

Architects Act 2020 - Regulations

Draft Architects Code of Practice for comment

Section 1 Architectural services

1 Reasonable standards of conduct

In providing architectural services, an architect must—

- (a) act honestly and with reasonable care in the provision of services; and
- (b) comply with all applicable laws.

2 Suitability to perform and knowledge of services

(1) An architect in charge of a client's project must—

- (a) have suitable skills and experience to be in charge of the project; and
- (b) maintain a thorough knowledge of the architectural services to be provided and of matters relating the performance of those services.

(2) An architect must provide architectural services with reasonable promptness according to time programs agreed with the client, or within a time that reasonably accords with the client's instructions.

3 Approval of documents

(1) An architect must not sign as checked, approved or supervised any drawings or other documents which the architect has not checked, approved or supervised.

(2) An architect must not permit the architect's name to be used in relation to any work, document or publication to falsely represent the architect's authorship of, responsibility for or agreement with the content or form of the work, document or publication.

Section 2—Client relations

4 Client agreements

(1) An architect must not provide architectural services for a client unless the architect, or the architectural firm that he or she is the nominated responsible architect for, has entered into a written agreement with the client for the provision of those services.

(2) An agreement must include the following—

- (a) the parties to the agreement;
- (b) the name, registration number and contact details of the architect responsible for providing the services;
- (c) the scope, nature and specific requirements of the services;
- (d) the timeframes for providing the services;
- (e) how the professional fees and costs of the services will be calculated;

- (f) where possible, reasonable estimates of disbursements;
- (g) how professional fees and costs, including disbursements, will be paid;
- (h) how the architect may inform the client of progress in the provision of the services;
- (i) how the client may authorise the architect to proceed with the services, or any part of the services;
- (j) a requirement that the architect must inform the client how a change or amendment to the services will affect the professional fees and costs for the services;
- (k) how the architect may obtain the client's authority to change or amend the services;
- (l) how variations to the agreement may be made;
- (m) a reservation of the right of an architect to withdraw from the provision of services under the agreement in the circumstances set out in clause 14;
- (n) how the agreement may be terminated and for what reason.

(3) Subclause (2) applies to an agreement for the provision of architectural services entered into by an architect, an approved partnership or an approved company with a client on or after 1 July 2015.

5 Administering a building contract

- (1) For the purposes of this clause, an architect administers a building contract for a client if—
- (a) the contract concerns the construction of a building and is entered into by the client with a building practitioner; and
 - (b) the architect has been engaged by the client to inspect or administer the provision of services under the contract.
- (2) If an architect is administering a building contract for a client, the architect must—
- (a) act with integrity, fairness and impartiality in administering the building contract; and
 - (b) discharge the architect's obligations in connection with the administration of the building contract diligently and promptly; and
 - (c) provide the client with relevant information about the administration of the building contract in a timely manner.

6 Professional fees and costs

An architect who has entered into an agreement under clause 4 must—

- (a) provide the client with regular statements of account for the services provided under the agreement unless otherwise expressly agreed with the client; and
- (b) ensure that the fees and costs charged do not exceed the fee structure of the agreement.

7 Obligation to inform client

An architect must—

- (a) take reasonable steps to ensure that a client is informed of decisions required of the client in respect of the services; and
- (b) provide sufficient relevant information with reasonable promptness to enable a client to make an informed decision in relation to the provision of services; and
- (c) respond, with reasonable promptness, to a client's reasonable requests for information or other communications about the provision of services to the client; and
- (d) take reasonable steps to ensure that all information and material provided to a client is accurate and unambiguous.

8 Changes in circumstances

An architect must promptly advise a client in writing of any circumstance that is likely to prevent the architect from providing the services under the agreement or from following the client's instructions in relation to the services, including a circumstance that imposes on the architect an obligation to withdraw from the provision of services under clause 14.

9 Documents and record keeping

- (1) An architect who has entered into an agreement under clause 4 must keep documents in accordance with this clause.
- (2) The following documents in relation to the provision of architectural services must be kept—
 - (a) an agreement in writing signed by the client;
 - (b) correspondence;
 - (c) records of financial transactions;
 - (d) records of client instructions and meetings related to the services provided to the client;
 - (e) photographs of work in progress;
 - (f) project journals, diaries or the like;
 - (g) drawings and other relevant documents.
- (3) Documents must be kept for the longer of—
 - (a) a period of 10 years after the completion of the architectural services; or
 - (b) the limitation period under the Building Act or other Tasmanian legislation

10 Confidentiality

- (1) An architect must not disclose a client's confidential information without authority.
- (2) For the purposes of this clause, a client's confidential information means any information, agreed or understood by the architect and the client to be confidential, that is acquired from or provided to a client in the course of providing architectural services to the client.

(3) An architect may disclose a client's confidential information if—

- (a) the client consents in writing to the disclosure; or
- (b) the disclosure is required by law.

11 Duty to disclose paid referrals

(1) An architect must disclose the nature of a referral arrangement to a client before entering into an agreement under clause 4.

(2) An architect who is a member of an approved partnership, or a director of an approved company, must ensure that the nature of a referral arrangement is disclosed to a client before the partnership or company enters into an agreement under clause 4.

(3) For the purposes of this clause, referral arrangement means any arrangement between an architect, an approved partnership, or an approved company, and another person to introduce or refer clients to the architect, approved partnership, or approved company for valuable consideration.

12 Conflicts of interest

(1) An architect must not enter into an agreement with a person under clause 4 for the provision of architectural services if the agreement would result in an actual or potential conflict between the interests of—

- (a) the architect and that person; or
- (b) a current client and that person.

(2) An architect member or director of an approved partnership or an approved company must take all reasonable steps to ensure that the partnership or company does not enter into an agreement with a person under clause 4 if the agreement would result in an actual or potential conflict between the interests of—

- (a) a member of the approved partnership and that person; or
- (b) an officer of the approved company and that person; or
- (c) a current client of the approved partnership or approved company and that person.

(3) An architect must not continue to provide architectural services to a client that result in a conflict between the interests of—

- (a) the architect and that client; or
- (b) 2 or more current clients.

(4) An architect does not contravene this clause if the architect first—

- (a) discloses the actual or potential conflict of interest to each affected person; and
- (b) obtains the written consent of each affected person.

13 Duty to disclose paid endorsements

(1) An architect must not recommend, endorse, or specify a product or service to a client if the architect receives or expects to receive an inducement from a third party to do so.

(2) An architect does not contravene this clause if—

(a) the inducement is in the nature of salary, wages or attributable personal services income from an approved partnership or approved company; or

(b) the nature and value of the inducement is first disclosed in writing to the client.

14 Withdrawal from the provision of services

An architect must withdraw from the provision of any architectural services to a client if the architect reasonably believes that the provision of those services would cause the architect to contravene the Act, the Regulations or this Code.

Section 3—Architectural practice

15 Notification of qualifications and contact details

(1) An architect must take all reasonable steps to ensure that the architect's qualifications, experience, awards, honours and authorship are stated accurately in all documents.

(2) An architect must take all reasonable steps to ensure that the architect's name and contact details are identified clearly and accurately on stationery, signboards, public notices and in publications.

Section 4—Approved architectural firm

16 Nominated responsible Architect of approved architectural firm

A nominated responsible architect for an architectural firm must take all reasonable steps to ensure that the approved firm company complies with an obligation imposed on an architect under clauses 6, 9, 10, 13 and 15 as if that obligation were imposed on the architectural firm.

Section 5—Duties to the public and the profession

17 Duty to engender confidence and respect for the profession

An architect, by the architect's conduct, must endeavour to engender confidence in and respect for the profession of architecture.

18 Duty to maintain standards and integrity of the profession

An architect, by the architect's conduct, must endeavour to maintain the standards and integrity of the profession of architecture

Section 6 – Professional Indemnity Insurance

19 Architects to be registered need a minimum level of professional indemnity insurance

The Board is not to register a person as an architect, or renew the registration of an architect, unless the Board is satisfied that the person has a minimum level of professional indemnity insurance.

The Board may determine that all architects who are registered in a class of registration specified in the determination are not required to have a minimum level of professional indemnity insurance.

A person who is required to have a minimum level of professional indemnity insurance must notify the Board of any significant change in his or her professional indemnity insurance within 7 days of that change occurring.

Without limiting the circumstances in which the Board may be satisfied that a person has a minimum level of professional indemnity insurance, a person is taken, for the purposes of this Act, to have a minimum level of professional indemnity insurance if –

- (a) he or she is employed or engaged by a company, firm or authority to carry out architectural work; and
- (b) an insurance policy held by that company, firm or authority covers that work.

20 Run-off Insurance Cover

Architects may still be liable even after they finish practicing and need to consider whether they should hold professional indemnity run off cover.

The Board recommends that architects hold professional indemnity run off cover.

Section 7 – Continuing Professional Development

21 Practicing architects are required to undertake Continuing Professional Development

Consumers can expect an architect to maintain their competency by undertaking Continuing Professional Development (CPD)

As part of the annual renewal process, practicing architects are required to submit to the Board a signed record of their CPD activities undertaken in the past twelve months, no later than 31 January 2021.

In accordance with the AACA/RAIA Joint Policy on Continuing Professional Development (CPD) the expectation is that architects will complete at least twenty (20) hours per year – where one hour in training equates to one CPD point. Activities in each year should be across a range of units in the National Architecture Competency Standards – Design, Documentation, Practice Management and Project Management. At least 10 hours of CPD is required to be Formal CPD.

The Board will from time to time publish on its website details of the current CPD Policy and information for practicing architects to comply with.