



## Registered Architects Amendment Rules 2015

Pursuant to section 67 of the Registered Architects Act 2005, the New Zealand Registered Architects' Board makes the following rules,—

- (a) after the approval of the Minister for Building and Housing required by section 69 of that Act; and
- (b) after complying with section 68 of that Act; and
- (c) after publishing and consulting as required by rule 93 of the Registered Architects Rules 2006.

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## Rules

### 1 Title

These rules are the Registered Architects Amendment Rules 2015.

### 2 Commencement

- (1) The following rules come into force on 1 July 2015:
  - (a) rule 4(2):
  - (b) rules 6 to 8.
- (2) The rest of these rules come into force on the day after the date of their notification in the *Gazette*.

### 3 Principal rules

These rules amend the Registered Architects Rules 2006 (the **principal rules**).

### 4 Rule 3 amended (Interpretation)

- (1) In rule 3(1), revoke the definitions of **complaints officer** and **disciplinary committee**.
- (2) In rule 3(1), insert in their appropriate alphabetical order:

**building code** has the meaning given by section 7 of the Building Act 2004

**practice area** means an architect’s area of practice, as determined by the nature of his or her day-to-day professional architectural activities

### 5 New rule 3A inserted (Transitional, savings, and related provisions)

After rule 3, insert:

#### 3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

### 6 Rule 6 revoked (Definition of complex building)

Revoke rule 6.

### 7 Rule 7 amended (Minimum standard for registration as registered architect)

- (1) In rule 7(1), replace “practice” with “practise”.
- (2) Replace rule 7(2) with:
  - (2) The extent to which the person is able to do the following must be taken into account in assessing whether or not he or she meets the overall standard in subclause (1):
    - (a) comprehend, and apply his or her knowledge of, accepted principles underpinning—

- (i) widely applied good practice for professional architecture; and
- (ii) good practice for professional architecture that is specific to New Zealand; and
- (b) demonstrate an ability to apply the accepted principles referred to in paragraph (a) through the exercise of knowledge, imagination, judgement, collaboration, and professional responsibility; and
- (c) demonstrate a sound understanding of the stages and processes of an architectural commission, including—
  - (i) project establishment; and
  - (ii) the design stages; and
  - (iii) detailed design and documentation; and
  - (iv) contractor procurement; and
  - (v) administration and observation of contract work; and
- (d) demonstrate an ability to realise a complex architectural project based on knowledge and appropriate professional experience; and
- (e) understand the risks and responsibilities of establishing and maintaining an architectural practice; and
- (f) conduct his or her practice of architecture to an ethical standard at least equivalent to the code of ethical conduct; and
- (g) understand and comply with the applicable New Zealand statutory and regulatory requirements, including the building code.

**8 Rule 21 amended (Minimum standard for continued registration as registered architect)**

- (1) Replace rule 21(a) with:
  - (a) he or she is able to practise competently in his or her practice area to the standard of a registered architect; and
- (2) In rule 21, insert as subclause (2):
- (2) The extent to which the person is able to do the following must be taken into account in assessing whether or not he or she meets the overall standard in subclause (1)(a):
  - (a) within his or her practice area, each of the matters in rule 7(2)(a), (b), (f), and (g); and
  - (b) demonstrate the ability to distinguish between—
    - (i) those aspects of the architectural process where he or she has sufficient skills, knowledge, and experience to practise; and
    - (ii) those aspects where, in order to practise, he or she would need the input of colleagues with the required skills, knowledge, and ex-

perience or need to first gain the additional skills, knowledge, and experience required.

**9 Part 4 replaced**

Replace Part 4 with:

**Part 4**  
**Disciplining of registered architects**

*Complaints and inquiries*

**59 How to complain about registered architects**

- (1) A person may complain to the Board about the conduct of a registered architect or former registered architect.
- (2) The complaint must be made in writing and contain—
  - (a) the complainant's name and contact details; and
  - (b) the name of the registered architect or former registered architect; and
  - (c) an outline of the nature of the complaint; and
  - (d) the provision in section 25(1)(a) to (d) of the Act, and if applicable the provision of the code of ethical conduct, that the complainant believes has been breached.

**60 Board may inquire into matters on own motion**

- (1) The Board may inquire into any matter on its own motion under this Part if it has reasonable grounds to suspect that the conduct of a registered architect or former registered architect may come within any of the grounds for discipline in section 25 of the Act.
- (2) If subclause (1) applies, the Board may—
  - (a) decide whether or not to refer the matter to an investigating committee in accordance with rules 61 to 64 (other than notifying the complainant under rule 64(1)(a) and (c)) as if it were a complaint; or
  - (b) if a complaint on the matter has already been made, continue to inquire into the matter even if the complaint is subsequently withdrawn.
- (3) A reference in these rules to the person complained about must be read, in the case of an inquiry, as a reference to the person who is the subject of the inquiry.

*Board must consider complaint*

**61 Board must decide whether to refer complaint to investigating committee**

- The Board must, as soon as practicable after receiving a complaint,—
- (a) refer the complaint to an investigating committee; or

- (b) dismiss the complaint on a ground in rule 62.

**62 Grounds for not referring complaint to investigating committee**

The Board may dismiss a complaint without referring it to an investigating committee if—

- (a) the Board has received a prior complaint on the same subject matter and has already dealt with, or is dealing with, that prior complaint under these rules; or
- (b) the Board considers that it does not have jurisdiction to determine the complaint under the Act or these rules.

**63 Way in which decision on whether to refer complaint to investigating committee must be made**

The Board's decision under rule 61 must be made in the following way:

- (a) the Board must make its decision as soon as practicable after receiving a complaint; and
- (b) the Board may seek clarification from the complainant for the purpose of establishing whether either of the grounds in rule 62 for dismissing the complaint exists; and
- (c) the Board may notify the person complained about prior to making its decision (for example, if the Board is not in a position to make its decision under rule 61 promptly).

**64 Board must notify and implement decision**

- (1) The Board must—
  - (a) notify the complainant and the person complained about of the decision under rule 61 and the reasons for that decision; and
  - (b) if that decision is to refer the complaint to an investigating committee,—
    - (i) appoint that committee under rule 90 and refer the complaint to that committee; and
    - (ii) give the person complained about an opportunity to respond to that committee (*see* rule 65); and
  - (c) if that decision is to dismiss the complaint, notify the person complained about of the general nature of the complaint.
- (2) Subclause (1) does not require the Board to notify the person complained about if the Board considers that it has no jurisdiction to determine the complaint.

**65 Board must give person complained about opportunity to respond**

As soon as practicable after deciding to refer a complaint or an inquiry to an investigating committee, the Board must—

- (a) send details of the complaint or inquiry to the person complained about; and
- (b) invite him or her to make a written submission on the matter to the investigating committee within a specified period (which must be at least 20 working days); and
- (c) advise him or her that this may be the only opportunity to respond on the matter before (and if the matter proceeds to) a disciplinary hearing.

*Investigating committee*

**66 Investigating committee must investigate and report on complaint or inquiry**

- (1) An investigating committee must, as soon as practicable after receiving a complaint or an inquiry,—
  - (a) investigate and prepare a written report on the matter; and
  - (b) provide that report to the Board.
- (2) An investigating committee may include in its report on a complaint or an inquiry a recommendation to the Board to refer the matter to a disciplinary hearing or to dismiss the matter on a ground in rule 69.

**67 Powers of investigating committee**

An investigating committee may—

- (a) make, or appoint a person to make, any preliminary inquiries it considers necessary;
- (b) engage counsel to advise the committee on matters of law, procedure, and evidence;
- (c) request the person complained about or the complainant to provide to the committee, within a specified period of at least 20 working days that the committee thinks fit, any document, thing, or information that is in the possession or control of the person and that, in the opinion of the committee, is relevant to the investigation;
- (d) take copies of any documents provided to it;
- (e) receive any evidence that the committee thinks fit;
- (f) if satisfied it is in a position to do so, prepare its report on the papers;
- (g) on the application of the person complained about, extend the period of time under rule 65(b) for making a written submission (at the committee's sole discretion, to be exercised reasonably).

*Determination of complaint or inquiry***68 Board must consider report and decide whether to refer complaint or inquiry to disciplinary hearing**

The Board must, as soon as practicable after receiving an investigating committee's report on a complaint or an inquiry, consider the report and—

- (a) refer the matter to a disciplinary hearing; or
- (b) dismiss the matter on a ground in rule 69.

**69 Grounds for not referring complaint or inquiry to disciplinary hearing**

The Board may dismiss a complaint or an inquiry without referring it to a disciplinary hearing if—

- (a) there is no applicable ground of discipline under section 25(1)(a) to (d) of the Act; or
- (b) the subject matter is trivial; or
- (c) the matter is insufficiently grave to warrant further investigation; or
- (d) the complaint is frivolous or vexatious or is not made in good faith; or
- (e) the complainant does not wish action to be taken or continued; or
- (f) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or
- (g) a disciplinary hearing is no longer practicable or desirable given the time that has elapsed since the matter giving rise to the complaint or inquiry arose.

**70 Way in which decision on whether to refer complaint or inquiry to disciplinary hearing must be made**

The Board must make its decision under rule 68 as soon as practicable, but may delay making its decision until the outcome is known of any other legal proceedings that may affect its decision.

**71 Board must notify and implement decision**

- (1) The Board must—
  - (a) notify the complainant and the person complained about of the decision under rule 68 and the reasons for the decision; and
  - (b) send a copy of the investigating committee's report to the complainant and the person complained about.
- (2) If the decision under rule 68 is to refer the matter to a disciplinary hearing, the Board must, as soon as practicable after that decision is made, set the date, time, and place for that hearing.

*Disciplinary hearing***72 Board must determine complaint or inquiry referred to disciplinary hearing**

The Board must, as soon as practicable after a complaint or an inquiry is referred to a disciplinary hearing, hold that hearing and decide—

- (a) whether or not there are grounds for disciplining the person complained about under section 25 of the Act; and
- (b) if so, what penalty (if any) to impose under section 26 of the Act.

**73 Disciplinary hearing is meeting of Board**

- (1) A disciplinary hearing is a meeting of the Board for the purposes of the Act.
- (2) Subclause (1) applies whether or not the disciplinary hearing is attended by the complainant, the person complained about, or any person alleged to be aggrieved, either personally or through a representative.

**74 Way in which disciplinary hearing must be conducted**

- (1) Before holding a disciplinary hearing, the Board must—
  - (a) send details of the complaint or inquiry to the person complained about (at least 30 working days before the disciplinary hearing); and
  - (b) invite the person complained about to respond in writing to the complaint or inquiry within a specified period (which must be at least 20 working days); and
  - (c) give the complainant, the person complained about, and any person alleged to be aggrieved (if not the complainant) at least 30 working days' notification of—
    - (i) the date, time, and place of the disciplinary hearing; and
    - (ii) the right of those persons to be heard and represented at the disciplinary hearing; and
  - (d) advise each of the persons referred to in paragraph (c) that the person must notify the Board within a specified period (which must be at least 20 working days) if the person wishes to be heard at the disciplinary hearing on the complaint or inquiry.
- (2) The complainant, the person complained about, and any person alleged to be aggrieved have the right to be heard and represented at the disciplinary hearing.

**75 Powers when complaint or inquiry referred to disciplinary hearing**

- (1) The Board may, for the purposes of a disciplinary hearing on a complaint or an inquiry,—
  - (a) make, or appoint a person to make, any preliminary inquiries it considers necessary:

- (b) engage counsel, who may be present at the disciplinary hearing, to advise the Board on matters of law, procedure, and evidence:
  - (c) request the person complained about or the complainant to provide to the Board, within a specified period of at least 20 working days that the Board thinks fit, any document, thing, or information that is in the possession or control of the person and that in the opinion of the Board is relevant to the investigation:
  - (d) take copies of any documents provided to it:
  - (e) request the person complained about or the complainant to attend the hearing, at that person's own cost, on at least 20 working days' notice:
  - (f) receive any evidence that the Board thinks fit:
  - (g) receive evidence on oath or otherwise in accordance with section 30 of the Act:
  - (h) use the power to summon witnesses under section 31 of the Act:
  - (i) provide information to assist the complainant and the person complained about in obtaining counsel or other advocacy assistance:
  - (j) postpone the hearing (with reasonable notice to the complainant, the person complained about, and any person alleged to be aggrieved) until the outcome is known of any other legal proceedings that may affect the hearing.
- (2) This rule does not limit any powers or obligations of the Board under the Act or these rules.

**76 Way in which Board's determination of complaint or inquiry referred to disciplinary hearing must be made**

- (1) The Board's decision under rule 72(a) must be made in the following way:
- (a) the Board must first consider the investigating committee's report and the relevant facts and evidence presented at or to the disciplinary hearing; and
  - (b) the Board must make its decision as soon as practicable, but may delay making the decision until the outcome is known of any other legal proceedings that may affect that decision.
- (2) If the Board's decision under rule 72(a) is to be resolved at a meeting of the Board,—
- (a) the Board must vote on the question of whether there are grounds for disciplining the person complained about under section 25 of the Act; and
  - (b) if the resolution is not passed under clause 31 of the Schedule of the Act (because a majority of the votes cast are not in favour), the complaint or inquiry must be dismissed.

**77 Board must invite submission on penalty**

The Board must, before making a decision under rule 72(b), invite the person complained about and the complainant to make a written submission to the Board, within a specified period (which must be at least 20 working days), setting out his or her opinion on—

- (a) any penalty under section 26 of the Act that the Board should or should not impose, and the reasons why; and
- (b) the use of the Board's power under section 26(4) of the Act to order that the person complained about must pay costs and expenses of, and incidental to, the inquiry by the Board; and
- (c) the use of the Board's power under section 26(5)(b) of the Act to publicly notify any action taken.

**78 Board must notify and implement decisions**

- (1) The Board must, as soon as practicable after making a decision under rule 72(a) or (b),—
  - (a) notify the complainant and the person complained about of the Board's decision, the reasons for the decision, and any rights of appeal under the Act; and
  - (b) implement any part of a decision that requires actions by the Board.
- (2) However, the Board must not implement an action taken under section 25 of the Act until the expiry of a period of at least 20 working days after notifying the person complained about of the Board's decision under rule 72(b).

**10 Rule 79 amended (Persons carrying out delegated functions and powers under rules)**

Revoke rule 79(1)(d), (e), and (g).

**11 Rules 87 to 89 and cross-heading above rule 87 revoked**

Revoke rules 87 to 89 and the cross-heading above rule 87.

**12 New cross-heading above rule 90 inserted**

Before rule 90, insert:

*Investigating committees*

**13 Rule 90 replaced (Investigating committee)**

Replace rule 90 with:

**90 Appointment of investigating committee**

- (1) The Board may appoint, for a particular case or class of cases, an investigating committee consisting of 3 or more persons, of whom at least—

- (a) 1 person is a registered architect; and
  - (b) 1 person is not a registered architect (and is acting as a representative of consumer interests); and
  - (c) 2 persons are Board members; and
  - (d) 1 person is not a Board member.
- (2) The Board, in appointing a person to an investigating committee for a case or class of cases, must have regard to—
- (a) the extent of the person’s experience in, and knowledge of, architecture and the building industry; and
  - (b) the extent of the person’s experience in competency assessments; and
  - (c) the extent of the person’s experience in hearing complaints relating to architecture or other professions; and
  - (d) any other qualifications or experience that the Board considers relevant to the case or class of cases.
- (3) In appointing a person to an investigating committee for a case or class of cases, the Board must endeavour to select a person who does not have a conflict of interest in relation to the case or class of cases.

**14 New rule 90A inserted (Procedures of investigating committee)**

After rule 90, insert:

**90A Procedures of investigating committee**

- (1) A decision of an investigating committee is made if it is agreed to by a majority of the members of the committee.
- (2) However, if the members of an investigating committee are equally divided in opinion on whether to include a recommendation, under rule 66(2), that the Board dismiss the matter on a ground in rule 69, the decision of those members agreeing to include that recommendation is the decision of the committee.

**15 Rule 91 revoked (Disciplinary committee)**

Revoke rule 91.

**16 Part 7 revoked**

Revoke Part 7.

**17 New Schedule 1AA inserted**

Before Schedule 1, insert the Schedule 1AA set out in the Schedule of these rules.

**Schedule**  
**New Schedule 1AA inserted**

r 17

**Schedule 1AA**  
**Transitional, savings, and related provisions**

r 3A

**1 Provisions relating to Registered Architects Amendment Rules 2013**

- (1) The charges set out in Schedule 2 that applied to certificates of registration immediately before the commencement of the Registered Architects Amendment Rules 2013 continue to apply in respect of the registration year that ends on 30 June 2013 as if those charges had not been replaced.
- (2) This rule does not limit the application of section 78(3) of the Goods and Services Tax Act 1985 in the registration year that ends on 30 June 2013.

Compare: SR 2013/150 r 7

**2 Provisions relating to Registered Architects Amendment Rules 2015***Interpretation*

- (1) In this clause, **2015 amendment rules** means the Registered Architects Amendment Rules 2015.

*Minimum standards for registration and continued registration*

- (2) Every application for registration, application for continued registration, and application for reinstatement of a suspended registration received by the Board before 1 July 2015, and not decided before that date, must be assessed, evaluated, and decided as if the 2015 amendment rules had not been made.
- (3) These rules, as amended by the 2015 amendment rules, apply to every application for registration, application for continued registration, and application for reinstatement of a suspended registration received by the Board on or after 1 July 2015.

*Complaints and inquiries*

- (4) These rules, as in force immediately before the commencement of rule 9 of the 2015 amendment rules, continue to apply, and the rules as amended by the 2015 amendment rules do not apply, to every complaint received and inquiry commenced by the Board before the commencement of rule 9 of the 2015 amendment rules, and not considered or determined before that commencement.
- (5) These rules, as amended by the 2015 amendment rules, apply to every complaint received and inquiry commenced on or after the commencement of rule 9 of the 2015 amendment rules, regardless of whether the matter that is the

subject of the complaint or inquiry occurred before, on, or after that commencement.

Dated at Wellington this 19th day of May 2015.

Warwick Bell,  
Chairperson.

Callum McKenzie,  
Deputy Chairperson.

### Explanatory note

*This note is not part of the rules, but is intended to indicate their general effect.*

These rules amend the Registered Architects Rules 2006 (the **principal rules**). They come into force on the day after the date of their notification in the *Gazette*, other than *rules 4(2) and 6 to 8*, which come into force on 1 July 2015.

*Rules 7 and 8* amend rules 7 and 21, which set out minimum standards for registration and continued registration as a registered architect. These are substantial changes. The main changes are that—

- the detailed set of competencies in rule 7(2)—in particular, competencies related to the creation of a complex building design and implementation of a complex building design project—are replaced with more general competencies. The definition of complex building (rule 6) is consequentially revoked (by *rule 6*):
- the assessment of competency for continued registration becomes linked to the architect's practice area. This reflects the fact that many architects tend to specialise. *Rule 4(2)* inserts a definition of practice area into the principal rules. And a new competency is introduced (*new rule 21(2)(b)*), designed to measure an architect's ability to recognise those areas in which he or she is qualified to practise.

*Rule 9* replaces the disciplinary procedures for registered architects. This is another substantial change, designed to streamline the procedure for resolving complaints. The main changes are that—

- complaints will not be subject to an initial investigation. The role of the complaints officer, and the role of the chairperson of investigating committees in an initial investigation, is consequentially disestablished:

- there are fewer grounds for dismissing a complaint without referring it to an investigating committee:
- complaints will not be referred to a disciplinary committee (and the role of the disciplinary committee is disestablished). Instead, the New Zealand Registered Architects' Board (the **Board**), after considering an investigating committee's report, may dismiss the complaint or refer it to a disciplinary hearing. A disciplinary hearing will be a meeting of the Board:
- in the past the Board has been required to give the person complained about the opportunity to respond to a proposal by the Board to refer a complaint or an inquiry to a disciplinary committee. This requirement is not replicated in the new disciplinary procedures. The rules ensure that the person complained about, when invited to make a written submission to the investigating committee on the complaint, is advised that this may be his or her only opportunity to make a submission before the matter is referred to a disciplinary hearing (*see new rule 65(c)*).

*Rules 10 to 15* amend Part 5 of the principal rules. Some of the changes revoke rules that relate to disestablished roles in the disciplinary process (eg, complaints officer and disciplinary committees), but there are also some changes to the rules relating to investigating committees. For instance, there is no longer a requirement for the Board to keep a list of persons who may be members of investigating committees, and investigating committee decisions must generally be by majority.

*Rules 16 and 17* and the *Schedule* relate to transitional, savings, and related provisions. The main effect of these provisions on registration and continued registration is to preserve the minimum standards in the principal rules before amendment by these rules for applications for registration, continued registration, or reinstatement of suspended registration received before 1 July 2015, but not decided before that date. The main effect on complaints and inquiries is that the disciplinary procedures in the principal rules before amendment by these rules will continue to apply to complaints and inquiries received or commenced before the commencement of *rule 9* (which replaces the disciplinary procedures).

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 28 May 2015.

These rules are administered by the Ministry of Business, Innovation, and Employment.