

Architects (Amendment) Bill

Bill No. 8/2017.

Read the first time on 6 February 2017.

A BILL

intituled

An Act to amend the Architects Act (Chapter 12 of the 2000 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Architects (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2 of the Architects Act is amended —

(a) by inserting, immediately after the definition of “allied professional”, the following definitions:

““architectural firm” means —

10 (a) a partnership comprising wholly of registered architects, each of whom has in force a practising certificate; or

(b) a sole-proprietorship comprising a registered architect who has in force a practising certificate;

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“architectural practice” means —

(a) an architectural firm;

(b) a limited corporation licensed under section 20(1);

20 (c) an unlimited corporation licensed under section 20(2);

(d) a partnership licensed under section 20(3); or

(e) a limited liability partnership licensed under section 20(4);”;

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(b) by inserting, immediately after the definition of “Disciplinary Committee”, the following definitions:

30 ““foreign architect” means any person who is authorised to practise as an architect in a country or territory outside Singapore under the law of that country or territory;

“foreign registration authority”, for any country or territory outside Singapore, means the person in that country or territory having the function conferred by the laws of that country or territory of registering persons in connection with the persons carrying on the practice of architecture in that country or territory;”;

(c) by inserting, immediately after the definition of “limited liability partnership”, the following definition:

“ “limited partnership” means a limited partnership registered under the Limited Partnerships Act (Cap. 163B);”;

(d) by inserting, immediately after the definition of “nominee”, the following definitions:

“ “participating jurisdiction” means any country or territory outside Singapore in relation to which an arrangement under section 6A(2) is in force;

“partnership” includes a limited partnership;”;

(e) by deleting the definition of “register of architects” and substituting the following definition:

“ “register of architects” means the register of architects kept and maintained by the Board under section 8(1)(a);”;

(f) by deleting the words “section 8(c)” in the definition of “register of licensees” and substituting the words “section 8(1)(e)”;

(g) by deleting the words “section 8(b)” in the definition of “register of practitioners” and substituting the words “section 8(1)(d)”;

(h) by deleting the words “section 15” in the definition of “registered architect” and substituting the words “section 15(1) or (2A)”.

Amendment of section 4A

3. Section 4A of the Architects Act is amended —

(a) by deleting the words “for not more than 2 consecutive terms” in subsection (3); and

5 (b) by inserting, immediately after subsection (3), the following subsection:

“(3A) However, a person is ineligible for re-election to office as a member under subsection (1)(c) if the re-election would result in the person holding office as a member for 3 consecutive terms.”.

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Amendment of section 4C

4. Section 4C of the Architects Act is amended —

(a) by deleting the words “for not more than 2 consecutive terms” in subsection (2); and

15 (b) by inserting, immediately after subsection (2), the following subsection:

“(3) However, a person is ineligible for re-election as the President under subsection (1) if the re-election would result in the person holding office as the President for 3 consecutive terms.”.

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Amendment of section 4F

5. Section 4F of the Architects Act is amended by inserting, immediately after subsection (1), the following subsections:

“(1A) A meeting of the Board may be held —

25 (a) by a quorum of the members, being assembled together at the place and time appointed for the meeting; or

(b) by means of audio, audio and visual, or electronic communication provided that —

- (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
- (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

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(1B) For the purposes of this Act, a member participating in a meeting as permitted under subsection (1A)(b) is taken to be present at the meeting.”.

New section 4G

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6. The Architects Act is amended by inserting, immediately after section 4F, the following section:

“Decision-making outside of meeting

4G.—(1) The Board may, in lieu of a meeting in accordance with section 4F, make a decision by written or electronic means, if —

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- (a) all of the members are given (whether by post, personal delivery or electronic communication) the terms of the decision to be made; and
- (b) a majority of those members who are entitled to vote on the matter sign or approve a document containing the terms of the decision to be made and a statement that they are in favour of those terms.

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(2) A decision of the Board is taken to be made at a meeting of the Board on the date on which the document containing the terms of the decision to be made is signed or approved by the last member required to form the majority of the members in favour of the decision.

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(3) Any reference in any law to a decision of the Board includes a reference to a decision of the Board made in accordance with this section.”.

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Amendment of section 6

7. Section 6 of the Architects Act is amended —

(a) by deleting paragraph (a) and substituting the following paragraph:

5 “(a) to keep and maintain every register mentioned in section 8(1);”;

(b) by inserting, immediately after the words “with architecture” in paragraph (d), the words “and the practice of architecture”; and

10 (c) by deleting the word “and” at the end of paragraph (g), and by inserting immediately thereafter the following paragraph:

15 “(ga) to facilitate the mutual recognition, within Singapore and any country or territory outside Singapore, of the qualifications and standards regarding the practice of architecture; and”.

New section 6A

20 8. The Architects Act is amended by inserting, immediately after section 6, the following section:

“Powers of Board

6A.—(1) The Board has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions, including power —

25 (a) to grant prizes and scholarships in connection with architecture, either alone or in conjunction with any person;

(b) to accept grants, donations or gifts from any source or raise funds by lawful means;

30 (c) to determine the requirements for continuing professional education, and to organise related courses, programmes and other activities; and

(d) to do any other thing that is necessary or convenient to be carried out for or in connection with, or as incidental to, the performance of its functions.

(2) The Board may, with the approval of the Minister, enter into arrangements with the appropriate foreign registration authority of any country or territory outside Singapore for the mutual recognition, within Singapore and that country or territory, of the qualifications and standards adopted by each of the parties to the arrangement regarding the practice of architecture.”

Repeal and re-enactment of section 8

9. Section 8 of the Architects Act is repealed and the following section substituted therefor:

“Registers

8.—(1) The Board must keep and maintain at its office the following registers:

- (a) a register of architects containing the names of persons registered under section 15(1) or (2A) and any other particulars determined by the Board;
- (b) a register containing the names of persons recognised under section 15A and any other particulars determined by the Board;
- (c) a register of exempted architects in which is to be entered the names of registered architects to whom an exemption under section 15(3) applies, and such other particulars determined by the Board;
- (d) an annual register of practitioners in which is to be entered the particulars as contained in the declaration delivered under section 18(3)(a) and such other particulars determined by the Board;
- (e) an annual register of licensees in which is to be entered the names and addresses of all licensed corporations, partnerships and limited liability partnerships issued with a licence and such other particulars determined by the Board.

(2) A person may, with the Registrar’s approval and upon payment of the prescribed fee, obtain an extract from any register kept and maintained under subsection (1).”.

Amendment of section 9

5 **10.** Section 9 of the Architects Act is amended —

(a) by deleting paragraph (c) of subsection (2) and substituting the following paragraph:

10 “(c) record all relevant entries in any register kept and maintained under section 8(1), including any suspension, cancellation or reinstatement of registration in any of the registers.”; and

(b) by deleting subsection (4) and substituting the following subsection:

15 “(4) The Registrar must publish, in such manner as will secure adequate publicity to the general public, the following:

20 (a) as soon as possible after 1 January each year, a list containing the names, qualifications and addresses of all registered architects who, on that date, have in force a practising certificate and the names of the architectural practices under which they are practising, or that are employing them;

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(b) from time to time, such supplementary lists of the names, qualifications, addresses and the names of the architectural practices of persons added to or removed from the register of practitioners.”.

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Amendment of section 10

11. Section 10 of the Architects Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) Subject to the provisions of this Act, a person
must not draw or prepare any architectural plan,
drawing, tracing, design, specification or other
document intended to govern the construction,
enlargement or alteration of any building or part of a
building in Singapore unless the person —

(a) is a registered architect —

(i) who has in force a practising
certificate; or

(ii) who, if he is not required to obtain a
practising certificate, is doing so in
accordance with any prohibition,
restriction or condition of his
registration;

(b) is doing so under the direction or
supervision of a person mentioned in
paragraph (a); or

(c) is exempt under section 36 from this
section.”;

(b) by inserting, immediately after the words “registered
architect” in subsection (3)(a), the words “who has in
force a practising certificate”;

(c) by deleting the word “or” at the end of subsection (3)(a);

(d) by deleting paragraph (b) of subsection (3) and substituting the following paragraphs:

5 “(b) advertise or hold himself out, or conduct himself in any way or by any means, as a person who is authorised to supply architectural services in Singapore, unless the person is —

(i) a registered architect who has in force a practising certificate; or

10 (ii) an architectural practice;

(c) use the word “architect” or any of its derivatives as part of the name of an architectural practice unless the person is authorised under this Act to supply architectural services; or

15 (d) use verbally or otherwise the word “architect” or the abbreviation “Ar.” as a title before his name unless he is a registered architect who has in force a practising certificate.”;

(e) by deleting subsection (5) and substituting the following subsection:

20 “(5) Subject to the provisions of this Act, a person must not —

25 (a) supply architectural services in Singapore unless the person is —

(i) a registered architect who has in force a practising certificate and is doing so on the person’s own account or under, or as an employee of, an architectural practice;

30 (ii) a registered architect who, if he is not required to obtain a practising certificate, is doing so in accordance

with any prohibition, restriction or condition of his registration; or

(iii) a licensed corporation or licensed limited liability partnership; or

(b) offer to supply architectural services in Singapore unless the person is — 5

(i) a person mentioned in paragraph (a); or

(ii) an allied professional who is doing so only by reason of being a partner in a licensed partnership or licensed limited liability partnership.”; 10

(f) by deleting the words “subsection (5)(i), (ii) or (iii)” in subsection (5A) and substituting the words “subsection (5)(a)(i) or (iii)”; and 15

(g) by deleting subsection (6) and substituting the following subsections:

“(6) Any person who contravenes subsection (1), (2), (3) or (5) shall be guilty of an offence and shall be liable on conviction — 20

(a) in the case of a natural person —

(i) to a fine not exceeding \$5,000; and

(ii) if the person is a repeat offender, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; and 25

(b) in the case of a body corporate —

(i) to a fine not exceeding \$5,000; and

(ii) if the body corporate is a repeat offender, to a fine not exceeding \$10,000. 30

(7) In this section, a person is a repeat offender if the person who is convicted, or found guilty, of an offence under subsection (6) has (whether before, on or after the date of commencement of section 11(g) of the Architects (Amendment) Act 2017) been convicted or found guilty on at least one other earlier occasion of—

(a) an offence under subsection (6) for contravening subsection (1), (2), (3) or (5); or

(b) an offence under subsection (6) as in force immediately before that date for contravening subsection (1), (2), (3) or (5) as in force immediately before that same date.”.

Repeal and re-enactment of section 11

12. Section 11 of the Architects Act is repealed and the following section substituted therefor:

“Remuneration for architectural services

11.—(1) Subject to the provisions of this Act, a person is not entitled to demand, claim or sue for or recover any charge, fee or remuneration for any architectural services supplied by the person in Singapore, or for any offer by the person to supply architectural services in Singapore, in connection with any arbitration, suit or matter, if the person supplying or offering to supply the architectural services is not authorised by this Act to supply those services.

(2) Any person, who has made any payment to another person for that other person engaging in conduct which is in contravention of section 10, may recover the money in a court of competent jurisdiction if the person did not know, or have reason to believe, when making payment, that the conduct by that other person was in contravention of section 10.”.

Amendment of section 12**13.** Section 12 of the Architects Act is amended —

- (a) by deleting the words “any person who neither is a registered architect nor has in force a practising certificate” in subsection (1) and substituting the words “any other person unless the other person is a registered architect who has in force a practising certificate”;
- (b) by inserting, immediately after subsection (1), the following subsection:
- “(1A) Subject to the provisions of this Act, a person must not engage the architectural services of any other person in relation to any building works unless the other person —
- (a) is a registered architect who has in force a practising certificate; or
- (b) is a registered architect who, if he is not required to obtain a practising certificate, is supplying the architectural services in accordance with any prohibition, restriction or condition of his registration.”;
- (c) by inserting, immediately after the words “subsection (1)” in subsection (2), the words “or (1A)”; and
- (d) by inserting, immediately after the word “Employment” in the section heading, the words “or engagement”.

Amendment of section 15**14.** Section 15 of the Architects Act is amended —

- (a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph:
- “(a) any person holding —
- (i) the Degree of Bachelor of Architecture from the National

University of Singapore or the University of Singapore; or

(ii) the Degree of Masters of Architecture from the National University of Singapore or the Singapore University of Technology and Design;”;

(b) by deleting the words “examinations as may be required by the Board” in subsection (1)(c) and substituting the words “oral or written examinations as may be prescribed”;

(c) by deleting the word “and” at the end of subsection (2)(c)(i);

(d) by deleting sub-paragraph (ii) of subsection (2)(c) and substituting the following sub-paragraphs:

“(ii) received any commendation or award at any international architectural event, or from any professional body whose architectural degree or qualification is recognised by the Board; and

(iii) passed such oral or written examination as may be prescribed by the Board.”;

(e) by inserting, immediately after subsection (2), the following subsections:

“(2A) Despite subsections (1) and (2), any foreign architect who is first authorised to practise architecture in a country or territory outside Singapore which is a participating jurisdiction and who intends to engage in the practice of architecture in Singapore, is entitled to registration under this Act —

(a) upon payment of the prescribed fee; and

(b) if the foreign architect has such qualifications, requisite practical experience in architectural work, and has passed such oral or written examinations, as may be approved by the Board.

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(2B) A registration of a foreign architect under subsection (1) or (2A) may be subject to such prohibitions, restrictions or conditions as to the practice of architecture in Singapore as the Board may impose.”; and

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(f) by inserting, immediately after the word “registration” in subsection (5), the words “under subsection (1)”.

New section 15A

15. The Architects Act is amended by inserting, immediately after section 15, the following section:

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“Recognition for purposes of mutual recognition arrangements

15A.—(1) Subject to this section, any registered architect who intends to supply or offer to supply architectural services in any participating jurisdiction, may apply to be recognised for the purposes of any arrangement mentioned in section 6A(2) with a foreign registration authority in that jurisdiction.

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(2) An application to be recognised for the purposes of an arrangement mentioned in section 6A(2) with a foreign registration authority of a participating jurisdiction must be granted by the Board if, upon payment of the prescribed fee, it is satisfied —

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(a) that under the terms of the arrangement, the applicant is eligible to supply or offer to supply those architectural services in the participating jurisdiction if the applicant is first recognised under this section; and

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(b) that the applicant —

(i) has the requisite practical experience in architectural work as may be approved by the Board; and

(ii) has passed such oral or written examinations as may be approved by the Board.

(3) Any recognition under subsection (2) —

(a) is valid for such period (not exceeding one year) as may be determined by the Board; and

(b) may be renewed upon payment of the prescribed fee.”.

Repeal and re-enactment of section 17A

16. Section 17A of the Architects Act is repealed and the following section substituted therefor:

“Amendment of registers

17A. The Registrar must —

(a) amend any register kept and maintained under section 8(1) when there is any alteration which may come to the Registrar’s knowledge in the name, address or other relevant particulars of any person registered;

(b) correct any error in any entry in any such register; and

(c) remove from any such register the name of any person —

(i) whose name has been ordered to be removed under any provision of this Act; or

(ii) who is deceased.”.

Amendment of section 17B

17. Section 17B of the Architects Act is amended —

(a) by deleting paragraph (c) of subsection (2) and substituting the following paragraph:

“(c) he refuses or fails to comply with —

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(i) an order made (whether before, on or after the date of commencement of section 17(a) of the Architects (Amendment) Act 2017) by the Board under section 31B(1)(a) (pursuant to the recommendation of an Investigation Committee under section 31A(d)), or under section 31B(1)(c);

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(ii) an order made (whether before, on or after the date of commencement of section 17(a) of the Architects (Amendment) Act 2017) by a Disciplinary Committee under section 31G(2)(c) or (3) to pay a penalty or sum, or under section 31G(2)(e); or

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(iii) any prohibition, restriction or condition imposed by the Board under section 15(2B).”; and

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(b) by inserting, immediately after the words “subject of” in subsection (8)(b), the words “a complaint made against the applicant which is not dismissed, or”.

Amendment of section 18

18. Section 18 of the Architects Act is amended —

(a) by deleting sub-paragraphs (ii) and (iii) of subsection (3)(a) and substituting the following sub-paragraphs:

5 “(ii) the name of the architectural practice under which he practises, or by which he is employed; and

10 (iii) the principal and any other address or addresses of the architectural practice under which he practises, or by which he is employed;”;

(b) by deleting the words “any person lawfully supplying architectural services in Singapore” in subsection (4)(c) and substituting the words “an architectural practice”;

15 (c) by deleting the word “or” at the end of subsection (4)(f);

(d) by deleting paragraph (g) of subsection (4) and substituting the following paragraphs:

20 “(g) the Board does not approve the name of the architectural practice under which the registered architect intends to carry on his practice or by which he is employed;

25 (h) the applicant’s qualification for registration under section 15(1)(a), (b) or (c) has been withdrawn or cancelled by the authority through which it was acquired or by which it was awarded or granted;

(i) the applicant has failed to comply with any of the conditions imposed by the Minister under section 15(3); or

(j) the applicant refuses or fails to comply with —

(i) an order made (whether before, on or after the date of commencement of section 18(*d*) of the Architects (Amendment) Act 2017) by the Board under section 31B(1)(*a*) (pursuant to the recommendation of an Investigation Committee under section 31A(*d*)), or under section 31B(1)(*c*);

(ii) an order made (whether before, on or after the date of commencement of section 18(*d*) of the Architects (Amendment) Act 2017) by a Disciplinary Committee under section 31G(2)(*c*) or (3) to pay a penalty or sum, or under section 31G(2)(*e*); or

(iii) any prohibition, restriction or condition imposed by the Board under section 15(2B).”; and

(*e*) by deleting the words “firm or corporation” in subsection (7) and substituting the words “architectural practice”.

Amendment of section 20

19. Section 20 of the Architects Act is amended —

(*a*) by deleting paragraph (*c*) of subsection (1) and substituting the following paragraph:

“(*c*) the articles of association of the corporation provide that —

(i) at least a prescribed number or prescribed proportion of the directors of the corporation must be

registered architects or allied professionals, each of whom must have in force a practising certificate;

5 (ii) any person whose name and particulars have been removed from any of the following registers other than upon an application by that person, must not be a director unless his name and particulars have been reinstated:

10 (A) the register of architects;

15 (B) the register of registered professional engineers kept and maintained by the Professional Engineers Board under section 8 of the Professional Engineers Act (Cap. 253);

20 (C) the register of surveyors kept and maintained by the Land Surveyors Board under section 9 of the Land Surveyors Act (Cap. 156); and

25 (iii) any person who has been suspended from practice as a registered architect under this Act, or as a registered professional engineer under the Professional Engineers Act, or as a registered surveyor under the Land Surveyors Act, must not be a director for so long as he remains suspended;”;

30 (b) by deleting the word “and” at the end of subsection (2)(b)(ii); and

(c) by inserting, immediately after sub-paragraph (iii) of subsection (2)(b), the following sub-paragraphs:

“(iv) any person whose name and particulars have been removed from any of the following registers other than upon an application by that person, must not be a director unless his name and particulars have been reinstated: 5

(A) the register of architects; 10

(B) the register of registered professional engineers kept and maintained by the Professional Engineers Board under section 8 of the Professional Engineers Act; 15

(C) the register of surveyors kept and maintained by the Land Surveyors Board under section 9 of the Land Surveyors Act; and 20

(v) any person who has been suspended from practice as a registered architect under this Act, or as a registered professional engineer under the Professional Engineers Act, or as a registered surveyor under the Land Surveyors Act, must not be a director for so long as he remains suspended;”. 30

Amendment of section 26A

20. Section 26A of the Architects Act is amended —

- (a) by inserting, immediately after the words “or 24” in subsection (1)(h), the words “or failed to comply with any condition imposed under section 21,”; and
- (b) by deleting subsection (2) and substituting the following subsection:

“(2) The Board may, in any case in which it considers that no cause of sufficient gravity for revoking a licence exists —

(a) by order impose on the corporation, partnership or limited liability partnership concerned a penalty not exceeding \$100,000 and every such penalty is recoverable as a debt due to the Board; or

(b) by writing censure the corporation, partnership or limited liability partnership.”.

Amendment of section 28

21. Section 28 of the Architects Act is amended —

- (a) by inserting, immediately after the words “Any complaint”, the words “or information”; and
- (b) by deleting the words “section 26A(1)(e)” in paragraph (e) and substituting the words “section 26A(1)(f)”.

Amendment of section 31G

22. Section 31G of the Architects Act is amended —

- (a) by deleting the words “section 26A(1)(e)” in subsection (1)(e) and substituting the words “section 26A(1)(f)”; and
- (b) by deleting “\$10,000” in subsection (2)(c) and substituting “\$50,000”.

New section 31K

23. The Architects Act is amended by inserting, immediately before section 32 in Part VIII, the following section:

“Investigators

31K.—(1) The Board may, in writing, appoint a member or an employee of the Board, a public officer or any other person as an investigator, subject to such conditions and limitations as the Board may specify, to investigate the commission of an offence under this Act. 5

(2) An investigator may, for the purposes of subsection (1) — 10

(a) by order in writing require any person —

(i) to furnish any information within the person’s knowledge;

(ii) to produce any document or other record, or any article or thing which may be in the person’s custody or possession and which may be related to or be connected with the subject matter of the investigation for inspection by the investigator and for making copies, or to provide copies of such document or other record; and 15 20

(iii) if necessary, to attend at a specified time and place for the purpose of complying with sub-paragraph (i) or (ii);

(b) by order in writing require the attendance before the investigator of any person who, from any information given or otherwise, appears to be acquainted with the facts and circumstances of the matter under investigation; and 25

(c) examine orally any person apparently acquainted with the facts and circumstances of the matter under investigation, and to reduce into writing the answer given or statement made by that person who is bound to state truly the facts and circumstances with which the person is acquainted, and the statement made by 30

that person must be read over to the person and must, after correction, be signed by the person.

5 (3) An investigator may apply to a Magistrate for a search warrant relating to any premises if the investigator has reasonable cause to believe that evidence of the commission of an offence under this Act can be found in the premises.

(4) The Magistrate may issue a search warrant if satisfied that there are reasonable grounds to do so.

10 (5) A search warrant issued under subsection (4) authorises the investigator to whom it is directed to enter and search the premises referred to in the warrant and to do all or any of the following:

15 (a) inspect and make copies of and take extracts from, or require the person or the person having the management or control of the premises to provide copies of or extracts from, any document, record or electronic material relating to the affairs of the premises or services provided at the premises;

20 (b) take such photographs or video recording as the investigator thinks necessary to record the premises or part of the premises, including any instrument, article, document or record found on the premises;

25 (c) seize and remove from the premises any record, document, or any other material which the investigator reasonably believes to be the subject matter of, or to be connected with, an investigation under subsection (1).

(6) Any person who —

30 (a) intentionally offers any resistance to or wilfully delays an investigator in the exercise of any power under subsection (2) or pursuant to a search warrant issued under subsection (4); or

(b) fails to comply with any requisition or order of an investigator under subsection (2),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.”.

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Amendment of section 32

24. Section 32(6) of the Architects Act is amended by deleting the words “3 months” and substituting the words “6 months”.

Repeal and re-enactment of section 35 and new section 35A

25. Section 35 of the Architects Act is repealed and the following sections substituted therefor:

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“Offences by corporations

35.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

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(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his actual or apparent authority; and

(b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind.

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(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

(i) an officer of the corporation, or a member of a corporation (in the case where the affairs of the corporation are managed by its members); or

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(ii) an individual who is involved in the management of the corporation and is in a position to influence the conduct of the corporation in relation to the commission of the offence; and

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(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

(iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

- (a) any person purporting to act in any such capacity; and
- (b) for a corporation whose affairs are managed by its members, any of those members as if the member is a director of the corporation;

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“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

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Offences by unincorporated associations or partnerships

35A.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

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- (a) an employee or agent of the unincorporated association or the partnership engaged in that conduct within the scope of his actual or apparent authority; and
- (b) the employee or agent had that state of mind,

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is evidence that the unincorporated association or partnership had that state of mind.

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(2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

- (a) who is —
 - (i) an officer of the unincorporated association or a member of its governing body;
 - (ii) a partner in the partnership; or

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(iii) an individual who is involved in the management of the unincorporated association or partnership and who is in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or

(iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the unincorporated association or partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

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(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

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(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(b) any person purporting to act in any such capacity;

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“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.”.

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Amendment of section 38

26. Section 38(2) of the Architects Act is amended by deleting the words “the register of architects, register of practitioners and register of licensees are” in paragraph (d) and substituting the words “any register kept and maintained under section 8(1) is”.

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Saving and transitional provisions

27.—(1) To avoid doubt, section 12 applies to and in relation to any architectural services supplied, or offered before, on or after the date of commencement of that section.

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(2) Any foreign architect from any country or territory outside Singapore who, immediately before the date of commencement of section 14(e), is recognised as a person who may engage in the practice of architecture in Singapore under any scheme administered by the Board, is treated as registered under section 15(2A) of the Architects Act.

(3) Any registered architect who, immediately before the date of commencement of section 15, is recognised as a person who may engage in the practice of architecture in any country or territory outside Singapore under any scheme administered by the Board, is treated as recognised under section 15A(2) of the Architects Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Architects Act (Cap. 12) for the following main purposes:

- (a) to give effect to the arrangements made between the Board of Architects (the Board) and the appropriate authorities of any country or territory outside Singapore for the mutual recognition of the qualifications and standards adopted by each of the parties to the arrangement regarding the practice of architecture;
- (b) to make clear that a member elected to the Board and the President of the Board can only serve for 2 consecutive terms;
- (c) to regulate how the Board conducts its meetings and makes decisions outside of a meeting;
- (d) to provide for further functions to be performed by the Board, and the powers of the Board;
- (e) to provide for the various registers to be kept and maintained by the Board;
- (f) to criminalise certain acts relating to the practice of architecture in Singapore;
- (g) to prohibit an unauthorised architect from claiming any fee or remuneration in connection with any arbitration, suit or matter for architectural services provided by the unauthorised architect;
- (h) to allow persons who had made payment to an unauthorised architect to recover the money from the unauthorised architect;

- (i) to allow the Registrar of the Board to amend any of the registers kept and maintained by the Board and to remove the names of persons who appear in any such register;
- (j) to provide further grounds for the Board to refuse to issue a practising certificate;
- (k) to provide for further matters which have to be included in the articles of association of a limited corporation or an unlimited corporation when such corporations apply for a licence under the Act;
- (l) to increase the penalties for certain offences under the Act;
- (m) to allow the Board to appoint investigators to investigate into the commission of any offence under the Act and to confer on the investigators such powers as are necessary;
- (n) to extend the deadline for the Board to submit the accounting report to the Minister from 3 months to 6 months.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert new definitions of “architectural firm”, “architectural practice”, “foreign architect”, “participating jurisdiction”, etc.. The clause also makes certain technical amendments to other definitions used in the Act.

Clause 3 amends section 4A to make clear that any member elected to the Board can only serve for 2 consecutive terms.

Clause 4 amends section 4C to make clear that the elected President of the Board can only serve for 2 consecutive terms.

Clause 5 amends section 4F by setting out the methods of holding meetings. These can be face-to-face meetings with members physically gathered at a place, or by means of audio, audio and visual, or electronic communication technology such as by telephone or online video conference. However, if technology is used, and a face-to-face meeting is to be dispensed with, all of the members who wish to participate in the meeting must have access to the technology needed to participate in the meeting, and a quorum of members must be able to simultaneously communicate with each other throughout the meeting.

Clause 6 inserts a new section 4G which allows the Board to make a decision by written or electronic means without a meeting. Any document containing the terms of the decision of the Board signed or otherwise approved by the majority of the Board members is taken to be made at a meeting of the Board.

Clause 7 makes technical amendments to section 6 and also confers a new function on the Board to facilitate the mutual recognition, within Singapore and any country or territory outside Singapore, of the qualifications and standards regarding the practice of architecture.

Clause 8 inserts a new section 6A which confers certain powers on the Board to do all things necessary or convenient to be done for, or in connection with, the performance of the functions of the Board.

Clause 9 repeals and re-enacts section 8 to provide for the various registers which are to be kept and maintained by the Board.

Clause 10 makes technical amendments to section 9.

Clause 11 amends section 10 —

- (a) to disallow any person to draw or prepare any architectural document intended to govern the construction, enlargement or alteration of any building unless the person satisfies certain criteria;
- (b) to disallow any person to advertise or hold himself or herself out as a person who is authorised to supply architectural services unless the person is a registered architect who has in force a practising certificate, or is an architectural practice;
- (c) to disallow any person to use the word “architect” or any of its derivatives as part of the name of an architectural practice unless the person is authorised to supply architectural services;
- (d) to disallow any person to use verbally or otherwise the word “Ar.” as a title before the person’s name unless the person is a registered architect who has in force a practising certificate; and
- (e) to provide for the persons who may supply or offer to supply architectural services in Singapore.

Clause 12 repeals and re-enacts section 11 to prohibit any unauthorised person who has supplied or offered to supply any architectural services in Singapore, from claiming or recovering, in connection with any arbitration, suit or matter, any money owed to the unauthorised person in respect of such architectural services. The clause also allows any person who had already paid money to such unauthorised person to recover the money in a court. However, the person cannot recover the money if he or she knows, or has reason to believe, that the person engaged by him or her is a person who had engaged in conduct which is in contravention of section 10.

Clause 13 amends section 12 to prohibit any person from engaging the architectural services of another person in relation to any building works unless the other person satisfies certain criteria.

Clause 14 amends section 15 to provide for the qualifications needed to be registered under the Act. The clause further provides for a registration process to enable any foreign architect from a participating jurisdiction to be registered under the Act. Such a foreign architect who intends to engage in the practice of architecture in Singapore may apply to be registered under the Act. However, the foreign architect must pay the prescribed fee and must have such qualifications, requisite practical experience in architectural work, and have passed such oral or written examinations, as may be approved by the Board.

Any foreign architect from a participating jurisdiction registered under the new section 15(2B) may be subject to any prohibition, restriction and condition as to the practice of architecture imposed by the Board. For example, it is possible for the Board to restrict a foreign architect to only engage in the practice of architecture in Singapore in collaboration with an architectural practice in connection with any particular building works. This would mean that such a foreign architect so registered cannot supply, or offer to supply, architectural services independently, or as an employee of an architectural practice, but must do so in collaboration with an architectural practice.

Clause 15 inserts a new section 15A. The new section 15A provides for the recognition of registered architects who intend to supply, or offer to supply, architectural services in any participating jurisdiction. The recognition in Singapore before a registered architect can engage in the practice of architecture in a participating jurisdiction is necessary due to the requirement for recognition as set out in the terms of the arrangement between the Board and the foreign registration authority. The Board must also be satisfied that the registered architect has satisfied such requirements set by the Board.

Clause 16 repeals and re-enacts section 17A to empower the Registrar of the Board to amend or correct any register, and to remove the name of any person from any register in certain circumstances.

Clause 17 amends section 17B to empower the Board to remove from the register of architects the names and particulars of any registered architect if the registered architect refuses or fails to comply with certain orders made by the Board or the Disciplinary Committee. Before removing the name of a registered architect, the Board must notify the architect concerned of its intention to do so.

Clause 18 amends section 18 to specify the additional information which has to be stated in the declaration when a registered architect applies for a practising certificate. The clause also provides for the additional grounds under which the Board may refuse to issue a practising certificate.

Clause 19 amends section 20 to specify the contents which have to be provided in the articles of association of a limited corporation or an unlimited corporation in a case where the Board grants the limited corporation or unlimited corporation a licence to supply architectural services in Singapore.

Clause 20 amends section 26A to empower the Board to revoke a licence granted to a corporation, partnership or limited liability partnership if the corporation, partnership or limited liability partnership has contravened any condition imposed under section 21. The clause also empowers the Board to impose a financial penalty on, or issue a censure to, any corporation, partnership or limited liability partnership if the Board thinks that there is no cause of sufficient gravity for revoking a licence.

Clause 21 makes some technical amendments to section 28.

Clause 22 makes a technical amendment to section 31G(1)(e) and also amends section 31G(2) to increase the penalty which a Disciplinary Committee may impose on a registered architect after due inquiry into a complaint or matter relating to the registered architect.

Clause 23 inserts a new section 31K, which empowers the Board to appoint a member or an employee of the Board, a public officer or any other person as an investigator to investigate into the commission of an offence under the Act. The powers conferred on the investigator include the power of search and requiring persons to furnish information or to attend before the investigator for questioning, etc.. It is an offence for a person to obstruct an investigator or to fail to comply with any requisition or order of an investigator.

Clause 24 amends section 32(6) by extending the time by which the Board has to submit to the Minister, a report of its functions, proceedings and activities during the preceding year.

Clause 25 repeals and re-enacts section 35 and inserts a new section 35A.

The new section 35 deals with corporate offenders and for attributing criminal liability to officers of corporate entities for offences committed by their entities. Corporations like companies can be held directly liable for their conduct and can be found guilty of, and punished for, the commission of an offence. As a separate legal entity, liability for the offence is imposed on the corporation itself and is not generally attributed to its officers and employees unless there is a provision like the new section 35.

The new section 35A deals with unincorporated entities like partnerships and associations and for attributing criminal liability to officers of unincorporated entities for offences committed by their bodies. The clause also provides clarity where the offence by the unincorporated entity requires a mental element and is not a strict liability offence.

Clause 26 makes a technical amendment to section 38(2).

Clause 27 sets out the saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
