

# Information *For architects*

This Newsletter is an official ARBV communication with architects.

## **ARCHITECTS INSURANCE MINISTERIAL ORDER and the amended Architects Act and Architects Regulations.**

The Architects Insurance Ministerial Order was gazetted on Thursday 12 May and is enclosed with this Newsletter for all architects.

The Ministerial Order comes into effect on 14 June 2005.

As previously announced in *Information 65*, this order is to be enforced by the Board under the amended Architects Act, thus replacing the previous requirements for insurance that operated under the Building Act.

The required minimum level of indemnity has not changed.

The main change is that all renewals of registration due by 1 July this year and all new registration applications from that date must be accompanied by proof of insurance cover; either held by the architect or by the employer on behalf of the architect.

The Regulations now require the Board to publish in the Register of architects whether an architect holds PI Insurance.

Registration renewal and application forms will contain advice on how to comply.

### **The legislative basis for these insurance provisions**

Section 8B of the amended Act states that it is an offence to work as an architect without required insurance. Persons who are employed by or supervised by an insured architect are exempt from this offence provision. The Board will require these persons to inform it of the cover provided by the employer.

Section 17A of the amended Act provides for a Ministerial Order. 'The Minister may, by order published in the Government Gazette -  
Require architects or any specified class or classes of architects to be covered by insurance' and 'specify the kind and amount of insurance by which architects are required to be covered.'

To assist architects, companies and partnerships during this transition time, some questions and answers around the topic of insurance are provided below.



## INSURANCE REQUIREMENTS OF ARCHITECTS

### HAVE THE REQUIREMENTS FOR REGISTRATION AS AN ARCHITECT CHANGED?

The new requirement for registration is proof of insurance cover that complies with the Architects Insurance Ministerial Order.

All other existing requirements remain; ie: qualifications, practical experience, a pass in the Architectural Practice Examination.

### WHY MUST ARCHITECTS BE COVERED BY PI INSURANCE?

It is Government policy that professions should have adequate insurance, not only in the public interest; but also because it indemnifies architects for their legal liability to their clients and others relying on their advice.

In an increasingly litigious climate, architects can be 'joined' to a legal case against other practitioners on the same project in a 'joint and several liability' case.

The Architects Act now states that it is an offence to work as an architect without having the required insurance cover.

### IS IT AN OFFENCE TO WORK AS AN ARCHITECT WITHOUT PI INSURANCE?

Yes. The Architects Act now states that it is an offence to work as an architect without having the required insurance cover.

#### **8B. Offence to work as architect without required insurance**

(1) A person must not carry out work as an architect unless that person is covered by the required insurance.

Penalty: 100 penalty units, in the case of a natural person; 500 penalty units, in the case of a body corporate.

(2) Sub-section (1) does not apply to—

(a) persons employed by or working under the supervision of a person who is registered as an architect under this Act and who is covered by the required insurance; or

(b) an approved company.

(Extract from the Architects (Amendment) Act 2004, Part 2, Prohibited Conduct)

Employee architects must provide proof of cover to be registered.

### WHAT SORT OF INSURANCE DO I NEED?

To be registered as an Architect in Victoria, you must have, or be covered by, your employer's Professional Indemnity Insurance that complies with the *Architects Insurance Ministerial Order 2005*.

### **HOW MUCH PI INSURANCE COVER DO I NEED?**

The minimum cover is not less than \$1million for any one claim and in the aggregate during the insurance period.

Please check the Order for details and discuss its requirements with your insurance broker.

### **I'M EMPLOYED AS AN ARCHITECT IN AN ARCHITECTURAL FIRM. DO I HAVE TO TAKE OUT MY OWN INSURANCE?**

Employees in a firm offering architectural services may be covered by the firm's insurance policy.

It is wise to check the details of that cover.

On registration and on renewal of registration each year, you will have to provide proof of that cover to the ARBV.

If an employee undertakes architectural work independent of the firm, he or she must have PI insurance cover for that work.

### **I'M AN ARCHITECT EMPLOYED IN A BUILDING FIRM. DO I NEED PI INSURANCE COVER?**

Proof of PI insurance cover is required of all registered architects. Your employer may provide that cover for you. It is wise to check the details of that cover. The ARBV requires written proof that you are covered by your firm's insurance.

If an employee undertakes architectural work independent of the firm, he or she must have PI insurance cover for that work.

### **WHAT INFORMATION ABOUT MY INSURANCE SHOULD I PROVIDE TO THE ARBV?**

The policy number, date of issue and expiry date.

The level of indemnity or cover

Whether the insurance is in your name or your employer's name

A Certificate of Currency for the insurance and if insurance is held by your employer, a letter from your employer stating that you are covered by the firm's policy.

### **WHEN DO I HAVE TO TELL THE ARBV ABOUT MY INSURANCE COVER?**

Applications for, and annual renewals of registration, must be accompanied by proof of PI Insurance cover. Advice regarding this will be on the application and renewal of registration forms.

If your insurance arrangements change, you must inform the Board in writing and supply a Certificate of Currency within 14 days of any change.

### **IF I CHANGE MY INSURER, DO I HAVE TO TELL THE ARBV BEFORE RENEWAL OF REGISTRATION IS DUE ON 1 JULY?**

Yes. If your insurance arrangements change, you must inform the Board in writing and supply a Certificate of Currency within 14 days of any change.

### **I HAVEN'T HAD PI INSURANCE BEFORE. WHY SHOULD I START NOW?**

Prior to this, architects were required to hold PI Insurance under the Building Act as a class of Building Practitioner.

The Architects Act now requires proof of PI Insurance. It is a prudent business requirement resulting from Government policy. It is also an offence under the Act to work as an architect without PI Insurance cover. (See above)

**I'M AN ARCHITECT EMPLOYED IN A GOVERNMENT DEPARTMENT (OR UNIVERSITY). SHOULD I HAVE INSURANCE?**

Proof of employment by Government Department or an educational institution must be provided to the ARBV at registration or annual renewal of registration to be exempt from holding PI Insurance. If your employer holds insurance on your behalf, please provide the details as required on the renewal of registration form.

**I AM "SEMI-RETIRED", DOING OCCASIONAL WORK. DO I NEED INSURANCE?**

If you work as an architect for any length of time, you must be registered and must have PI insurance cover. You could consider approaching a cooperative such as Architeam whose members have access to PI insurance cover.

**IF I ONLY DO OCCASIONAL WORK, WHAT OPTIONS DO I HAVE FOR ARRANGING INSURANCE?**

If you are self-employed (ie: not covered by an employer's insurance), You could consider approaching a cooperative such as Architeam whose members have access to PI insurance cover.

**I AM REGISTERED AS AN ARCHITECT IN VICTORIA AND CONSIDERING OVERSEAS TRAVEL FOR AT LEAST A YEAR. HOW DOES THIS AFFECT MY REGISTRATION AND MY INSURANCE COVER?**

It is possible for architects travelling or working overseas to maintain 'non-practising' registration in Victoria.

Architects in the non-practising category are advised to maintain PI insurance cover for at least seven years after ceasing to practice in Victoria.

**I AM AN ARCHITECT ABOUT TO TAKE MATERNITY LEAVE. HOW DOES THIS AFFECT MY REGISTRATION AND INSURANCE COVER?**

You may register as 'non-practising' or resign.

Architects in the non-practising category or who have resigned, are advised to maintain PI insurance cover for at least seven years after ceasing to practise.

**IF I CHANGE TO THE NON-PRACTISING CLASS OF ARCHITECT, SHOULD I RETAIN INSURANCE?**

If you have been practising as an architect and move to the non-practising category, you are advised to maintain PI insurance cover for at least seven years after ceasing to practise.

**I HAVE BEEN REGISTERED AS "NON-PRACTISING" FOR MANY YEARS, DO I NEED INSURANCE?**

Insurance cover is for recent and current work. If you have not been in practice for at least seven years, you should not need cover; but it is wise to check with a broker.

**WHO CAN BE A NON-PRACTISING ARCHITECT? DO I RETAIN REGISTRATION?**

To be registered as a non-practising architect, you must, on registration or at annual renewal, sign a declaration that you will not practise during the term of that registration. You will be identified in the Register as 'non-practising'.

**I AM HAVING DIFFICULTY FINDING AN INSURER TO PROVIDE PI INSURANCE. CAN YOU RECOMMEND ANY INSURERS?**

The ARBV does not endorse any particular insurance company or broker. However, the ARBV website contains a listing, identified through the ARBV survey of architects in 2004, of those companies or brokers that have been providing insurance for architects.

**I AM AN INTERSTATE REGISTERED ARCHITECT WISHING TO REGISTER IN VICTORIA. DO I NEED INSURANCE COVER?**

To practise as an architect in Victoria, you must register with the ARBV. One condition of that registration is proof of PI Insurance cover. If employed, your employer may provide insurance cover for you.

**MY INTERSTATE COMPANY WANTS ME TO WORK FOR THEM IN VICTORIA. DO I HAVE TO REGISTER IN VICTORIA? DO I NEED SEPARATE INSURANCE COVER FROM THAT ALREADY SUPPLIED BY MY EMPLOYER?**

To practise as an architect in Victoria, you must register with the ARBV. One condition of that registration is proof of PI Insurance cover. That insurance cover may be supplied by your employer. You must provide written proof of that cover to the ARBV at time of registration. Your company may also have to apply for approval in Victoria by contacting the ARBV office.

**WHAT ARE THE APPROVED COOPERATIVES FOR ARCHITECTS INSURANCE?**

Cooperatives intending to arrange insurance cover for members must comply with Part 8 of the Ministerial Order and must be underwritten by an insurer authorised to conduct insurance business under the *Insurance Act 1974*.

One such Cooperative seeking approval from the ARBV at the date of publication; is: 'Architeam Cooperative Pty Ltd'.

**WHERE CAN I FIND THE NEW ACT AND THE NEW REGULATIONS?**

The Architects Act and Architects Regulations are available on the ARBV website at [www.arbv.vic.gov.au](http://www.arbv.vic.gov.au)

A copy of the amended Act and amended Regulations will be sent to all Architects during July 2005.

**WHERE CAN I FIND THE MINISTERIAL ORDER ON ARCHITECTS INSURANCE?**

A copy of the Ministerial Order is enclosed with this Newsletter.

The Architects Insurance Ministerial Order is available on the ARBV website at [www.arbv.vic.gov.au](http://www.arbv.vic.gov.au). OR from [www.gazette.vic.au](http://www.gazette.vic.au) under the heading 'government gazettes'.

**HOW CAN I KEEP UP TO DATE WITH DEVELOPMENTS REGARDING INSURANCE?**

The ARBV website will contain advice and periodic updates of information. Look for the heading INSURANCE on the home page.

## **OTHER KEY ASPECTS OF THE AMENDED ARCHITECTS ACT**

### **IS PROTECTION OF THE TITLE ARCHITECT RETAINED?**

Yes. See Part 2 in the amended Act: Prohibited Conduct

### **WHAT PROVISION IS THERE IF SOMEONE PRETENDS TO BE AN ARCHITECT OR USES THE TITLE WITHOUT AUTHORITY?**

The ARBV can prosecute a person or a firm if they use the title without being registered or 'hold themselves out' to be an architect.

### **DO COMPANIES AND PARTNERSHIPS STILL HAVE TO BE APPROVED?**

Yes, if they wish to offer the services of an architect.  
Under the amendments, the only requirement for approval from 1 July is that a Company or Partnership must have at least one Director or Partner who is an insured, registered architect.

### **WILL OUR CURRENT COMPANY/PARTNERSHIP APPROVAL REMAIN?**

So long as you have at least one Director or Partner who is an insured, registered architect.

### **WHAT ARE THE MAIN CHANGES TO COMPANY/PARTNERSHIP APPROVAL?**

The former controls over ownership of shares and proportion of directors who must be architects have been deleted. The only requirement now is that at least one Director or Partner must be an insured, registered architect.

### **ARE ARCHITECTS STILL SUBJECT TO PROFESSIONAL CONDUCT REGULATIONS?**

Yes. The Professional Conduct Regulations are Part 2 of the *Architects Regulations 2004*

### **WHY HAS MEDIATION BEEN ADDED TO THE ARBV COMPLAINTS PROCEDURES?**

The ARBV sometimes receives enquiries that are more suited to mediation or conciliation than a formal Tribunal process. Where both client and architect agree, they can have access to confidential mediation with a qualified mediator. It is expected that some disputes may be resolved more simply and quickly via this process; thus avoiding a costly legal process via Tribunal.

The Board is developing policy and procedures for this service and will inform all architects when it is in operation.