

ARBV guidance for building design individuals who provide services relating to the design and construction of buildings, which are commonly carried out by architects, must ensure that they do not mislead or deceive clients or prospective clients by representing themselves as architects or as providing architectural services.

Unregistered and uninsured persons cannot work as an architect in Victoria. The Architects Act 1991 (the Act) prohibits 'holding out' or representing unregistered persons or bodies to be an architect or as providing architectural services. Care must be taken when describing or presenting information about unregistered staff on websites, professional networking sites and on social media. Those who engage in prohibited conduct may be prosecuted by the ARBV.

For information on the Legal Framework please refer to our Fact Sheet **Guidance for Prohibited Conduct - Legal Framework**.

Scenario: I am a building designer or a draftsman holding a registration under the Building Act. I provide services relating to the design and construction of buildings similar to the services provided by architects.

How can I avoid representing myself as an architect and/or people mistaking me for an architect?

Building designers and draftspersons provide similar services to those provided by architects. As architects are commonly recognised providers of those services, consumers who are unfamiliar with the building industry may mistakenly believe that building designers and draftspersons are in fact architects.

Given this possibility, you should take care to ensure that your clients and prospective clients understand that you are in fact a building designer or draftsman not an architect. This may prevent a later complaint by a client that they were misled about your status. It may also ensure that you avoid breaking the law - it is a criminal offence under the Act for a person to represent themselves (or allow themselves to be represented) to be an architect when they are not.

Avoid using misleading or prohibited terms

A person may represent themselves (hold themselves out) to be an architect by:

- using particular wording in business names, on websites and in social media profiles that create an impression that you are an architect. Using terms such as 'architecture' and 'architectural' may induce or reinforce a misconception that you are an architect;
- using expressions prohibited under the Act. It is unlawful under the Act for non-architects to use the title 'architect' and the expressions 'architectural services', 'architectural design services' and 'architectural design'.

Describe yourself accurately

Even if you don't use prohibited terms you might still represent yourself in such a way that people infer that you are an architect. You can avoid this by carefully reviewing any public-facing content or information given to clients, to ensure that it:

- is clear and transparent about your qualifications and registration, by:
 - using the title of building designer or draftsman on your website, in social media profiles and professional networking site, in your signature block and on business cards, etc.
 - using the title of building designer or draftsman when communicating with your clients and ensure that they are aware that this is different to being an architect
- prominently reference your qualifications and registration (e.g. Diploma of Building Design, BPC Reg. No. DP-AD 1234) on your website, in social media profiles, on online professional networks, in your signature block and on business cards, etc.
- avoids using the terms 'architecture' and 'architectural' in business and company names as they may create a false impression in a consumer's mind from the very outset about the nature of your qualifications and registration
- if there is a risk that members of the public will mistakenly conclude that you are an architect, specifically state that you are not an architect with sufficient prominence to effectively correct any potential for misunderstanding.

If you are registered with the Building and Plumbing Commission (BPC) in the Builder Design (Architectural) class, be aware that, depending on the circumstances and context, reference to this class (due to its incorporation of the term 'Architectural') may be misunderstood by a consumer as inferring or implying that you are an architect. To avoid error, you should opt instead to use 'Building Designer'. Alternatively, if you do use the full class title, you should ensure that you otherwise make it clear that you are not an architect. This could be done by using a sufficiently prominent disclaimer/specific statement that you are not an architect.

Take the context into account

When considering what impression is being created in public-facing content and information given to clients, you should take into account the context in which the content or information appears. If, in context, the content or information creates an overall impression that you are an architect, this will constitute an offence under the Act.

Potential Consequences

Failing to ensure representations are accurate may make a client or prospective client think that they have been deliberately misled or deceived by you and may result in a complaint to the ARBV. The ARBV has the power to prosecute individuals and bodies for breaches of the Act. A breach of the Act is a criminal offence and may result in a conviction and/or the imposition of a financial penalty.

Case study

Terry is a registered Building Designer. He trades under the business name AAA Architecture. On the business' website at AAAArchitecture.com.au, he describes the building design services he offers.

Could this amount to a representation that Terry is an architect?

YES. Given the business name is AAA Architecture, it is possible that members of the public who look at the website might believe that Terry is an architect or provides the services of an architect.

At the bottom of the AAA Architecture website, it reads "AAA Architecture is a building design business. We do not provide architectural services" in small font.

Is this sufficient to correct any misunderstanding?

NO. To be effective, disclaimers need to be prominently displayed to correct any error in the consumer's mind. In this case, due to its size and positioning at the bottom of the website, the disclaimer may not be noticed and would not correct the overall impression created by the business name that Terry is an architect.

What should Terry do to avoid committing an offence?

Including a prominent disclaimer on the website may help to correct any misunderstanding arising from use of the business name on the website, this won't address the false impression created more broadly by use of the business name.

Terry should change his business name to avoid use of any terms like 'Architecture' that may create a false impression about his registration status. He could instead use a name that reflects the true nature of his qualifications and the services he provides – for example, 'AAA Building Design'. He should also prominently reference his qualifications and any VBA registration on published material and avoid the use of restricted terms or other terms that may give rise to a misunderstanding.