

EXPLANATORY MEMORANDUM

ARCHITECTS BILL 2003

Introduction

This Bill delivers the State Government's commitment to National Competition Policy principles to review legislation regulating the architectural profession.

As part of the Western Australian State Government's obligations under the Competition Principles Agreement, the Department of Housing and Works (DHW) completed the *State Review of the Architects Act 1921* in June 2001. During this time the Productivity Commission conducted and released a national review of legislation regulating the architectural profession. Western Australia was also a participant in the Inter Government Working Group (IGWG) of Senior Officials from the States and Territories that examined and prepared a joint response to the Productivity Commission's review. This response determined that retention of Architects Acts was desirable and recommended a framework of regulatory principles to be realised in each jurisdiction. Cabinet approved drafting of amendments to the *Architects Act 1921* on 5 March 2002 to address restrictions identified in the State Review.

Following a meeting of the Australian Procurement and Construction Ministerial Council in June 2002, Australian jurisdictions put significant effort into harmonising their approach to the regulation of architects. It was agreed nationally that State based architects legislation would be retained, with the drafting of amendments to align with nationally agreed recommendations that allowed for a centrally developed set of professional standards as the basis for registration of architects in Australia. The harmonisation process led to the recommendation by Parliamentary Counsel that the Act be completely redrafted.

As well as satisfying competition policy objectives and national harmonisation agreements, this Bill provides an updated version of an antiquated Act, delivering more appropriate legislation for today's professional environment.

This Bill provides for effective registration of architects and the maintenance of nationally consistent professional standards. It controls the use of the title "architect" and seeks to prevent conduct from non-architects that may be misleading to consumers and the general public. Most importantly the Bill adequately identifies members of the architectural profession, enabling the consumers of architectural services to make informed decisions when engaging a practitioner.

Long Title

The long title sets out the purpose of the Bill, which is to provide for the registration of natural persons and the licensing of corporations as architects, to regulate the practice of architecture by those persons, to repeal the *Architects Act 1921*, and for other related purposes.

Part 1 – Preliminary

This part contains the title of the Act, the relevant commencement provisions, the objectives of the Act, and definitions of the terms used within the Bill.

Clause 1 Short Title

Short title of the Act.

Clause 2 Commencement

Provides for the Act to come into operation on a day fixed by proclamation. The Act is written on the assumption that the State Administrative Tribunal is in operation. Delayed operation may need to align with commencement of the State Administrative Tribunal.

Clause 3 Objects of Act

The primary objectives are to ensure that only properly qualified and competent persons are identified as architects and to regulate the practice of architecture by those persons for the purpose of protecting the consumers of architectural services in Western Australia. The Act does not prevent non-registered people from designing buildings.

Clause 4 Terms used in this Act

Contains the definitions required for the purposes of the Act.

Part 2 – The Architects Board

This part provides for the continuation of the role of the Architects Board of Western Australia and sets out the composition of the Board membership and the Board's functions and powers.

Clause 5 Board established

The Architects Board is a body corporate. Clause 3 of Schedule 2 provides that the Board established under this Act is a continuation of the existing Board created under the repealed Act.

Clause 6 Board not an agent of the Crown

The Board is not an agent of the Crown. Clause 19 allows the Board to use government staff so that administrative support can be provided by a department if required.

Clause 7 Membership of Board

The Board will consist of 10 natural persons. Composition of the Board has been broadened to include adequate consumer and educational representation in line with national and State review recommendations. Current Government policy on Board membership is reflected in this clause, ensuring that members are chosen for their skills in representing public or professional interests, and are not tied or restricted as representatives of sectional interests.

Clause 8 Constitution and proceedings

Schedule 1 describes the constitution and proceedings of the Board, its members, and its committees.

Clause 9 Remuneration and allowances

The Minister may determine any remuneration for a member of the Board or a committee. There are similar provisions in other registration Act.

Clause 10 Functions

The Architects Board administers the scheme of registration and licensing, receives complaints into alleged misconduct of architects, and investigates those fraudulently claiming to be architects.

The Board also monitors education and accredits architectural education courses. A harmonisation agreement with other jurisdictions allows for registration standards and education standards to be set by the Architects Accreditation Council of Australia, and to be adopted by each Board. The functions of the Board are set out in general terms to allow flexibility in aligning with national standards.

Clause 11 Powers

The Board has powers necessary to carry out its functions under the Act. They are generic powers, similar to those of other registration Boards.

Clause 12 Powers of investigation and investigator

The Board has power to carry out investigations to determine any matter before the Board, to detect offences under the Act, to monitor compliance with the Act, and to determine if any cause exists for disciplinary action against a registered person. A 3-year time limit is specified within which the consumer can make a complaint against an architect. This provides a reasonable time for issues to become apparent, but ensures information and evidence remains available.

The investigator has wide powers to seek information, inspect documentation, and enter premises. These are similar to powers in other registration Acts.

Clause 13 Incriminating information, questions, or documents

A person who is required to give information, answer questions, or produce documents under clause 12 must not refuse to comply on the basis that the information may incriminate the person. The evidence given is not admissible as evidence in any other proceeding against the person, other than under this Act. There are similar powers in other registration Acts.

Clause 14 Failure to comply with investigation

An offence is committed if a person fails to comply with an investigation under clause 12 by failing to provide the required information or answer any question, providing false information, or failing to produce documentation in the required time frame. Acceptable defences against this offence are specified. There are similar provisions in other registration Acts.

Clause 15 Obstruction of investigator

An offence is committed if a person attempts to obstruct an investigation under clause 12 in any way.

Clause 16 Delegation

This clause allows the Board to delegate any of its powers or duties under a provision of the Act to a member of the Board, a committee, the Registrar or any other staff of the Board and sets out the process of delegation. This is necessary for administrative expediency. There are similar provisions in other registration Acts.

Clause 17 Registrar

A registrar shall be appointed by the Board to perform functions conferred under the Act or as directed by the Board. The registrar currently acts as the main employee of the Board.

Clause 18 Other staff and contractors

The Board can employ staff, engage a person under contract, appoint casual staff, or arrange to make use of staff employed elsewhere.

Clause 19 Use of government staff etc.

The Board may make arrangements by agreement to use staff and/or facilities employed in the service of the State. This provides for flexibility in supporting the Board, and allows for reforms such as those proposed for Boards in the Consumer and Employment Protection portfolio where administrative support is provided by the relevant Department.

Clause 20 Minister may give directions

The Minister can give written directions to the Board in regards to its functions and administration. Any direction must be laid before both Houses of Parliament. The Minister cannot give directions in relation to a particular person, qualification, application, complaint investigation or proceeding under Part 4 or 5. There are similar provisions in other registration Acts.

Clause 21 Minister to have access to information

The Minister has access to and, where relevant, may make copies of Board information with the exception of information in a form that may disclose the identity of a person involved. The Board must comply with any request. There are similar provisions in other registration Acts.

Clause 22 Protection from liability

Any person, and the Board itself, is protected from liability in the performance of a function under the Act. There are similar provisions in other registration Acts.

Clause 23 Common seal of, and execution of documents by, the Board

The Board executes a document if it is signed on behalf of the Board and the common seal of the Board is affixed. The protocol for affixing the common seal is specified.

Clause 24 Duty not to make improper use of information

It is an offence if a member or former member of the Board makes improper use of any information acquired to gain an advantage for them self or any other person. There are similar provisions in other registration Acts.

Part 3 – Finance and Reports

Part 3 describes the funds of the Board, how they may be applied, and the requirements relating to accounts and reports.

Clause 25 Funds of Board

Clause 25 describes what constitutes the funds of the Board and specifies what purposes they may be applied. The funds may be used for any purpose that enables the Board to perform its functions or to carry out the objectives of the Act. The Board derives its operating revenues from fees paid by registered architects.

Clause 26 Accounts

The Board is to keep accounts and records and prepare financial statements in accordance with Australian Accounting Standards.

Clause 27 Audit

Accounts and financial statements are to be audited at least once a year by a registered company auditor.

Clause 28 *Annual report and other reports*

The Board is to submit to the Minister an annual report of its proceedings along with a copy of its financial statements and the auditor's report of those statements.

Part 4 – Registration and licensing of architects

Part 4 provides for the registration of natural persons and the licensing of corporations.

Clause 29 *Registration of natural persons*

In accordance with the recommendations of the state and national reviews, there is provision for the registration of natural persons only. Registration requirements will be drawn from nationally consistent standards set by a national standard setting body, the Architects Accreditation Council of Australia, as agreed through the national harmonisation process. This will provide nationally consistent requirements for registration with a view to broadening certification channels, having regard to different combinations of qualifications and experience that would maintain professional standards of competency.

Clause 30 *Conditions on registration or renewal of registration*

There are to be no conditions on registration or renewal except where they have been imposed by way of disciplinary action. The Act allows the Board to impose conditions in relation to insurance cover, but in practice this is likely to be regulated through the *Professional Standards Act*.

Clause 31 *Licensing of corporations*

Corporations can be granted a licence to use the word “architect” in their business names. A corporation does not have to be licensed to offer the services of an architect to the public, leaving multi-disciplinary corporations unhindered by this legislation.

The Board will vet the use of business names, and licensing is dependent on the corporation satisfying the Board that adequate arrangements are in place for a registered person to ultimately control the architectural work being offered to the public.

Clause 32 *Conditions on grant of licences or renewal of licences*

The Board may impose conditions on the granting of a licence. These conditions may relate to, but are not limited to, provision of information about the registered person who will ultimately control the architectural work, and the insurance cover in place for the corporation.

Clause 33 *Applications for registration and licences*

Registration and licensing are subject to a fee set by the Board. Applications for registration are to be made in writing in a form determined by the Board. Fees are to be returned if the applicant is unsuccessful.

Clause 34 *Effect of registration and licensing*

Registration and licensing allows the person or corporation to carry on the practice of architecture under the title “architect”.

Clause 35 *Duration of registration and licences*

Registration and licences have effect until 31 December in the year they occur. All subsequent renewals will therefore occur on the same date.

Clause 36 Renewal of registration and licences

Registration and licensing occur on an annual basis, subject to a renewal fee, and may also be subject to meeting certain requirements. For individuals this may be the maintenance of professional standards through continuing professional development. The use of regulations allows flexibility to align with national standards and to accommodate the setting up of schemes under the Professional Standards Act.

Clause 37 Fees for renewal of registrations and licences

The registration or licensing renewal fee is to be paid on or before the day it falls due, with the penalty for non-payment being the registration or licence ceases and the person or corporation may be removed from the register. This clause also provides for reinstatement in the register upon payment of all fees in arrears. The obligations of the Board in relation to renewals are specified.

Clause 38 Certificates of registration

There are two certificates of registration issued, one on initial registration of the person and one to demonstrate the registration remains current.

Clause 39 Licence documents

There are two licence documents issued, one when the licence is initially granted and one to demonstrate the licence remains current.

Clause 40 Suspension or cancellation of licences

The establishment of the State Administrative Tribunal introduces a new procedure for hearing and determining of disciplinary matters. Disciplinary action under the Act is to be determined by the State Administrative Tribunal, as opposed to the Board. Clause 40 provides that the Board may allege to the State Administrative Tribunal that action should be taken against a corporation. The State Administrative Tribunal may determine there are sufficient grounds for action and may suspend or cancel a licence. If the State Administrative Tribunal cancels a corporations' licence the registrar is to remove the corporation from the register.

Clause 41 Suspension of registration or licence: effect

Where a registration or licence has been suspended the person or corporation is regarded as not being registered or licensed during that period. The Board may apply to the State Administrative Tribunal to revoke or reduce the period of suspension.

Clause 42 Surrender of certificates of registration, licence documents

Where a registration or license is suspended the person or corporation is required to surrender the certificate of registration or licence document within 14 days or an offence is committed under the Act.

Clause 43 The register

A register of architects is to be maintained by the Board. The register allows for different categories of registration that could accommodate tiered registration with the inclusion of other building design practitioners, as recommended by the State Review, or to align with schemes registered under the Professional Standards Act.

Clause 44 Inspection and publication of register

The register is available for inspection by the general public. A fee is payable for a certified copy of a part of the register. The register may be published in a manner and at a time determined by the Board.

Clause 45 Amendment of particulars

The Board may direct the registrar to amend particulars entered in the register on application by the registered person or licensed corporation.

Clause 46 Amendment to ensure accuracy

The Board may direct the registrar to make necessary amendments to the register to ensure an accurate record of the particulars required.

Clause 47 Voluntary removal from register

A person or corporation may be removed from the register upon request in writing. The Board will not approve removal from the register where a registered person, or officer of a licensed corporation, is the subject of an investigation under the Act or a proceeding before the State Administrative Tribunal.

Clause 48 Removal of names of deceased persons and defunct corporations

The registrar is to remove a person or corporation from the register upon receiving evidence of the person's death or that the corporation no longer exists.

Clause 49 Removal of name of person without up to date skills who has not practiced for five years or who has lost qualifications

A person may be removed from the register if current skills in architecture have not been maintained at a level the Board considers satisfactory, or if a person has lost the qualifications that enabled them to be registered. If the Board is advised of a persons loss of qualifications under Clause 53 it can take action immediately under this clause, otherwise it would have to wait until renewal was due to take appropriate action.

Clause 50 Effect of removal of name from register

If a name is removed from the register the person or corporation ceases to be registered or licensed.

Clause 51 Restoration of name to register

A person or corporation may apply to the Board at any time to have the name restored to the register. If a name has been removed from the register for disciplinary reasons the Board cannot reinstate the name unless it has applied to the State Administrative Tribunal to do so. This is part of the new disciplinary procedure for hearing and determining disciplinary matters discussed under Part 5.

Clause 52 Change of address

Written advice must be provided to the Board no later than 30 days after any change of address that is recorded in the register. This is to ensure timely accuracy of the register.

Clause 53 Loss of qualifications

If a registered person loses the qualifications that enabled them to be registered under this Act they must notify the Board in writing no later than 90 days after the loss. This will ensure all

registered persons are appropriately qualified at all times and any person who has lost the required qualifications can immediately be removed from the register under Clause 49.

Clause 54 *Information about insurance*

A registered person or licensed corporation must provide the Board with information about their insurance cover. Insurance is likely to be regulated through the *Professional Standards Act*.

Clause 55 *Corporations: advice as to intention to amend constitution etc.*

A licensed corporation must advise the Board if it intends to amend its constitution or rules governing its internal management. This is so the Board can certify that all requirements for licensing will still be satisfied following the amendments.

Part 5 – Disciplinary proceedings

This Part provides the basis for professional conduct of architects and a foundation for disciplinary proceedings, with a provision for the adoption of a national Code of Conduct for architects.

Clause 56 *Causes for disciplinary action*

Causes for disciplinary action are specified as:

- a) Unprofessional conduct – inappropriate conduct in professional work;
- b) Conduct that renders a person unfit to be registered – personal or criminal conduct that is incompatible with professional registration;
- c) Incompetent professional practice;
- d) Conduct causing deregistration in other jurisdictions.

The use of regulations will allow the Board to adopt a national Code of Conduct for architects to provide the basis for professional conduct of architects and a foundation for disciplinary proceedings under the Act.

Clause 57 *Taking disciplinary action*

This legislation incorporates a new procedure for hearing and determining disciplinary matters with the establishment of the State Administrative Tribunal (SAT) to make any findings of professional misconduct. SAT removes any perception of a conflict of interest with the Board acting as the registering body and also a disciplinary body. The provision of an independent tribunal to investigate and determine serious complaints against architects, rather than the Architects Board, will result in enhanced consumer protection. Any disciplinary action against an architect, or compensation for a client, becomes a matter for SAT unless both parties agree on a disciplinary action through the conciliation process under clause 59.

All appeals against a decision of the Architects Board will also be determined by SAT. This ensures the Board will operate in line with current government policy on Boards and will set the Board up as a better guardian of consumer interests.

The Board may allege to SAT that there is proper cause for disciplinary action against a registered person. SAT will hear and determine more serious matters and, where appropriate, hand down a disciplinary action. Disciplinary action against a registered person may be one or more of the following:

- a) Caution or reprimand;
- b) Penalty not exceeding \$5000;
- c) Condition imposed on the practice of architecture;

- d) Complete education, training or professional development;
- e) Period of practicing under supervision;
- f) Obtain and implement advice on practice of architecture;
- g) Give an undertaking on future conduct or to ensure compliance with another disciplinary action.

Disciplinary action against a person who is no longer registered can only consist of a caution or reprimand, or a penalty not exceeding \$5000.

Clause 58 Failure to comply with disciplinary action

If a disciplinary action ordered by the SAT is not complied with the SAT may order further disciplinary action be taken against the person in addition to the original order. This is to encourage compliance with disciplinary orders.

Clause 59 Conciliation process

This clause provides a conciliation process where the Board can refer less serious complaints against the conduct of an architect to a committee for conciliation of the matter. A conciliation process has been incorporated as a new initiative to provide an informal dispute resolution process. If the parties agree during conciliation to a disciplinary action that could be ordered by the State Administrative Tribunal, the Board can give an order to that effect. If both parties agree to an appropriate disciplinary action there is no room for further dispute.

Clause 60 Action if conciliation fails

The Board may still conduct an inquiry into the complaint, and/or refer the matter directly to SAT, if the conciliation process fails to settle the matter or both parties are not cooperating. If both parties do not agree to an appropriate disciplinary action through the conciliation process the matter is referred to SAT for confirmation. This leaves no room for further dispute and no room for the complainant to claim the Board is “looking after architects”. The public interest is better protected.

Part 6 – Notifications and reviews

Clause 61 Notice of decisions to affected persons

Where the Board makes a decision in relation to certain matters the Board must notify the person to whom the decision relates, and the complainant if any, no later than 30 days after making the decision. This will ensure timely notification to persons affected by a decision of the Board.

Clause 62 Publication and records

Unless SAT orders otherwise the Board may publish any action, notice or order taken under this Act. The Board is to keep records of each investigation, action, decision and order.

Clause 63 Review

This clause reflects the new procedure for dealing with disciplinary matters and appeals. Any person aggrieved by a decision of the Board may apply to the SAT for a review of that decision. This clause does not apply to complainants’ as the SAT policy does not include the right of a complainant to appeal to SAT.

Part 7 – Offences

Part 7 specifies conduct by non-architects that constitutes an offence under the Act.

In essence, the Bill's offence section provides that a person who is not registered cannot use the title "architect", cannot use any derivative of this word unless it is to describe a recognised competency, and cannot offer the services of an architect, or state or imply that work will be done by an architect, unless a registered person has ultimate control over the work.

Clause 64 False descriptions, pretending to be an architect

This restricts individuals, firms or corporations from using the title "architect" or holding out or implying that they provide architectural services unless registered or licensed. It does not restrict unregistered persons from designing buildings or providing design services, so long as there is no implication that the services of an architect are being offered.

Clause 65 Name in which practice may be carried on; use of names

This clause provides some control over firms through naming restrictions. Anyone wishing to offer architectural services to the public using a trading name other than that of a registered person or licensed corporation (i.e. through a firm) must obtain the Boards written consent.

Clause 66 Making or publishing certain statements or documents

A person must not publish statements or documents that in any way imply a person or entity, who or which is not registered or licensed, is an architect or is willing to undertake work as an architect.

Clause 67 Falsely representing that work will be done by an architect

A corporation, firm or person does not have to be licensed or registered under this Act to offer the services of an architect to the public. However, in accordance with the reviews and harmonisation agreements, the architectural services provided in this case must ultimately be controlled and supervised by a registered person or the situation constitutes false representation. This ensures those service providers offering architectural services do have a registered person to provide those services.

The clause offers the service provider the opportunity to notify the client if a registered person is not available to do the architectural work. The client may at any time withdraw from any contract entered into without penalty upon discovery that a registered person has not controlled, or will not control, the architectural work.

These provisions were included to provide control over organisations that offer architectural services to the public. If consumers are being offered the services of an architect these provisions ensure that the service of a person registered under this Act will be obtained.

Clause 68 Certain conduct not in breach of this Act

Consistent with competition policy objectives and the subsequent reviews, this Act will not prevent unregistered persons from designing or superintending the erection of buildings.

The Act protects the title "architect" and its derivatives, restricting it to use by persons registered under the Act. Whilst using derivatives of the word "architect" is restricted, this clause does allow the use of derivatives that describe a recognised competency and do not misleadingly imply a person is registered, or a corporation is licensed, under the Act. This

complies with recommendations of the reviews and the national harmonisation agreement and includes, for example, landscape architect, naval architect, and architectural draftsman.

Clause 69 *False or misleading information*

A person must not make a statement or provide any information they know to be false or misleading, or with disregard to whether it is false or misleading, in relation to any application, requirement, or attempt at conciliation under the Act.

Clause 70 *False representations*

A person must not falsely represent they are registered or licensed under the Act by representing they are the body referred to in a certificate of registration or a licence document.

Part 8 – Regulations and rules

Part 8 provides for the making of regulations and rules for all matters necessary for giving effect to the Act.

Clause 71 *Regulations*

The Governor may make regulations for all matters necessary to give effect to the Act. Such purposes include, but are not limited to:

- a) Elections for Board membership;
- b) Regulating proceedings of the Board or a committee;
- c) Provisions for applications and renewals;
- d) Maintaining accuracy of the register;
- e) Regulating registration certificates and licence documents;
- f) Provisions relating to business name consent;
- g) Provisions relating to qualifications, examinations and examiners;
- h) Prescribing information to be given to the Board;
- i) Prescribing fees.

Regulations may adopt any standards, rules or codes published by another body. This enables the adoption of a Code of Conduct for architects in regulations under clause 56 to provide the basis for professional conduct of architects and a foundation for disciplinary proceedings under the Act.

Clause 72 *Rules*

The Board, with confirmation by the Governor, may make rules to provide for complaints processes, investigation procedures, and conciliation procedures. Regulations will prevail in the event of any inconsistency.

Part 9 – Miscellaneous

Part 9 provides for miscellaneous items such as recovery of fees, disciplinary penalties and expenses by the Board, legal proceedings to which the Board is a party, liability of officers of body corporate, and liability of partners.

Clause 73 *Recovery of fees*

Board may recover fees payable under the Act in a court of competent jurisdiction.

Clause 74 Evidentiary

Certificates of registration and licence documents are evidence that a person or corporation is registered or licensed for the period specified.

Clause 75 Legal proceedings

All offence proceedings under the Act are to be heard in a court of summary jurisdiction. These provisions supplement the provisions of the *Evidence Act 1906*.

Clause 76 Liability of certain officers of body corporate: offences

Officers of a body corporate charged of an offence under the Act may also be charged with the same offence. If an officer is charged with the same offence, and the body corporate is convicted, the officer is to be taken to have also committed the offence unless it can be proved it was committed without the officers consent.

Clause 77 Liability of partners: offences

Partners of a firm where one partner has been charged of an offence under the Act may also be charged with the same offence. If a partner is charged with the same offence and the first partner is convicted, the second partner is to be taken to have also committed the offence unless it can be proved it was committed without the second partners consent.

Clause 78 Repeal of Architects Act 1921, savings and transitional provisions

This clause provides for the repeal of the *Architects Act 1921* and the associated by laws.

Clause 79 Consequential amendments to the Constitution Acts Amendment Act 1899

This clause provides for necessary amendments to the *Constitution Acts Amendment Act 1899* as a result of this new Act.

Clause 80 Consequential amendment to the Sentencing Act 1995

This clause provides for necessary amendments to the *Sentencing Act 1995* as a result of this new Act.

Clause 81 Review of Act

This is a standard clause for all new legislation. The Minister is to review the operation of the Act in five years from its commencement to determine the effectiveness and continuation of the Board and any other matters relating to the effectiveness of the Act.

Schedule 1 – Constitution and proceedings of the Board

Schedule 1 presents general provisions in relation to the proceedings of the Board such as terms of office for Board members, position vacancy, resignation or removal of members, election of chairperson and deputy chairperson, calling of meetings and meeting quorums, voting, minutes, and Board committees.

Clause 1 Terms of office of Board members

Board members are to hold office for a period not exceeding two years.

Clause 2 Vacancy in the office of an elected member

If there is an elected member vacancy an election is to be conducted to fill the vacancy.

Clause 3 Resignation, removal etc.

The Minister may remove a Board member from office, or a Board member may resign or become ineligible to hold office. The office of that Board member becomes vacant.

Clause 4 Chairperson and deputy chairperson

Chairperson and deputy chairperson are to be elected by the Board from its members and can be removed at any time by the Board.

Clause 5 Leave of absence

Leave of absence may be granted to a Board member.

Clause 6 Board member temporarily unable to act

Where a Board member is temporarily unable to act there are provisions to appoint temporary replacements.

Clause 7 Saving

These provisions should reduce dispute about whether a temporary replacement was legitimately able to act.

Clause 8 Calling of meetings

The Board can determine the time of its meetings.

Clause 9 Presiding officer

Chairperson is to preside at all meetings. If chair and deputy chair are unavailable the chair is to appoint someone to preside.

Clause 10 General procedures

The Board may determine its own procedures for meetings.

Clause 11 Quorum

Quorum for meetings is 5.

Clause 12 Voting

Registration and licensing decisions must be supported by at least 5 members. Any other decision must be supported by a majority of votes at a meeting where a quorum is present.

Clause 13 Minutes

Minutes are to be taken at meetings.

Clause 14 Resolution without meeting

Resolutions in writing signed by each Board member have effect as if they had been passed at a Board meeting.

Clause 15 Holding meetings remotely

Attendance at meetings need not be in person but by means of instantaneous communication.

Clause 16 Committees of the Board

The Board may appoint committees to assist in its functions.

Clause 17 *Meaning of “member”*

A member of the Board or a committee.

Clause 18 *Disclosure of interests*

Material personal interests in a matter before the Board must be disclosed by members or an offence is committed.

Clause 19 *Voting by interested members*

A member who has a material personal interest in a matter before the Board must not vote on the matter and must not be present when the matter is being considered.

Clause 20 *Clause 19 may be declared inapplicable*

The Board may declare clause 19 inapplicable if it is satisfied the interest should not disqualify the member from voting.

Clause 21 *Quorum where clause 19 applies*

If a member is disqualified under clause 19 a quorum will be considered as 4 members. The Minister may deal with a matter if the Board is unable to with only 4 members present, such as for a decision on registration or licensing.

Clause 22 *Minister may declare clauses 19 and 21 inapplicable*

The Minister may declare clauses 19 and 21 inapplicable and, if so, must cause a copy of the declaration to be laid before each House of Parliament.

Schedule 2 – Savings and transitional provisions

Schedule 2 provides transitional provisions for the introduction of the new Act relating to the continuation of the Board, membership of the Board, the Registrar and other staff, registered persons and certificates under the repealed Act, and applications for registration not finalised before commencement of the new Act.

Clause 1 *Terms used in this schedule*

Describes the terms used in this schedule.

Clause 2 *Interpretation Act 1984 not affected*

This schedule does not affect the terms of the *Interpretation Act 1984*.

Clause 3 *Board (body corporate) continues*

The Board continues as a body corporate and all references to the former Board are to be taken to be a reference to the new Board.

Clause 4 *Membership of new Board*

This clause provides for the old Board members to cease office as the new members commence. Transitional provisions are provided with staggered appointments to ensure all appointments do not fall due at the same time. Some members are appointed for 1 year and some for 2 years.

Clause 5 *Registrar and other staff*

The registrar and officers of the old Board will continue as registrar and officers of the new Board.

Clause 6 Persons registered under repealed Act

All persons registered under the old Act continue to be registered under the new Act. A corporations registration under the old Act continues under the new Act as a licence. Corporations are no longer registered under the new Act, in accordance with the State and national reviews.

Clause 7 Register

The register under the old Act continues as the register under the new Act.

Clause 8 Certificates under repealed Act

Certificates of registration for natural persons under the old Act continue as certificates of registration under the new Act. Certificates of registration for corporations under the old Act, continue as licence documents under the new Act.

Clause 9 Transitional provision as to applications for registration

Any applications for registration by natural persons under the old Act are to continue as if the sections of the old Act had not been repealed. This is to be fair to all applicants under the old Act. Any applications for registration by corporations under the old Act are to be dealt with as if they were an application for a grant of a licence under the new Act. Corporations must be dealt with under provisions of the new Act as they are no longer registered and there are different requirements.

Clause 10 First annual report

The Board is also to report on the proceedings of the old Board in its first annual report under the new Act.

Clause 11 Powers in relation to transitional provisions

If there is no specific schedule for dealing with a transitional matter the Governor may make regulations prescribing all required matters.