

Consumers not familiar with the building industry may not be aware that a person or business must, by law, be registered with or approved by the ARBV to represent themselves (hold themselves out) to be an architect or as providing the services of an architect.

In addition:

- building designers and draftspersons can also provide services relating to the design and construction of buildings which are also commonly carried out by architects
- while the work undertaken may be similar, there is a difference between the qualifications of an architect and a building designer or draftsperson, and they hold different registrations
- some people or businesses who provide services relating to the design and construction of buildings are not required to hold any form of registration or approval
- a person who has qualifications in Architecture (i.e. a Bachelor or Masters degree) is not automatically an architect upon graduating and is not permitted to represent themselves as such until they are registered with the ARBV
- an architect providing architectural services through a company or partnership must ensure that the company or partnership is also approved by the ARBV.

Consumers seeking architectural or building design services may be misled by information published on websites, professional networking and social media platforms and in other advertising materials into believing that a person or business is an architect or provides the services of an architect when this is not the reality.

People and businesses who provide services relating to the design and construction of buildings which are commonly carried out by architects must therefore ensure that they do not mislead or deceive clients or prospective clients by representing themselves as architects or as providing architectural services.

This obligation also extends to companies and partnerships which are approved under the Act but may have unregistered directors or partners and/or other unregistered staff. Care needs to be taken to ensure that clients or prospective clients are not under any misapprehension about the status of unregistered staff who may be working on their project.

While the term 'architectural services' is not defined in the Act, services relating to the design and construction of a building which are commonly carried out by architects may include:

- taking instructions from and liaising with clients regarding plans for the construction or alteration of a building
- preparing concept designs, town planning drawings, construction drawings, shop drawings, specifications and other related documents

Guidance for Prohibited Conduct - Legal Framework

- liaising with other consultants, such as engineers, in relation to a building design
- preparing and lodging consent applications with regulatory authorities, such as planning permit applications, building permit applications and report and consent applications
- undertaking contract administration tasks in relation to a building contract
- inspecting the building work to ensure quality and adherence to design drawings

Legal framework

The Architects Act 1991 (the Act) makes it an offence in Victoria for an unregistered person or unapproved business (company or partnership) to represent themselves as an architect or to allow someone else to represent them as an architect. It is also an offence for an unregistered person or body to use the expressions “architectural services”, “architectural design services” or “architectural design” in relation to the design of buildings or the preparation of plans, drawings or specifications for buildings. The control on those phrases does not apply outside the context of building design. For example, there is no prohibition on the terms naval architect, landscape architect or website architect). Equivalent legislation applies in all other Australian states and territories.

Section 7 of the Act provides a non-exhaustive list of ways that constitute representation as an architect. These include:

- use of the title ‘architect’ or any other title, name, or description that does or could indicate, or is designed to lead a person to conclude that a person or body is an architect

- a representation that a body is made up of one or more architects
- a representation that a person provides the services of an architect;
- making statements that a person or body is an architect, practices as an architect, or carries out or is willing to carry out the work of an architect
- a representation that a person or body is registered or approved by the ARBV under the Act.

The work of designing buildings may also be carried out by non-architects. Under the Building Act 1993, building designers may be registered as a building practitioner in Victoria. Under that Act, it is an offence for a person to hold themselves out as a building designer if they are not registered as such.

When deciding whether published information may offend against the Act, it is important to question what overall impression is being created by that information. If, taking the circumstances and context into account, the information creates an overall impression that the person or business is an architect and/or provides the services of an architect when they are not a registered architect, this is likely to offend against the Act.

Guidance

You should:

- be transparent and open about your qualifications and registration and those of your staff members
- ensure that, if you are a registered architect, any companies or partnerships through which you are providing architectural services are approved by the ARBV

- critically assess the information on your website (particularly in staff biographies), posted to professional networking site and in social media and other published or public-facing material.
- ask yourself, “What is the overall impression that is being made” in relation to any material that describes you or your business and, where the impression is that you are an architect, take steps to change this.
- approved companies or partnerships that have a multi-disciplinary team that includes architects, building designers, draftspersons and town planners
- builders who provide in-house or design and construct services
- architecture degree holders and employers of architecture degree holders

Failing to take these steps may lead to a client or prospective client believing that they have been deliberately misled or deceived by you, which 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 prosecution may result in a conviction and/or the imposition of a financial penalty.

Information Sheets

The info sheets below have been prepared to assist those in the industry who provide services relating to the design and construction of buildings to ensure that they do not mislead their clients or prospective clients and/or breach the Act, exposing themselves to the risk of criminal charges. The information sheets are for:

- architects
- registered building designers and draftspersons
- people who own, run or manage a business that employs or engages building designers or draftspersons
- people who provide building design services
- non-architect directors of approved companies and partnerships