

## **An Act to Amend An Act Respecting the Association of Registered Interior Designers of New Brunswick**

WHEREAS the Association of Registered Interior Designers of New Brunswick prays that it be enacted as hereinafter set forth;

THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

**1 Section 1 of the Association of Registered Interior Designers of New Brunswick Act, chapter 67 of the Acts of New Brunswick, 1987, is amended by repealing section 1 and substituting the following:**

1. This Act may be cited as the "*Interior Designers Act*".

**2 Section 2 of the Act is amended**

(a) **by renumbering the section as subsection 2(1);**

(b) **by removing the paragraph letters (a) to (j) from the definitions;**

(c) **in the definition of "Association"**

(i) **by striking out "Registered";**

(ii) **by adding "continued under section 3" after "New Brunswick";**

(d) **by adding the following definitions in alphabetical order:**

"member" means an interior designer and any person whose name is entered in the register, temporary register or any of the rosters established and maintained pursuant to this Act, the by-laws or the rules, and includes for the purposes of applying the provisions of this Act, a professional corporation and such persons who are permitted by this Act, the by-laws or the rules to carry on, in association, partnership or other prescribed arrangements with an interior designer or professional corporation, the practice of interior design, or such aspects thereof as may be prescribed by the by-laws or rules;

"non-structural" means elements or components of a structure that are not load-bearing and do not require design computations for a building structure and includes ceiling and partition systems that employ normal and typical bracing conventions and are not part of the structural integrity of a building but does not include the structural frame systems supporting a building;

"practice of interior design" means providing or offering to provide, for a fee, commission or hope of reward, design services in relation to the non-structural construction of and non-structural alterations to a structure and includes, but is not limited to:

(a) analyzing the intended use of a structure, the life-safety requirements and applicable codes,

(b) developing preliminary and final designs for the alteration or construction of a structure,

(c) obtaining building permits or other approvals, and preparing and filing with the authority having jurisdiction for the purpose of obtaining building permits or other approvals, technical submissions for non-structural construction, including materials, finishes, space planning, reflected ceiling plans, furnishings, fixtures and equipment,

(d) consulting and collaborating with licensed design professionals,

(e) preparing and administering bids and contract documents, and

(f) reviewing and evaluating the implementation of projects while in progress and upon completion;

"professional corporation" means a corporation the name of which is entered in the professional corporations register kept under this Act;

"stamp" means the stamp or seal issued by the Association to members and professional corporations in the form and subject to the conditions prescribed in the by-laws or rules;

"technical submissions" means designs, drawings, plans, specifications, studies and other technical reports.

(e) **by adding after subsection (1) the following:**

2(2) The words, initials or expressions "interior designer", "registered interior designer", "licensed interior designer", "professional interior designer", "certified interior designer", "AIDNB", "ARIDNB", "ID", "RID", "LID", "PID", "CID" or any like words, initials or expressions used alone or in combination with other words or expressions connoting a person recognized by law as an interior designer or person entitled to carry on the practice of interior design or connoting a member of the Association, when used in any provision of an Act of the legislature or any regulation, rule, order or by-law made under an Act or used in any public document, shall be read as including a person whose name is entered in the register as an interior designer.

**3 Section 3 of the Act is amended**

(a) **by repealing subsection (1) and substituting the following:**

3(1) The Association of Registered Interior Designers of New Brunswick incorporated by the "Association of Registered Interior Designers of New Brunswick Act", chapter 67 of the Acts of New Brunswick, 1987 is hereby continued as a body corporate and politic without share capital under the name the "Association of Interior Designers of New Brunswick" and subject to this Act, has the capacity, rights, powers and privileges of a natural person.

(b) **by repealing subsection (2) and substituting the following:**

3(2) The head office of the Association shall be at such place in New Brunswick as the Board may determine from time to time.

(c) **by repealing subsection (3);**

(d) **by repealing subsection (4).**

**4 Section 4 of the Act is repealed.**

**5 Section 5 of the Act is amended**

(a) **by repealing subsection (1) and substituting the following:**

5(1) The board of directors of the Association shall control, govern and manage or supervise the control, government and management of the business and affairs of the Association, all aspects of the practice of interior design and the administration of this Act, and may make rules not contrary to this Act and the by-laws regulating such of the aspects, subjects or matters of the business and affairs of the Association and the practice of interior design as may be governed by by-law.

(b) **in subsection (2), by striking out "registered".**

**6 Section 7 of the Act is amended by adding after subsection (9) the following:**

7(10) The provisions of subsections (3) to (7) apply, with such changes as may be necessary, to a proposal to amend or repeal a rule made by the Board.

**7 Section 8 of the Act is amended**

**(a) by repealing subsection (2) and substituting the following:**

8(2) The by-laws shall provide that a disciplinary sanction may be imposed only after a hearing, as provided in the by-laws.

**(b) by repealing subsection (3) and substituting the following:**

8(3) The Registrar shall keep:

(a) a register in which shall be entered the names of all members of the Association in good standing and only those persons so registered are members entitled to the privileges of membership in the Association;

(b) a temporary register in which shall be entered the name and address of every person who is permitted to carry on the practice of interior design in the Province under such circumstances and with such conditions, limitations and restrictions and for such temporary and limited periods of time as are set out in the by-laws;

(c) a professional corporations register in which shall be entered the name and address of every professional corporation permitted to carry on the practice of interior design under this Act and the by-laws, and the names and addresses of the officers and directors of such professional corporations; and

(d) rosters of members in which shall be entered the name and address of every person who is entitled to membership in any category of membership and to the rights and privileges established by the by-laws, other than persons whose names are entered in the register, the temporary register or the corporations register.

**8 Section 9 of the Act is amended**

**(a) by repealing subsection (1) and substituting the following:**

9(1) Every member of the Association as defined in the by-laws may use the designation "interior designer" and may use after the member's name the initials "AIDNB" and such other designations and initials as may be permitted by the by-laws, indicating that the member is an interior designer in New Brunswick registered under this Act.

**(b) by repealing subsection (2) and substituting the following:**

9(2) No person shall practise or advertise or hold themselves out as entitled to practise interior design or use the designation "interior designer" or "registered interior designer" or such other similar letters, names, titles, initials or descriptions that imply the person is entitled to practise as an interior designer or is a member of the Association, except in accordance with the Act and the by-laws.

**(c) by repealing subsection (3) and substituting the following:**

9(3) No person who is not a member of the Association may bring an action in New Brunswick in any court to collect fees, compensation or other remuneration for services performed as an interior designer.

**9 Section 12 of the Act is repealed and the following is substituted:**

**12(1)** All technical submissions prepared or issued by a member and filed with the authority having jurisdiction for the purpose of obtaining building permits or other approvals must

- (a) contain the signature and stamp of that member of the Association;
- (b) contain the date on which it was approved; and
- (c) be identified as an interior design document.

**12(2)** No member shall engage in the private practice of interior design without first providing the Registrar with proof of valid professional liability insurance in the minimum amount required by the by-laws and providing proof of renewal of such insurance each year thereafter.

**10 Section 13 of the Act is amended**

- (a) **by adding the heading “EXEMPTIONS” before section 13;**
- (b) **by repealing section 13 and substituting the following:**

**13** Nothing in this Act shall be taken or construed to prohibit or preclude:

- (a) the practice of architecture by a person authorized to carry on such practice by the *Architects' Act*;
- (b) the practice of engineering by a person authorized to carry on such practice by the *Engineering and Geoscience Professions Act* ;
- (c) the carrying on of the occupation of engineering technology by a person authorized to carry on such occupation by the *Engineering Technology Act*;
- (d) an employee of a retail establishment providing consultation with respect to interior decoration or furnishings on the premises of the retail establishment or in furtherance of a retail sale;
- (e) the practice of interior design by any person where the alterations to a structure do not require a permit under the applicable codes;
- (f) any person from practising any profession or occupation, carrying out any inspection, or working in any trade or calling with respect to which the person is registered, licensed, certified or otherwise authorized under any other public or private Act of the Province of New Brunswick;

or require any person to become registered under this Act in order to do any such thing.

**11 The Act is amended by adding after section 15 the following:**

**PROFESSIONAL CORPORATIONS**

**16(1)** No corporation shall be entitled to have its name entered in a register other than the professional corporations register.

**16(2)** No professional corporation shall be entitled to vote at any meeting of the Association.

**16(3)** All the provisions of this Act, the by-laws and the rules applicable to a member apply with all necessary modifications to a professional corporation unless otherwise expressly provided.

**16(4)** The Association may make by-laws

(a) prescribing the types of names, designations or titles by which

(i) a professional corporation,

(ii) a partnership of two or more professional corporations, or

(iii) a partnership of one or more professional corporations and one or more interior designer,

may be known, and

(b) regulating the practice of interior design by professional corporations and requiring the filing of such reports, information and returns the Board considers necessary.

**17(1)** The articles of incorporation, articles of continuance or other constating documents of each professional corporation shall not prevent the professional corporation from

(a) engaging in every phase and aspect of rendering the same interior design services to the public that an interior designer is authorized to render; and

(b) having the capacity and exercising the rights, powers and privileges of a natural person as may be necessary or incidental or ancillary to the rendering of interior design services including without restricting the foregoing, the power

(i) to purchase, lease or otherwise acquire and to own, mortgage, pledge, sell, assign, transfer or otherwise dispose of, and to invest in, deal in or with, real or personal property;

(ii) to contract debts and borrow money, issue and sell or pledge bonds, debentures, notes and other evidences of indebtedness and execute such mortgages, transfers of corporate property and other instruments to secure the payment of corporate indebtedness as required; and

(iii) to enter into partnership, consolidate or merge with or purchase the assets of another corporation or individual rendering the same type of professional services.

**17(2)** The legal and beneficial ownership of a majority of the issued shares of a professional corporation shall be vested in one or more members and shall entitle such member or members to elect all of the directors of the professional corporation.

**17(3)** The legal and beneficial ownership of all issued shares of a professional corporation other than those referred to in subsection (2) shall be vested in the persons authorized by the by-laws.

**17(4)** No member who is a shareholder of a professional corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in a person who is not a member the authority to exercise the voting rights attached to any or all of the member's shares, and every shareholder who does so commits an offence.

**17(5)** The practice of interior design on behalf of a professional corporation shall be carried on by interior designers.

**17(6)** For the purposes of subsection (5), the practice of an interior designer shall be deemed not to be carried on by clerks, secretaries, assistants and other persons employed by the professional corporation to perform services that are not usually and ordinarily considered by law, custom or practice to be services that may be performed only by an interior designer.

**17(7)** The registration of a professional corporation may be revoked, or its renewal withheld, by the Registrar where any of the conditions specified in subsections (1), (2), (3), (4) or (5) no longer exist.

**17(8)** Where a professional corporation ceases to fulfill any condition specified in subsections (2), (3) or (4) by reason only of

- (a) the death of a member of the Association,
- (b) the striking off or other removal from the register of the name of a member, or
- (c) the suspension or revocation of the licence of a member,

the professional corporation has one hundred and eighty days or such longer period as the Board may permit, from the date of the death, striking off, removal, suspension or revocation, as the case may be, in which to fulfill the condition, failing which the Registrar shall revoke the registration of the professional corporation.

**18** A professional corporation may practise interior design in its own name, subject to any conditions, limitations or restrictions as may be prescribed in the by-laws or rules, or as set out in its registration.

**19** The relationship of a member to a professional corporation, whether as a shareholder, director, officer or employee, does not affect, modify or diminish the application of the provisions of this Act, the by-laws or the rules to the member.

**20** Nothing contained in this Act, the by-laws or the rules respecting professional corporations shall affect, modify or limit any ethical obligation of an interior designer.

**21(1)** Except as provided in this Act, the by-laws or the rules, no person other than a person whose name is entered in the register shall

- (a) publicly or privately, whether or not for hire, gain or hope of reward hold themselves out in any way as being an interior designer or as being entitled to practise as an interior designer;
- (b) assume or use any title, name, designation, initials or description, including those referred to in this Act, that could lead the public to believe that person is a member of the Association or an interior designer; or
- (c) practise interior design or practise as an interior designer.

**21(2)** Any person authorized to practise as an interior designer or hold themselves out as an interior designer under the provisions of this Act who practises as an interior designer in violation of any condition, limitation or restriction imposed upon that person's registration or membership or who fails to inform that person's employer of any such condition, limitation or restriction commits an offence.

**22** Any professional corporation that breaches or permits the breach of any condition, limitation or restriction imposed upon its registration commits an offence and an officer, director, agent or shareholder who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable to the punishment provided for the offence, whether or not the professional corporation has been prosecuted or convicted.

## **ENFORCEMENT**

**23** Any person who knowingly furnishes false or misleading information in or in respect of any application made under this Act, the by-laws or the rules or in any statement or return required to be furnished under this Act, the by-laws or the rules, commits an offence.

**24(1)** A person who commits an offence under this Act is liable on conviction to punishment

(a) for a first offence, a minimum fine of \$240 and a maximum fine of \$5,200;

(b) for a subsequent offence, a minimum of \$240 and a maximum fine of \$5,200 or, if the defendant has been sentenced to the maximum fine on a previous conviction, \$10,200; and

(c) for a subsequent offence, a term of imprisonment of up to 30 days, if the judge is satisfied that no other sentence will deter the defendant.

**24(2)** An information with respect to an offence under this Act shall be laid by the Registrar or a member authorized by the Board.

**24(3)** The prosecution of an offence under this Act shall be conducted by the Board or a person authorized by the Board, unless the Attorney General or an agent of the Attorney General intervenes.

**25(1)** No prosecution for an offence under this Act shall be commenced after the expiration of one year from the date of the last act that is part of the alleged offence.

**25(2)** Where an offence under this Act continues for more than one day, the offender is guilty of a separate offence for each day that the offence continues.

**26** Where any person does or attempts to do anything contrary to the provisions of this Act, the by-laws or the rules, the doing of such thing may be restrained by an injunction of the Court at the instance of the Board acting in the name of the Association.

**27** Any notice or other document which is to be given to, sent to or served upon any person shall be sufficiently given, sent or served if it is delivered personally or if it is sent by prepaid ordinary mail to the last known address of that person, and shall be deemed to be received five days after the date of mailing.

**28** All fees, fines, costs, and penalties payable under this Act, the by-laws or the rules shall be paid to the Association and belong to the Association.