

THE ACT

**NEWFOUNDLAND ASSOCIATION
OF ARCHITECTS**

CHAPTER 64

AN ACT TO REVISE THE NEWFOUNDLAND ARCHITECTS ACT.

(November 21, 1978)

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Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

1. This Act may be cited as The Architects Act.

INTERPRETATION

2. In this Act

- (a) "architect" means a person registered or licensed under this Act to engage in the practice of architecture;
- (b) "Association" means the Newfoundland Association of Architects;
- (c) "Board" means the Registration Board of the Association;
- (d) "by-laws" means the by-laws of the Association;
- (e) "Certificate of Approval" means a Certificate of Approval issued under section 23;
- (f) "Certificate of Registration" means a certificate issued by the Registrar under section 17;
- (g) "Council" means the Executive Council of the Association;
- (h) "design profession" includes the professional practice of architecture or engineering, landscape architecture, town planning, environment planning, interior design and related professions but does not include the practice of drafting;
- (i) "licence" means a licence issued under section 21 to a non -resident practising architecture in the province;
- (j) "member" means a registered member of the Association but does not include a person holding a licence, or a student or associate member;
- (k) "practice of architecture" includes the planning, designing and coordination of, the erection, construction, enlargement or alteration of buildings of any kind or nature but does not include such work when done by a draftsman, student, clerk of works, superintendent or other employee of a registered architect, or a superintendent of buildings paid by the owner and acting under the direction and control of an architect;
- (l) "prescribed" means prescribed by the regulations;
- (m) "Registrar" means the Registrar of the Association;
- (n) "registration" means the admission of a person to membership in the Association and the enrollment of his name in the register; and
- (o) "register" means the Newfoundland Architects Register referred to in section 11.

NEWFOUNDLAND ARCHITECTS ASSOCIATION

3. The Newfoundland Association of Architects is continued as a body corporate and politic having as members those persons who are its members on the coming into force of this Act and such other persons as become members from time to time thereafter.

4. The head office of the Association shall be at the City of St. John's.

5. The objects of the Association are

- (a) to promote and increase the knowledge, skill and proficiency of its members in all things relating to the profession of architecture;

(b) to advance and maintain a high standard in the practice of architecture;

(c) to establish and maintain classes, schools, lectures and exhibitions in architecture and the allied arts and sciences; and

(d) to promote public appreciation of architecture and the allied arts and sciences.

6. The Association may, in furtherance of its objects,

(a) acquire assets and property both real and personal by way of purchases, lease, grant, hire, exchange or otherwise and dispose of such property by any means;

(b) provide for the management of its property and effects and of its affairs and business;

(c) borrow money for the purpose of carrying out any of the objects of the Association and give security for any money so borrowed on any of its real or personal property by way of mortgage, pledge, charge or otherwise;

(d) invest any moneys of the Association, not immediately required any of its objects, in any manner as it may from time to time determine;

(e) fix and collect the annual dues payable to it by its members and suspend members in arrears of dues;

(f) receive gifts, donations and bequests from any persons, associations or corporate bodies and make gifts or donations for the promotion of the objects of the Association; and

(g) do all such matters and things including, without limiting the generality of the foregoing, the employment of staff and other persons, as may be necessary or desirable for exercising the powers conferred by this Act or any powers incidental thereto.

7. (1) The Association may make such by-laws as are necessary or desirable for the attainment of its objects or for the proper implementation of its powers.

(2) The by-laws of the Association in operation on the coming into force of this Act continue, to the extent that they are not consistent with this Act, to be the by-laws governing the Association until revoked or amended in the manner provided by subsection (3).

(3) Any by-laws, amendment or revocation thereof, may be made at any general meeting of the Association if

(a) notice of such by-laws, amendment or revocation, as the case may be, is given in writing to every voting member of the Association at least one month before the meeting at which the by-laws, amendment or revocation thereof is to be made, cancelled or revoked; and

(b) two-thirds of the voting members of the Association vote in person or by proxy in favor of the by-laws, amendment or revocation.

8. (1) The members of the Association who are members on the coming into force of this Act shall, subject to this Act and the by-laws, continue as members of the Association.

(2) All person who

(a) hold a Certificate of Registration, and

(b) have paid the annual dues for membership fixed in accordance with the by-laws,

are, notwithstanding anything in the by-laws, members of the Association and have full voting rights therein.

(3) The Association may, if the by-laws so provide, but subject always to such terms, conditions and limitations, including conditions respecting voting rights, as may be set out in the by-laws, appoint persons as associate members, student members, life members and to other types of membership in the Association.

9. The Association shall in the manner at the time provided in the by-laws hold an annual general meeting in each year and hold such other general meetings as are required during each year.

REGISTRATION BOARD

10. (1) There shall be a Board known as a Registration Board constituted as set out in subsection (2), which shall ascertain and report to the Council upon the qualifications of candidates for membership in the Association.

(2) The Board shall consist of

(a) a member of the Association, appointed by the Lieutenant-Governor in Council, who holds office for a period of three years and who shall act as Registrar; and

(b) two members of the Association, elected in accordance with their by-laws at the annual meeting, who hold office for a period of one year.

(3) Where a vacancy occurs in the membership of the Board as a result of death, retirement, resignation or incapacity of such member to act, the vacancy shall be filled

(a) in the case of a member appointed under paragraph (a) of subsection (2) by the appointment of a member of the Association by the Lieutenant-Governor in Council; and

(b) in the case of a member elected under paragraph (b) of subsection (2) by the appointment of a member of the Association by the Council; and a member appointed under paragraph (a) or (b) holds office until the expiration of the term of the member who has vacated.

11. (1) The Registrar shall keep and maintain a register known as the Newfoundland Architects Register, containing the name, address, qualifications and other matters prescribed by the regulations, of each person having the qualifications required for registration under this Act.

(2) The Registrar shall record in the register the name, address and qualifications and other matters prescribed by the regulations of all persons presently under The Newfoundland Architects Act.

EXECUTIVE COUNCIL

12. (1) There shall be a council known as the Executive Council of the Association, which shall consist of a President, a Vice-President, a Secretary-Treasurer, an immediate Past-President and such number of elected councillors of the Association as are fixed by the by-laws.

(2) The President, Vice-President, Secretary-Treasurer and Councillors shall be elected at the annual meeting of the Association by a majority vote of the members taken in accordance with the by-laws and, subject to subsection (3), hold office until the adjournment of the next annual meeting.

(3) Until the members are elected pursuant to subsection (2), the members of the Council of Newfoundland Association of Architects established under The Newfoundland Architects Act, shall, subject to subsection (4), be deemed to be the first elected members of the Council and they have the powers and shall carry out the functions and duties of the Council under this Act.

(4) The members of the Council continuing in office under subsection (3) shall retire upon the adjournment of the first annual meeting under this Act.

(5) No member is eligible to be elected to the office of President, Vice-President, and Secretary-Treasurer for more than two consecutive years in any office and no member is eligible to be elected Councillor for more than three consecutive years.

(6) The President shall act as presiding officer at meetings of the Council and of the Association, voting only when the votes are evenly divided, and the Vice-President has all the powers of the President during the absence of the latter.

(7) The President, upon retirement from office, holds office as a member of the Council as Past-President until the retirement from office of the member elected to succeed him as President.

(8) The Council shall carry on and implement the general management of the affairs of the Association and shall carry on and transact the same in accordance with this Act, the by-laws and regulations.

(9) The Council may appoint committees from the membership of the Association to carry out such duties and functions as the Council may direct.

13. The Council shall nominate a member of the Association to be appointed as Registrar in accordance with paragraph (a) of subsection (2) of section 10.

14. (1) The Secretary-Treasurer elected under subsection (2) of section 12 shall be secretary of the Association.

(2) Subject to the supervision, direction and control of Council, the Secretary-treasurer is responsible for controlling all matters relating to the finances of the Association, including receipt of all moneys paid to the Association, or any member on behalf of the Association, and for making disbursements on behalf of the Association.

15. The Council may make regulations for the purpose of carrying out the functions and duties of the Council, and in particular without limiting the generality of the foregoing, may make regulations

(a) respecting the holding of meetings including the place, time and order of business at such meetings;

(b) governing the election of the members of the Council including the taking, receiving, recording and counting of votes of members, with power to prescribe that vote may be taken by post, or proxy, and the manner of taking such votes;

(c) respecting the conduct and nature of examinations, including the subjects for examinations;

(d) respecting the registration of persons and licensing of non-residents;

(e) respecting the issuance and renewal of licences and terms and conditions upon which such licenses may be granted;

(f) respecting the type and amount of experience and course of studies required for registration;

(g) providing for the maintenance of the register and the form and content thereof;

(h) respecting the requirements of age and period of residency within the province for membership in the Association;

- Approval;
- (i) prescribing the form and contents of Certificates of Registration and Certificates of
 - (j) prescribing the charge payable for registration under this Act, and fixing the amounts of such charge;
 - (k) respecting the recognition of Schools of Architecture, courses and examinations for purposes of registration;
 - (l) governing the recognition of Associations of Architects in other provinces and other countries;
 - (m) governing the discipline of architects, and the cancellation or suspension of, certificates and licenses issued under this Act, and of the rights to practise;
 - (n) for the establishment and enforcement of a Code of Ethics;
 - (o) suggesting fees or charges to be made by architects for services rendered by them; and
 - (p) respecting such additional matters as may be deemed necessary by the Council for carrying into effect the purposes of this Act.

REGISTRATION

16. Subject to this Act and the regulations every person

(a) who is a graduate of a School of Architecture recognized by the Council, and has worked as an assistant for not less than two years after graduation under a registered architect or architects in Canada and has acquired the experience prescribed by the Council and has passed an examination set by the Council;

(b) who has served or worked as a student or assistant under a registered architect or architects in Canada for not less than eight years, and has acquired the experience and completed the studies prescribe by the Council and has passed examinations set by the Council;

(c) who is currently registered with an association of architects in another province of Canada, and provides evidence by examination or otherwise that he understands this Act and the by-laws of the Association and any other laws of the province that in the opinion of the Council are applicable to the practice of architecture, or

(d) who is currently registered as an architect with an association of architects in another country, where, in the opinion of the Council, the qualifications are satisfactory to permit the proper practice of architecture, and has passed such examinations as the Council deems necessary;

is entitled to registration in the register upon payment of the charge prescribed by the Council.

17. (1) Every person resident in the province who is registered in accordance with this Act may apply, accompanied by the prescribed charge, to the Registrar for, and has the right to obtain from the Registrar, a Certificate of Registration.

(2) The holder of a Certificate of Registration is entitled to engage in the practice of architecture at any place within the province, and to recover from any person in any court having jurisdiction reasonable charges for the provision of architectural services supplied by the holder of that certificate.

(3) Every certificate issued under this section expires on the 15th day of January next following

the day upon which it was issued, unless sooner revoked.

18. (1) Any person aggrieved by a refusal of the Council to register his name in the register may, within thirty days after the receipt of notice of the refusal, appeal against the refusal to a judge of the Trial Division by filing in the office of the Registrar of the Supreme Court a notice of appeal, and by serving a copy upon the President.

(2) Notwithstanding any rule or practice to the contrary, the notice of appeal shall

(a) set out in detail the allegations of the appellant and the grounds upon which the refusal to register is appealed against; and

(b) be signed by the appellant or his solicitor.

(3) The appellant shall, within fourteen days after service of the notice of appeal under this section, apply to the judge for an appointment of a day for the hearing of the appeal and shall not less than fourteen days before the hearing serve upon the Council a written notice of the day appointed for the hearing.

(4) The Registrar shall cause to have produced to the judge hearing the appeal all papers and documents in the possession of the Council affecting the subject matter of the appeal.

(5) The judge shall hear the appeal and the evidence adduced by the appellant and the Council and shall decide the matter of the appeal

(a) by upholding or revoking the refusal to register; or

(b) by making such other decisions or order as the judge considers to be proper in the interests of justice and equity;

and he may make orders as to costs for or against the appellant or the Council and fix the amount thereof.

19. An appeal may be taken to the Court of Appeal from the decision of the judge of the Trial Division upon any point of law raised at the hearing, and the rules governing appeals to that court from a decision of a judge of the Trial Division apply to appeals under this section.

20. The Council shall cause the Registrar to implement the decision of the judge hearing the appeal under section 18 or of the Court of Appeal on an appeal taken under section 19, and shall comply with the terms of any order made by the judge of the Trial Division or Court of Appeal, as the case may be.

21. (1) Any person, not being resident within the province, who otherwise has qualifications for registration under this Act and is a member of an association of architects recognized by the Council, may apply to the Registrar for, and upon approval by Council the Registrar shall issue, a licence to practise architecture within the province for one or more projects subject to such terms and conditions as may be prescribed by the Council.

(2) An application under subsection (1) shall be accompanied by the prescribed charge.

(3) A licence is renewable upon such terms and conditions as may be prescribed by Council and is valid for such periods as may be stated in the licence or any renewal granted thereof.

(4) Any persons aggrieved by the refusal of Council to approve an application for a licence may appeal in accordance with section 18 and the provisions of that sections 19 and 20 apply mutatis mutandis thereto.

PARTNERSHIP, FIRM OR BODY CORPORATE PRACTICE

22. A partnership, firm or body corporate shall not be granted membership in the Association or

be licensed to practise architecture in the province.

23. (1) Subject to section 24, the Council shall, upon application accompanied by the prescribed charge, issue a Certificate of Approval to a resident partnership, firm or body corporate, which Certificate of Approval entitles the partnership, firm or body corporate to practise architecture in its own name.

(2) Subject to the subsection (3), a Certificate of Approval is valid for calendar year in which it is issued.

(3) Where in respect of a partnership, firm or body corporate referred to in the subsection (1), a change occurs

- (a) in the partners of the partnership,
- (b) in the principals of the firm, or
- (c) in the directors or in the beneficial ownership of shares of the body corporate,

the Certificate of Approval thereof is revoked by the change but nothing in this Act prevents the partnership, firm or body corporate from applying to the Council for another certificate.

24. (1) The Council shall issue a Certificate of Approval to a resident partnership or firm where the Council is satisfied in writing that

(a) one of the principal and customary functions of the partnership or firm is to practise architecture;

(b) the practice of architecture is the responsibility of, and is carried out under the supervision of, a partner in the partnership, or a principal of the firm who is registered or licensed to practice architecture in the province; and

(c) two-thirds of the partners of the partnership or two-thirds of the principals of the firm are qualified to practise in the design professions.

(2) The Council shall issue a Certificate of Approval to a resident body corporate where it is satisfied in writing that

(a) one of the principal and customary functions of the body corporate is to practise architecture;

(b) the practice of architecture is the responsibility of, and is carried out under the supervision or, a director of the body corporate who is registered or licensed to practise architecture in the province;

(c) two-thirds or more of the directors of the body corporate are qualified to practise in a design profession, if the body corporate has three or more directors or, if the body corporate has less than three directors, at least one of the directors is registered or licensed to practise architecture in the province, and

(d) in respect of the issued shares of each class of shares of the body corporate

- (i) not less than fifty-one percent of those shares are beneficially owned by and registered in the name of the directors referred to in paragraph (c), or

(ii) one hundred per cent of those shares are beneficially owned by persons who are registered or licensed to practise architecture in the province.

(3) The Council shall issue a Certificate of Approval to a non-resident partnership, firm or body corporate where it is satisfied that the partnership, firm or body corporate has, in addition to the requirements of subsection (1) or (2), as the case may be, fulfilled the requirements of section 25.

(4) When a body corporate described in subsection (2) has less than three directors, at least one or those directors must be registered or licensed to practise architecture in the province.

25. Any non-resident partnership, firm or body corporate wishing to practise architecture in the province under its own name must, in addition to the requirements of section 24, satisfy the Council that each of the partners, principals or directors of the partnership, firm or body corporate who are registered as architects in the province in which the partnership, firm or body corporate normally carries on business, have been granted licences to practise architecture in the province.

COMPREHENSIVE SERVICE

26. Any individual registered or licensed under this Act, or any partnership, firm or body corporate entitled to practice architecture in this province in its own name, may practise architecture as a member of or associated with a comprehensive service, which may include construction, landscaping, surveying, soil testing and analysis, or any other service related to the erection, construction, enlargement or alteration of buildings of any kind or nature.

DISCIPLINE

27. (1) Where the Council is of the opinion or has reasonable cause to believe that an architect has committed professional misconduct, or that he is guilty of negligence in the practise of architecture, or that he is guilty of misconduct in the execution of his duties as a member or officer of the Association, the Council may, after full inquiry,

(a) revoke the certificate or licence of the architect, cause the name of the architect to be removed from the register, and fix a period at the expiration of which the architect may make application under this Act;

(b) suspend the licence or certificate of the architect for such period as the Council may think reasonable;

(c) impose upon the architect a monetary penalty not to exceed the sum fixed by the regulations; or

(d) impose conditions or limitations on the architect in carrying out the practice of architecture.

(2) For the purposes of any inquiry under this section, the Council has all the powers that are or can be conferred upon commissioners under the Public Enquiries Act.

(3) The architect who is the subject of an inquiry under this section is entitled to appear and be heard thereat in person or by counsel or agent of his choice.

28. (1) Any architect aggrieved by a decision of the Council under section 27 may appeal to a judge of the Trial Division within thirty days after the decision of the Council by filing in the office of the Registrar of the Supreme Court a notice of appeal and serving a copy of the notice on the President.

(2) The provision of sections 18 to 20 apply mutatis mutandis to appeals under this section.

MISCELLANEOUS PROVISIONS

29. Except as otherwise provided in the Act, only persons who comply with this Act, the by-

laws and regulations and who are either members of the Association registered as such under this Act or issued a licence by the Registrar under this Act are entitled

(a) to take or use the title “architect” either singly or in connection with any other word, name, title or designation, except “naval architect” or “landscape architect”,

(b) to use the word “architecture” or “architectural” either singly or in connection with any other word in describing or referring to their functions and services, other than where used to describe building materials and trades, or

(c) to engage or offer to engage in the practice of architecture for fees or commission or for a direct or indirect payment or profit or hope of reward, if such practice relates to the erection, construction, enlargement or alteration of buildings classified under the occupancy classifications as set out in the schedule.

30. Subject to all applicable regulations and codes, nothing in this Act prohibits any person from doing the work included in the practice of architecture as defined in paragraph (k) of section 2 if that work is done in, or in preparation for the erection, construction, or enlargement or alteration of a building of which that person is the owner, and where such work does not involve the safety of the general public or property of others, but he shall not use the title or term “architect” or “architectural service” or any similar term, unless that work is done by an owner who is an architect registered or licensed in the province.

31. This Act does not apply to any member of the Newfoundland Professional Engineering Association or licensee thereof, or the holder of a certificate of authorization issued by that Association, or any employee or person working under the responsibility of such member, licensee or certificate holder, who confines his practice to engineering within the meaning of The Newfoundland Professional Engineering Act.

32. A member, licensee, certificate holder, employee or person referred to in section 31 shall not style himself nor hold himself out as an architect unless he is an architect registered or licensed in the province.

33. (1) Every architect registered under this Act shall have a seal or stamp, containing the name of the architect and the words "Member Newfoundland Association of Architects", with which he shall seal or stamp all working drawings issued from his office.

(2) All final drawings, specifications, plans, reports, and other documents involving the practice of architecture, when issued, shall bear the signature and seal of the architect who prepared or approved them.

34. No person practising as an architect is entitled to recover any charge or fee in any court of law for any service included within the practice of architecture as defined in paragraph (k) of section 2 unless he was registered or licensed under this Act at the time the service was performed.

OFFENCES

35. (1) Any person who makes or produces, or causes to be made or produced, a false declaration or false representation, either orally or in writing, for the purpose of being registered in the register shall have his name removed from the register if his name is registered or shall be refused registration if he is not registered.

(2) Any member of the Association who knowingly assists a person under subsection (1) is subject to disciplinary action under section 27.

36. Subject to this Act, no person other than a person who is entitled to do so under this Act shall

(a) use the title of "architect" or make use of any abbreviations of any such title or of any name, title or designation, that might lead to the belief that he is an architect or member of the Association; or

(b) advertise or hold himself out as an architect or member of the Association in any way or by any means; or

(c) act in such manner as to lead to the belief that he is authorized to fill the office of or to act as an architect; or

(d) used the words "architecture" or "architectural" either singly or in connection with any other word in describing or referring to this functions and services, other than where used to describe building materials and trades; or

(e) engage in the practice of architecture.

37. Any person who contravenes section 36 is guilty of an offence and is liable upon summary conviction.

(a) for a first offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months, or to both, and

(b) for any subsequent offence, to a fine of not less than two thousand dollars and not

more than five thousand dollars or to imprisonment for a term not exceeding six months or to both.

38. In any prosecution under section 37, the onus of proof that the person accused of the offence has the right or privilege to engage in the practice of architecture is on the person accused.

39. A certificate from the Registrar under seal of the Association stating that a licence, a Certification of Registration or a Certificate of Approval is valid or that the name of an architect is recorded in the register is receivable in evidence as prima facie proof of the contents thereof and of the signature and character of the person signing the same.

REPEAL

40. The Newfoundland Architects Act is repealed and replaced by this Act.

SCHEDULE

(Section 29)

(A) Assembly occupancy, if the proposed public occupancy is fifty persons or more, and, without limited the generality of the foregoing, including

- 1) Amusement park structures
- 2) Arenas
- 3) Armouries
- 4) Art Galleries
- 5) Auditoria
- 6) Bleachers
- 7) Bowling alleys
- 8) Churches and similar places of worship
- 9) Clubs, non residential
- 10) Community Halls
- 11) Court houses
- 12) Dance halls
- 13) Exhibition halls
- 14) Grandstands
- 15) Gymnasia
- 16) Ice Rinks
- 17) Lecture halls
- 18) Libraries
- 19) Licensed beverage establishments
- 20) Lodge rooms
- 21) Museums
- 22) Passenger stations and depots
- 23) Recreational piers
- 24) Restaurants
- 25) Reviewing stands
- 26) Schools and colleges
- 27) Stadia
- 28) Swimming pools, indoor with spectator seating
- 29) Undertaking premises

(B) Institutional occupancy and, without limiting the generality of the foregoing including

- 1) Children's custodial homes
- 2) Convalescent homes
- 3) Homes for the aged
- 4) Hospitals
- 5) Infirmaries
- 6) Bleachers
- 7) Orphanages
- 8) Penitentiaries
- 9) Police Stations
- 10) Prisons
- 11) Psychiatric Hospitals
- 12) Reformatories
- 13) Sanitoria

(C) Residential Occupancy, if the proposed sleeping occupancy is twenty persons or more, and, without limited the generality of the foregoing, including

- 1) Apartments
- 2) Boarding
- 3) Clubs, residential
- 4) Convents
- 5) Dormitories
- 6) Hotels
- 7) Houses
- 8) Lodging houses
- 9) Monasteries
- 10) Motels
- 11) Motor Hotels
- 12) Schools and college, residential

(D) Business and Personal Service Occupancy, if the proposed floor area is three thousand square feet or more and, without limiting the generality of the foregoing, including

- 1) Banks
- 2) Barber and hair dressing shops
- 3) Beauty parlors
- 4) Dental offices and clinics
- 5) Dry cleaning, self service
- 6) Fire stations
- 7) Laundry, self service
- 8) Medical offices and clinics
- 9) Offices
- 10) Radio and television stations and studios
- 11) Small tool and appliance rental and service.
- 12) Telephone exchanges

(E) Mercantile Occupancy, if the proposed public area is three thousand square feet or more, and without limiting the generality of the foregoing, including

- 1) Department stores
- 2) Markets
- 3) Shops
- 4) Stores
- 5) Supermarkets