

Architects Act 2004

Under the *Architects Act 2004* (Act), only registered persons and licensed corporations, are allowed to call themselves "architect(s)" in Western Australia (WA). Limiting the use of the title "architect" to registered persons/licensed corporations protects consumers of architectural (and related) services in WA, and the public.

This Information Sheet relates to sections 64, 66, 67 and 70 of the Act, which deal with individuals or corporations who falsely represent to clients and/or the public that they are "architects" or "architectural" corporations.

Use of the Title Architect

Architects

Only professionals with the skill and experience required for registration with the Architects Board of WA (Board) whose names are set out on the Register maintained by the Board may use the title "architect". Architects generally must have obtained the requisite professional tertiary qualifications or equivalent, undertaken a minimum two-year period of practical experience and successfully completed the relevant examinations.

Licensed Corporations

In order for a corporation to be granted a licence by the Board to carry on the practice of architecture in WA under the title of "architect", it must satisfy the Board that the corporation complies with the requirements prescribed by the Act and the *Architects Regulations 2005* (Regulations). All architectural work carried out by the licensed corporation must be done under the direct control and supervision of an architect. That architect, referred to as the "responsible architect(s)" has ultimate responsibility for the architectural work done by the corporation.

The Register

The registration status of an individual, and the licence status of a corporation and its responsible architect(s), can be checked by using the "Search Register" function on the home page of the Board's website (architectsboard.org.au) or by contacting the Board's offices (on (08) 9287 9920).

Restricted Words

In WA, the words "architect", "architects", "architectural", "architecture", and any abbreviation or derivative of these words are restricted words under the Act. This means that only individuals registered by the Board, and corporations licensed by the Board, can use a restricted word as part of their title, business name or description.

False Descriptions – Pretending to be an Architect

A person who is not a registered architect, must not:

- (a) use a restricted word as part of their title (including their business name) or description;
- (b) hold themselves out as being an architect, a person who practises architecture or a person who is qualified to practise architecture; or
- (c) in any way imply that the person is an architect, a person who practises architecture or a person who is qualified to practise architecture.

Likewise, a corporation that is not a licensed corporation, must not use a restricted word as part of its title (including its business name) or description, hold itself out as being an architect, or in any way imply that it is an architect. The penalty for such an offence is \$5,000 in the first instance, and \$10,000 for second or subsequent offences (see section 64 of the Act).

Making or Publishing Certain Statements

A person must not make, publish or allow information that states or implies that that person (or another person, who is not registered) is an architect, practises as an architect or undertakes or is willing to undertake work as an architect. The penalty for breaching this section of the Act is \$5,000 (see section 66 of the Act).

Falsely Representing That Work Will Be Done by an Architect

The Act prohibits a person from stating or implying that work to be done by, or on behalf of, a service provider will be done (or controlled or supervised) by an architect if there is a reasonable likelihood that the work to be done will not be done (or controlled or supervised) by an architect. In addition, a person must not falsely represent any person as being the architect referred to in a certificate of registration or licence documents. The penalty for each offence is \$5,000 (see section 67 of the Act).

Section 67(5) of the Act allows a person who has entered into a contract with a service provider who made a false representation (or implied) that work would be performed or controlled or supervised by an architect to (by notice in writing) withdraw from the contract before completion without being liable for damages for repudiation of the contract if there is no reasonable likelihood the work is being, or will be, controlled and supervised by a registered person. The Board has no role to play in any part of the process under section 67(5) of the Act.



Exemptions for Certain Titles and Descriptions

The following titles or descriptions are allowed under the Act (see section 68 of the Act):

- architect registered in a place other than WA if that person is registered in that place, is in WA temporarily and does not design or superintend the erection of any building whilst in WA;
- naval architect and naval architecture;
- landscape architect and landscape architecture;
- golf course architect and golf course architecture;
- architectural drafter and architectural drafting; and
- architectural technician or architectural assistant who provides support services to an architect.

Other exemptions include the use of a restricted word:

- in relation to the manufacture, supply or naming of products or materials for use in the practice of architecture or the construction of buildings;
- in the title or description of an educational institution in relation to the provision of education in architecture; and
- in circumstances where the word is clearly not connected with the design and construction of buildings.

For those who have completed an accredited architectural qualification, the Board also allows use of the titles:

- “Graduate of Architecture”;
- “Architectural Graduate”; or
- “Graduate with Architectural Degree”,

The title “Graduate Architect”, however, is not permitted.

Action by the Board

The Board routinely receives information about possible breaches of the Act in signage, business stationery, advertising, websites, media reports and/or entries in telephone or other directories. Where there is written evidence of a potential breach of the Act, the Board will write to the relevant person or organisation informing them that they may be in breach of the Act. The person or organisation will be asked to provide a written response within 14 days explaining how the breach occurred and outlining the steps undertaken to address the matter. Alternatively, an undertaking to cease any alleged offence under the Act can be completed and returned to the Board by the due date.

Where a satisfactory written response is provided to the Board and appropriate steps to remedy the issue have been (or are being) undertaken in a timely manner, the matter will be closed and the person or organisation informed accordingly. If a satisfactory response is not received within a reasonable time period, the Board (either itself or through its solicitor) may request further information from the person or organisation and/or resolve to appoint an investigator, commence a prosecution or dismiss the matter.

The Board may decide not to prosecute if it considers that a prosecution is not in the public interest, for example, where:

- the offence is stale;
- the matter is trivial in nature;
- a prosecution might bring the law into disrepute;
- the offender has already been dealt with for other offences and so further prosecutions are not appropriate; or
- the Board has limited resources and those resources can be more effectively expended elsewhere.

The Board may publish a report of successful prosecutions, including the name of the offender.

Disclaimer

The content of this Information Sheet is based upon the best information available at the date of issue and is subject to change without notice. The 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 Act or Regulations should seek their own legal advice.