

# Penalty and Infringement Notices under the Architects Act 2002 (Qld)

Board of Architects of Queensland

- protecting the public
- registering architects
- advancing education in architecture

## Penalty and Infringement Notices (PINs)

As a result of recent amendments to the *State Penalties Enforcement Regulation 2014* and the re-making of the *Architects Regulation 2019*, the Board of Architects of Queensland (BOAQ) will be able to issue penalty infringement notices (PINs) from **1 January 2020** for a range of offences against the *Architects Act 2002* ('the Act'). This new compliance and enforcement response will assist the BOAQ to achieve the objectives of the Act, which are to:

- **protect the public** by ensuring architectural services are provided in a professional and competent way;
- **maintain public confidence** in the standard of service provided by architects; and
- **uphold the standards of practice** of Architects in Queensland.

This additional regulatory response will enable the BOAQ to issue a PIN in certain circumstances as a cost-effective alternative to commencing prosecution proceedings in the Magistrates Court, or disciplinary proceedings in the Queensland Civil and Administrative Tribunal (QCAT).

More information about PINs and how they will be implemented by BOAQ will be made available prior to implementation.

### What is a PIN?

A PIN refers to an infringement notice issued under the relevant law (outlined above) to inform a person that they owe a fine under an Act.

### BOAQ Power to Issue PINs

The BOAQ will not be able to issue PINs for *all* offences against the Act; only for the offences *prescribed* in Schedule 1 the *State Penalties Enforcement Regulation 2014* (Qld). These prescribed offences are listed in the table overleaf, on pages 2-3 of this information sheet.

From **1 January 2020**, the BOAQ will be able to issue a PIN to any person who commits a relevant offence, as an alternative to the compliance and enforcement actions already available to the BOAQ. Under the *Acts Interpretation Act 1954*

(Qld), a 'person' can include a corporation.

## Administrative Review of the PIN

Persons issued with a PIN will have recourse to decision review options.

If you are served with a PIN and believe there is an error on the infringement, an exemption from the law that applies, or a legal defence available to you, you will be able to request to have the infringement notice reviewed by the BOAQ.

Your request will be reviewed by a delegated officer of the BOAQ. You will need to lodge your review request in writing **within 28 days** from the date the notice was issued.

### Review Outcomes

If your review is successful, the BOAQ may elect to withdraw the PIN and will repay any amount paid to the BOAQ for the offence.

The BOAQ will reserve the right to refuse to withdraw an infringement notice at its discretion. If your review application is unsuccessful, you will be liable to pay the infringement fine.

### Complaints about BOAQ

If you believe BOAQ has acted unlawfully or unfairly in issuing or reviewing a PIN, the following complaint avenues may be available:

1. Queensland Ombudsman;
2. Queensland Human Rights Commissioner.

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Offences that will be subject to PINs are outlined below, along with their respective penalties. Please note, all monetary amounts are expressed according to the penalty unit value commencing **1 July 2019** and are subject to increase periodically.

Section of <i>Architects Act 2002</i>	Offence Provision	Maximum Penalty
Section 32	An architect must, within 21 days after changing his or her name or contact details, advise the board about the change unless the architect has a reasonable excuse.	\$133.45
Section 32A(1)	An architect must advise the board about any disciplinary action (the "event" ) taken against the architect in another State or a foreign country in relation to the architect's practice as an architect, within 21 days after the event, unless the architect has a reasonable excuse.	\$667.25
Section 54	An individual who ceases to be an investigator must return the individual's identity card to the board within 21 days after ceasing to be an investigator, unless the individual has a reasonable excuse.	\$133.45
Section 56(1)	A person required to give information to the board or an investigator under section 55 [power to require information or attendance] must comply with the requirement unless the person has a reasonable excuse.	\$667.25
Section 56(2)	A person given a notice under section 55 must not fail, without reasonable excuse—  (a) to attend as required by the notice; or  (b) to continue to attend as required by the board or investigator until excused from further attendance; or  (c) to answer a question the person is required to answer by the board or investigator; or  (d) to produce a document the person is required to produce by the notice.	\$667.25
Section 67(1)	A person must not obstruct the board in its exercise of a power in the conduct of an investigation, or an investigator in the exercise of a power, unless the person has a reasonable excuse.	\$667.25
Section 113(1)	A person who is not an architect must not—  (a) claim, or hold himself or herself out, to be an architect; or  (b) allow himself or herself to be held out as an architect.	\$2669.00

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Section 113(2)	A person must not hold out another person as an architect if the person knows or ought reasonably to know the other person is not an architect.	\$2669.00
Section 114(1)	A person who is not an architect must not use— (a) the title 'architect' or 'registered architect'; or (b) another title or name, prescribed under a regulation, that in the context in which the title or name is used suggests that the person is an architect.	\$2669.00
Section 114(2)	A person who is not a practising architect must not use any of the following words to advertise or otherwise promote services provided by the person unless the services are to be provided using a practising architect— (a) 'architectural services', 'architectural design services' or 'architectural design'; (b) other words, prescribed under a regulation, that in the context in which the words are used suggest that the services to which the words relate are to be provided using a practising architect.	\$2669.00
Section 115(2)	If the person provides the services, the person must ensure an architect— (a) is at the place while the services are provided; and (b) carries out, or is responsible for the carrying out of, the services.	\$2669.00
Section 116(2)	The person must inform the other person of the name and contact details of the architect responsible for carrying out the services.	\$800.70
Section 116(3)	If the person informs another person of the name and contact details of an architect under subsection (2), the person must also inform the other person of the name and contact details of any other architect who becomes responsible for carrying out the services.	\$800.70
Section 117(2)	The person must ensure the name and contact details of the architect who is, or will be, responsible for the carrying out of the services are stated on all correspondence about the services from the person to the other person.	\$133.45

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