



Board Meeting 27 January
2020
Agenda Item 7

Subject Adjustments to ARB's General Rules – Appointment of a Temporary Board Chair/General Housekeeping Adjustments and No Deal EU Exit Adjustments
Purpose For Decision
From Head of Qualifications & Governance

If you have any enquiries on this paper, please contact Emma Matthews at emmam@arb.org.uk or on 020 7580 5861

1. Summary

To consider and agree additions and adjustments to the General Rules to allow the Board to deal with the temporary appointment of Board chair should it be needed, to address any areas that need updating, e.g., references to Schedule 1, and to address any outstanding areas requiring an update so that the Rules fully align with the requirements of the revised Architects Act 1997 which became effective on 7 January 2019.

To consider and agree the additions and adjustments to the General Rules that need to be made in the event that the UK leaves the EU with, or without, a deal in order that the Rules align to the revised legislation that becomes effective after Exit Day.

2. Recommendations

It is recommended that the Board:

- i. notes that no consultation responses were received and approves the additions to the General Rules as set out in **Annex A**.
- ii. approves the addition of sections **11.4 to 11.9** of **Annex A** which set out the proposed new rules in relation to the appointment of a temporary Board Chair, and agrees that these should become effective immediately, i.e., on 27 January 2020; and
- iii. approves the changes and additions to **sections 1, 3.3, 6.2, 17.5 and the section relating to Schedule 1** of **Annex A** which set out general updates to the Rules, and agrees that these should become effective immediately, i.e., on 27 January 2020.

It is recommended that the Board:

- vi. in the event that the UK leaves the EU without a deal and the revised 'no deal' version of the Architects Act 1997 comes into effect on 1 February 2020, approves the adjustments and additions set out in **sections 2.1, 2.2, 9.1 and 21.1** of **Annex A** which need to be made in order to ensure that Rules continue to align with the revised Act, and agrees that these should become effective with effect from 1 February 2020; or

- v. in the event that the UK leaves the EU and moves into the implementation period, approves the adjustments set out in **section 9.1** of **Annex A** which need to be made in order to enable ARB to continue to operate effectively after 31 January 2020, and agrees that these should become effective with effect from 1 February 2020. [Note: if the UK moves into the implementation period, the adjustments set out in sections 2.1, 2.2, and 21.1, will not be required.]

It is recommended that the Board:

- vi. agrees that the Executive should prepare and publish an updated version of the General Rules in accordance with the Board's decisions as soon as possible after 31 January 2020.

3. Open Session

4. Contribution to the Board's Purpose and Objectives

The updating of the General Rules to reflect the recent changes to the Architects Act 1997 will enable ARB to continue the delivery of its strategic aims and fulfil its requirements under the Act.

5. Key Points

- i. Under Section 23(1) of the Architects Act 1997, the Board may make rules generally for carrying out or facilitating the purposes of this Act. The Board has established a set of General Rules for this purpose.

Appointment of a Temporary Board Chair

On 7 January 2019, a revised version of the Architects Act 1997 came into force which made changes to the Act in relation to the constitution of the Board and the Professional Conduct Committee.

Schedule 1 of the Act states that:

'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.

Chair

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.'

The Board has already made adjustments to the General Rules so that it may appoint a Board member on a temporary basis in prescribed circumstances. The Board may also however make provisions for the temporary appointment of a chair in circumstances which it sets down in its rules under the legislation. In line with good governance practice, it would be prudent to make such rules in the event that the Board finds itself in a position whereby it needs to make a temporary appointment and so that the Rules are in complete alignment with the Architects Act 1997.

Sections **11.4 to 11.9** of **Annex A** set out the proposed new rules in this area.

General Updates

In September, the Board noted that we will be undertaking a further review of the General Rules in their entirety to ensure that the rules remain aligned with the revised Architects Act 1997.

In order to ensure that the Rules continue to be effective and facilitate the organisation's ability to fulfil its statutory responsibilities efficiently, we are proposing that the changes and additions highlighted in **sections 1, 3.3, 6.2, 17.5 and the section relating to Schedule 1** of **Annex A** are made to the Rules.

EU Exit - Contingency Planning

The Board will be aware that a revised version of the Act will become effective if the UK leaves the EU without a deal. In the event this scenario materialises, we will need to make some minor adjustments to the General Rules as a result so that they would continue to align with the Act. It would be prudent to make such adjustments as soon after Exit Day as possible. As a result, we are recommending that the adjustments and additions outlined in **sections 2.1, 2.2, 9.1 and 21.1** of **Annex A** are considered and consulted upon at the same time as the changes outlined above. If they are not needed they will not be used, resulting in the relevant sections remaining unchanged. However, the UK does leave the EU without a deal the Board can agree to implement them expediently after Exit Day.

Note: the proposed adjustment to section 9.1 will be necessary on EU exit day, regardless of whether the UK reaches a deal with the EU or not.

All Other Adjustments

All other adjustments relate to the renumbering and formatting of the Rules.

- ii. The Board is asked to note that when it is establishing or updating its Rules, the Architects Act 1997 requires that a revised draft of the General Rules is published to provide the opportunity for representations to be made. The Act does not specify the method of publication nor the length of time any proposed updates should remain available when published. The Board may therefore determine this in line with its [Code of Practice for Consultations](#).

The Board agreed at its meeting on 9 December 2019 to make the draft of the revised General Rules, which included all of the proposed adjustments referred to above, available on its website for a period of five weeks to allow interested parties to provide representations regarding the proposed adjustments. The details were made available on ARB's website on 16 December 2019 and the consultation period closed on 23 January 2020. We alerted interested parties to the consultation through our social media channels and our Ebulletin.

No consultation responses were received.

- iii. As noted above, **Annex A** tracks all the proposed changes to the Rules.

The UK is currently scheduled to leave the EU on 31 January 2020. At the time of drafting this paper, it is unknown whether the UK will leave with or without a deal.

The Board is therefore asked to note that the proposed changes to **sections 2.1, 2.2 and 21.1** of the Rules will only be made, subject to the Board's approval, if the UK leaves the EU without a deal. The proposed change outlined in section 9.1 will be made, subject to the Board's approval, on Exit Day regardless of whether the UK leaves the EU with or without a deal.

Subject to the Board's approval, all other changes will become affective from 27 January 2020.

The Executive proposes to prepare and publish a clean copy of the agreed Rules in line with the Board's decisions.

6. Resource implications

The changes will incur very few additional costs. Adjustments to the website version of the General Rules will need to be made. We no longer print hard copies of the General Rules and therefore no printed versions require adjustment.

7. Risk Implications

It is imperative that the Board's General Rules align with the relevant legislation. Any lack of alignment could cause issues in terms of ARB's ability to deliver its statutory functions and lead to poor governance arrangements. Updating the Rules will ensure that the organisation and the Board can continue to operate under the Act.

8. Communication

The Board is making some additions and adjustments to its General Rules in order to comply with the provisions in Schedule 1 of the Architects Act 1997; to ensure that the Rules will enable the ARB to continue to operate further to the UK's exit from the EU; and to ensure that the Rules are up to date. The Board issued a draft of the revised General Rules for a period of five weeks to allow any interested parties to provide any representations they wish to make. The details were made available on ARB's website. We also publicised the consultation via ARB's E-bulletin and social media channels. Once we have had time to consider and analyse the website statistics in relation to the consultation (which closed on 23 January 2020) we will provide further details to the Board.

9. Equality and Diversity Implications

Equality and diversity implications would need to be taken into consideration as part of any temporary appointment process.

10. Further Actions

The Executive will make adjustments to the General Rules in line with the Board's decisions and publish them on the ARB website as soon as possible after 31 January 2020.