

Guidance for Unapproved Companies or Partnerships that Employ Architects

ARBV guidance for businesses that employ registered architects but are not an ARBV approved company or partnership

Unregistered and uninsured persons or bodies 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: My business provides services relating to the design and construction of buildings. The business is not an approved company or partnership with the ARBV but we do employ or engage people who are registered as architects.

Can I state that the business engages or employs architects? Could this amount to a representation that the business is an architect or provides the services of an architect?

What if one of our directors or partners is an architect?

Consumers who are familiar with the industry will be aware that there are a variety of service providers who are lawfully able to carry out work similar to the work of an architect. However, many will not have this awareness and may mistakenly believe that any business which provides those services is an architectural firm and that the services it provides are architectural services. This is particularly so when the business engages or employs architects.

Given this tendency, those who manage construction design businesses which are not approved by the ARBV but which employ or engage architects must take extra care in how they describe or refer to those architects. While it is not false or misleading to refer, on a business' website, to an employee who is a registered architect, doing so may also amount to a representation about the business – namely, that the business:

- is itself an architect;
- undertakes work as an architect via the architect or architects that it employs or engages; and
- is providing the services of an architect via the registered architect or architects.

It is a criminal offence for a business that is not approved by the ARBV to represent itself to be an architect or to provide the services of an architect under the Act.

An architect may also be the director of or partner in an unapproved company or partnership. In such cases, you should ensure that you don't represent to clients that the unapproved company or partnership is providing the services of an

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architect via that person. A representation that an unapproved company or partnership has a director or company officer or partner who is an architect who provides services to the clients of the company or partnership is likely to amount to an offence under the Act.

Avoid using misleading or prohibited terms

You should ask yourself, 'What overall impression is being created by the title given/description of/ biographical information provided about the architects that the business employs or engages?' Could a consumer mistakenly believe that, as the business employs or engages architects, it is providing architectural services? If the answer is yes or there is any risk of misapprehension, it is incumbent on you to take positive steps to avoid a breach of the Act.

Such steps may include:

- Avoiding stating that a person is an architect;
- Avoiding referencing the person's qualifications as an architect;
- Clearly stating that the business is not an architect or an approved company or partnership with the ARBV;
- Clearly stating that the business does not provide architectural services;
- Not using expressions prohibited under the Act, namely 'architectural services', 'architectural design services' or 'architectural design'; and
- avoiding using the terms 'architecture' and 'architectural' in business and company names or otherwise in business materials as they may create a false impression in a consumer's mind from the outset about the nature of your qualifications and registration.

Potential Consequences

Failing to ensure that representations are accurate may make a client or prospective client think that they have been deliberately misled or deceived about the nature of your services and will 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.