

Factsheet

ILLEGAL USE OF THE TITLE 'ARCHITECT'

The use of the title 'architect' is protected by the [Architects Act 2003](#) (the 'Act'). It is an offence to represent an individual or business entity as an architect when they are not. Significant fines apply for breaches of sections 9, 10, 11 and 12 of the Act.

Protection of the title 'architect'

An individual may only use the title 'architect' to describe themselves if they are on the NSW Register of Architects.

If a business entity wishes to describe itself as an 'architect', it must have nominated at least one architect who is responsible for the provision of architectural services. This architect is called the 'nominated architect' and must be either a director, member, partner or employee of the corporation or firm. Additionally, the business entity must be listed on the NSW List of Architect Corporations and Firms.

Architects hold professional qualifications, must have completed a period of practical experience in architecture, and must have passed the Architectural Practice Examination (or alternative pathway approved by the Architects Accreditation Council of Australia). Architects are bound by the [NSW Architects Code of Professional Conduct](#) (the 'Code'). They must maintain professional indemnity insurance appropriate to the services they provide and must undertake a minimum of 20 hours of continuing professional development annually.

About the NSW Architects Registration Board (the 'NSW ARB')

Each state and territory of Australia has its own architect registration board, established under legislation. The NSW ARB administers the [Act](#), the legislation regulating architects in NSW. It has no jurisdiction to investigate the conduct of persons providing design services if they are not architects.

One of the primary objects of the [Act](#) is to ensure the public is appropriately informed about the qualifications and competence of individuals or organisations holding themselves out as architects. The NSW ARB expresses no view about the quality of design services provided by architects and others, but endeavours to ensure that consumers' choices of providers of building design services are based upon accurate information about the registration status of the service provider. [Working with your Architect](#) is a resource published by the NSW ARB to guide consumers on architects' roles and obligations to their clients, and the role of clients in assisting their architect with the realisation of their project.

The NSW ARB investigates reports of persons or entities illegally representing themselves or others as architects and monitors social media, real estate and property media, and classified advertising to check compliance with [Part 2 of the Act](#). In cases where a potential breach is identified, the individual or entity is given the opportunity to remedy the matter. Where the representation is not remedied, the NSW ARB may exact a fine.

Search for an Architect or an Architect Corporation or Firm

You can search the [NSW Register of Architects and NSW List of Architect Corporations and Firms here](#) on the NSW ARB website. Full names of registered individuals are shown with their corresponding registered suburb. Architects are either listed as 'Practising / Active' or 'Non-practising'. Non-practising architects are generally retired and no longer provide architectural services.

Architect corporations and firms are issued with a certificate that lists the name(s) and registration number(s) of their nominated architect(s). This certificate must be prominently displayed in the business premises.

Examples of 'representing' as an architect

- use of the title 'architect' or 'registered architect' by an individual
- use of the description 'architectural design' or 'architectural designer' by an individual in relation to themselves or the services they provide
- use of the description 'architectural design,' 'architecturally designed,' 'architect,' or 'architectural designer' by a third party, such as a real estate agent, property developer or magazine editor when no architect has been involved in the design of the property
- use of any derivatives of the word 'architect' or 'architectural' by an individual in a way that indicates, is capable of being understood to indicate, or is calculated to lead a person to infer that the individual is an architect
- use by a corporation or firm of the word 'architect' or its derivatives in its title
- use of the description 'architectural design' or 'architectural designer' by a corporation or firm to describe its directors, managers, or employees or to describe the services it provides
- use of any derivatives of the word 'architect' or 'architectural' by a corporation or firm in a way that indicates, is capable of being understood to indicate, or is calculated to lead a person to infer that the corporation or firm contains an architect

Exemptions for certain titles and descriptions

The use of the title 'architect' and use of any derivatives of the word 'architect' or 'architectural' are only restricted where they relate to services provided in the built environment, such as those relating to the design, documentation, planning, and construction of buildings. These words can still be used more broadly when they cannot be confused with the provision of architectural services to describe the form or structure of a thing, a sector, or a field. For example, in politics, a government minister could be referred to as the 'architect of reform', or a complex union of nation states could be referred to as the 'architecture of the European Union.'

The term 'architecture' does not include naval architecture, computer architecture or any other architecture not concerned with buildings.

The [Act](#) provides the following exemptions:

- an employee of an architect may use the title or description 'architectural assistant', 'architectural technician', or 'architectural drafter'
- a person may use the title or description 'landscape architect', 'naval architect', or 'computer systems architect'
- a person may use the word 'architectural' to describe the supply of goods in connection with architecture, such as architectural photography, architectural columns etc

- a person who holds an accredited architectural qualification may describe themselves as holding that qualification. For example:
 - Graduate MArch (UTS, 2010)
 - Master of Architecture (University of Newcastle, 2014).

Graduates must always ensure that in referring to their graduate status they are providing an accurate statement of fact. They must take all necessary steps to avoid any confusion that they are a registered architect when they are not.

For a current list of accredited architecture qualifications leading to registration as an architect, please refer to the [Architects Accreditation Council of Australia's website here](#).

Applying to the NSW Civil and Administrative Tribunal (the 'NCAT')

If a person, corporation or firm unlawfully represents themselves to be an architect when they are not on the NSW Register of Architects or the NSW List of Architect Corporations and Firms, and a consumer has concerns about the services provided, a consumer can apply to the [NSW Civil and Administrative Tribunal](#) (the 'NCAT') on grounds such as the following:

- breach of contract
- breach of consumer guarantees under the Australian Consumer Law ('the ACL')
 - guarantees as to due care and skill
 - guarantees as to fitness for a particular purpose (this guarantee does not apply to a supply of services of a professional nature by a qualified architect or engineer)
 - guarantees as to reasonable time for supply
- misleading or deceptive conduct.

This information does not constitute legal advice. If you would like further information about applying to the NCAT, please contact NSW Fair Trading on 13 32 20 for assistance.

Misleading or deceptive conduct under the Australian Consumer Law ('the ACL')

If a person, corporation or firm unlawfully represents themselves to be an architect when they are not on the NSW Register of Architects or the NSW List of Architect Corporations and Firms, and a consumer relies on this representation, a consumer could apply to the NCAT to obtain an order for restitution under [section 18 of the ACL](#) for misleading or deceptive conduct.

Recent NCAT findings

- In March 2023, a consumer successfully obtained an order for restitution of \$10,474.80 in the [NCAT](#) under [section 18 of the ACL](#) against a firm who was improperly representing themselves to be a registered architect.

In this particular matter, the [NCAT](#) was satisfied that the conduct was misleading and deceptive, firstly due to the former business name including the word "Architecture" and secondly, the "fee proposal" referred to "Architectural Documentation". The [NCAT](#) found a reasonable person in the position of the applicant would assume or infer that the respondent was in fact a registered architect inducing (or being capable of inducing) error.

- In March 2022, a consumer successfully obtained an order for restitution of \$9,999 in the [NCAT](#) under [section 18 of the ACL](#) against a firm who was improperly representing themselves to be a registered architect.

In this particular matter, the [NCAT](#) was satisfied that the firm's website contained an implied representation that the work would be drafted by, or under the supervision of, a registered architect and that the consumer relied on such a representation to enter into the contract. The firm was not listed on the NSW List of Architect Corporations and Firms nor were any employees on the NSW Register of Architects. Accordingly, a breach of [section 18 of the ACL](#) was established.

This information does not constitute legal advice and should not be relied upon as such. Consumers should seek their own legal advice or other professional advice in relation to any action under the ACL.

Disclaimer

The content of this Factsheet is provided for information purposes only. It is based upon the best information available at the date of issue and is subject to change without notice. The NSW Architects Registration Board does not accept any liability to any person for the information or the use of this information. Persons requiring an interpretation of the meaning of the Architects Act 2003 or Architects Regulation 2017 or the Australian Consumer Law should seek their own advice from a legal practitioner.

Extract

ARCHITECTS ACT 2003

Current version for 1 July 2021

Part 2 Practice of architecture

Division 2 Offences relating to the practice of architecture

9 Representing an individual to be an architect

- (1) An individual must not represent himself or herself to be an architect, and must not allow himself or herself to be represented to be an architect unless he or she is an architect.

Maximum penalty—100 penalty units.

- (2) A person must not represent an individual to be an architect if the person knows, or ought reasonably to know, that the individual is not an architect.

Maximum penalty—100 penalty units (in the case of an individual) or 200 penalty units (in the case of a corporation).

10 Representing a corporation or firm to be an architect

- (1) A corporation or firm must not represent itself to be an architect, and must not allow itself to be represented to be an architect, unless the corporation or firm has at least one nominated architect who is responsible for the provision of architectural services by the corporation or firm.

Maximum penalty—200 penalty units.

- (2) A person must not represent a corporation or firm to be an architect if the person knows, or ought reasonably to know, that any such representation by the corporation or firm itself would constitute a contravention of subsection (1).

Maximum penalty—100 penalty units (in the case of an individual) or 200 penalty units (in the case of a corporation).

- (3) In this Act, a corporation or firm that represents itself to be an architect or that allows itself to be represented to be an architect is referred to as an architect corporation or architect firm (as appropriate).

11 Architectural services provided by architect corporation or architect firm

- (1) An architect corporation or architect firm must ensure that at all times there is at least one nominated architect who is nominated by the corporation or firm and responsible for the provision of architectural services by the corporation or firm.

Maximum penalty—200 penalty units.

- (2) An architect corporation or architect firm must ensure that—

- (a) any written business correspondence issued by the corporation or firm bearing the name of the corporation or firm indicates the name of an architect who is a nominated architect responsible for the provision of architectural services by the corporation or firm, and
- (b) the name of an architect who is a nominated architect responsible for the provision of architectural services by the corporation or firm is prominently displayed at each place of business of the corporation or firm, so as to be clearly visible to a person from outside or immediately on entering the place of business.

Maximum penalty—200 penalty units.

Note—

A temporary project or site office does not constitute a place of business of a corporation or firm.

- (3) The Board may in a particular case grant a corporation or firm an exemption from compliance with a particular provision or provisions of this section. The exemption may be granted unconditionally or subject to conditions.
- (4) An exemption remains in force for such period as the Board may specify or, if no period is specified, until it is revoked by the Board by notice in writing to the corporation or firm concerned.
- (5) Proceedings for an offence against this section are not to be commenced without the written consent of the Board given in the particular case.

12 Services provided using an architect

- (1) If a person (other than an architect) provides an architectural service that the person has offered to provide using an architect or that the person has represented will be provided using an architect, the person is guilty of an offence if the architectural service is not provided by, or under the supervision of, an architect.

Maximum penalty—100 penalty units (in the case of an individual) or 200 penalty units (in the case of a corporation).

- (2) A person (other than an architect) who provides, or represents that the person will provide, architectural services to a person (*the client*) using an architect must ensure that any correspondence about those services from the person to the client indicates the name of an architect who is responsible for the provision of those architectural services to the client.

Maximum penalty—100 penalty units (in the case of an individual) or 200 penalty units (in the case of a corporation).

13 Certain representations taken to be representations that person is an architect

- (1) Without limiting the ways in which a person, corporation or firm can be considered to be represented to be an architect, a representation using any of the following titles, names or descriptions constitutes such a representation—
 - (a) the title or description “architect” or “registered architect”,
 - (b) another title, name or description that indicates, or is capable of being understood to indicate, or is calculated to lead a person to infer, that the person is an architect,
 - (c) any title, name or description prescribed by the regulations.
- (2) Without limiting the ways in which a corporation or firm can be considered to be represented to be an architect, a representation that a corporation or firm consists of or comprises one or more architects constitutes a representation that the corporation or firm is an architect.

14 Exceptions for certain titles and descriptions

This Division does not prohibit—

- (a) an employee of an architect from using the title or description of “architectural assistant”, “architectural technician” or “architectural drafter”, or
- (b) a person from using the title or description of “landscape architect”, “naval architect” or “computer systems architect”, or
- (c) a person from using the title or description of “architect” or “registered architect” if—
 - (i) the person is registered as an architect in a neighbouring jurisdiction (within the meaning of

- section 52) and is normally resident in that jurisdiction, and
- (ii) the person indicates the jurisdiction in which the person is so registered, and
 - (iii) the person has notified the Board of his or her intention to use such a title or description, or
- (d) a person who holds an architectural qualification from describing himself or herself as holding that qualification, or
- (e) a person from using the word “architectural” only as indicating that the person carries on the business of supplying goods in connection with architecture, or
- (f) a person from using any name, title or description prescribed by the regulations in such circumstances and subject to such restrictions as may be prescribed by the regulations.

15 Extended meaning of “represent”

In this Division, **represent** includes claim and hold out.

Extract

ARCHITECTS REGULATION 2017

Current version for 1 July 2020

Part 4 Miscellaneous

Division 2 Offences relating to the practice of architecture

9 Representations

For the purposes of section 13 (1) (c) of the Act, the following titles, names and descriptions are prescribed—

- (a) the title or description, or a derivative of the title or description, “architectural designer”, or
- (b) “architectural design” as a description of services provided by the person.

Note—

Section 13 (1) (b) of the Act also provides that a title, name or description that indicates, or is capable of being understood to indicate, or is calculated to lead a person to infer, that the person is an architect, constitutes a representation that the person is an architect.

Extract

COMPETITION AND CONSUMER ACT 2010

Current version for 23 March 2021

Schedule 2: The Australian Consumer Law

18 Misleading or deceptive conduct

- (1) A person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.
- (2) Nothing in Part 3-1 (which is about unfair practices) limits by implication subsection (1).

Note: For rules relating to representations as to the country of origin of goods, see Part 5-3.