
D R A F T S T A T U T O R Y I N S T R U M E N T S

2019 No. 0000

EXITING THE EUROPEAN UNION

ARCHITECTS

**The Architects Act 1997 (Amendment) (EU Exit) Regulations
2019**

Made - - - -

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Architects Act 1997 (Amendment) (EU Exit) Regulations 2019.

(2) These Regulations come into force on whichever is the later of—

- (a) exit day, and
- (b) the day after the day on which these Regulations are made.

Interpretation

2. In these Regulations—

“the 1997 Act” means the Architects Act 1997(b);

“the Register” means the Register of Architects maintained under section 3 of the 1997 Act;

“the relevant date” means the date on which these Regulations come into force.

(a) 2018 c.16.

(b) 1997 c.22. Amended by S.I. 2002/2842, S.I. 2008/1331, S.I. 2011/1043, S.I. 2014/4 S.I. 2016/1008 and S.I. 2018/947.

PART 2

Amendments to the Architects Act 1997

3. The 1997 Act is amended in accordance with this Part.

Designation of the Board as competent authority

4. Omit section 1A (designation of the Board as competent authority).

The Registrar

5. In section 2 (the Registrar), omit subsection (3A).

The Register

6. In section 3 (the Register), omit subsection (1A).

Registration

7. In section 4 (registration in Part 1 of the Register: general)—

- (a) in the heading omit “in Part 1 of the Register”;
- (b) in subsection (1), in the words before paragraph (a)—
 - (i) omit “in pursuance of this section”;
 - (ii) omit “in Part 1 of the Register”;
- (c) in subsection (2A)—
 - (i) in the words before paragraph (a), for “Directive-rights national” substitute “person”;
 - (ii) in paragraph (a), for “evidence of a description specified” substitute “the evidence described”;
 - (iii) omit paragraphs (b) and (c);
- (d) in subsection (4)—
 - (i) in the words before paragraph (a) omit “in pursuance of this section”;
 - (ii) in paragraph (a)—
 - (aa) omit “in pursuance of this section”;
 - (bb) omit “Part 1 of”;
- (e) in subsection (5) omit “in pursuance of this section”;
- (f) in subsection (6)—
 - (i) omit “Part 1 of”;
 - (ii) omit “in pursuance of this section”.

8. In section 4A (registration in Part 1 of the Register: European qualifications)—

- (a) in the heading omit “in Part 1 of the Register”;
- (b) for subsection (1) substitute—

“(1) The evidence that a person is required to produce for the purposes of section 4(2A)(a) is evidence of formal qualifications listed in respect of a relevant European State in point 5.7.1 of Annex V to the Directive (qualifications in architecture satisfying the minimum training conditions mentioned in Article 46 of the Directive, including training which is, under Article 22(a), to be treated as meeting those conditions) accompanied, where appropriate, by the certificate listed in relation to that evidence in the column of that point of that Annex entitled “Certificate accompanying the evidence of qualifications”.”;
- (c) in subsection (2)—

- (i) in paragraph (b)—
 - (aa) for “from the competent authorities of a relevant European State confirmation” substitute “the person to produce written confirmation from the competent authority in a relevant European State”;
 - (bb) omit “attestations and”;
 - (cc) omit “other”;
- (ii) in paragraph (c), in the words before sub-paragraph (i)—
 - (aa) for “evidence of formal qualifications has been issued by a competent authority in a relevant European State and” substitute “the person has produced confirmation from a competent authority in a relevant European State (see paragraph (b)) which”;
 - (bb) for “shall be entitled to verify with the competent authority in the relevant European State of origin of the award” substitute “may require the person to produce written confirmation from the competent authority in the relevant European State of origin of the award as to”;
- (d) in subsection (3) omit “in Part 1 of the Register”.

9. Omit sections 5A to 5E (provisions relating to persons registered in Part 2 of the Register).

10. In section 6 (registration: further procedural requirements)—

- (a) in subsection (1) omit “in Part 1 of the Register”;
- (b) omit subsection (2A);
- (c) in subsection (3) omit “in Part 1 of the Register”;
- (d) in subsection (3A)—
 - (i) omit “in Part 1 of the Register”;
 - (ii) omit “in that Part”;
 - (iii) for “Directive-rights national” substitute “person”;
- (e) in subsection (3B), in the words before paragraph (a)—
 - (i) for “Directive-rights national” substitute “person”;
 - (ii) omit “in Part 1 of the Register”;
- (f) in subsection (4) omit “for registration in Part 1 of the Register”.

11. In section 6A(1)(b) (issuing certificates of architectural education) omit “in Part 1 of the Register”.

Removal from register etc.

12. In sections 8 and 9 (removal from Register etc) omit “Part 1 of” in each place it occurs.

13. In section 10(1) (disqualification in a relevant European State)—

- (a) omit “Part 1 of” in each place it occurs;
- (b) in paragraph (aa) omit “other than the United Kingdom”.

14. In section 11 (failure to notify change of address), in the words before paragraph (a), for “person registered in Part 1 of the Register” substitute “registered person”.

Use of title “architect”

15. In section 20 (use of title “architect”)—

- (a) for “person registered in Part 1 of the Register” in each place it occurs, substitute “registered person”;
- (b) omit subsection (5).

Appeals

16. In section 22 (appeals)—

- (a) in subsection (1)—
 - (i) in paragraph (a) omit “in Part 1 of the Register”;
 - (ii) in paragraphs (c) and (d) omit “Part 1 of” in both places it occurs;
- (b) omit subsection (6).

Administrative co-operation

17. In section 22B (administrative co-operation)—

- (a) for subsections (1) and (2) substitute—

“(1) The Board may, for the purposes of facilitating the recognition of the qualifications of architects—

 - (a) collaborate with competent authorities of relevant European States, and
 - (b) provide assistance to competent authorities of relevant European States in order to facilitate the accreditation in a relevant European State of registered persons or persons holding qualifications or experience prescribed under section 4(1)(a).

“(2) The Board may exchange professional-regulation information about—

 - (a) persons who have made an application for registration under section 4(2A);
 - (b) registered persons who are practising or are seeking to practice as architects in a relevant European State,

with competent authorities of relevant European States.”;
- (b) in subsection (4)—
 - (i) in the words before paragraph (a)—
 - (aa) for “another” substitute “a”;
 - (bb) after “European State” insert “or a person who applies for registration”;
 - (ii) in paragraph (a) for “is responsible for investigating and establishing” substitute “may investigate and establish”;
 - (iii) in paragraph (b) for “is to” substitute “may”;
- (c) in subsection (5), for “duties” substitute “functions”.

Confidentiality

18. In section 22C (confidentiality)—

- (a) in subsection (2)—
 - (i) omit paragraph (b) (but not the final “and”);
 - (ii) in paragraph (c)—
 - (aa) in sub-paragraph (i), for “another” substitute “a”;
 - (bb) in sub-paragraph (ii), for “by a Directive-rights national” substitute “in reliance on section 4(2A)”;
- (b) in subsection (4), for the words from “which,” to the end substitute “which in the course of the carrying out of the authority’s functions under section 4 or 4A is disclosed by or on behalf of the authority to a competent authority of a relevant European State”.

Interpretation

19. In section 25 (interpretation):

- (a) in the definition of “the Directive”—

- (i) in the words before paragraph (a), after “professional qualifications” insert “as it had effect immediately before exit day”;
- (ii) in paragraph (a), for the words from “(see the amendments made” to the end (including the final “and”) substitute “as it had effect immediately before exit day.”;
- (iii) omit paragraph (b);
- (b) omit the definition of “Directive-rights national”;
- (c) in the definition of “disqualifying decision”, in paragraph (a), omit “other than the United Kingdom”.

The Board and its committees

20.—(1) Schedule 1 (the Board and its committees) is amended as follows.

(2) In paragraph 1(1)—

- (a) in paragraph (a), for “registered in Part 1 of the Register” substitute “a registered person”;
- (b) in paragraph (b), for “not registered in Part 1 of the Register” substitute “who are not registered persons”;
- (c) in paragraph (c), for “persons registered in Part 1 of the Register” substitute “registered persons”.

(3) In paragraph 7(2), for “registered in Part 1 of the Register” substitute “a registered person”.

(4) In paragraph 13—

- (a) in paragraph (b), for “persons registered in Part 1 of the Register” substitute “registered persons”;
- (b) in paragraph (c), for “registered in Part 1 of the Register” substitute “registered persons”.

(5) In paragraph 15(2), for “person registered in Part 1 of the Register” substitute “registered person”.

Visiting architects from relevant European States

21. Omit Schedule 1A (visiting architects from relevant European States).

PART 3

Saving and transitional provision

Pending applications

22. Where an application for registration in reliance on section 4(2A) of the 1997 Act is received before the relevant date, any provision made by or under that Act continues to apply in relation to the application (including any appeal arising from it) without the amendments made by Part 2 of these Regulations.

Part 2 of the Register

23.—(1) Where, immediately before the relevant date, a visiting practitioner is entitled under paragraph 3 of Schedule 1A to the 1997 Act, or continues to be entitled under paragraph 4 of that Schedule, to be registered in Part 2 of the Register, any provision made by or under that Act continues to apply in relation to the provision of services on a temporary and occasional basis by the visiting practitioner without the amendments made by Part 2 of these Regulations.

(2) But the receipt by the Registrar on or after exit day of renewal documents does not give rise to any continuing entitlement under paragraph 4 of that Schedule (and, accordingly, the entitlement or continuing entitlement mentioned in sub-paragraph (1) ceases at the end of the relevant period mentioned in paragraph 5 of that Schedule).

(3) In this regulation—

“the Registrar” means the person appointed under section 2 of the 1997 Act;

“renewal documents” means the documents listed in paragraph 4(6) of Schedule 1A to that Act;

“visiting practitioner” has the same meaning as in paragraph 2(1)(a) of that Schedule.

Interpretation of saved provisions

24. Where a provision of the 1997 Act continues to apply by virtue of this Part, that provision has effect with the modifications in regulations 25 to 33.

25. Section 4A(2) (registration in Part 1 of the Register: European qualifications) has effect as if—

(a) in paragraph (b)—

(i) for “from the competent authorities of a relevant European State confirmation” there were substituted “the person to produce written confirmation from the competent authority in a relevant European State”;

(ii) “other” were omitted;

(b) in paragraph (c), in the words before sub-paragraph (i)—

(i) for “evidence of formal qualifications has been issued by a competent authority in a relevant European State and” there were substituted “the person has produced confirmation from a competent authority in a relevant European State (see paragraph (b)) which”;

(ii) for “shall be entitled to verify with the competent authority in the relevant European State of origin of the award” there were substituted “may require the person to produce written confirmation from the competent authority in the relevant European State of origin of the award as to”.

26. Section 5D (administrative co-operation with other relevant European States) has effect as if—

(a) in subsection (1)—

(i) for “ask the competent authorities of the relevant European State where that person is established as an architect, for each provision of services,” there were substituted “require the person”;

(ii) after “that person’s establishment” there were inserted “as an architect”;

(b) subsections (2) to (5) were omitted.

27. Section 5E (complaints by recipients of services) has effect as if—

(a) in subsection (1), for the words from “, in any relevant European State” to the end there were substituted “in the United Kingdom, apart from when the person is lawfully established as an architect in the United Kingdom.”;

(b) for subsection (2) there were substituted—

“(2) The Board may exchange with a competent authority in a relevant European State any information it considers necessary for a service complaint to be pursued.”.

28. Section 22B (administrative co-operation) has effect as if—

(a) for subsections (1) and (2) there were substituted—

“(1) The Board may, for the purposes of facilitating the recognition of the qualifications of architects—

(a) collaborate with competent authorities of relevant European States, and

- (b) provide assistance to competent authorities of relevant European States in order to facilitate the accreditation in a relevant European State of registered persons or persons holding qualifications or experience prescribed under section 4(1)(a).

(2) The Board may exchange professional-regulation information about—

- (a) persons who have made an application for registration under section 4(2A);
- (b) registered persons who are practising or are seeking to practice as architects in a relevant European State,

with competent authorities of relevant European States.”;

- (b) in subsection (4)—

- (i) in the words before paragraph (a)—

- (aa) for “another” there were substituted “a”;

- (bb) after “European State” there were inserted “or a person who applies for registration”;

- (ii) in paragraph (a), for “is responsible for investigating and establishing” there were substituted “may investigate and establish”;

- (iii) in paragraph (b), for “is to” there were substituted “may”;

- (c) in subsection (5), for “duties” there were substituted “functions”.

29. Section 22C (confidentiality) has effect as if—

- (a) in subsection (2)—

- (i) paragraph (b) (but not the final “and”) were omitted;

- (ii) in paragraph (c)—

- (aa) in sub-paragraph (i), for “another” there were substituted “a”;

- (bb) in sub-paragraph (ii), for “by a Directive-rights national” there were substituted “in reliance on section 4(2A)”;

- (b) in subsection (4), for the words from “which,” to the end there were substituted “which in the course of the carrying out of the authority’s functions under section 4 or 4A is disclosed by or on behalf of the authority to a competent authority of a relevant European State.”.

30. Section 25 (interpretation) has effect as if—

- (a) in the definition of “the Directive”—

- (i) in the opening words, after “professional qualifications” there were inserted “as it had effect immediately before exit day”;

- (ii) in paragraph (a), for the words from “(see the amendments made” to the end (including the final “, and”) there were substituted “as it had effect immediately before exit day.”;

- (iii) paragraph (b) were omitted;

- (b) in the definition of “disqualifying decision”, in paragraph (a), the words “other than the United Kingdom” were omitted;

- (c) there were inserted at the appropriate place—

““enforceable EU right” means a right recognised and available in domestic law, immediately before exit day, by virtue of section 2(1) of the European Communities Act 1972;”.

31. Paragraph 7(2)(b) of Schedule 1A (visiting architects from relevant European States: Registrar’s power to remove person’s name from Part 2 of the Register) has effect as if the words “that is not the United Kingdom” were omitted.

32. Any reference to a relevant European State other than the United Kingdom has effect as if the words “other than the United Kingdom” were omitted.

33. Any reference to the European Union (Recognition of Professional Qualifications) Regulations 2015 has effect—

- (a) in relation to anything done before exit day, as if it were a reference to those Regulations as they had effect at that time;
- (b) otherwise, as if it were a reference to those Regulations as (and only to the extent that) they have effect, on or after exit day, in relation to an entitlement which arose before exit day or arises as a result of something done before exit day.

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

Name
Minister of State

Date Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union (and in particular, the deficiencies under paragraphs (c), (d), and (e) of section 8(2)).

Part 2 of these Regulations amends the Architects Act 1997 (c.22) (“the 1997 Act”) to remove provisions on reciprocal arrangements or rights between the UK and EU member states that are no longer in place or are no longer appropriate in relation to the recognition of the professional qualifications of architects. Regulation 4 removes the status of the Architects Registration Board (ARB) as a competent authority for the purposes of Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications. Regulation 7 amends sections 4 and 4A of the 1997 Act to make provision for the recognition of architects. Regulation 8 amends section 4A of the 1997 Act in relation to supporting evidence for applications for qualification. Regulations 9 and 21 make provision to end the temporary and occasional provision of services. Regulations 10, 12 to 16 and 20 make further provision arising from the cessation of the temporary and occasional provision of services. Regulations 17 and 18 amend sections 22B and 22C of the 1997 Act to enable the existing provision with respect to administrative cooperation with competent authorities of European Union member states and the confidentiality of information to continue to apply to ARB once it is no longer a competent authority.

Part 3 of these Regulations makes transitional and saving provision for applications for inclusion in the Register of Architects made before exit day and for visiting practitioners in respect of the provision of temporary and occasional services.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the public, private or voluntary sector is foreseen.

© Crown copyright 2019

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£6.90

UK201902151024 02/2019 19585

<http://www.legislation.gov.uk/id/ukdsi/2019/9780111181546>

ISBN 978-0-11-118154-6



9 780111 181546