

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

The use of the title 'architect' is protected by the Architects Act 2003, and can only be used by persons who are on the NSW Register of Architects.

If architectural services are provided by a corporation or firm, then the entity must have nominated at least one person who is responsible for the architectural services provided. This person or persons (known as the 'nominated architect/s') must be on the NSW Register of Architects.

Architects must have professional qualifications, completed a period of practical experience in architecture and have passed the Architectural Practice Examination before applying to be enrolled on the NSW Register.

Architects are bound by the NSW Architects Code of Professional Conduct (Architects Regulation 2012). Architects must maintain professional indemnity insurance appropriate to the services they provide and must undertake a minimum of 20 hours of continuing professional education in each year.

The Board has no jurisdiction over investigating the conduct of persons providing design services if they are not architects.

The Board expresses no view about the quality of design services provided by architects and others, but endeavours to ensure that consumers' choices on providers of building design services are based upon accurate information about the registration status of the service provider.

Working with an Architect is a resource published by the Board to guide consumers on the architects' roles and obligations to their clients, and vice versa, the role of the clients to assist the realisation of their project.

The Board investigates reports of persons or entities illegally representing themselves or others as architects, and monitors classified advertising to check compliance with Section 9 and 10 of the Architects Act. In cases where a potential breach is identified, the individual or entity is given the opportunity to remedy the matter.

Where the representation isn't remedied, the Board may take action against the individual or entity in the Local Court.

Search an Architect or an Architect Corporation or Firm

The Board's online searchable database of architects and architect corporations is also used by the public to confirm the status of a person or corporation or firm.

Go to www.architects.nsw.gov.au

Full names of registered individuals are shown with their corresponding registered suburbs.

An architect corporation or firm must have at least one nominated architect who is responsible for the provision of architectural services.

The name of the nominated architect will appear on a certificate issued by the Board and must be prominently displayed in the business premises.

Examples of 'representing' as an architect

- Use of the title architect or registered architect
- Use of the description *architectural services*, *architectural design* or *architectural designer by an individual*
- Use of any derivatives of the word "architect" or "architectural" by an individual or by a corporation or firm
- use of the term *architectural design* as a description of services provided corporation or firm that does not have a nominated architect

Exemptions for certain titles and descriptions

- an employee of an architect using the description *architectural assistant* or *architectural technician*
- the description *architectural drafting* or *architectural draftsman* by those who



obtained them from TAFE or technical schools

- *landscape architects, golf course architects or naval architects*
- *computer systems architects or information architects*
- description used in the supply of goods or services such as *architectural photography, architectural columns etc*

Disclaimer

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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

(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

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.