

ANTIGUA AND BARBUDA



ARCHITECTS (PROFESSION) BILL 2018

No. of 2018

ANTIGUA AND BARBUDA
ARCHITECTS (PROFESSION) BILL 2018
ARRANGEMENT OF CLAUSES

CLAUSES

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ANTIGUA AND BARBUDA
THE ARCHITECTS (PROFESSION) BILL, 2018
NO OF 2018

AN ACT to provide for the registration, licensing and regulation of persons in the practice of architecture in Antigua and Barbuda and for incidental and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART I
PRELIMINARY

1. Short title

This Act may be cited as the Architects (Profession) Act, 2018.

2. Commencement

This Act comes into force on a date appointed by the Minister, by Notice published in the *Gazette*.

3. Interpretation

In this Act—

“architect” means a person who is registered as an architect under sections 18 or 23 of this Act;

“Architects Association” means the Association of Architects of Antigua and Barbuda established under section 4;

“Architects Council” means the Council of the Architects of Antigua and Barbuda, constituted in accordance with section 5;

“architecture” means a service related to the art and science of designing buildings and structures for human habitation and use including—

- (a) planning, designing or giving advice on the design of or on the erection, construction or alteration of or addition to a building;
- (b) preparing plans, drawings, detail drawings, specifications, graphic or other representations for the design of or for the erection, construction or alteration of or addition to a building;
- (c) inspecting work and assessing the performance of work under a contract for the erection, construction or alteration of or addition to a building; or

(d) urban planning and landscape architectural services;

“insurance” or “professional liability insurance” means the insurance that is required under section 29 of this Act;

“licence” means a licence to practice as an architect which is issued under section 25 or 26 of this Act;

“member”, in relation to the Architects Association, means a person who is registered as an architect under section 18 of this Act;

“Minister” means the Minister of government responsible for legal affairs;

“Register of Architects” means the Register of Architects kept and maintained by the Registrar appointed pursuant to section 11 of this Act;

“Registrar” means the Registrar appointed under section 11 of this Act; and

“Tribunal” means the Professional Regulation Review Tribunal established under section 44 of this Act.

PART II

ADMINISTRATION

4. Association of Architects

(1) There is hereby established as a body corporate to be known as the Association of Architects of Antigua and Barbuda.

(2) The membership of the Association of Architects of Antigua and Barbuda shall be comprised of all registered architects.

5. Council of the Association of Architects

The Council of the Association of Architects of Antigua and Barbuda, constituted in accordance with the First Schedule, is responsible for the management of the Association and for the administration of matters related to the profession of architecture in Antigua and Barbuda.

6. Purpose and Functions of the Council

(1) The purpose of the Architects Council is to—

- (a) promote, maintain and improve the standards, professional conduct and proficiency of the practice of architecture in Antigua and Barbuda;
- (b) represent and protect the interests of professional architects in Antigua and Barbuda;
- (c) protect and assist the public in all matters relating to the practice of architecture;
- (d) promote good relations, domestically—

- (i) within the profession;
- (ii) between the profession of architecture and other private and public persons and bodies concerned with architecture or works in Antigua and Barbuda; and
- (iii) between the profession of architecture and the general public; and
- (e) promote the profession of architecture in Antigua and Barbuda, regionally and internationally, through—
 - (i) good relations with professional bodies of architects in other countries; and
 - (ii) membership in or participation in the activities of regional and international associations of architects.
- (2) The functions of the Architects Council include—
 - (a) the assessment of applications for registration as architects and licensing to practice;
 - (b) the registration of architects and licensing of persons who qualify to practise architecture;
 - (c) the regulation of persons who are registered or licensed to practise architecture;
 - (d) the formulation, promotion and review of professional standards and codes of conduct for the profession of architecture;
 - (e) the investigation of complaints of professional misconduct of architects and contraventions of this Act;
 - (f) the imposition of appropriate sanctions in accordance with the Act, including suspension or revocation of registration or licensing, as necessary;
 - (g) the consultation with or provision of advice to the government on legislative and policy matters relating to the practice of architecture and to its purpose and functions;
 - (h) the initiation of, promotion of or participation in training and other programmes for the improvement or development of the practice of architecture;
 - (i) the maintenance of detailed records of registered architects;
 - (j) the performance of other functions conferred on the Architects Council by this Act; and
 - (k) the performance of any function necessary to secure its objectives.

7. Committees of the Architects Council

- (1) The Architects Council shall establish the following committees for the efficient performance of its functions—
 - (a) the Qualification and Assessment Committee;
 - (b) the Complaints and Investigations Committee, and
 - (c) the Disciplinary Committee.
- (2) The Architects Council may establish such other committees as it considers necessary.

8. Qualification and Assessment Committee

(1) The Qualification and Assessment Committee shall be comprised of—

- (a) the Chairperson of the Architects Council;
- (b) two other members of the Architects Council, appointed by the Chairperson of the Architects Council; and
- (c) two other members of the Architects Association elected by the members, to serve for a period of three years.

(2) The Qualification and Assessment Committee shall—

- (a) establish an efficient system of assessments;
- (b) examine applications for registration or licensing; and
- (c) advise the Architects Council on the adequacy of the qualifications of an applicant for registration or licensing.

(3) The Chairperson of the Architects Council shall chair the meetings of the Committee but if the Chairperson is absent from a meeting the other members of the Committee shall elect a member to chair that meeting.

(4) Four members of the Qualification and Assessment Committee constitute a quorum.

(5) The Qualification and Assessment Committee shall meet at such times as are necessary to efficiently perform its functions.

9. Complaints and Investigations Committee

(1) Subject to section 33(3), the Complaints and Investigations Committee shall be comprised of—

- (a) two members of the Architects Council appointed by the Chairperson of the Architects Council; and
- (b) three other members of the Architects Association elected by the members of the Architects Association, to serve for a period of three years.

(2) The Complaints and Investigations Committee shall conduct preliminary investigations concerning

- (a) the ability of an architect to discharge competently his professional responsibilities;
- (b) the professional misconduct of an architect; and
- (c) investigate other complaints respecting the conduct of an architect.

(3) The members of the Complaints and Investigations Committee shall elect a member to be the Chairperson for meetings of the Committee.

(4) Three members of the Complaints and Investigations Committee constitute a quorum.

(5) The Complaints and Investigations Committee shall meet at such times as are necessary to efficiently perform its functions.

(6) Complaints shall be received and investigated by the Complaints and Investigations Committee in accordance with the Second Schedule.

10. Disciplinary Committee

(1) Subject to section 33(3), the Disciplinary Committee shall be comprised of five members of whom not less than three members shall be registered and practicing architects for a continuous period of at least ten years.

(2) Within the ten years that immediately follow the commencement of this Act, a person may be a member of the Disciplinary Committee if that person is qualified for registration under the Architects (Registration) Act, Cap. 34, and has practiced as an architect for at least ten years prior to the commencement of this Act.

(3) The Disciplinary Committee shall—

- (a) hear and determine complaints or allegations of professional misconduct or incompetence in respect of an architect following a preliminary investigation by the Complaints and Investigations Committee;
- (b) perform such other functions related to disciplinary matters assigned or referred to it by the Architects Council; and
- (c) upon conclusion of a hearing, report in writing its findings, decision and reasons for the decision to the Architects Council.

(4) For the purpose of conducting a hearing, the Disciplinary Committee may engage the services of an Attorney-at-Law of not less than 15 years standing or a former judge to assist the Disciplinary Committee as necessary.

(5) The proceedings of the Disciplinary Committee shall be conducted in accordance with the Third Schedule.

11. Registrar

(1) The Public Service Commission shall appoint a Registrar for the purpose of—

- (a) keeping and maintaining a Register of Architects, including Registers of Specialist Architects; and
- (b) providing administrative support to the Architects Council in the performance of its functions.

(2) The Registrar shall record in the Register of Architects the following information, in respect of every person who is or has been registered as an architect in Antigua and Barbuda—

- (a) the person's name and other personal information;
- (b) address and other contact details;

- (c) details of the person's eligibility for registration as an architect;
- (d) details of a person's qualification for registration as a specialist;
- (e) details of every licence to practice issued to an architect;
- (f) details of additional qualifications and specialisation in architecture or a related profession;
- (g) details of any complaint, investigation, disciplinary proceedings, order or other disciplinary action in respect of an architect; and
- (h) other particulars relevant to the person's registration and licensing.

(3) The Registrar shall make available—

- (a) for public inspection at all reasonable times a list of all architects on the Register of Architects and a list of the architects who hold a licence to practice; and
- (b) upon written request, to persons who indicate a reasonable grounds for the information requested, other information recorded in the Register of Architects.

(4) The Registrar shall publish in the *Gazette* and one newspaper with nationwide circulation no later than the 30th day of April in every year, an alphabetical list of persons who on the 31st day of January in that year are registered and hold a licence to practice for that year.

(5) Notwithstanding subsection (2), a record of a complaint or investigation which does not result in a disciplinary proceeding or the imposition of a disciplinary measure shall be struck out from the Register of Architects two years after the record was inserted on the Register of Architects.

(6) The Architects Council shall, without request, provide to the Registrar in a timely manner, all the information that is relevant to the matters to be recorded in the Register of Architects under subsection (2).

12. Relationship with the State

(1) The Architects Council does not represent the State and is required to act independently, impartially and in the interest of the public when performing its functions.

(2) The Minister or any other member of the government shall not give the Architects Council, any of its Committees or the Registrar any direction with respect to—

- (a) the application of a person for registration or licensing; or
- (b) a complaint, investigation or disciplinary proceedings; or
- (c) the imposition of disciplinary measures; or
- (d) the performance of any of its functions.

(3) The Minister may, in the interest of the public, give the Architects Council directions to provide information or reports and with respect general policies and standards for the practise of architecture.

PART III

REGISTRATION (MEMBERSHIP IN THE ARCHITECTS ASSOCIATION)

13. Requirement for Registration

(1) A person must be registered in order to obtain a licence to practise as an architect or use the title architect in Antigua and Barbuda.

(2) A person shall not use or conduct business under a name, title or designation which includes the word “architect” or which is likely to suggest that the person is registered as an architect.

(3) Subsection (2) does not prevent a business from using or conduct business under a name, title or designation which includes the word “architect” if the business—

- (a) is under the control and management of an architect; and
- (b) all architectural services and functions of the business are carried out by an architect.

(4) For the purpose of subsection (3), a “business” includes a company, firm, partnership or other undertaking which is carried on for any gain, reward or profit.

14. Requirement for Registration for Engineering

(1) A person who is registered under the Engineers (Profession) Act, 2018 is not required to register under this Act to practice provide an architecture service if that person provides the services solely for the purpose of engineering.

(2) The Fourth Schedule of the Engineers (Profession) Act, 2018 shall apply in determining whether a service is solely for the purpose of engineering under subsection (1).

(3) A person who is registered as an architect under this Act, is not required to register under the Engineers (Profession) Act, 2018 to provide an engineering service if that service is provided in the circumstances and manner provided in the Fourth Schedule of the Engineers (Profession) Act, 2018 applies.

15. Application for Registration

(1).An application for registration as an architect must be submitted by an applicant to the Architects Council in the prescribed form and accompanied by the following:

- (a) satisfactory proof of the identity;
- (b) sufficient evidence of eligibility for registration, including qualifications and experience;

- (c) proof of good character;
- (d) a certificate of good standing from the applicant's previous registering body, if applicable;
- (e) the prescribed application fee and registration fee;
- (f) sufficient contact information and proof of actual or proposed professional address; and
- (g) such further and other information as the Architects Council requires in respect of the matters referred to in paragraphs (a) to (c).

16. Eligibility for Registration

- (1) A person is eligible to be registered as an architect if that person –
 - (a) is qualified under subsection (2) for registration;
 - (b) has at least three years practical experience in architecture;
 - (c) is at least twenty-one years; and
 - (d) is fit and proper for registration.
- (2) A person is qualified for registration as an architect if that person holds a degree [or], a certificate, diploma or other form of qualification [which is equivalent to a degree] and which –
 - (a) has been granted by a university, college, school of architecture or other higher education institution that is empowered or accredited under the laws of the country where it is granted to confer such qualification in architecture; and
 - (b) is recognised by the Architects Council, acting on the advice of the National Accreditation Board, as evidence of satisfactory qualification in architecture.
- (3) In determining whether a person is fit and proper for registration as an architect, the Architects Council shall consider whether the applicant –
 - (a) can read, write, speak and understand the English language
 - (b) has been convicted in any country for –
 - (i) an offence that is an indictable offence in Antigua and Barbuda;
 - (ii) an offence involving fraud or physical violence; or
 - (iii) an offence related to the practice of architecture;
 - (c) has ever had his registration as an architect or licence to practice architecture in any country suspended, revoked or cancelled and the reasons for the suspension, revocation or cancellation;
 - (d) is or has ever been the subject of bankruptcy proceeding or an executive officer of a corporation that is or has been the subject of receivership, winding-up or similar action or proceedings;
 - (e) for any other reason, including mental reasons, lacks the ability to competently perform as an architect.

17. Continuation of Existing Registration

Notwithstanding section 16, a person who prior to the commencement of this Act was registered as an architect under Architects (Registration) Act, Cap. 34 shall, upon application in the prescribed form, be registered under this Act if that person satisfies the Architects Council that he or she is fit and proper for registration in accordance with section 16(3).

18. Grant of Registration

When the Architects Council receives an application referred to in section 15 and is satisfied that an applicant is eligible to be registered as an architect, the Architect Council, upon the applicant paying of the prescribed fee, shall register the applicant and issue a certificate of registration to the applicant in the prescribed form.

19. Refusal to Register

When the Architects Council receives an application referred to in section 15 or 17, and is not satisfied that an applicant is eligible to be registered or continue registration as an architect under this Act, the Architect Council, shall give written notice to the applicant of this fact and provide the reasons for its decision within sixty days after the receipt of the application.

20. Request for Additional Information

(1) If the Architects Council requires further information from an applicant in order to determine whether to grant or refuse registration, the Architects Council shall promptly request in writing the information required to make the determination.

(2) Upon receipt of the information requested, the Architects Council shall make a determination respecting the applicant's qualification for registration and notify the applicant in writing of that determination within sixty days of the submission to the Architects Council by the applicant of all the requested information.

(3) If the Architects Council does not receive the information requested within sixty days from the date of the request, the Architects Council shall immediately after the expiration of sixty days give written notice to the applicant of its refusal to register the applicant due to insufficient information.

21. Application for reconsideration of decision

(1) Where the Architects Council refuses to register an applicant, the applicant may within three months of the receipt by him of the notice of refusal apply to the Architects Council in writing for reconsideration of its decision on the basis that the reason for the decision to refuse the application was erroneous.

(2) The Architects Council may allow or deny the application for reconsideration and where it allows the application to reconsideration, the Council may –

- (a) refer the matter for review by a panel appointed by the Architects Council;

- (b) confirm its earlier decision to refuse registration; or
- (c) grant the registration of the applicant as an architect.

22. Duration of Registration

The registration of an architect shall continue until or unless registration is suspended or cancelled in accordance with this Act.

23. Temporary of Provisional Registration

(1) Notwithstanding sections 16 to 22, a person who is registered as an architect by a Board, Council or other professional body in a country listed in the Fourth Schedule and with which Antigua and Barbuda or the Architects Council has entered into a mutual recognition agreement may, upon payment of the prescribed fee, apply to the Architects Council for temporary or provisional registration.

(2) Temporary or provisional registration is for such temporary duration and subject to such condition as provided for in the relevant mutual recognition agreement.

24. Registration of Specialist

(1) The Architects Council recognizes, as a specialty, each of the areas of architecture, set out in the first column of the Fifth Schedule.

(2) An architect who possesses the additional qualifications, training and experience set out in the second column of Fifth Schedule in respect of a corresponding specialty set out in the first column may apply in the prescribed form, to be registered as a specialist in the relevant area of architecture.

(3) An architect may be registered as a specialist in the Register of Specialist Architects if that person satisfies the Architects Council that he or she has obtained the relevant qualification, training and experience from an institution which is recognised by the Architects Council, acting on the advice of the National Accreditation Board, as evidence of satisfactory qualification in architecture.

PART IV

LICENCE TO PRACTISE ARCHITECTURE

25. Issue of Licence to Practise

(1) An architect who is duly registered under this Act may apply in the prescribed form to the Architects Council for a licence to practice.

(2) The Architects Council shall issue the licence to practice to the applicant once satisfied that the applicant –

- (a).is registered on the Register of Architects;
- (b).has paid the prescribed fee for the licence to practice; and
- (c).has obtained professional liability insurance in accordance with section 29 for the period in respect of which the licence is to be issued.

26. Issue of Temporary and Provisional Licence

(1).A person who has been granted temporary or provisional registration is entitled to obtain, upon payment of the prescribed temporary and provisional licence fee, a licence to practice for the duration of the registration.

(2).A temporary or provisional licence shall be subject to such limitations and conditions as are appropriate under the relevant mutual recognition agreement.

27. Duration of Licence

A licence to practice shall continue in force until the 31st day of December of the year in which it is issued unless the licence –

- (a) has been suspended or cancelled in accordance with this Act; or
- (b) is expressed to be for a specified duration.

28. Form of Licence

A licence to practice shall be in the prescribed form.

29. Professional Liability Insurance

(1) An architect shall maintain full professional liability insurance at all times during which the architect holds a licence to practise.

(2) The professional liability insurance policy shall cover –

- (a).sickness or industrial accidents affecting employees;
- (b).loss or damage to the architect's equipment employed in the provision of the services;
- (c).civil liability for accidents caused to third parties arising out of the provision of the services; and
- (d).accidental death or permanent disability resulting from bodily injury incurred in connection with the provision of the services.

(3) The Architects Council may establish, administer, maintain and operate a professional insurance liability scheme for licensed architects for the purpose of subsection (1) and in respect of such scheme may –

- (a) determine classes of membership for insurance;
- (b).determine the insurance fee or contribution for members in each class;

- (c) determine the deductibles that apply in certain circumstance;
- (d) provide for payment of insurance fees by instalment or in advance; and
- (e) provide for specific types or values of transaction which require additional insurance fees or contributions to be paid

30. Proof of Insurance

The Architects Council may at any time require any architect who holds a licence to practise to provide proof of –

- (a).the indemnity insurance policy referred to in section 29;
- (b).the current status of the insurance policy including, proof of regular and up to date payment of premiums in respect of the insurance policy.

PART V

COMPLAINTS AND INVESTIGATIONS

31. Complaints

A representation, complaint or allegation in respect of any matter relating to the professional conduct or competence of an architect may be made in writing by any person to the Architects Council.

32. Power of Architects Council to Investigate

(1) The Architects Council has the power to investigate any matter, however arising, concerning the practice of architecture or the conduct of an architect where it believes that such an investigation is warranted in the public interest or in the interest of maintaining the standards and integrity of the profession.

(2).The Architects Council, on its own motion and with or without conducting a preliminary investigation, may conduct –

- (a).a formal hearing into the ability of an architect to practise architecture; or
- (b).an informal or formal hearing into the professional conduct of an architect.

(3).The Architects Council shall investigate –

- (a).any representation, allegation or complaint made by an architect respecting the conduct or competence of another architect; or
- (b).any allegation or complaint made by a person other than an architect, respecting the matter of professional misconduct, unless the Architects Council has determined that allegation is frivolous or vexatious.

(4).The Architects Council may investigate any allegation or complaint made by any person respecting any matter relating to the provision of architectural services by an architect.

33. Form and Conduct of Investigation

(1).An investigation by the Architects Council may be in the form of a preliminary investigation, an informal hearing, or a formal hearing.

(2).Subject to sub-section (3), a preliminary investigation of the Architects Council shall be conducted by the Complaints and Investigations Committee and an informal or a formal hearing of the Architects Council shall be conducted by the Disciplinary Committee.

(3).If the Architects Council determines, with respect to an investigation, that special skill or expertise is required, the Architects Council may appoint appropriate persons who possess the requisite skills or expertise to the Complaints and Investigations Committee for the whole or part of the investigation.

34. Referral to Committees for Investigation

(1) When the Architects Council determines on its own motion or on receipt of a representation, allegation or complaint that an investigation into the professional conduct, capability or competence of an architect should be conducted, the Architects Council shall, in accordance with section 33, refer the matter to –

- (a).the Complaints and Investigations Committee; or
- (b).the Disciplinary Committee.

(2) The Council shall give prompt notice of the referral, in writing, to the architect in respect of whom the investigation is to be conducted.

35. Report on Investigation

Within thirty days following the conclusion of an investigation, the Committee responsible for the conduct of an investigation under this Part shall submit to the Architects Council a written report that includes the findings of the Committee, the decisions, reasons for the decisions and the recommendations or directions of the Committee in respect of the matter.

36. Determination of Council

(1) Subject to subsection (2), upon the receipt of a report referred to in section 35, the Architects Council shall, promptly, make a determination in respect of the matter, taking into account the report submitted and shall take such action as it considers fair and appropriate in the circumstances.

(2).The Architects Council where it considers it appropriate to do so, may invite the architect to appear before it or to provide a written submissions in respect of the matter as the Architect Council considers necessary, before making a determination.

(3).If, in the case of a preliminary investigation, the Architects Council accepts the recommendation of the Complaints and Investigations Committee that a matter be referred to the Disciplinary Committee, the Architects Council shall inform the architect and the complainant, if any, of –

- (a).the conclusion of the preliminary investigation; and
- (b).the decision and reasons for the decision.

(4).In respect of any other investigation, the Architects Council shall give written notice to the architect who is the subject of the investigation, of decision arising out of the investigation and whether –

- (a).no further action is to be taken by the Architects Council respecting the matter;
- (b).the matter is to be referred to the Disciplinary Committee for the conduct of a formal or informal hearing; or
- (d).disciplinary measures will be taken by the Architects Council consequent upon the decision,

within 28 days of receiving the report referred to in section 35 or an appearance or submission referred to in subsection (2).

(5).If the report of an investigation by the Disciplinary Committee indicates that it is likely that the conduct or activity of an architect constitutes a criminal offence, the Architects Council shall submit a copy of the report to the Director of Public Prosecutions.

PART VI

DISCIPLINARY MEASURES

37. Measures for Criminal Conviction

(1) If an architect is convicted of a criminal offence –

- (a).in Antigua and Barbuda that is punishable on indictment; or
- (b).in another country that is comparable to an offence punishable on indictment in Antigua and Barbuda,

the Architect Council may suspend or cancel the registration of the architect .

(2) The Architects Council may suspend registration for such period as it considers appropriate after considering the nature of the offence and whether the registration of the architect was previously suspended as a consequence of a criminal conviction.

(3) If the Architects Council cancels the registration of an architect, the name and record of the architect shall be struck off the Register of Architects but the cancellation of registration and reasons shall be recorded.

38. Measures for Professional Misconduct

If, following an investigation of the Disciplinary Committee, the Architects Council determines that an architect engaged in a practice or activity that amounts to professional misconduct, the Council may, in writing –

- (a) censure the architect;
- (b) suspend the registration of the architect –
 - (i).for a specified duration as the Architects Council considers appropriate; or
 - (ii)until the occurrence of some specified future event; or
- (d) cancel the registration of the architect, remove his name from the register and revoke his certificate.

39.Measures for Incompetence

If an architect is found to be incompetent the Architects Council shall, where section 38 does not apply to the conduct of the architect –

- (a).suspend his registration for such a period as the Architects Council considers appropriate;
- (b).cancel his registration and remove his name from the Register of Architects; or
- (c).impose certain measures as a pre-condition for the renewal of the registration.

40. Measure for Failure to Insure

The Architects Council may cancel or suspend an architect’s licence to practise if the architect fails to take out and maintain to sufficient professional liability insurance.

41. Striking off Incorrect or Fraudulent Entry

The Architects Council shall cause to be struck from the Register of Architects any entry which has been incorrectly or fraudulently made.

42. Additional Measures

Notwithstanding sections 37 to 41, the Architects Council may take further action as it considers appropriate, in the interest of maintaining the standards and integrity of the profession.

43. Commencement of Measure

A disciplinary measure imposed by the Architects Council under this Part has effect immediately upon written notice being given to the architect or at such time as the Architect Council indicates in writing.

PART VII

REVIEW AND APPEAL

44. Professional Regulation Review Tribunal

(1).There is established a tribunal to be known as the Professional Regulation Review Tribunal.

(2).The Professional Regulation Review Tribunal shall be comprised of three retired judges, retired magistrates or a combination of both, appointed by the Governor General and otherwise constituted in accordance with the Sixth Schedule.

(3)The function of the Professional Regulation Review Tribunal is to review decisions of the Architects Council upon the application of a person who alleges that he or she has been aggrieved by a particular decision.

45. Application for Review

(1).A person may apply in writing to the Tribunal for a review of a decision of the Architects Council within thirty days of being informed of that decision.

(2).Subject to subsection (3), a person may apply to the Tribunal for a review any decision of the Architects Council by which that person is aggrieved including a decision to –

- (a) refuse an application of the person to register an architect;
- (b) suspend or cancel the person's registration;
- (c) suspend or cancel a licence to practise; or
- (d) impose a disciplinary measure, including censure.

(3) A review under this section shall not be conducted in respect of a decision to refuse an application for registration or a licence to practise if the refusal is as a result of the applicant's failure to provide satisfactory evidence to the Architects Council to show that he is qualified or a fit and proper for registration or the issue of a licence.

46. Suspension of Decision Pending Review

(1).If an applicant under section 45 for the review of a decision requests, a suspension of the decision in writing, the Architects Council may suspend the enforcement of the decision to be reviewed pending the determination of the review by the Tribunal.

(2).In determining whether to grant the request under subsection (1), the Architects Council shall consider the extent to which injury to any person is likely pending review and the potential for restitution in the event of injury.

47. Decisions of the Tribunal

(1).The Tribunal, after conducting the review of a decision by the Architects Council to refuse to register a person as an architect or issue a licence to practice, may –

- (a).direct the Architects Council to –
 - (i).cause the registration or licensing to be effected;
 - (ii).reconsider the application for registration or licensing; or
 - (iii)do such thing as is appropriate; or
- (b).declare that the decision of the Architects Council is reasonable or justifiable.

(2).The Tribunal, after conducting the review of a decision by the Architects Council to impose a disciplinary measure, may do one or more of the following:

- (a).confirm the decision of the Architects Council;
- (b).set aside the decision of the Architects Council;
- (c).direct that the relevant disciplinary be re-conducted;
- (d).set aside the penalty imposed and substitute another penalty;
- (e).order the applicant for the review to pay to the Architects Council the costs of the review; or
- (f).direct the Architects Council to do such thing as is appropriate.

48. Appeal

An appeal against any decision made by the Tribunal, other than a decision with respect to the entitlement of a person to be registered, shall lie to Judge in Chambers and every such appeal shall be made within such time and in such form and shall be heard in such manner as may be prescribed by rules of Court.

PART VIII

OFFENCES

49. False or Fraudulent Representations

A person who makes, causes to be made, wilfully procures or attempts to procure any false or fraudulent representation or declaration, whether oral or written, for the purpose of obtaining registration or licensing under this Act for himself or another person commits an offence is liable on conviction on indictment to a fine of \$25,000. or to imprisonment for 2 years or to both such fine and imprisonment.

50. Wrongful Use of Title

A person who, while not being an architect –

- (a).uses any name, title or other description which suggest, implies or is calculated to imply that the person is a registered architect or that he is recognised under any law of Antigua and Barbuda or another country as a person authorized and qualified to practise as an architect;
- (b).assumes or uses any title or prefix which suggests that the person is an architect;
- (c).advertises or holds himself out as a person authorised or qualified to practise as an architect,

commits an offence and is liable on conviction on indictment to a fine of \$25,000 or to imprisonment for 2 years or to both such fine and imprisonment.

51. Offence to Practice without Licence

(1).A person shall not practice as an architects in Antigua and Barbuda unless he holds a licence to practice issued by the Architects Council.

(2).A person who practices architecture without a licence to practise issued under this Act commits an offence and is liable on conviction on indictment to a fine of \$25,000. or to imprisonment for 2 years or to both such fine and imprisonment.

52. Fraudulently holding out oneself to be Holder of Licence

A person who fraudulently holds himself out to be the holder of a valid license to practice issued under this Act commits an offence and is liable on conviction on indictment to a fine of \$25,000. or to imprisonment for 2 years or to both such fine and imprisonment.

53. No Restriction on pro bono Assistance

Nothing in this Act shall prevent any person from providing architectural advice or other assistance in cases of emergency without hire, gain or reward.

PART IX

MISCELLANEOUS

54. Recovery of Fees and Costs

(1).A registered architect who holds licence to practise is entitled to demand and recover, in any court with full costs of suit, reasonable charges for professional services.

(2).A person claiming to be, or describing himself as or acting in the capacity of an architect is not entitled to recover fees or charges for architectural services unless he is registered and is the holder of a licence to practise issued under this Act.

55. Limitation of Actions

A person duly registered under this Act or the holder of a licence issued under this Act shall not be liable in any action for professional misconduct, negligence or mal-practice in respect of professional services requested or rendered unless such action is commenced within one year from the last day on which such architectural services were provided.

56. Notification of Action or Trial

(1).If a civil action has been brought against an architect in respect of the provision of architectural services the architect shall immediately notify the Architects Council.

- (2).Upon the conclusion of the civil action, the architect shall notify the Architects Council of (a).the matter has been concluded by a court or by way of settlement; and (b).the decision and order of the Court or the terms of the settlement.

(3).If an architect has been committed for trial, convicted or discharged in respect of an indictable offence, the architect shall immediately notify the Architects Council of the committal, conviction or discharge, as the case may be.

57.Certificate to be signed by Registered Architect

Upon commencement of this Act, no certificate or other document which is required by any written law to be signed by an architect shall be valid unless the person signing it is registered under this Act.

58. Certificate by Chairperson and Registrar prima facie Evidence

In all cases where proof of registration or licensing under this Act is required to be made, the production of a certificate under the hand of both the Chairperson of the Architects Council and the Registrar showing that the person therein named is duly registered or is a holder of a licence to practise, shall be sufficient evidence in a court or otherwise of the registration or licensing of that person.

59. Confidentiality

(1).Every member of the Architects Council (1) or a committee of the Architects Council, the Registrar or any person acting under the authority of any of them shall preserve secrecy with respect to all matters that come to their knowledge in the course of performing duties, employment, inquiry or investigation under this Act and shall not communicate such matters to any other person except –

- (a).as required for the administration of this Act;
(b).with the consent of the person to whom the information relates.

(2).A person referred to in subsection (1) shall be required to give testimony in any civil suit or proceedings with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except—

- (a). in proceedings concerning an offence under or other contravention of this Act;
- (b) upon the order of a Judge of the High Court in a matter before the High Court.

60. Exemption from Liability

Nothing done by any member of the Architects Council or a Committee, the Registrar or any person acting under the authority of any of them where such thing was done bona fide for the purpose of giving effect to this Act shall subject that person, in a personal capacity, to any action, liability, claim or demand.

61. Payment into Consolidated Fund

(1).Subject to subsection (2), all fees and monies received by the Architects Council in accordance with this Act, shall be retained by the Association and managed and used by the Council for the performance of its functions.

(2).Money received as premiums for or in respect of a professional liability insurance scheme administered and maintained pursuant to section 29(3) shall not be co-mingled with other funds of the Association.

62. Rules and Regulations

(1).The Minister, on the advice of Architects Council, may make Regulations for carrying this Act into effect this Act.

(2).The Architects Council may make rules in respect of the professional conduct of architects and fitness to practice as an architect.

(3) The Minister may, on the advice of the Architect Council, amend the Schedules to the Act.

63. Repeals and savings

(1) The Architects (Registration) Act, Cap. 34 is hereby repealed.

(2) Any subordinate legislation made under the Architects (Registration) Act, Cap. 34 and in force before the commencement of this Act shall continue in force under this Act.

FIRST SCHEDULE

[Section 5]

CONSTITUTION OF THE COUNCIL OF ARCHITECTS OF ANTIGUA AND BARBUDA

(1).The Council of Architects of Antigua and Barbuda shall consist of six elected members of the Architects Association and the following four members as follows:

- (a).the Chief Architect, as an ex officio member;

- (b).a representative of the National Accreditation Board;
- (c).a representative of a tertiary institution which provides training or programmes in engineering, if such an institution operates in Antigua and Barbuda; and
- (d).an attorney-at-law employed in the Attorney General’s Office and nominated by the Attorney General.

(2).Members of the Architects Council, other than those referred to in paragraph 1(a) to (d) shall hold office for three years and shall be eligible for re-election.

(3).(1).A Chairperson and Deputy Chairperson of the Council shall be elected from among the members of the Architects Council, other than those members referred to in paragraph 1(a) to (d), to serve for a period of two years.

(2).The Chairperson, or in his absence, the Deputy Chairperson, shall preside at the meetings of the Council.

(4).(1) The Council shall meet regularly and at least once in every three months.

(2).The Council shall meet at such other times as are necessary to conduct its business.

(3).Members of the Council shall be given seven (7) clear days’ notice for the convening of meetings.

(5).The Chairperson, or in his absence the Deputy Chairperson, may summon an emergency meeting of the Council at seven7 days’ notice in writing at the written request of not less than three members of the Council.

(6).Five members of the Council shall constitute a quorum.

(7).Every member of the Council shall have one vote but the Chairperson shall have a casting vote whenever the voting is equal.

(8).A member of the Council who is absent from three consecutive meetings without the permission of the Chairperson shall lose his right to vote for the next three meetings.

(9).A vacancy in the Council shall be filled in the same manner as the original appointment and the validity of the proceedings of the Architects Council shall not be affected by a vacancy in the Council or by a defect in the appointment of a member.

(10).Minutes of the meetings of the Architects Council shall be recorded by a Secretary to be appointed for the purpose and copies circulated to the members of the Council two weeks following every meeting.

SECOND SCHEDULE

[Section 9 (6)]

PROCEEDINGS BEFORE THE COMPLAINTS AND INVESTIGATIONS COMMITTEE

(1).Whenever a complaint is received by the Architects Council, the complaint shall be promptly referred to the Complaints and Investigations Committee.

(2).Whenever a matter is referred to or otherwise received by the Complaints and Investigations Committee, the Committee shall promptly notify, in writing, the architect who is the subject of the complaint to be investigated.

(3).The notice referred to in paragraph 2 shall –

- (a).identify the matter that is to be investigated;
- (b).stipulate the right of the architect to submit to the Complaints and Investigations Committee, in writing, any explanation or representation he wishes to make as well as any document or other information, concerning the matter that he wishes to submit to the Committee;
- (c).indicate that any submission must be made by a date not later than 28 days from the date of the notice or such other time as stipulated by the Committee

(4).The Complaints and Investigations Committee shall examine all documents and other information relating to the complaint that are submitted to it and shall make every reasonable effort to verify the information and ascertain all the facts that are relevant to a determination of the matter.

(5).The Complaints and Investigations Committee may hear evidence from any person, whether or not the person is a direct party concerned in the matter.

(6).Following a consideration of the information submitted to it, the Complaints and Investigations Committee may solicit clarifications, in writing, with respect to any statement, representation or other information submitted to the Committee.

(7).When the Complaints and Investigation Committee is conducting an investigation other than a preliminary investigation –

- (a).the Committee shall invite both parties concerned in the matter to appear before the committee to make representations or to answer questions respecting the matter;
- (b).the Committee may at the request of a party, permit the party to appear before the Committee.

(8).When a party appears before the Committee pursuant to paragraph 7(b), the Committee shall give to the other party –

- (a).notice to the other party regarding the appearance;

(b) a copy, extract or representation of any statement or representation made to the Committee at that appearance; and

(c) the opportunity to appear before the Committee in respect of any statement or representation made at that appearance.

(9). An architect who appears before the Complaints and Investigations Committee shall have the right to be represented by an attorney- at- Law.

(10) The Complaints and Investigations Committee shall report its findings, decision and

(11). Where the Complaints and Investigation Committee has conducted a preliminary investigation, its report to the Architects Council may recommend that

(a). no further investigation be conducted; or

(b). the matter be referred to the Disciplinary Committee;

(c). such other steps be taken as it considers appropriate in the circumstances.

THIRD SCHEDULE

[Section 10 (5)]

PROCEEDINGS BEFORE THE DISCIPLINARY COMMITTEE

(1) The Architects Council shall serve on the architect against who disciplinary proceedings are to be instituted a notice which shall –

(a). specify, in the form of a charge, the matters into which the inquiry is to be held; and

(b). state the time and place at which the enquiry is proposed to be held

(2). Except with the consent of the architect, an inquiry shall not be fixed for a date earlier than days after the date on which the notice is served.

(3). The notice shall be served personally or by pre- paid registered post on the architect at the professional address shown on the Register of Architects.

(4). In any case where there is a complainant, a copy of the notice shall also be sent to the complainant.

(2). If, after a complaint has been referred to the Disciplinary Committee for investigation, it appears to the Committee that the disciplinary proceeding should not be held, the Council shall notify the complainant, if any, and the architect of that fact.

(3). An architect shall be entitled to receive copies of, or to be allowed access to, any documentary evidence relied on for the purpose of the disciplinary proceeding.

(4). The architect shall have the right to be represented by an attorney- at- law in any disciplinary proceedings instituted against him.

(5).if an architect does not appear at the date fixed for the hearing of the case, the Disciplinary Committee may, if it is satisfied that a notice of enquiry has been served on the architect, proceed with the enquiry in his absence and the absence of his attorney.

(6).Where witnesses are examined by the Disciplinary Committee, the architect shall be given an opportunity of attending and of putting questions to the witnesses in his own behalf; and no documentary evidence shall be used against him unless he has previously been supplied with copies thereof or given access thereto.

(7).The architect shall be permitted to give evidence, call witnesses and make submissions orally or in writing in his own behalf.

(8).The Disciplinary Committee may call additional witnesses and may adjourn the proceedings to another convenient time or place.

(9).The testimony of witnesses shall be taken under oath, which the Chairperson of the Disciplinary Committee is authorised to administer, and there shall be a right to examine, cross-examine and re- examine witnesses.

(10).On the application of –

- (a).any party to the proceedings;
- (b).the Chairperson of the Disciplinary Committee; or
- (c).the counsel for the Disciplinary Committee,

the Registrar may issue subpoenas for the purposes of procuring the attendance of witnesses, the giving of testimony and the production of documents before the Disciplinary Committee.

(11).The rules of evidence in the proceedings and penalties in the case of disobedience to any subpoena, shall be the same as in civil cases in the Supreme Court.

(12).The Disciplinary Committee shall have the proceedings and the evidence

- (a).written, transcribed and certified by a court transcriber; or
- (b).recorded by a sound recording machine, and transcribed and certified by a court transcriber.

(13).It is the duty of the architect whose conduct or fitness to practise is being inquired into, to appear at the inquiry, but in event of non- attendance by that architect, the Disciplinary Committee, upon proof by an affidavit of the service of notice, may proceed with the inquiry, and without further notice to the architect make a report of its findings and take such other action as it is authorised to take under this Act.

(14).If, having heard the evidence in support of the charges, the Disciplinary Committee is of the opinion that the evidence is insufficient it may dismiss the charges without calling upon the architect for his defence.

(15).On the conclusion of the enquiry, the Disciplinary Committee shall submit a report of its findings, decision, reasons for the decision and recommendations to the Architects Council.

FOURTH SCHEDULE

[section 23]

COUNTRIES FOR RECOGNISED REGISTRATION

- (1).Portugal
- (2).Spain
- (3).the United Kingdom
- (4).Austria Belgium
- (5).Denmark
- (6).France
- (7).German
- (8).Greece
- (9).Ireland
- (10).Italy
- (11).Luxembourg
- (12).Netherlands
- (13).Bulgaria
- (14).Croatia
- (15).Cyprus
- (16).Czech Republic
- (17).Estonia
- (18).Finland
- (19).Hungary
- (20).Latvia
- (21).Lithuania
- (22).Malta
- (23).Poland
- (24).Romania
- (25).Slovak Republic

- (26).Slovenia
- (27.) Sweden
- (28).Belize.
- (29.) Commonwealth of Dominica.
- (30).Grenada.
- (31).Republic of Haiti.
- (32).Montserrat.
- (33).St. Kitts & Nevis.
- (34).St. Lucia.
- (35).St. Vincent & the Grenadines
- (36.) Commonwealth of the Bahamas
- (37).Barbados
- (38.) Republic of Guyana
- (39).Jamaica
- (40).Republic of Suriname
- (41).Republic of Trinidad & Tobago”

FIFTH SCHEDULE

[section 24]

Specialised Areas of Architecture

First Column
Specialist Area

Second Column
Qualification for Registration

SIXTH SCHEDULE

[SECTION 44]

CONSTITUTION OF THE PROFESSIONAL REGULATION REVIEW TRIBUNAL

Appointment of members

(1).The Professional Regulation Review Tribunal shall consist of three retired judges appointed by the Governor General as members.

Chairperson

(2).The Governor General shall appoint a Chairperson from among the members of the Tribunal.

Publication of membership.

(3).The names of the members of the Tribunal as first constituted and every change in membership thereof shall be published in the Gazette.

Tenure of office.

(4).(1) Each member of the Tribunal shall be –
(a).appointed for a period not exceeding three years; and
(b).eligible for reappointment.

(2)The Governor General may, at any time, revoke the appointment of the chairperson or any other member of the Tribunal.

Temporary appointment.

(5).(1) Where a member of the Tribunal, other than the Chairperson, is unable to conduct proceedings to completion, the Governor General may appoint another member of the Commission to act temporarily for the member.

(2).Where the Chairperson is unable to conduct proceedings to completion, the Chairperson shall delegate another member to continue the proceedings from the stage at which it was last heard by the Chairperson.

Resignation.

(6).(1) Any member of the Tribunal other than the chairperson may at any time resign his office by instrument in writing addressed to the Governor General and transmitted through the Chairperson,

and from the date of the receipt by the Governor General such member shall cease to be a member of the Tribunal.

(2).The Chairperson may at any time resign his office by instrument in writing addressed to the Governor General and such resignation shall take effect as from the date of the receipt of such instrument by the Governor General

Filing of vacancy.

(7).If any vacancy occurs in the membership of the Tribunal such vacancy shall be filled by the appointment of another member in the manner in which the previous member was appointed and the member so appointed shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

Constitution of Tribunal to perform functions.

(8).(1) The Chairperson shall preside over every sitting of the Tribunal.

(2).The decisions of the Tribunal shall be by a majority vote of the members.

Authentication of documents.

(9).All documents made by, and all decisions of, the Tribunal may be signified under the hand of the chairperson or any other member of the Tribunal authorized to act in that behalf.

Procedure.

(10).(1) The Tribunal shall have the power to regulate its own proceedings and shall sit at such times as may be necessary or expedient for the transaction of business and for the consideration of matters under inquiry and such sittings shall be held at such places and times and on such days as the Tribunal may determine.

(2).Proper records of all proceedings of the Tribunal shall be kept.

Remuneration of members.

(11).There shall be paid to the members such remuneration, whether by way of honorarium, salary fees and allowances to as the Governor General may determine.

Protection of members.

(12).No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Tribunal in respect of an act done *bona fide* in pursuance or execution or intended execution of the provisions of this Act.

Validity of proceedings.

(13).The validity of any proceedings of the Tribunal shall not be affected by any vacancy among the members or any defect in the appointment of a member.

Disclosure of interest.

(14).Any member of the Tribunal who has an interest, directly or indirectly in any matter brought before the Tribunal –

- (a)shall disclose the nature of the interest to the Tribunal; and
- (b).shall not take part in any of deliberations or decisions of the Tribunal with respect to that matter.

Passed by the House of Representatives
on the , 2018.

Passed by the Senate
on the , 2018

Speaker.

President.

Clerk to the House of Representatives.

Clerk to the Senate.