

ARBV guidance for building design business/company 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 own, run or manage a business (as a sole trader, partnership or company) that provides services relating to the design and construction of buildings. The business employs or engages building designers or draftspersons.

How can I avoid representing the business as being an architect or people mistaking the business and those working for it as being architects?

Building design businesses provide similar services to that of architectural firms. As architecture firms are commonly recognised providers of those services, consumers may mistakenly believe or conclude that building design businesses are architectural firms and those who work for it are architects.

Given this possibility, if you own or manage a building design business you should ensure that your clients and prospective clients understand that the business provides building design services and not architectural services. This may prevent a later complaint by a client that they were misled about the nature of the services your business provided. It may also ensure that the business (and senior management) avoid breaking the law – under the Act it is a criminal offence for a business to represent itself to be an architect when it is not an approved partnership or company. It is also an offence for a sole trader to represent themselves as being an architect or as providing the services of an architect if they are not registered as an architect under the Act.

Avoid using misleading or prohibited terms

A building design business may represent itself (hold itself out) to be an architecture firm or as providing the services of an architect by:

- using particular wording in business names, on websites and in social media profiles. Terms such as 'architecture' and 'architectural' may induce or reinforce a misconception that a building design business is an architectural firm or provides the services of an architect

- using expressions prohibited under the Act. It is unlawful under the Act for people who are not registered or approved under the Act to use the title 'architect' and the expressions 'architectural services', 'architectural design services' and 'architectural design'
- creating the impression that architects work for the business
- failing to clearly state the qualifications and registration of those working for the business.

Describe your business accurately

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

- it makes clear that the business provides building design services
- prominently references any registration held by the business with the Building and Plumbing Commission (BPC)
- references the staff members' qualifications and BPC registration as building designers or draftspersons
- avoids using the terms 'architecture' and 'architectural' in business and company names
- if there is a risk that members of the public will make a mistake, specifically state that your business is not an architectural firm or provides architectural services with sufficient prominence to effectively prevent any potential for misunderstanding.

If you have staff members who are registered with the BPC in the Building 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 imply that the staff members are architects. To avoid error, you should instead use 'Building Designer' or, if you do use the full class title, ensure that you otherwise make it clear that the staff member is not an architect (e.g. use a sufficiently prominent disclaimer/specific statement to that effect).

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 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.