

Architects Registration Ordinance Procedure for Disciplinary Proceedings

1. Disciplinary offences

Disciplinary offences for which disciplinary proceedings may be instituted are set out in section 21(1) of the Ordinance.

2. Receipt of complaint

The initial step in any proceedings is the receipt of a complaint by the Registrar (see 21(3)). On receipt of the complaint the Registrar should ascertain the identity of the complainant and the particulars of the complaint.

3. Referral to the Board

The Registrar shall “submit the facts to 2 members of the Board and the members, in consultation with the Registrar, shall determine whether the complaint should be referred to the Board” (section 21(3)).

4. Referral to inquiry committee

When a complaint is referred to the Board, the Board may in turn refer the same to an inquiry committee for decision (section 22(1)).

5. Inquiry committee

Where the Board decides to refer a complaint to an inquiry committee, the Board may establish an inquiry committee of not less than 3 members of the Hong Kong Institute of Architects to determine whether or not the architect against whom the complaint is made has committed a disciplinary offence (section 22(1)).

6. Giving of notice

Before a complaint concerning a disciplinary offence is heard by the inquiry committee 28 days’ notice of the complaint and the date, time and place of the hearing must be given to the registered architect against whom the complaint is made (section 22(3)).

7. Hearing by the inquiry committee

The architect against whom the complaint is made (“respondent”) is entitled to attend and hear all evidence produced at the hearing and shall be provided with a copy of the Ordinance and any rules made thereunder (section 22(4)).

The respondent is entitled to cross-examine the witnesses called against him.

The respondent is entitled to give evidence and to call witnesses in support of his/her case.

8. Finding by inquiry committee

After hearing all the evidence and any submissions made by the parties the inquiry committee shall make a finding as to whether the respondent has committed any disciplinary offence.

If the inquiry committee finds that no disciplinary offence has been committed, the complaint should be dismissed and the respondent notified accordingly by the Registrar in accordance with section 27(1)

If the inquiry committee finds that a disciplinary offence has been committed the Registrar shall forthwith forward the inquiry committee's decision and details of any order proposed to be made to the Board for review (section 26(1)).

9. Order which may be made

The orders which may be made by the inquiry committee are set out in section 24:

Where an inquiry committee finds that a registered architect committed a disciplinary offence, on confirmation by a review committee of the finding, or on the variation of the finding or any proposed order based on the recommendation of the review committee, the inquiry committee may make any one or more of the following orders-

- (a) order the Registrar to remove the name of the registered architect from the register;
- (b) order the Registrar to remove the name of the registered architect from the register for such period as the inquiry committee may think fit;
- (c) reprimand the registered architect in writing and order the Registrar to record the reprimand on the register;
- (d) order that an order made under this section be suspended, subject to such conditions as the inquiry committee may think fit, for a period not exceeding 2 years;
- (e) order that the Board shall not accept an application from the registered architect for registration as a registered architect either for a fixed period or until the registered architect satisfies the Board that he should be registered;
- (f) order that the Chairman admonish the registered architect orally.

10. Review committee

The Board shall appoint 3 of its members to sit with the Chairman as a review committee to review the decision of the inquiry committee (section 26(2)). A member of the inquiry committee shall not be appointed as a member of the review committee (section 26(3)).

Under section 26(4) of the Ordinance the review committee may –

- (a) confirm the decision and any proposed order of the inquiry committee;
- (b) reverse a finding of guilt by the inquiry committee;
- (c) recommend that any proposed order made by the inquiry committee be varied; or

- (d) remit the decision or any proposed order of the inquiry committee to the inquiry committee with directions to reconsider the decision or proposed order or both.

The inquiry committee shall comply with the directions and the recommendations, if any, of the review committee (section 26(5)).

11. Service of orders of inquiry committee

Under section 27(1) of the Ordinance:

The Registrar shall serve a copy of any order made under section 24(a) to (e), together with a copy of the inquiry committee's reasons, or serve notice that the inquiry committee has not found that the registered architect concerned committed a disciplinary offence, upon the registered architect concerned, either personally or by registered post addressed to his registered address immediately when the Registrar receives –

- (a) the report of the review committee, unless the inquiry committee is to reconsider its decision; or
- (b) any other of the inquiry committee reviewed under section 26(4)(d).

12. Publication of disciplinary orders

Under section 28(1) and (2) of the Ordinance:

- (1) After the expiry of the time within which an appeal under section 29 against an order of an inquiry committee under section 24(a) to (e) may be made, or where in the case of an appeal the order is affirmed or varied or the appeal is abandoned, the Board -
 - (a) shall publish a copy of the order or the order as varied on appeal in at least one English and one Chinese language newspaper circulating daily in Hong Kong; and
 - (b) may publish the order or the order as varied on appeal in any other publication or manner as the Board thinks fit.
- (2) Where an order is published under subsection(1), the Board –
 - (a) shall publish with such order sufficient particulars to acquaint the public with the nature of the matter to which the order relates; and
 - (b) may publish with such order an account of the proceedings of the inquiry committee.

13. Appeal to Court of Appeal

A person aggrieved by a decision made against him/her by the inquiry committee may appeal to the Court of Appeal (section 29(1)).