



# Housing Grants, Construction and Regeneration Act 1996

## 1996 CHAPTER 53

### PART III

#### ARCHITECTS

VALID FROM 01/04/1997

#### *The Architects Registration Board*

#### **118 The Board and its committees.**

- (1) The Architects' Registration Council of the United Kingdom established under the <sup>M1</sup>Architects (Registration) Act 1931 ("the 1931 Act") shall be known as the Architects Registration Board.
- (2) The Board of Architectural Education, the Admission Committee and the Discipline Committee constituted under the 1931 Act are abolished.
- (3) In section 3 of the 1931 Act (constitution and functions of Architects' Registration Council), after subsection (2) insert—
  - “(2A) Part I of the First Schedule to this Act makes provision about the constitution and proceedings of the Board.
  - (2B) There shall be a Professional Conduct Committee of the Board and Part II of that Schedule makes provision about its constitution and proceedings.
  - (2C) Part III of that Schedule gives to the Board power to establish other committees and makes provision about their constitution and proceedings.
  - (2D) Part IV of that Schedule makes general provision about the Board and its committees.”.

*Status: Point in time view as at 01/10/1996. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Housing Grants, Construction and Regeneration Act 1996, Part III. (See end of Document for details)*

- (4) For the First Schedule to the 1931 Act (constitution of Council) substitute the Schedule set out in Part I of Schedule 2.

#### Marginal Citations

M1 1931 c. 33.

### 119 Registrar and staff.

For section 4 of the 1931 Act substitute—

#### “4 The Registrar.

- (1) The Board shall appoint a person to be known as the Registrar of Architects.
- (2) The Board shall determine the period for which, and the terms on which, the Registrar is appointed.
- (3) The Registrar shall have the functions provided by or by virtue of this Act and any other functions which the Board directs.
- (4) The Board may, in addition to paying to the Registrar a salary or fees—
  - (a) pay pensions to or in respect of him or make contributions to the payment of such pensions; and
  - (b) pay him allowances, expenses and gratuities.

#### 4A Staff.

- (1) The Board may appoint staff.
- (2) The Board shall determine the period for which, and the terms on which, its staff are appointed.
- (3) Staff appointed by the Board shall have the duties which the Board directs.
- (4) The Board may, in addition to paying salaries to its staff—
  - (a) pay pensions to or in respect of them or make contributions to the payment of such pensions; and
  - (b) pay them allowances, expenses and gratuities.”.

VALID FROM 01/04/1997

### *Registration and discipline*

### 120 Registration.

- (1) Before section 6 of the 1931 Act insert—

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#### “5A The Register.

- (1) The Registrar shall maintain the Register of Architects in which there shall be entered the name of every person entitled to be registered under this Act.
- (2) The Register shall show the regular business address of each registered person.
- (3) The Registrar shall make any necessary alterations to the Register and, in particular, shall remove from the Register the name of any registered person who has died or has applied in the prescribed manner requesting the removal of his name.
- (4) The Board shall publish annually the current version of the Register and a copy of the most recently published version of the Register shall be provided to any person who requests one on payment of a reasonable charge determined by the Board.
- (5) A copy of the Register purporting to be published by the Board shall be evidence (and, in Scotland, sufficient evidence) of any matter mentioned in it.
- (6) A certificate purporting to be signed by the Registrar which states that a person—
  - (a) is registered;
  - (b) is not registered;
  - (c) was registered on a specified date or during a specified period;
  - (d) was not registered on a specified date or during a specified period; or
  - (e) has never been registered,shall be evidence (and, in Scotland, sufficient evidence) of any matter stated.”.

- (2) For section 6 of the 1931 Act substitute—

#### “6 Entitlement to registration.

- (1) A person who has applied to the Registrar in the prescribed manner for registration in pursuance of this section is entitled to be registered if—
  - (a) he holds such qualifications and has gained such practical experience as may be prescribed; or
  - (b) he has a standard of competence which, in the opinion of the Board, is equivalent to that demonstrated by satisfying paragraph (a).
- (2) The Board may require a person who applies for registration on the ground that he satisfies subsection (1)(b) to pass a prescribed examination in architecture.
- (3) Before prescribing—
  - (a) qualifications or practical experience for the purposes of subsection (1)(a); or
  - (b) any examination for the purposes of subsection (2),

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the Board shall consult the bodies representative of architects which are incorporated by royal charter and such other professional and educational bodies as it thinks appropriate.

- (4) The Board may require—
- (a) an applicant for registration in pursuance of this section; and
  - (b) a candidate for any examination under subsection (2),
- to pay a fee of a prescribed amount.
- (5) 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.
- (6) Where a person has duly applied for registration in pursuance of this section—
- (a) if the Registrar is satisfied that the person is entitled to be registered, he shall enter his name in the Register; but
  - (b) if the Registrar is not so satisfied, he shall refer the application to the Board.
- (7) The Registrar shall not consider an application for registration in pursuance of this section in any case in which it is inappropriate for him to do so (for instance because he is in any way connected with the applicant) but in such a case he shall refer the application to the Board.
- (8) Where a person’s application is referred to the Board under subsection (6) or (7), the Board shall direct the Registrar to enter the person’s name in the Register if the Board is satisfied that the person is entitled to be registered.
- (9) The Registrar shall serve on an applicant for registration in pursuance of this section written notice of the decision on his application—
- (a) where the application is made on the ground that he satisfies subsection (1)(a), within three months of his application being duly made; and
  - (b) where the application is made on the ground that he satisfies subsection (1)(b), within six months of his application being duly made.”.

(3) After section 6A of the 1931 Act insert—

**“6B Retention of name in Register.**

- (1) The Board may require a registered person to pay a fee (in this section referred to as a “retention fee”) of a prescribed amount if he wishes his name to be retained in the Register in any calendar year after that in which it was entered.
- (2) Where, after the Registrar has sent a registered person who is liable to pay a retention fee a written demand for the payment of the fee, the person fails to pay the fee within the prescribed period, the Registrar may remove the person’s name from the Register.
- (3) Where a person whose name has been removed from the Register under subsection (2) pays the retention fee, together with any further prescribed

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fee, before the end of the calendar year for which the retention fee is payable or such longer period as the Board may allow—

- (a) his name shall be re-entered in the Register (without his having to make an application under section 6 or 6A); and
- (b) if the Board so directs, it shall be treated as having been re-entered on the date on which it was removed.

### **6C Registration: additional requirements.**

- (1) Where the Board is not satisfied that a person who—
  - (a) applies for registration in pursuance of section 6 or 6A;
  - (b) wishes his name to be retained or re-entered in the Register under section 6B; or
  - (c) applies for his name to be re-entered in the Register under section 7ZD,

has gained such recent practical experience as rules made by the Board require a person to have gained before he is entitled to have his name entered, retained or re-entered in the Register, his name shall not be so entered or re-entered, or shall be removed, unless he satisfies the Board of his competence to practise.

- (2) Where the Board decides that the name of a person to whom paragraph (b) of subsection (1) applies is by virtue of that subsection to be removed from, or not to be re-entered in, the Register, the Registrar shall serve on him written notice of the decision within the prescribed period after the date of the decision.”.

## **121 Discipline.**

For section 7 of the 1931 Act substitute—

### **“7 Unacceptable professional conduct and serious professional incompetence.**

- (1) Where an allegation is made that a registered person is guilty of—
  - (a) unacceptable professional conduct (that is, conduct which falls short of the standard required of a registered person); or
  - (b) serious professional incompetence,
 or it appears to the Registrar that a registered person may be so guilty, the case shall be investigated by persons appointed in accordance with rules made by the Board.
- (2) Where persons investigating a case under subsection (1) find that a registered person has a case to answer they shall report their finding to the Professional Conduct Committee.
- (3) Where the Professional Conduct Committee receives a report under subsection (2) in relation to a registered person, the Committee shall consider whether he is guilty of unacceptable professional conduct or serious professional incompetence.

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- (4) Before considering whether a registered person is guilty of unacceptable professional conduct or serious professional incompetence the Professional Conduct Committee shall—
  - (a) serve on him written notice outlining the case against him; and
  - (b) give him the opportunity to appear before the Committee to argue his case.
- (5) At any such hearing the registered person is entitled to be legally represented.
- (6) The Board may make rules as to the procedure to be followed by the Professional Conduct Committee in any proceedings under this section.
- (7) If the Board does not make rules for the appointment of persons to investigate whether registered persons have been guilty of unacceptable professional conduct or serious professional incompetence, the Professional Conduct Committee shall consider such questions without any prior investigation.

#### **7ZA Disciplinary orders.**

- (1) The Professional Conduct Committee may make a disciplinary order in relation to a registered person if—
  - (a) it is satisfied, after considering his case, that he is guilty of unacceptable professional conduct or serious professional incompetence; or
  - (b) he has been convicted of a criminal offence other than an offence which has no material relevance to his fitness to practise as an architect.
- (2) In this Act “disciplinary order” means—
  - (a) a reprimand;
  - (b) a penalty order;
  - (c) a suspension order; or
  - (d) an erasure order.
- (3) Where the Professional Conduct Committee makes a disciplinary order in relation to a person, the Registrar shall serve written notice of the order on the person as soon as is reasonably practicable.
- (4) The Professional Conduct Committee shall, at appropriate intervals and in such manner as it considers appropriate, publish—
  - (a) the names of persons whom it has found guilty of unacceptable professional conduct or serious professional incompetence or in relation to whom it has made a disciplinary order under subsection (1)(b); and
  - (b) in the case of each person a description of the conduct, incompetence or offence concerned and the nature of any disciplinary order made.
- (5) Where, after considering the case of a registered person, the Professional Conduct Committee is not satisfied that he is guilty of unacceptable professional conduct or serious professional incompetence, it shall, if he

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so requests, publish a statement of that fact in such manner as it considers appropriate.

#### **7ZB Penalty orders.**

- (1) Where a penalty order is made in relation to a registered person, he shall pay to the Board the sum specified in the order.
- (2) A penalty order may not specify a sum exceeding the amount which, at the relevant time, is the amount specified as level 4 on the standard scale of fines for summary offences.

In this subsection “the relevant time” means—

- (a) in a case within subsection (1)(a) of section 7ZA, the time of the conduct or incompetence of which the registered person is found guilty; and
  - (b) in a case within subsection (1)(b) of that section, the time when he committed the criminal offence of which he has been convicted.
- (3) A penalty order shall specify the period within which the sum specified in it is to be paid.
  - (4) If the person in relation to whom a penalty order is made does not pay the sum specified in the order within the period so specified, the Professional Conduct Committee may make a suspension order or an erasure order in relation to him.
  - (5) The Board shall pay into the Consolidated Fund any sum paid under a penalty order.

#### **7ZC Suspension orders.**

Where a suspension order is made in relation to a registered person, the Registrar shall remove his name from the Register but shall re-enter it in the Register at the end of such period not exceeding two years as is specified in the order.

#### **7ZD Erasure orders.**

- (1) Where an erasure order is made in relation to a registered person, the Registrar shall remove his name from the Register and it shall not be re-entered in the Register unless the Board so directs.
- (2) No application shall be made for the name of a person in relation to whom an erasure order has been made to be re-entered in the Register—
  - (a) before the end of the period of two years beginning with the date of the erasure order or such longer period specified in the erasure order as the Professional Conduct Committee considers appropriate in a particular case; or
  - (b) where he has made a previous application for his name to be re-entered in the Register, before the end of the prescribed period beginning with the date of the decision of the Board on that application.

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- (3) The Registrar shall serve on a person who applies for his name to be re-entered in the Register under this section 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 section to pay a fee of a prescribed amount.”.

## **122 Code of practice.**

After section 7ZD of the 1931 Act insert—

### **“7ZE Code of practice.**

- (1) The Board shall issue a code laying down standards of professional conduct and practice expected of registered persons.
- (2) The Board shall keep the code under review and vary its provisions whenever it considers it appropriate to do so.
- (3) Before issuing or varying the code, the Board shall—
  - (a) consult such professional bodies and such other persons with an interest in architecture as it considers appropriate; and
  - (b) publish in such manner as it considers appropriate notice that it proposes to issue or vary the code, stating where copies of the proposals can be obtained.
- (4) Failure by a registered person to comply with the provisions of the code—
  - (a) shall not be taken of itself to constitute unacceptable professional conduct or serious professional incompetence on his part; but
  - (b) shall be taken into account in any proceedings against him under section 7.
- (5) The Board shall provide a copy of the code to any person who requests one on payment of a reasonable charge determined by the Board (and may provide a copy free of charge whenever it considers appropriate).”.

## *Miscellaneous*

VALID FROM 01/04/1997

## **123 Offence of practising while not registered.**

- (1) In section 1 (prohibition on practising or carrying on business under title of architect by person who is not registered) of the <sup>M2</sup>Architects Registration Act 1938 (“the 1938 Act”), after subsection (1) insert—

“(1A) In this Act (and in section 17 of the principal Act) “business” includes any undertaking which is carried on for gain or reward or in the course of which services are provided otherwise than free of charge.”.



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(2) In section 3 of the 1938 Act (offence of practising while not registered), for the words from “to a fine” to “therefor:” substitute “ to a fine not exceeding level 4 on the standard scale: ”.

(3) Re-number that section as subsection (1) of that section and after that subsection as so renumbered insert—

“(2) In relation to an offence under subsection (1)—

- (a) section 127(1) of the <sup>M3</sup>Magistrates’ Courts Act 1980 (information to be laid within six months of offence);
- (b) Article 19(1) of the <sup>M4</sup>Magistrates’ Courts (Northern Ireland) Order 1981 (complaint to be made within that time); and
- (c) section 136(1) of the <sup>M5</sup>Criminal Procedure (Scotland) Act 1995 (proceedings to be commenced within that time),

shall have effect as if for the references in them to six months there were substituted references to two years.”.

(4) Re-number section 17 of the 1931 Act (defence for certain bodies corporate, firms and partnerships) as subsection (1) of that section and after that subsection as so renumbered insert—

“(2) The Board may by rules provide that subsection (1) shall not apply in relation to a body corporate, firm or partnership unless it has provided to the Board such information necessary for determining whether that subsection applies as may be prescribed.”.

#### Marginal Citations

**M2** 1938 c. 54.

**M3** 1980 c. 43.

**M4** S.I. 1981/1675 (N.I. 26).

**M5** 1995 c. 46.

VALID FROM 01/04/1997

#### 124 The Education Fund.

(1) No fees received under the 1931 Act shall be credited to the Architects’ Registration Council Education Fund (“the Fund”) constituted under the <sup>M6</sup>Architects Registration (Amendment) Act 1969 (“the 1969 Act”).

(2) The Board may transfer the assets of the Fund to such person and on such terms as may be approved by the Secretary of State.

(3) A person to whom the assets of the Fund are transferred under subsection (2) shall apply the assets, and all income arising from the assets, for the purposes authorised in subsection (4) of section 1 of the 1969 Act (assuming for this purpose that the reference in that subsection to the Council were a reference to the person to whom the assets of the Fund are transferred).

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#### Marginal Citations

**M6** 1969 c. 42.

### 125 Supplementary.

- (1) The amendments made by Part II of Schedule 2, and the transitional provisions and savings in Part III of that Schedule, shall have effect.
- (2) In this Part—
  - “the 1931 Act” means the <sup>M7</sup>Architects (Registration) Act 1931,
  - “the 1938 Act” means the <sup>M8</sup>Architects Registration Act 1938, and
  - “the 1969 Act” means the Architects Registration (Amendment) Act 1969.
- (3) In this Part “the Fund” means the Architects’ Registration Council Education Fund.
- (4) The 1931 Act, the 1938 Act and this Part may be cited together as the Architects Acts 1931 to 1996.

#### Commencement Information

**II** S. 125 wholly in force; s. 125 not in force at Royal Assent see s. 150; s. 125 in force for certain purposes at 1.10.1996 by S.I. 1996/2352, art. 2(3); s. 125 in force insofar as not already in force at 1.4.1997 by S.I. 1996/2842, art. 4

#### Marginal Citations

**M7** 1931 c. 33.

**M8** 1938 c. 54.

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