

2018 No. 947

ARCHITECTS

The Architects Act 1997 (Amendments etc.) Order 2018

<i>Made</i> - - - -	<i>28th August 2018</i>
<i>Laid before Parliament</i>	<i>30th August 2018</i>
<i>Coming into force</i> - -	<i>7th January 2019</i>

The Secretary of State, in exercise of the powers conferred by paragraph 24 of Schedule 1 to the Architects Act 1997(a), and having consulted in accordance with that paragraph with the Architects Registration Board and such other persons as he considered fit, makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Architects Act 1997 (Amendments etc.) Order 2018 and comes into force on 7th January 2019.

(2) In this Order, “the Act” means the Architects Act 1997.

Amendment of Architects Act 1997

2. For “chairman”, each time it occurs in the Act substitute “chair”.

3.—(1) Part 1 of Schedule 1 (The Board and its Committees) to the Act is amended as follows.

(2) For paragraphs 1 to 3 substitute—

“Membership

1.—(1) The Board is to consist of eleven members—

- (a) a person appointed to be chair of the Board who is not registered in Part 1 of the Register;
- (b) five other persons not registered in Part 1 of the Register, and
- (c) five persons registered in Part 1 of the Register.

(2) The members are to be appointed by the Privy Council after consultation with the Secretary of State and such other persons or bodies as the Privy Council thinks fit.

(3) Rules made by the Board may make provision for the temporary appointment of a person to act as a member of the Board in such circumstances as may be prescribed.”

(3) In paragraph 4, in sub-paragraph (1) after “sub-paragraphs (2) and (3)” insert “and paragraph 5”.

(4) For paragraph 5 substitute—

(a) 1997 c. 22. Schedule 1 was amended by S.I. 2004/655, S.I. 2008/1331 and S.I. 2014/4.

“5.—(1) A person who has been a member of the Board may be appointed for one or more further periods (whether consecutive or not).

(2) The length of any further period is to be determined by the Privy Council after consultation with the Secretary of State and such other persons or bodies as the Privy Council thinks fit, but any further term must not extend a person’s period of membership beyond eight years (whether consecutive or not).

(3) A person who has been removed from the Board under rules made under paragraph 4(3) may not be appointed to the Board for a further term.

(4) A person who has been a member of the Board may not be appointed to the Professional Conduct Committee.”.

(5) Omit paragraph 6.

(6) For paragraph 7 substitute—

“7.—(1) Rules made by the Board may make provision for the appointment of a person to act as chair of the Board for any period when there is no person appointed under paragraph 1 or in such other circumstances as may be prescribed.

(2) No person who is registered in Part 1 of the Register is eligible for appointment under this paragraph.”

(7) For paragraph 9 substitute—

“9. The quorum of the Board is—

- (a) the chair of the Board;
- (b) three members appointed under paragraph 1(1)(b), and
- (c) three members appointed under paragraph 1(1)(c).”.

4.—(1) Part 2 of Schedule 1 to the Act is amended as follows.

(2) For paragraph 13 substitute—

“13. The Professional Conduct Committee is to consist of—

- (a) at least three persons who are legally qualified;
- (b) at least three persons registered in Part 1 of the Register of whom at least one must be a person whose address in the Register is in Scotland; and
- (c) at least three persons who are not legally qualified and are not registered in Part 1 of the Register.”.

(3) In paragraph 15—

(a) for sub-paragraphs (1) and (1A) substitute—

“(1) Subject to sub-paragraph (2), the quorum of the Professional Conduct Committee is

- (a) one member appointed under paragraph 13(a);
- (b) one member appointed under paragraph 13(b); and
- (c) one member appointed under paragraph 13(c).”;

(b) in sub-paragraph (2), omit “In addition.”.

(4) After paragraph 17 insert—

“17A. In paragraph 13 the reference to a person who is legally qualified means—

- (a) a person who for the purposes of the Legal Services Act 2007(a) is an authorised person in relation to an activity that constitutes a reserved legal activity (within the meaning of that Act);

(a) 2007 c. 29. Section 18 was amended by S.I. 2009/3250.

- (b) a solicitor or barrister in Northern Ireland; or
- (c) a solicitor or advocate in Scotland.”

5. In paragraph 21 for “chairmanship” substitute “chairing”.

6. In paragraph 22(2), omit “election or”.

Transitional provisions

7.—(1) On the commencement date—

- (a) any prior Board member ceases to be a member;
- (b) subject to paragraph (6), any person who is a member of the Professional Conduct Committee immediately before that date ceases to be a member.

(2) On, or as soon as practicable after, the commencement date—

- (a) eleven members of the Board shall be appointed in accordance with paragraph 1 of Schedule 1 to the Act, as amended by this Order; and
- (b) the Board shall appoint the Professional Conduct Committee in accordance with paragraph 13 of Schedule 1 to the Act, as amended by this Order.

(3) A prior Board member is eligible to be appointed to the Board provided that on the commencement date, that member has held office for a period which is less than eight years (whether consecutive or not).

(4) Any appointment of a prior Board member to the Board under paragraph (2) shall be for a term which is equal to that member’s unexpired term of office immediately before the commencement date.

(5) Where a person who is not a prior Board member is appointed to the Board under paragraph (2)(a), the term of office shall be as follows—

- (a) where the number of such persons appointed (“N”) is four or fewer, the term of office for each such person will be four years;
- (b) where N is eight or fewer, but not fewer than five, the term of office will be four years for four members and three years for the remaining members; and
- (c) where N is more than eight, the term of office will be four years for four members, three years for another four members and two years in the case of the remaining members.

(6) Where any cases are received by the Professional Conduct Committee under section 14(3) of the Act before the commencement date—

- (a) members of the Professional Conduct Committee, as constituted immediately before that date, may continue to consider such cases;
- (b) Schedule 1 to the Act shall continue to have effect for that purpose in relation to the Professional Conduct Committee as if this Order had not been made, save for paragraphs 13, 15 and 17A.

(7) For the purpose of this article—

- (a) “commencement date” means the date this Order comes into force;
- (b) “prior Board member” means a person who is a member of the Board immediately before the commencement date; and
- (c) paragraphs 4(1) and 5 of Schedule 1 to the Act are disapplied.

(8) Nothing in this Order affects rules made under paragraph 10 of Schedule 1 to the Act.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Rishi Sunak

Parliamentary Under Secretary of State

Ministry of Housing, Communities and Local Government

28th August 2018

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Architects Act 1997 (“the Act”) to provide for an all-appointed Architects Registration Board (“the Board”). The changes are being made following publication of the ‘Periodic Review Report on Architects Regulation and the Architects Registration Board’ on 30th March 2017.

Article 3(2) replaces the current arrangements, which provide for seven elected members and eight appointed members, with a Board consisting of eleven members appointed by the Privy Council.

Articles 3, 4 and 6 amend the constitution and quorum of the Professional Conduct Committee, which (in addition to other functions) considers cases of unacceptable professional conduct or serious professional incompetence.

Article 7 sets out transitional provisions. In particular, Article 4(6) provides that changes made by this Order do not apply to the consideration of cases which are reported to the Professional Conduct Committee before the relevant date.

An impact assessment has not been prepared for this Order, as it has no impact, or minimal impact, on the public, private or voluntary sector.

A copy of the Periodic Review report is available at: <https://www.gov.uk/government/publications/architect-regulation-and-the-architects-registration-board-outcome-of-the-review>. Copies may be inspected at the Building Regulations and Energy Performance Division, Department for Housing, Communities and Local Government, Fry Building, 2 Marsham Street, London SW1P 4DF.

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£4.90

UK201808281009 09/2018 19585

<http://www.legislation.gov.uk/id/uksi/2018/947>

ISBN 978-0-11-117227-8



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