

Revamped Regulation for Victorian Architects

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Towards the end of 2012, the Victorian Government announced an initiative to remodel the regime for the registration and discipline of building practitioners, plumbers, and architects in the State. Each of these three professions were previously regulated separately. Particularly for architects, their independent regulation was prized, and many are concerned that the formation of a new all-encompassing body will diminish their independence and prestige, and adversely affect the way they are regulated and disciplined.

The Current Regime:

Previously architects have been governed by the Architects Registration Board of Victoria (the ARVB).

At present that board is given the power under section 18 of the ***Architects Act 1991*** to field complaints about architects, and conduct inquiries into the professional conduct and fitness to practice of an architect.

A complaint from the public will be investigated by two members of the Board, who then report to the Board at large. The Board then has the power to refer the matter to a inquiry. Formal inquiries are then conducted by the Architects Tribunal.

The Proposal for Change:

The Victorian Government has proposed to overhaul the existing regulation of builders, plumbers and architects, and create a 'Victorian Building Authority' which will regulate and discipline all three. This body will thereby take on the

roles and responsibilities of the Building Commission, the Plumbing Industry Commission and the ARVB.

The reasons for overhauling the ARVB are not immediately obvious. It has certainly not attracted anywhere near the same negative publicity that the Building Commission had done, and from an outsider's perspective it seemed to be functioning adequately. It may be a victim of the fact that the failings of the Building Commission have necessitated a revamp, and the revamp of the Building Commission has been seen as an opportunity to consolidate regulation of all actors in the Building Industry.

The constitution of the new authority has not been finalised as yet, and the public submissions are still under consideration, so it is impossible to address the issue fully and finally in this article. In due course we expect greater detail to be released, and the enactment of new legislation.

What the impact may be on Architects:

As far as what the actual changes will be to the rights and responsibilities of architects, under the new registration and discipline regime, these questions remain to be answered when more detail is announced.

In general it seems fairly safe to assume that most of the core responsibilities should not substantially change. The ***Building Act 1993*** and ***Building Regulations 2006*** largely reflect similar aims as do the ***Architects Act 1991*** and ***Architects Regulations 2004***.

For example regulation 4 of the Architects Regulations require architects to perform work in a competent manner and to a professional standard. This is very similar to the duty imposed on building practitioners under regulation 1502(a) of the Building Regulations.

Similarly both section 176 of the Building Act and Part 2 of the Architects Act prohibit the wrongful use of a protected title by an unregistered person, or holding out by an unregistered person.

A more nuanced and in depth analysis of how the game may change for architects will be required once new legislation is released.

Perhaps the biggest change will be that these matters are being regulated in concert with building practitioners. There is debate over whether bringing these parties together under one regime will be a good or a bad thing.

Proponents argue it will allow for greater consistency, and encourage a more collaborative approach to dispute resolution. Opponents argue that the independence of architects should be preserved, lest there be a conflict of interest.

Potentially there may be cases where an architect is asked to give evidence against a builder as part of a disciplinary hearing, or vice-versa. Clearly it may influence their ability to be full and frank in their evidence, if they are appearing before the same body which also disciplines them themselves.

Another issue which has been raised is whether the new authority, and the new legislation, will give adequate protection to the interests of architects. Division of responsibilities is often a point of tension between architects and building designers who do not hold an architectural qualification, but are registered as building practitioners.

Architects are understandably protective of their title, and fear that a combined authority may further erode the exclusivity and independence of their profession. However conversely it may be that if the same body which regulates architects also regulates and disciplines building designers, then that body may more readily appreciate the distinction. That body may then be able to directly sanction a building practitioner who wrongfully holds out as being an architect, including the ability to deregister that building practitioner.

The penalties for use of a restricted title or wrongfully representing an unregistered person to be an architect are currently governed by Part 2 of the **Architects Act 1991**. The maximum penalties for breach of these provisions is around a \$6,000 fine. It may be more of a disincentive for a building practitioner if they could potentially lead directly to disciplinary action.

Conclusion:

It is clear that the new proposals will generate a degree of upheaval for architects, who are naturally concerned as they appear to be getting drawn into a mess which is not one of their own making. What is clear is that the new legislation will need to be very carefully drafted if it is to adequately protect the interests of architects, and gain the blessing of the profession at large.

Architects have a very long history of self-regulation, and this may need to be recognised in the new regime if it is to gain the engagement of architects which will be crucial if the proposal is to reach its stated aim of achieving more efficient and collaborative regulation of the building industry by bringing all the stakeholders together under one roof.

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