners and rules regarding examinations to be taken by applicants for registration or licensing;
- (s) the relationship between the Association and any corresponding association outside Prince Edward Island, including any central certification board established in Canada; and
- (t) such other subjects, matters and things as the Council considers appropriate to advance or protect the interests of the public, the Association or its members, or to carry out its obligations.

Confirmation, etc., by meeting of Association

- (2) Every bylaw made by the Council shall remain in effect until the next annual meeting of the Association or until the next special or general meeting called for the purpose of dealing with the bylaw, at which annual, special or general meeting the Association shall confirm, amend or repeal the bylaw.

Lapse

- (3) Any bylaw not confirmed or amended pursuant to subsection (2) shall cease to have effect as of the date of the adjournment of the next annual meeting.

Notice

- (4) The Council shall cause a copy of any bylaw made by it to be forwarded by ordinary mail with a notice of the annual meeting following such making or of any special or general meeting of the Association called for the purpose of considering the bylaw.

Validity of actions

- (5) No act or thing done in reliance upon, or right acquired under or pursuant to, a bylaw that is subsequently repealed or amended shall be rendered unlawful or prejudicially affected by such repeal or amendment.

Inspection of bylaws

- (6) The bylaws shall be available for inspection by any person, free of charge, at the office of the Association during business hours.

Proof

- (7) A certificate purporting to be signed by the Registrar stating that any bylaw of the Association was on a specified day or during a specified period, a duly made bylaw of the Association in full force and effect on such day or during such specified period, constitutes proof in any court of that fact without proof as to the authenticity of such signature.
1990, c.4, s.8.

8.1 Joint Practice Committee with professional engineers

The Council may, in conjunction with the Council of the Association of Professional Engineers of the Province of Prince Edward Island, establish a Joint Practice Committee

- (a) to examine matters of mutual interest to architects and professional engineers;
- (b) to promote a harmonious professional relationship between architects and engineers;
- (c) to develop joint rules of practice governing the responsibilities of architects and engineers; and
- (d) to resolve complaints regarding professional activities pursuant to the respective Acts. *1992, c.6, s.1.*

PART II - REGISTRATION AND LICENSING

9. Designation as architect

- (1) Except as otherwise provided in this Act or in the bylaws, only members or licensees, or persons holding a certificate of practice shall be entitled within Prince Edward Island to take or use the title “architect” or any like word, initials or expression.

References to architect

- (2) The words “architect”, “duly qualified architect”, “qualified architect” or any like words or expressions used alone or in combination with other words or expressions connoting a person recognized by law as an architect entitled to carry on the practice of architecture or connoting a member of the Association, when used in any provision of an Act of the Legislature or any regulation, rule, order or bylaw made under an Act of the Legislature enacted or made before or after the enactment of this Act or when used in any public document, shall be read as including a member or licensee of the Association or a person authorized to practise architecture under the provisions of this Act. *1990,c.4,s.9.*

10. Registration

- (1) Upon the approval of the Council and upon payment of the prescribed fees, the Registrar shall issue a certificate of registration as a member to any person entitled thereto in accordance with this Act or the bylaws.

Form of certificate

- (2) A certificate of registration shall be issued in the prescribed form and in the prescribed manner by bylaw and shall be signed by the Registrar or any other officer authorized by bylaw and bear the seal of the Association.

Refusal

- (3) The Council may refuse to issue a certificate of registration unless the applicant has completed the prescribed application forms, fulfilled the requirements of the bylaws respecting applications for membership and paid the prescribed fee. *1990,c.4,s.10.*

11. Licensing

- (1) The Council may, on application, issue to any person who is a member in good standing of an association of architects recognized by the Council, a license to practise architecture in Prince Edward Island in accordance with this Act and the bylaws.

Form and conditions of license

- (2) A license to practise architecture in Prince Edward Island shall be issued in such form, and for such period and upon such terms and conditions as this Act or the bylaws may authorize or permit, and shall be signed by the Registrar and bear the seal of the Association.

Refusal

- (3) The Council shall refuse to issue a license unless the applicant has completed the prescribed application forms, fulfilled the requirements of the bylaws respecting applications for a license and paid the prescribed fee. *1990,c.4,s.11.*



12. Registers

- (1) The Registrar shall maintain a register of members, a register of licensees, and a register of approved proprietorships, partnerships and corporations holding certificates of practice.

Evidence

- (2) A certificate purporting to be signed by the Registrar stating that any person named therein was or was not, on a specified day or during a specified period, a member or licensee of the Association constitutes proof in any court of that fact without proof of the authenticity of such signature.

Idem

- (3) A certificate purporting to be signed by the Registrar stating that an architect, proprietorship, partnership or corporation named therein was or was not, on a specified day or during a specified period, the holder of a valid certificate of practice issued pursuant to this Act or the bylaws, constitutes proof in any court of that fact without proof of the authenticity of such signature. *1990, c.4, s.12.*

13. Practice

- (1) A member or licensee may practise architecture as an individual in his own name as long as he complies with this Act and the bylaws and holds a valid certificate of practice.

Government employment

- (2) Any member who is an employee of the Government of Prince Edward Island or Canada, including the Armed Forces, or an employee of a Crown Corporation of Prince Edward Island or Canada, or an employee of a Prince Edward Island public utility, and who by such service is required to practise as an architect in Prince Edward Island, may so practise with respect to work directly related to his employment or service without holding a valid certificate of practice.

Non-resident, government employment

- (3) Any non-resident of Prince Edward Island who is an employee of the Government of Canada, including the Armed Forces, and who by such service is required to practise as an architect in Prince Edward Island, may so practise with respect to work directly related to his employment or service without holding a license or a certificate of practice and without payment of any fee if he is a member of an association of architects of another province in Canada having an Act of incorporation similar to that of the Association and is authorized to practise architecture in such province. *1990, c.4, s.13.*

14. Corporate, etc., practice

- (1) A proprietorship, partnership or corporation shall not be granted membership in or be a licensee of the Association.

Proprietorship

- (2) Members or licensees may practise architecture in a name other than their own and conduct their business as a proprietorship if
- (a) one of the principal and customary functions of the proprietorship is the practice of architecture;
 - (b) the practice of architecture is carried out under the responsibility and supervision of the principal of the proprietorship who is an architect; and

- (c) the proprietorship holds a valid certificate of practice.

Partnership

- (3) Members or licensees may practise architecture in a name other than their own and conduct their business as a partnership with other members, licensees or other individuals, or with corporations meeting the requirements of clauses (4)(a) and (c) if
- (a) at least one of the individual partners is an architect having an interest in the partnership of not less than that of any other individual or corporate partner;
 - (b) one of the principal and customary functions of the partnership is the practice of architecture;
 - (c) the practice of architecture is carried out under the responsibility and supervision of an architect who is a partner, or an officer or director of a corporate partner; and
 - (d) the partnership holds a valid certificate of practice.

Corporation

- (4) A corporation may practise architecture in its own name or in partnership with a member, licensee or other corporation if
- (a) one of the principal and customary functions of the corporation or of each corporate partner is the practice of architecture;
 - (b) the practice of architecture is carried out under the responsibility and supervision of a director, officer or employee of the corporation or partnership who is an architect;
 - (c) at least one of the directors of the corporation or each corporate partner is an architect and is the beneficial and registered owner of no fewer of each class of voting shares in the corporation than the number of such shares held by any other shareholder or director; and
 - (d) the corporation holds a valid certificate of practice.

Non-resident corporations, etc.

- (5) Any non-resident proprietorship, partnership or corporation applying for a certificate of practice to practise architecture in Prince Edward Island shall satisfy the Council that
- (a) at least two-thirds of the partners, principals or directors of the partnership or corporation as the case may be are architects; and
 - (b) not less than a majority of the issued shares of each class of voting shares of the corporation are beneficially owned by and registered in the name of architects.

Practice of architecture incidental to comprehensive services

- (6) Any member, licensee, proprietorship, partnership or corporation holding a valid certificate of practice may practise architecture in Prince Edward Island as part of a more comprehensive service which may include construction, engineering, landscaping, surveying, soil testing and analysis, construction inspection, management, finance and computer programming of building construction and operation if the practice of architecture within such comprehensive service is performed under the responsibility and supervision of an architect.

Notice to Association

- (7) Any member, licensee, proprietorship, partnership or corporation entitled to practise architecture in Prince Edward Island who practises architecture as part of a more comprehensive service referred to in subsection (6) shall immediately advise the Association in writing of the name under which the architectural services are being offered, the terms of the arrangement under which the services are being offered and the individuals,

proprietorships, partnerships, persons, firms or corporations with whom the more comprehensive service is being offered. *1990,c.4,s.14.*

15. Certificate of practice

- (1) The Council shall approve an application for a certificate of practice to practise architecture in Prince Edward Island if it is satisfied that the member, licensee, proprietorship, partnership or corporation applying for a certificate has fulfilled all of the requirements of this Act and the bylaws.

Form of certificate

- (2) The Registrar, upon the approval of Council, shall issue a certificate of practice to practise architecture in Prince Edward Island in the prescribed form and signed in the prescribed manner by bylaw.

Validity of certificate

- (3) A certificate of practice is no longer valid and becomes void when the member, licensee, proprietorship, partnership or corporation to which it was issued undergoes any changes which would result in the member, licensee, proprietorship, partnership or corporation being ineligible to receive a certificate of practice under the provisions of this Act or the bylaws. *1990,c.4,s.15.*

16. Stamps

- (1) The Council shall issue to every member or licensee who holds a certificate of practice a stamp of a prescribed design.

Design of stamp

- (2) The Council shall issue to every proprietorship, partnership or corporation which holds a certificate of practice a stamp of a prescribed design.

Use of stamp

- (3) Every member or licensee practising architecture in Prince Edward Island in his own name shall sign and affix his stamp to all final designs or construction documents which have been prepared by such person or under the supervision of such person.

Idem

- (4) Every proprietorship, partnership or corporation practising architecture in Prince Edward Island shall affix its stamp to all designs which have been prepared by the proprietorship, partnership or corporation, and have such designs signed by a member or licensee of the Association designated on the certificate of practice.

Failure to affix stamp

- (5) Every person authorized to practise architecture under this Act who fails to sign and affix their stamp to a final design or construction document, as required by this section, is guilty of professional misconduct. *1990,c.4,s.16.*

PART III - DISCIPLINE

17. Complaints

(1) In this Part

- (a) “complaint” means any complaint in writing and signed by the complainant regarding the conduct, actions, competence, character, fitness, health or ability of an architect;
- (b) “architect” includes members, licensees, former members and former licensees.

Functions of Registrar

- (2) All complaints against an architect shall be in writing and delivered to the Registrar, who shall forthwith
- (a) notify the architect of the complaint in accordance with section 35;
 - (b) include with the notification a copy of the complaint; and
 - (c) invite the architect to respond in writing to the Registrar regarding the complaint.

Investigation and report

- (3) Within sixty days from the date on which the Registrar received the complaint, the Registrar shall, in an informal manner, consider and investigate the complaint and, upon the completion of such investigation as he considers necessary, the Registrar may make recommendations to the complainant and the architect in question as to how the complaint may be resolved and, in any event, shall report to the Council respecting his investigation and send a copy of the report to the architect, against whom the complaint was made.

Powers of Council

- (4) The Council may after considering the report of the Registrar on his investigation of the complaint
- (a) conduct an investigation pursuant to section 18;
 - (b) appoint a committee of inquiry consisting of a chairman, two members of the Association who are not members of the Council, and a lay person, to deal with the complaint by means of a disciplinary hearing pursuant to the procedure set out in this Act and the bylaws; or
 - (c) take no further action with respect to the complaint.

Institution by Council

- (5) A complaint under this section may be instituted by the Council. *1990,c.4,s.17.*

18. Examination, health

- (1) If the Council in its absolute discretion at any time after the receipt or institution of a complaint considers it necessary or advisable, it may without a hearing, require the architect in respect of whom a complaint is made to submit to a physical or mental health examination by such qualified medical practitioner as the Council may designate, and if the architect fails to submit to any such examination, the Council may, without further notice, revoke or suspend the architect’s certificate of practice, membership or license until he does so.

Examination, skill and competence

- (2) If the Council at any time after the receipt or institution of a complaint considers it necessary or advisable, it may without a hearing, require the architect in respect of whom a complaint is made to undergo such examinations as the Council may designate in order to determine



whether the architect has adequate skill and knowledge to practise architecture, and if the architect fails to undergo any such examination, the Council may, without further notice, revoke or suspend the architect's certificate of practice, membership or license until he does so.

Examination, records

- (3) If the Council at any time after the receipt or institution of a complaint considers it necessary or advisable, it may without a hearing, require any architect to produce records and documents in his possession or custody or control of any corporation of which he is a director, officer or shareholder, or of any partnership of which he is a member, and if the architect fails to produce such records and documents the Council may without further notice revoke the architect's certificate of practice and, if applicable, revoke or suspend the architect's membership or license until he does so, unless the architect is by law prohibited from producing such records and documents.

Examination, audit

- (4) If the Council at any time after the receipt or institution of a complaint considers it necessary or advisable, it may without a hearing, require any member, licensee, proprietorship, partnership or corporation to which a certificate of practice has been issued, to submit to an audit or other examination of its business, books and records by such person as the Council may designate, and if the member, licensee, proprietorship, partnership or corporation fails to submit to such audit or examination, the Council may, without further notice, revoke or suspend the certificate or practice, membership, or license of the member, licensee, proprietorship, partnership or corporation, until he or it so submits. *1990,c.4,s.18.*

19. Committee of inquiry

Where a complaint is referred to it by the Council, the committee of inquiry shall

- (a) consider and investigate written complaints regarding the actions or conduct of any architect;
- (b) consider and investigate written complaints that an architect may be an incapacitated or unfit architect; and
- (c) perform such other duties as may be assigned to it by council. *1990,c.4,s.19.*

20. Procedure

- (1) A committee of inquiry may establish the rules under which the inquiry is to be held, and may do all things necessary to provide a full and proper inquiry.

Notice of hearing

- (2) Where a committee of inquiry is established for the purpose of a disciplinary hearing, the architect concerned and any person whose complaint has given rise to the inquiry shall be entitled to at least fourteen days notice of the hearing.

Representation at inquiry

- (3) The following have the right to be represented by counsel at an inquiry by a committee of inquiry:
- (a) the committee of inquiry;
 - (b) the architect against whom the complaint was made; and
 - (c) the person whose complaint has given rise to the inquiry.

Testimony

- (4) The testimony of witnesses shall be taken under oath or affirmation given by the chairman of the committee, and there shall be a full right to examine, cross-examine and *re-examine* witnesses, in accordance with such rules of procedure as may be established by the committee.

Subpoenas

- (5) Upon the application of
- (a) any party to the inquiry;
 - (b) the chairman of the committee; or
 - (c) the counsel for the committee,

the Registrar may issue subpoenas for the purposes of procuring the attendance and evidence of witnesses before the committee.

Enforcement of subpoenas

- (6) A subpoena which is issued pursuant to this section shall be equally enforceable and shall have equal effect as if issued pursuant to the rules of court, and the rules of court with respect to the attendance of witnesses shall apply to a subpoena issued pursuant to this section.

Rules of evidence

- (7) The rules of evidence in an inquiry shall be the same as in civil proceedings in the Supreme Court, but the committee may adopt alternative procedures which in its opinion are appropriate to the circumstances of the inquiry, having regard to the principles of fair hearing and natural justice.

Transcripts

- (8) The committee shall have the proceedings and the evidence recorded by a sound recording machine, and transcribed and certified by a stenographer.

Non-attendance

- (9) It is the duty of the architect against whom the complaint has been made to appear at the inquiry, but in the event of non-attendance by that architect, the committee, upon proof by an affidavit of the service of notice required under subsection (2), may proceed with the inquiry, and without further notice to the architect, make a report of its findings and take such other action as it is authorized to take under this Act.

Hearing in private

- (10) Hearings under this Part shall be held in private, but if the architect being investigated requests otherwise by a notice in writing delivered to the Registrar before the day fixed for the hearing, the committee of inquiry may conduct the hearing in public or otherwise as it sees fit.

Adjournment

- (11) The committee of inquiry may adjourn any hearing to such time and place, and upon such terms, as it considers appropriate.

Disability, etc. of member of committee

- (12) Notwithstanding the death, disability or inability for any reason of a member of a committee of inquiry to act or continue to act with respect to a hearing in progress, such hearing may continue with the remaining two members whose decision shall constitute and be for all purposes a decision of the committee of inquiry, or if the taking of evidence has not



commenced at the time when such member of the committee dies or becomes disabled or unable to continue to act, the Council may appoint another member to take the place of that member or reconstitute the committee of inquiry. 1990, c.4, s.20; 1997, c.20, s.3.

21. Definitions

(1) In this section

- (a) “unfit architect” means an architect who has demonstrated a lack of knowledge, skill or judgment of a nature and extent making it desirable in the interests of the public or the architect that he no longer be permitted to practise architecture;
- (b) “incapacitated architect” means an architect suffering from a physical or mental condition, emotional disturbance or excessive use of alcohol or drugs, of a nature and extent making it desirable in the interests of the public or the architect that he no longer be permitted to practise architecture.

Professional misconduct

- (2) For the purposes of this Act, an architect may be found guilty of professional misconduct if
 - (a) he has been found guilty by a court of competent jurisdiction of an offence which in the opinion of a committee of inquiry relates to his suitability to practise architecture;
 - (b) he has been found guilty of professional negligence by a court of competent jurisdiction;
 - (c) he has committed a breach of any provisions of this Act or the bylaws; or
 - (d) he has conducted himself in such a way as, in the opinion of a committee of inquiry, to bring the profession of architecture into disrepute.

Penalties, professional misconduct

- (3) Where a committee of inquiry finds that an architect is guilty of professional misconduct, the Council may order one or more of the following actions:
 - (a) the membership, license or certificate of practice of the architect be revoked, and that his name be struck from the registers in which it is entered;
 - (b) the membership, license or certificate of practice of the architect be suspended
 - (i) for a fixed period, or
 - (ii) for an indefinite period until the occurrence of some specified future event, or upon the carrying out of some condition fixed by the Council;
 - (c) restrictions be imposed on the membership, license or certificate of practice of the architect for such period and on such conditions as the committee designates;
 - (d) the architect be reprimanded and, if considered warranted, the fact of reprimand be entered in the registers in which his name is entered;
 - (e) such fine as the committee considers appropriate to a maximum of \$1,000 be paid by the architect to the Association;
 - (f) the imposition of a penalty be suspended for such period and upon such terms as the committee considers appropriate.

Unfitness and incapacity, orders

- (4) Where a committee of inquiry finds that an architect is an incapacitated or an unfit architect, the Council may order one or more of the following actions:
 - (a) the membership, license or certificate of practice of the architect be revoked and that his name be stricken from the registers in which it is entered;

- (b) the membership, license or certificate of practice of the architect be suspended
 - (i) for a fixed period, or
 - (ii) for an indefinite period until the occurrence of some specified future event, or upon the carrying out of some condition fixed by the Council;
- (c) restrictions be imposed on the membership, license or certificate of practice of the architect for such period and subject to such conditions as the committee considers necessary;
- (d) that the architect undergo such treatment or *re*-education as the committee considers necessary.

Powers of Council

- (5) Upon the committee reporting its findings and recommendations to the Council,
 - (a) the Registrar shall cause to be served upon the architect and the person at whose request the committee was established, a copy of the report and recommendations of the committee; and
 - (b) the Council may adopt in whole or in part the recommendations of the committee and may make such order indicating the disposition of the matter as the Council considers just.

Service of order

- (6) The Registrar shall cause to be served on the architect and the person at whose request the Council was established a copy of the order of the Council.

Stay of order pending appeal

- (7) The order of the Council has effect immediately upon the service thereof on the member, or from such time as the order may direct, but the Court of Appeal or any judge thereof may stay the order upon good cause pending an appeal from the order, or such further hearing as may be ordered by the Court of Appeal.

Publication of decision

- (8) The Council may in its discretion publish or advertise the decision of a committee of inquiry or of the order of Council relating to any complaint, in such manner or medium Council considers appropriate. *1990,c.4,s.21; 2008,c.20,s.72(6).*

22. Costs

- (1) The Council, and on appeal, the Court of Appeal, may order that the costs of the Association for any investigation, proceeding, hearing or appeal pursuant to this Act be paid, in whole or in part,
 - (a) by the architect against whom the complaint was made, unless the complaint is dismissed without any decision or order adverse to the architect; or
 - (b) by the complainant at whose request the complaint was made or an investigation was commenced where the Council or Court of Appeal is of the opinion that the complaint was frivolous, vexatious or malicious,

and may make it a condition of the architect's membership or license, or issuance of a certificate of practice to the architect, that any such costs awarded against the architect be paid.



Assessment of costs

- (2) The costs including disbursements payable under subsection (1) may be assessed by the Prothonotary on a solicitor and client basis on filing with the Prothonotary the order as to costs and a proposed bill of costs and judgment may be entered in the Supreme Court for such costs.

Definition of costs

- (3) For the purposes of this Act “costs” when awarded to the Association shall include
- (a) all costs, expenses and disbursements and all legal and other expenses of any kind incurred by the Association, the Council, a committee of inquiry, or the Registrar, in relation to an investigation, proceeding, hearing or appeal; and
 - (b) honoraria and expenses paid to the Registrar, members of the Council or committee of inquiry, in relation to an investigation, proceeding, hearing or appeal. *1990, c.4, s.22; 2008, c.20, s.72(6); 2015, c.36, s.6(3).*

23. Amendment of registers

- (1) Where an architect has had his membership, license or certificate of practice suspended, cancelled or revoked under this Part, he shall return to the Association forthwith any certificates or licenses issued by the Association, and shall return to the Association the stamp issued pursuant to section 16, and the Registrar shall make a note of such suspension, cancellation or revocation in the proper register.

Suspension for failure to pay fine

- (2) Where an architect has been ordered to pay a fine, costs or disbursements pursuant to this Part, and where such fine, costs or disbursements have not been paid in the time provided therefor, the Council may suspend the membership or license or certificate of practice of the architect, pending payment by the architect of all monies owing to the Association.

Duration of suspension or cancellation

- (3) Where an architect has had his membership, license or certificate of practice cancelled or revoked under this Part, he may not apply for membership, licensing or a certificate of practice, as the case may be, until at least two years from the time of such cancellation or revocation or at least one year from the date of the Council’s refusal of his most recent application for membership, licensing or a certificate of practice. *1990, c.4, s.23.*

PART IV - APPEALS**24. Appeal**

- (1) Any architect may appeal from an order of the Council made following a committee of inquiry, or from a decision of a committee of inquiry
- (a) on a question of law alone; or
 - (b) on the extent or nature of any penalty,
- to the Court of Appeal by giving notice of appeal within thirty days of service of the order of the Council or within such further time as may be allowed by the Court of Appeal or a judge thereof.

Notice

- (2) The notice of appeal shall be served personally upon the Registrar and upon any person at whose request the committee of inquiry was established.

Record

- (3) The record of appeal
- (a) from the findings of the committee of inquiry shall consist of a certified copy of the transcript of the proceedings and the evidence before the committee; or
 - (b) from an order of the Council shall consist of a copy of the order of the Council certified by the Registrar.

Costs

- (4) The Appeal Division may make such order as to costs as may be just. *1990,c.4,s.24; 2008,c.20,s.72(6).*

PART V - OFFENCES

25. Unauthorized practice of architecture

- (1) Except as provided in this Act and the bylaws, no person other than a member or licensee holding a valid certificate of practice and no corporation other than a corporation holding a valid certificate of practice, shall
- (a) engage in or offer to engage in the practice of architecture;
 - (b) hold himself or itself out verbally or otherwise in any way to be entitled to practise architecture; or
 - (c) assume or use any title, description, stamp or seal implying, or designated to lead the public to believe, that the person is an architect or is entitled to practise architecture, or that the corporation is entitled to practise architecture.

Recovery of fees

- (2) No person other than a member or licensee and no proprietorship, partnership or corporation is entitled to receive or to bring an action in any court of competent jurisdiction for the recovery of, any fee, reward or remuneration for the provision of professional architectural services unless the member, licensee, proprietorship, partnership or corporation was entitled to engage in the practice of architecture at the time the services were provided.

Application

- (3) Subsections (1) and (2) do not apply to
- (a) the preparation or provision of a design for the construction of a building that is not more than three storeys and that is used or intended for residential occupancy and that contains one dwelling unit or two attached dwelling units each of which is constructed directly on grade, or that is not more than 600 square metres in building area as constructed and contains three or more attached dwelling units, each of which is constructed directly on grade, with no dwelling unit constructed above another dwelling unit;
 - (b) the preparation or provision of a design for the construction of a building used directly in the extraction, processing or storage of ore from a mine;
 - (c) the preparation or provision, under the supervision and direction of a member or licensee of the Association, of a design for the construction of a building;



- (d) the preparation or provision of a design, complying with the provisions of the National Building Code, for the interior space for a building regardless of occupancy type, including finishes, fixed or loose furnishings, equipment, fixtures and partitioning of space and related exterior elements, including signs, finishes and glazed openings used for display purposes, if the design does not, or is not likely to, produce a reduction in the structural integrity of the building or the safety of
- (i) a fire safety system or fire separation,
 - (ii) a main entrance or public corridor on a floor,
 - (iii) the construction or location of an exterior wall, or
 - (iv) the useable floor space through the addition of a mezzanine, infill or other similar element
- of the building;
- (e) the preparation or provision of a design, complying with the provisions of the National Building Code, for alterations within a dwelling unit that does not, or are not likely to, produce a reduction in the structural integrity of the building or the safety of a fire safety system or fire separation, fire walls or persons in the building;
- (f) the preparation or provision of a design for the construction of a building to be used for farming purposes; or
- (g) a professional engineer or partnership, association of persons or corporation entitled under the *Engineering Profession Act* R.S.P.E.I. 1988, Cap. E-8.1 to practise or undertake the practice of engineering or a person employed by or acting under the supervision of such professional engineer, partnership, association or corporation while engaged in the practice of engineering within the meaning of that Act. *1990,c.4,s.25; 1992,c.6,s.2; 2015,c.36,s.6(4).*

26. Offences *re* membership

Every person who

- (a) wilfully procures or attempts to procure membership or licensing or a certificate of practice under this Act for himself or for another person, proprietorship, partnership or corporation by making, producing or causing to be made or produced, any fraudulent representation or declaration, either verbal or written; or
- (b) knowingly provides any false information in any application, declaration, statement or return furnished by him under this Act,

commits an offence. *1990,c.4,s.26.*

27. Unlawful use of stamp

Every person who uses or relies upon a design, where such design has not been signed and stamped in accordance with the requirements of section 16, commits an offence. *1990,c.4,s.27.*

28. Penalty

A person or corporation who violates any provisions of this Act or its bylaws, of the contravention of which constitutes an offence, is liable on summary conviction to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding six months, or both. *1990,c.4,s.28.*

29. Limitation period

No prosecution for an offence under this Act or the bylaws shall be commenced after two years from the date when the offence is alleged to have been committed. *1990,c.4,s.29.*

30. Injunction

Where a member, licensee or any other person or corporation does or attempts to do anything contrary to the provisions of this Act or any bylaw passed under the authority of this Act, the doing of such thing may be restrained by an injunction at the instance of the Council. *1990,c.4,s.30.*

PART VI - GENERAL

31. Liability

The members of the Council or a committee thereof, the Executive Secretary and any other person acting on their instructions or under the authority of this Act, are not personally liable for any loss or damage suffered by any person by reason of any act done by any of them in good faith in the exercise or purported exercise of the powers conferred under this Act. *1990,c.4,s.31.*

32. Annual fees

- (1) The annual fees for membership, licensing or issuance of certificates of practice are due and payable on January 2 of each year.

Failure to pay

- (2) Failure to pay the appropriate annual fee within the time prescribed shall be cause for the Registrar to suspend a person's membership, license or certificate of practice or a corporation's certificate of practice. *1990,c.4,s.32.*

33. Resignation

- (1) Any person may resign from membership in the Association upon giving notice in writing to the Registrar, and the name of the member shall be erased from the register effective from the date of acceptance of the resignation by the Council.

Idem

- (2) Notwithstanding subsection (1), the Council may in its discretion refuse to accept the resignation of any person. *1990,c.4,s.33.*

34. Limitation of actions

No action shall be brought against an architect or former architect or corporation for negligence or malpractice by reason of professional services requested, given or rendered, except within

- (a) two years from the day when, in the matter complained of, the alleged negligence or malpractice occurred;
- (b) two years after the person commencing the action knew or ought to have known the facts upon which he alleges the cause of action; or



- (c) where the person entitled to bring an action is, at the time the cause of action arises, an infant or mentally incompetent, two years from the date when such person becomes of full age or of full competence, as the case may be, whichever period is longest. *1990,c.4,s.34.*

35. Service of notices

Any notice required to be given pursuant to this Act or the bylaws may be served personally or by registered mail to the last known residence or business address as shown on the records of the Association of the person or corporation to whom the notice is directed, and in the case of service by mail, the notice shall be deemed to have been served upon proof of compliance with this section. *1990,c.4,s.35.*

PART VII - TRANSITIONAL

36. Existing membership, etc.

- (1) Every person who at the coming into force of this Act is a member or licensee of the Association or a member of the Council of the Association pursuant to the *Architects Act* R.S.P.E.I. 1988, Cap. A-18 and the bylaws made thereunder shall be deemed to be a member or licensee of the Association or member of the Council, as the case may be, under this Act.

Existing certificates

- (2) Every person who at the coming into force of this Act holds a valid certificate of approval issued pursuant to the *Architects Act* R.S.P.E.I. 1988, Cap. A-18 and the bylaws made thereunder shall be deemed to hold a valid certificate of practice under this Act. *1990,c.4,s.36.*

37. Repeal

Act repealed. *1990,c.4,s.37.*