

**EXPLANATORY MEMORANDUM TO
THE ARCHITECTS ACT 1997 (AMENDMENTS ETC) ORDER 2014**

2014 No. 4

- 1.** This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This Order amends the Architects Act 1997 (the “Act”) First, it extends the tenure of a member of the Architects Registration Board. Secondly, it amends the definition of the ‘relevant European State’ used in the Act by including Switzerland within the definition. This amendment means that Swiss architects (an individual who is recognised or qualified to practice as or hold the title of architect in Switzerland) who wish to practice in the United Kingdom may now benefit from automatic recognition and other rights contained within European Directive 2005/36/EC on the Mutual Recognition of Professional Qualifications.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Directive 2005/36/EC on the Mutual Recognition of Professional Qualifications (“the Directive”) establishes a system for the mutual recognition of professional qualifications which is intended to make it easier for EU citizens who are entitled to exercise a regulated profession (one requiring proof of specific professional qualifications, such as an architect) in one Member State (their home State) to pursue the same profession in another Member State (the host State).

The Directive establishes:

- a system of automatic recognition, based on minimum harmonised training requirements, for doctors, dentists, nurses, midwives, pharmacists, veterinary surgeons and architects;
- a system of automatic recognition, based on professional knowledge and experience, for a variety of commercial and manufacturing activities;

- a general system for the recognition of other regulated professional activities, based on the principle of equivalence, but with provision to require an applicant to take an aptitude test or complete an adaptation period of up to three years if there is a substantial difference between the level of professional training or experience required in the host and home States; and
- simplified procedures to enable individuals established in one Member State to provide professional services "on a temporary and occasional basis" in another (host) Member State.

4.2 Paragraph 24 of Schedule 1 of the Act allows for amendment of that Schedule. This Order, under those powers, amends Schedule 1 in relation to tenure of members of the Architects Registration Board.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Minister for Building Regulations, Stephen Williams, has made the following statement regarding Human Rights:

In my view the provisions of the Architects Act 1997 (Amendments etc) Order 2014 are compatible with the Convention rights.

7. Policy background

7.1 The Act provides for the Architects Registration Board to be an independent statutory regulator of all UK registered architects. The Architects Registration Board has a duty to regulate the professional use of architectural title and protect the consumer. The Architects Registration Board acts as a Register for all qualified architects in the United Kingdom including those exercising rights derived from the Directive. The Architects Registration Board is the designated competent authority for the purposes of the Directive..

7.2 Decision No.2/2011 of the EU-Swiss Joint Committee established by Article 14 of the Agreement between the European Community and its Member States, of the one part, and Swiss Confederation, of the other, on the Free Movement of Persons extended this Agreement ("the Agreement") to the Directive. This Order implements this decision by extending the definition of the 'relevant European State' used in the Act to include Switzerland.

7.3 The Order also revokes regulation 26 of the Architects (Recognition of European Qualifications etc and Saving and Transitional Provision) Regulations 2008 (S.I.

No1331). Regulation 26 was a saving provision in respect of the implementation of the Agreement as it had not been amended so as to extend to the Directive.

7.4 The Architects Act 1997 Schedule 1 Part I set out that the term of office of a member of the Architects Registration Board is three years. This Order extends the term to four years with a view of helping to moderate the cost of recruitment and board appointments for both the Architect Registration Board and Department for Communities and Local Government. The Order contains a transitional provision to apply these extensions to current members of the Board.

8. Consultation outcome

8.1 The Department for Communities and Local Government has consulted directly with the Architects Registration Board and the Royal Institute of British Architects before taking forward changes to Board tenure membership. There has been broad support for these proposals and given the limited interest that such a change will generate, Ministers have agreed that it would be disproportionate to undertake wider consultation.

8.2 With respect to transposition of measures providing Swiss nationals with Directive rights, this is a minor simplification of the process for existing rights of access for Swiss nationals and will not materially affect the number of Swiss graduates entering the UK. Given that we are required to conform with European law, and the limited effect of these changes, it has been decided not to undertake wider consultation.

9. Guidance

9.1 The Department will work with the Architects Registration Board to ensure that affected Board members are informed of changes and consulted as to whether they wish their existing tenure to be extended.

9.2 The Architects Registration Board publishes information for applicants seeking registration, including full Directive rights nationals, and will consider whether specific new guidance for Swiss architects is necessary.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument. The instrument is not anticipated to impact on business, charities, voluntary bodies or public sector.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The regulation of architects is subject to periodic review with the next review commencing in February 2014.

13. Contact

13.1 Andrew Newton at the Department for Communities and Local Government Tel: 0303 444 0000 or email: andrew.newton@communities.gsi.gov.uk can answer any queries regarding the instrument.