

Review of the Architects Act 2003
Discussion Paper

Department of Services Technology and Administration

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1. Introduction

The *Architects Act 2003* was established following a review of the legislation regulating the architect profession including a consideration of the report of a review undertaken by the Productivity Commission published in 2000. State and Territory governments worked together to introduce a nationally agreed framework that was endorsed by the Australian Procurement and Construction Ministerial Council. The legislation aimed for greater consumer protection and more effective professional discipline.

1.1 Scope of the Review

The purpose of this review is to determine whether the policy objectives of the Act are still valid and whether the terms of the Act are appropriate for meeting these objectives.

Terms of reference

Section 89 of the Act provides:

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.*
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.*
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.*

1.2 Purpose of Discussion Paper

The purpose of this discussion paper is to outline the scope of the review and to encourage individuals and organisations, the architect profession and consumers to provide input to the review.

1.3 Invitation to make a submission

As a part of the review, the DSTA is seeking written submissions responding to the review's Terms of Reference. Comments about other aspects of the Act are welcome but it should be noted that the report submitted to Parliament will focus on the Terms of Reference.

The closing date for submissions is **16 November 2009**.

Submissions should be addressed to:

Elizabeth Stewart
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Level 15, 2-24 Rawson place
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2. Overview of the Architects Act

The *Architects Act 2003* replaced the *Architects Act 1921* and aimed to achieve greater consumer protection, more effective professional discipline and enable a renamed and reformed Architects Registration Board to take a more active role in promoting community discussion on the role of architects in the community. The *Architects Act 2003* came into force on 30 June 2004.

2.1 Objects of the Act

The objects of this Act are set out in the Act itself and are:

- (a) to ensure that architects provide services to the public in a professional and competent manner, and*
- (b) to provide mechanisms to discipline architects who are found to have acted unprofessionally or incompetently, and*
- (c) to ensure that the public is appropriately informed about the qualifications and competence of individuals or organisations holding themselves out as architects, and*
- (d) to promote a better understanding of architectural issues in the community.*

Questions

- a. Do the objectives of the Act remain valid?*
- b. Should the objectives be changed? If so, what should the changes be?*

3. THE PROVISIONS OF THE ACT

3.1 Code of Professional Conduct

Part 2 of the Act provides for the establishment of a code of professional conduct. The current code is set out in Schedule 1 the Architects Regulation 2004 made under the Act.

Questions

- c. Is the Code of Conduct appropriate for the professional conduct of the architect profession?*
- d. Are there any additional matters that should be covered by the Code?*

3.2 Offences

The Act requires that only a person who is registered as an architect under the Act can represent him or herself or itself as an architect. In support of this requirement, the Act makes it an offence to claim to be an architect unless the person is a registered architect. To assist consumers, architects must display the registration number in dealings with consumers.

Questions

- e. Are the offences appropriate?*
- f. Are the penalties appropriate to the offence?*

4. REGISTRATION

Part 3 of the Act sets out the requirements that an architect must meet to be entitled to registration, for a fee, as an architect. Registration may be full or temporary and conditions may be imposed by the Board. An architect's registration may be cancelled or suspended in the circumstances set out in the Act.

Further, the Board has the function of accrediting relevant courses of study on application by an educational or training institution where those courses of study meet the requirements of the legislation.

Questions

- g. Is the registration procedure appropriate?***
- h. Do the requirements for registration result in appropriate professionals being registered? Are any changes needed?***
- i. Are provisions for cancellation or suspension adequate?***
- j. The Act is a part of a national framework; is it worthwhile for the registration period for NSW to be changed to create, as far as possible, a single national renewal date?***

5. COMPLAINTS AND DISCIPLINARY PROCEEDINGS

The Architect Registration Board deals with complaints and can make a disciplinary finding of unsatisfactory professional conduct or professional misconduct. Further the Architects Registration Board may publicise disciplinary action in the manner it considers fit but must maintain a publicly available register of disciplinary action concerning the architect profession.

Questions

- k. Does the Act appropriately provide for complaints to be made in relation to the conduct of architects?***
- l. Is the procedure fair to complainants and the architect profession? Are there any changes which can be made to the procedure to make it more fair?***
- m. Are the provisions concerning publicising disciplinary action appropriate?***

6. NSW ARCHITECTS REGISTRATION BOARD

The Act provides for the constitution, membership and functions of the NSW Architects Registration Board. The functions include registration of architects, accreditation of courses, dealing with complaints and disciplinary action.

Questions

- n. Does the Board require any additional functions?***