

Architects Act 2003 Information Sheet ILLEGAL USE OF THE TITLE 'ARCHITECT'

Sept 2012

Offences relating to the practice of architecture – individuals or organisations “representing” as an architect or architect corporation or firm

A primary object of the Architects Act 2003 is to ensure that the public is informed about the qualifications and competence of individuals or organisations holding themselves out as architects. This information sheet outlines the provisions in Sections 9 and 10 of the Architects Act relating to individuals or firms who represent to clients and the public that they are architects or architect corporations or firms when they are not entitled to do so.

Use of the title architect

Only skilled and experienced professionals who are registered with the NSW Architects Registration Board may use the title architect. To be registered as an architect an individual must firstly have a university qualification in architecture, or other qualification that the Board deems equivalent. This may include an appropriate overseas qualification. Individuals who do not have a qualification in architecture must pass a rigorous assessment of relevant experience to obtain equivalence to an academic qualification.

In addition to holding an approved qualification, an individual must have at least two years approved experience, pass the Architects Accreditation Council of Australia's Architectural Practice Examination (APE) held by the Board and apply to the Board to be enrolled before they are registered. Registration is renewed annually.

The Board publishes the NSW Register of Architects. The registration status of an individual can be checked by logging on to the Board's website www.architects.nsw.gov.au or by contacting the Board's office. The full name of the

registered person is included on the Register together with the suburb of the business address.

Architect corporations or firms

An architect corporation or firm must have at least one nominated architect who is responsible for the provision of architectural services by the corporation or firm and must ensure that any written business correspondence issued by the corporation or firm indicates the name of the nominated architect/s. The name of the nominated architect responsible for the provision of architectural services by the corporation or firm must also be prominently displayed at each place of business.

The Board publishes a list of architect corporations and firms derived from the process of nominating to the Board the architect/s responsible for the provision of architect services within their organisation. Anyone may check this list by logging on to the Board's website www.architects.nsw.gov.au or by contacting the Board on 02 9241 4033.

Examples of 'representing' as an architect

The title *architect* or *registered architect*, or stating or inferring that an individual or corporation or firm can provide *architectural services* are examples of representing as an architect. The title or description *architectural designer*; or the use of the term *architectural design* as a description of services provided constitutes a representation that the person, corporation or firm is an architect.

The Act also prohibits the use of 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 a person is an architect.

The Architects Regulation A corporation or firm is deemed to be representing as an architect corporation or firm unless a least

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one architect is nominated to be responsible for the provision of architectural services.

Exceptions for certain titles and descriptions

The Act allows an employee of an architect to use the title or description of “architectural assistant”, “architectural technician” or “architectural drafter”. Titles or descriptions of “landscape architect”, “naval architect” or “computer systems architect” are also allowed.

A person who holds an architectural qualification may of course describe himself or herself as holding that qualification; and a person or an organisation may use the word “architectural” if describing the business of supplying goods in connection with architecture.

Checking whether an individual is an architect or an organisation is an architect corporation or firm

An architect will include their Registration Number on all business correspondence. Check their status by logging on to the NSW Register of Architects on the Board’s website www.architects.nsw.gov.au or by contacting the Board’s office on 02 9241 4033.

An architect corporation or firm will include the name of the nominated architect/s on all business correspondence and display the name/s of their nominated architect/s in their place of business. Check the status of the corporation or firm by logging on to the list of Architect Corporations and Firms on the Board’s website www.architects.nsw.gov.au or by contacting the Board’s office on 02 9241 4033.

Actions against a person/corporation/firm representing as an architect

When information or evidence comes to the attention of the Board that a person or business entity is apparently representing as an architect when they are not entitled to do so, the Registrar writes to the individual or organisation informing them that they may be in breach of the Act, asking them to respond to the allegation and where appropriate to complete an undertaking that they will not continue the breach. The information or evidence must not be more

than six months old. If a person does not respond to the request to complete an undertaking the Board may seek legal advice and pursue the matter further.



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Extracts

Architects Act 2003

Division 2

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 an 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.

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Extract Architects Regulation

1 Representation that person is an architect

For the purposes of section 13 (1) (c) of the Act, a representation by a person, corporation or firm using:

- (a) the title or description “architectural designer”,
or
- (b) “architectural design” as a description of services provided by the person, constitutes a representation that the person, corporation or firm is an architect.

