

## SCHEDULES

### SCHEDULE 2

Sections 118 and 125.

#### ARCHITECTS

##### PART I

###### NEW FIRST SCHEDULE TO THE 1931 ACT

1 This is the Schedule to be substituted for the First Schedule to the 1931 Act—

###### “FIRST SCHEDULE

Section 3.

###### THE BOARD AND ITS COMMITTEES

##### PART I

###### THE BOARD

###### *Membership*

- 1 The Board shall consist of—
- (a) seven elected members; and
  - (b) eight appointed members.

###### *Elected members*

- 2 (1) The elected members shall be elected in accordance with an electoral scheme made by the Board, with the approval of the Privy Council, after consultation with such bodies as appear to the Board to be representative of architects.
- (2) An electoral scheme under sub-paragraph (1) may be amended by the Board with the approval of the Privy Council and after consultation with such bodies as are mentioned in that sub-paragraph.
- (3) The persons qualified—
- (a) to elect the elected members; and
  - (b) to be elected as elected members,
- are all those who are registered persons when the election is held.

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### *Appointed members*

- 3 (1) The appointed members shall be appointed by the Privy Council, after consultation with the Secretary of State and such other persons or bodies as the Privy Council think fit, to represent the interests of users of architectural services and the general public.
- (2) No registered person shall be eligible for appointment as an appointed member.

### *Term of office*

- 4 (1) Subject to sub-paragraphs (2) and (3), the term of office of a member of the Board is three years.
- (2) A member may resign at any time by notice in writing addressed to the Registrar.
- (3) The Board may by rules prescribe grounds (such as repeated absence from meetings or unacceptable professional conduct) on which any member may be removed from office and the procedure for removal.
- 5 A person who has held office as a member of the Board for a continuous period of six years may not be elected or appointed as a member until at least three years have elapsed since he last held office.

### *Casual vacancies*

- 6 (1) Where a vacancy occurs among the members of the Board otherwise than by the expiry of a member's term of office—
- (a) if the vacancy is among the elected members, the Board shall appoint a registered person to fill it; and
  - (b) if the vacancy is among the appointed members, the Privy Council shall appoint a person to fill it.
- (2) Subject to paragraph 4(2) and (3), a person appointed under sub-paragraph (1) to fill a vacancy holds office until the date on which the term of office of the member whose vacancy he fills would have expired.
- (3) A person appointed under sub-paragraph (1)(a) shall be regarded as an elected member and a person appointed under sub-paragraph (1)(b) shall be regarded as an appointed member.

### *Chairman*

- 7 (1) The members of the Board shall elect a chairman from among themselves.
- (2) The chairman—
- (a) may resign by notice in writing addressed to the Registrar; and
  - (b) may be removed by a majority vote of the other members of the Board.

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- (3) Rules made by the Board may make provision for the appointment of a person to act as chairman in the event of a vacancy in the office of chairman or in such other circumstances as may be prescribed.
- 8 In the event of a tie in any vote of the Board the chairman shall have an additional casting vote.

#### *Procedure*

- 9 The quorum of the Board shall be nine, of whom at least four shall be elected members and at least four shall be appointed members.
- 10 The Board may make rules governing its meetings and procedure.

### **PART II**

#### THE PROFESSIONAL CONDUCT COMMITTEE

- 11 The Professional Conduct Committee shall consist of—
- (a) four elected members of the Board, including at least one whose address in the Register is in Scotland, or (if there is no elected member whose address in the Register is in Scotland or no such elected member who is willing to act) three elected members and one registered person whose address in the Register is in Scotland;
  - (b) three appointed members of the Board; and
  - (c) two persons nominated by the President of the Law Society.
- 12 (1) The members of the Professional Conduct Committee shall elect a chairman from among themselves.
- (2) The chairman—
- (a) may resign by notice in writing addressed to the Registrar; and
  - (b) may be removed by a majority vote of the other members of the Professional Conduct Committee.
- (3) Rules made by the Board may make provision for the appointment of a person to act as chairman in the event of a vacancy in the office of chairman or in such other circumstances as may be prescribed.
- 13 (1) The quorum of the Professional Conduct Committee shall be one elected member of the Board, one appointed member of the Board and one person nominated by the President of the Law Society.
- (2) Where the Committee is considering the case of a person whose address in the Register is in Scotland, the Committee is not quorate unless there is present a member of the Committee who is a registered person and whose address in the Register is in Scotland.
- 14 In the event of a tie in any vote of the Professional Conduct Committee the chairman shall have an additional casting vote; and in any proceedings relating to a registered person the additional vote shall be cast in favour of that person.

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- 15 The Board may make rules governing the selection and term of office of members of the Professional Conduct Committee (including casual vacancies).

### **PART III**

#### OTHER COMMITTEES

- 16 The Board may establish such committees as it considers appropriate to discharge any of its functions under this Act other than—
- (a) prescribing fees under section 6(4), 6A(1A), 6B(1) or (3) or 7ZD(4); or
  - (b) acting under section 6(1), (2) or (5), 6A(1) or (1B), 6C(1) or 7ZE(1), (2) or (3),
- or to assist the Board in the discharge by the Board of any of its functions.
- 17 (1) Any committee established by the Board may include persons who are not members of the Board; but if a committee is established to discharge any function of the Board, the majority of the members of the committee must be members of the Board.
- (2) Subject to that, the membership of any committee established by the Board shall be determined by the Board.
- 18 No vote of any committee established by the Board for the discharge of any of its functions shall be valid unless the majority of those voting are members of the Board.
- 19 The Board may make rules governing the term of office of members of any committee established by the Board (including casual vacancies) and the meetings and procedure (including chairmanship and quorum) of any committee established by the Board.

### **PART IV**

#### GENERAL

- 20 (1) The Board, the Professional Conduct Committee and any committee established by the Board may exercise its functions even though there is a vacancy among its members.
- (2) No proceedings of the Board, the Professional Conduct Committee or any committee established by the Board are invalidated by any defect in the election or appointment of a member.
- 21 The Board may by rules provide for the payment to members of the Board, the Professional Conduct Committee or any committee established by the Board of—
- (a) fees for attendance at meetings of the Board or committee; and
  - (b) travelling and subsistence allowances in respect of attendance at such meetings or the conduct of business of the Board or committee.

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- 22 (1) The Secretary of State may, after consultation with the Board and such other persons or bodies as he thinks fit, by order amend the provisions of this Schedule.
- (2) An order under sub-paragraph (1) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

## PART II

### OTHER AMENDMENTS

#### *The 1931 Act*

- 2 (1) Section 2 of the 1931 Act (interpretation) is amended as follows.
- (2) For the definition of “the Council” substitute—
- “The expression “the Board” means the Architects Registration Board.”.
- (3) In the definition of “registered person”, for “registered under this Act” substitute “whose name is in the Register”.
- (4) In the definition of “prescribed”, for “regulations made by the Council” substitute “rules made by the Board”.
- (5) In the definition of “the Register”, for “kept in pursuance of this Act” substitute “of Architects”.
- (6) After that definition insert—
- “The expression “the Registrar” means the Registrar of Architects appointed by the Board under section 4.
- The expressions “penalty order”, “suspension order” and “erasure order” shall be construed in accordance with sections 7ZB, 7ZC and 7ZD.
- The expression “disciplinary order” has the meaning given by section 7ZA.”.
- 3 (1) Section 3 of the 1931 Act (constitution and functions of Architects' Registration Council) is amended as follows.
- (2) In subsection (1), for the words from the beginning to “name,” substitute “The Architects Registration Board shall be a body corporate”.
- (3) In subsection (2)—
- (a) omit the first sentence, and
- (b) in the second sentence, for “Council” (in both places) substitute “Board”.
- (4) For the sidenote substitute “The Board and its committees.”.
- 4 (1) Section 6A of the 1931 Act (European qualifications) is amended as follows.
- (2) In subsection (1), for the words from “shall” to the end substitute “and has applied to the Registrar in the prescribed manner for registration in pursuance of this section is entitled to be registered.”.

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- (3) After that subsection insert—
- “(1A) The Board may require an applicant for registration in pursuance of this section to pay a fee of a prescribed amount.
- (1B) The Board may by rules prescribe the information and evidence to be furnished to the Registrar in connection with an application for registration in pursuance of this section.”.
- (4) In subsection (7), for the words from “The Council” to “aware that” substitute “An application by a person for registration in pursuance of this section may be refused if”.
- (5) In subsection (8), for the words from “Council” to “applicant” substitute “Registrar shall serve on an applicant for registration in pursuance of this section written notice of the decision on his application”.
- (6) In subsection (9)—
- (a) for “Council consult” substitute “Board consults”, and
- (b) for “Council of” substitute “Board of”.
- 5 (1) Section 7A of the 1931 Act (removal of name from Register: disqualification in another member State) is amended as follows.
- (2) In subsection (1)—
- (a) for “Council were” substitute “Board was”,
- (b) for “Council, on” substitute “Board, on”, and
- (c) for “cause his name to be removed” substitute “order the Registrar to remove his name”.
- (3) In subsection (2), for “7 of this Act” substitute “7ZA(1)”.
- (4) After that subsection insert—
- “(3) Where the Board orders the Registrar to remove a person’s name from the Register under this section, the Registrar shall serve written notice of the removal on the person as soon as is reasonably practicable.”.
- 6 (1) Section 9 of the 1931 Act (right of appeal against removal from Register) is amended as follows.
- (2) For the words “by the removal” onwards substitute “by—
- (a) his name not being re-entered in, or being removed from, the Register by virtue of section 6C(1);
- (b) the making of a disciplinary order in relation to him; or
- (c) the Board ordering the Registrar to remove his name from the Register under section 7A,
- may appeal to the High Court or the Court of Session within three months from the date on which notice of the decision or order concerned is served on him; and on an appeal under this section the Court may make any order which appears appropriate, and no appeal shall lie from any decision of the Court on such an appeal.”.
- (3) For the sidenote substitute “Appeals”.

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- 7 In section 11 of the 1931 Act (removal of name from Register for failure to notify change of address), for “Council” (in each place) substitute “Registrar”.
- 8 In section 12 of the 1931 Act (penalty for obtaining registration by false representation), for “wilfully” substitute “intentionally”.
- 9 For section 13 of the 1931 Act (regulations) substitute—

### “13 Rules

- (1) The Board may make rules generally for carrying out or facilitating the purposes of this Act.
- (2) The Board shall, before making any rules under this Act, publish a draft of the rules and give those to whom the rules would be applicable an opportunity of making representations to the Board.”.
- 10 (1) Section 15 of the 1931 Act (supply of regulations and forms) is amended as follows.
- (2) For “Council” substitute “Registrar”.
- (3) For “regulations” (in each place, including the sidenote) substitute “rules”.
- 11 (1) Section 16 of the 1931 Act (service of documents) is amended as follows.
- (2) In subsection (1), for “to be sent” substitute “to be served”.
- (3) In subsection (2), for “to the removal from the Register of the name of any registered person” substitute “required to be served by section 6C(2), 7(4)(a), 7ZA(3) or 7A(3)”.
- 12 (1) Section 17 of the 1931 Act (defence for certain bodies corporate, firms and partnerships) is amended as follows.
- (2) In paragraph (a), for “superintendent who is a registered person and” substitute “registered person”.
- (3) In paragraph (b), for the words from “and” to “who is” substitute “it is carried on by or under the supervision of”.
- (4) For the sidenote substitute “Defence for business under control and management of registered person.”.
- 13 For section 18(2) of the 1931 Act (application to Northern Ireland) substitute—
- “(2) This Act extends to Northern Ireland.”.

### *The 1938 Act*

- 14 (1) Section 1A of the 1938 Act (visiting EC architects) is amended as follows.
- (2) In subsections (2), (3) and (4), for “Council” (in each place) substitute “Registrar”.
- (3) In subsection (3), for “they consider” substitute “the Registrar considers”.
- (4) In subsection (6), for the words from “when” to the end substitute “when—
- (a) he is subject to a disqualifying decision in another member State;
- (b) his name has been removed from the Register pursuant to a suspension order or an erasure order and has not been re-entered; or

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- (c) he is required under section 6C(1) of the principal Act to satisfy the Board of his competence to practise but has not done so.”.
- (5) In subsection (8), for the words from the beginning to “the regulation of” substitute “The provisions of, and of rules under, the principal Act relating to”.
- 15 In section 3 of the 1938 Act (offence of practising while not registered), in the proviso—
- (a) in paragraph (a), omit “of the Council” and “subsection (2) of section six of”, and
- (b) for paragraphs (b) and (c) substitute—
- “ (b) in a case where the contravention is occasioned by the removal of the defendant’s name from the Register in circumstances in which notice is required to be served on him—
- (i) that the notice had not been duly served before that date,
- (ii) that the time for bringing an appeal against the removal had not expired at that date, or
- (iii) that such an appeal had been duly brought, but had not been determined, before that date.”.
- 16 In section 5 of the 1938 Act (construction and citation), in subsection (2), for the words from “Acts 1931 and” to the end substitute “Act 1931”.
- 17 For section 6(1) of the 1938 Act (application to Northern Ireland) substitute—
- “(1) This Act extends to Northern Ireland.”.

#### *Other enactments*

- 18 In section 6 of the Inspection of Churches Measure 1955 (interpretation), in the definition of “qualified person”, for “Architects Registration Acts 1931 to 1969” substitute “Architects Acts 1931 to 1996”.
- 19 In section 52(1) of the Cathedrals Measure 1963 (interpretation), in the definition of “architect”, for “Architects (Registration) Acts 1931 to 1938” substitute “Architects Acts 1931 to 1996”.
- 20 In section 20(1) of the Care of Cathedrals Measure 1990 (interpretation), in the definition of “architect”, for “Architects Registration Acts 1931 to 1969” substitute “Architects Acts 1931 to 1996”.

### **PART III**

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### *First elections and appointments to the Board*

- 21 (1) Part I of the First Schedule to the 1931 Act as substituted by Part I of this Schedule shall have effect before the appointed day so far as is necessary to enable the election and appointment of members of the Board to take office on that day.



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- (2) Until the appointed day references to the Board in paragraph 2 of that Schedule shall have effect as references to the Council.
- (3) Where persons elected or appointed as members of the Board by virtue of this paragraph attend meetings before the appointed day in preparation for the conduct of business of the Board on or after that day, the Council may pay to them any such fees or travelling or subsistence allowances in respect of their attendance as appear appropriate.
- (4) The term of office of the members of the Board appointed by the Privy Council (by virtue of this paragraph) to take office on the appointed day—
  - (a) is one year beginning with that day in the case of three of those members,
  - (b) is two years beginning with that day in the case of another three of those members, and
  - (c) is three years beginning with that day in the case of the remaining two members.

#### *Registration*

- 22 Where before the appointed day a person has duly applied for registration under the 1931 Act but no decision on the application has been made, the application shall be dealt with on and after the appointed day in the same way as an application duly made on or after that day (except that no further fee may be required to be paid).
- 23 Examinations in architecture which immediately before the appointed day were recognised by the Council for the purposes of subsection (1)(c) of section 6 of the 1931 Act (as it has effect before the substitution made by section 120 of this Act) shall (subject to rules made by the Board) be treated on and after that day as qualifications prescribed under subsection (1)(a) of that section (as it has effect after that substitution).
- 24 Section 6B of the 1931 Act shall have effect as if the reference in subsection (3) of that section to a person whose name has been removed from the Register under subsection (2) of that section included a reference to a person whose name was removed from the Register under section 13(5) of the 1931 Act before the appointed day.
- 25 The first reference to the Board in section 7A(1) of the 1931 Act shall be construed, in relation to the entry of a name in the Register at a time before the appointed day, as a reference to the Council.

#### *Discipline*

- 26 Where before the appointed day—
  - (a) the Discipline Committee has begun an inquiry into a case in which it is alleged that a registered person has been guilty of conduct disgraceful to him in his capacity as an architect, but
  - (b) the Council has not decided whether to remove his name from the Register, the case shall be referred to the Professional Conduct Committee which shall consider whether he is guilty of unacceptable professional conduct or serious professional incompetence.
- 27 (1) Subject to sub-paragraph (2), the provisions substituted by section 121 of this Act for section 7 of the 1931 Act have effect in relation to anything done or omitted to

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be done before the appointed day as in relation to anything done or omitted to be done after that day.

- (2) The Professional Conduct Committee—
- (a) may only make a disciplinary order in respect of anything done, or omitted to be done, by a person before the appointed day if the Council could have removed his name from the Register under section 7 of the 1931 Act (as it had effect before the substitution made by section 121 of this Act), and
  - (b) may not make a reprimand or penalty order in respect of anything so done or omitted to be so done.

*Pre-commencement removals and disqualifications*

- 28 (1) Where a person's name has been removed from the Register under section 7 of the 1931 Act before the appointed day, he may at any time on or after that day apply to the Board for his name to be re-entered in the Register.
- (2) If he does so, the Board may direct that his name shall be re-entered in the Register.
- (3) The Registrar shall serve on a person who applies for his name to be re-entered in the Register under this paragraph written notice of the decision on his application within the prescribed period after the date of the decision.
- (4) The Board may require a person whose name is re-entered in the Register under this paragraph to pay a fee of such amount, not exceeding the fee then payable by an applicant for registration in pursuance of section 6 of the 1931 Act, as may be prescribed.
- 29 A person may appeal under section 9 of the 1931 Act against—
- (a) the removal of his name from the Register before the appointed day, or
  - (b) a determination of the Council before the appointed day that he be disqualified for registration during any period,
- within three months from the date on which notice of the removal or determination was served on him.
- 30 Section 1A(6)(b) of the 1938 Act shall have effect as if it included a reference to a period of disqualification imposed by the Council.

*Offence of practising while not registered*

- 31 The amendments made in sections 1 and 3 of the 1938 Act and section 17 of the 1931 Act by section 123(1), (3) and (4) of this Act do not apply in relation to an offence committed before the appointed day.
- 32 The repeal made in section 3 of the 1938 Act by section 123(2) of this Act applies in relation to an offence committed before the appointed day (as well as in relation to one committed on or after that day).

*Transfer of Fund*

- 33 If the transfer of the assets of the Fund takes place after the appointed day, the repeal by this Act of sections 1(1) and (4) to (6), 3 and 4 of the 1969 Act shall not come into force until the transfer is made; and during the period beginning with the appointed day and ending with the transfer references in those provisions to the Council shall have effect as references to the Board.

*Supplementary*

- 34 (1) In this Part of this Schedule—
- (a) “the Board” means the Architects Registration Board, and
  - (b) other expressions used in the 1931 Act have the same meanings as in that Act.
- (2) In this Part of this Schedule “appointed day” means the day appointed by the Secretary of State for the coming into force of this Part of this Act.
- 35 Nothing in this Schedule prejudices the operation of section 16 or 17 (effect of repeals) of the Interpretation Act 1978.