

EXPLANATORY MEMORANDUM TO
THE ARCHITECTS (FEES, ELECTRONIC COMMUNICATIONS AND
MISCELLANEOUS AMENDMENTS) REGULATIONS 2022

2022 No. 1388

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 The Architects (Fees, Electronic Communications and Miscellaneous Amendments) Regulations 2022 will amend the Architects Act 1997 (“the Act”) to enable the regulator, the Architects Registration Board (ARB), to communicate with its applicants and registrants via electronic communication and allow the Board to determine the membership of its committees. This instrument will also enable the ARB to charge a fee for certain services. Finally, it will amend the Architects Act 1997 (Amendment) (EU Exit) Regulations 2019 to fully implement the UK-Switzerland Citizens’ Rights Agreement 2018 into UK law.
- 2.2 These amendments are aimed at improving the operation of the ARB to provide value to their registrants and allow it to keep up with advances in technology. The fees provision will ensure that only those who utilise the services outlined in this instrument will have to pay for them, avoiding an increase in the annual retention fee charged to architects on the ARB Register due to the provision of these services. The amendment to committee membership requirements gives the ARB greater flexibility to use its expertise to determine the appropriate membership of each committee.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is United Kingdom.
- 4.2 The territorial application of this instrument is United Kingdom.

5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State for Housing at the Department for Levelling Up, Housing and Communities, Lee Rowley has made the following statement regarding Human Rights:

“In my view the provisions of the Architects (Fees, Electronic Communications and Miscellaneous Amendments) Regulations 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Since the Architects Act came into force in 1997, there have been technological advances and significant other developments which have meant that the ARB has had to adapt to changes in the context within which it operates. This instrument will enable the ARB to adapt to those changes.

7. Policy background

What is being done and why?

- 7.1 This instrument will improve the operational function of the ARB. Under current legislation the ARB must carry out much of its communication by post. The amendments in this instrument will make electronic communication possible, where the recipient has agreed to the method of electronic communication proposed by the ARB.
- 7.2 The instrument also allows the ARB to charge fees for certain activities. The UK's exit from the EU has meant changes to the way the ARB operates and some of these changes have led to an increase in the operational cost of the ARB. The fees provision in this instrument aims to protect registrants against a spike in the annual retention fee whilst allowing the ARB to offer new and improved services.
- 7.3 The instrument also removes the requirement that where the ARB establishes a committee, the majority of the members of the new committee must be members of the Board. This will give the ARB greater flexibility in determining the membership of its committees including its prescriptions committee which will make decisions on the ARB's approach to foreign architectural qualifications.
- 7.4 Lastly the instrument amends the Architects Act 1997 (Amendment) (EU Exit) Regulations 2019 to fully implement article 32 of the Swiss Citizens Rights Agreement which provides for the ongoing recognition of professional qualifications until four years after Implementation Period completion day.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union. This is because it makes amendments to the Architects Act 1997 (Amendment) (EU Exit) Regulations 2019, which implement provisions of the Switzerland Citizens' Rights Agreement.

9. Consolidation

- 9.1 This instrument does not make any consolidation of other documents.

10. Consultation outcome

- 10.1 The Department conducted a public consultation on proposed amendments to the Architects Act 1997 between 4 November 2020 and 22 January 2021. The consultation sought views from the general public on amendments to create a new system for the recognition of international architects. The consultation received 404 responses from individuals and organisations. The Government's response to the consultation was published on 8 June 2021 and can be found on gov.uk. 49% of respondents agreed with the proposals for the ARB to be granted a power to charge

fees for its services and the majority of respondents preferred that the chargeable services were listed in legislation.

- 10.2 The Department has consulted with Devolved Administrations and professional bodies in all four nations who support the legislative changes proposed by this instrument.
- 10.3 The Department conducted informal stakeholder engagement with the ARB throughout its policy development and continues to be in regular contact with the regulator. The Department also formally consulted the ARB Board and presented the proposals at the ARB Board meeting in May 2022. The ARB and its Board support the proposals in this instrument.

11. Guidance

- 11.1 Communication of operational changes resulting from this instrument will go out from the ARB. Further Government guidance is not required.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because no significant impact on the private, voluntary or public sector is foreseen. The forecasted net present social value to business is -£6,254,980 over 10 years and the forecasted equivalised annual net cost to business is £726,674. The Department has assessed the business impact in compliance with the Better Regulation Framework and determined costs to be below the de minimis threshold.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses, as we do not expect small businesses to be disproportionately impacted.
- 13.3 The basis for the final decision on what action to take to assist small businesses was taken because of the low anticipated impact on small businesses. The fees in this instrument largely do not apply to small businesses, with the exception of the adaptation fee should a small business choose to sponsor an international architect. Please refer to the Architects Act 1997 (Amendment) Regulations 2022 explanatory memorandum for analysis of this cost.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is through the Department's established relationship with its Arms' Length Body and regulator, the Architects Registration Board.
- 14.2 The instrument does not include a statutory review clause as the provisions in this instrument do not seek to regulate business and the instrument will not have a significant annualised net impact on business. In addition, the provisions under this instrument will be monitored as part of the Department's usual sponsorship relationship with the ARB. The ARB will report on its activities in its annual report to Parliament.

15. Contact

- 15.1 Debora Brobbey at the Department for Levelling Up, Housing and Communities email: Debora.Brobbey@levellingup.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Camilla Sheldon, Deputy Director at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Parliamentary Under Secretary of State Lee Rowley at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard