



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

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1. Summary

To consider adding to and adjusting 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 the additions and adjustments that would need to be made in the event that the UK leaves the EU without a deal in order that the Rules would align to the revised legislation that becomes effective on Exit Day.

To agree to publish a draft of the amended and additional Rules on ARB's website for a period of five weeks to allow any interested parties the opportunity of providing any representations they wish to in relation to the changes.

To note that the details of any representations will be brought back to the Board for consideration at its meeting of 27 January 2020, when the Board will be asked to finalise a revised version of its Rules.

2. Recommendations

It is recommended that the Board:

- i. Agrees the additions and adjustments which need to be made to the General Rules as set out in **Annex A**;
- ii. Agrees to publish the additional Rules on ARB's website for a period of five weeks to allow any interested parties the opportunity of providing any representations they wish to make in relation to the changes at the first appropriate opportunity following the election period;
- iii. Notes that the details of any representations will be brought back to the Board for consideration at its meeting of 27 January 2020, when the Board will be asked to finalise a revised version of its Rules. The amendments and additions to the Rules would then become effective immediately, with the exception of the changes associated with the UK leaving the EU/leaving the EU without a deal. The relevant adjustments set out in Annex A would only become effective on Exit Day in this

scenario. If they are not required, these changes, particularly those relating to a no deal scenario, will not be made.

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 is asked to note that a General Election is taking place on 12 December 2019 and we will still be within the 'election period' (purdah) at the time of the Board meeting. In line with Government advice and as a result we believe it would be prudent to issue the consultation once the election period has ceased. All being well, we should be in a position to issue the consultation in the week commencing 16 December 2019. If for any reason we are unable to release the consultation at this point due to the continuation of the election period, we will issue it at the first appropriate opportunity once the period ceases.

It is recommended that the Board agrees to make the draft of the revised General Rules available on its website for a period of five weeks. We will alert people to the consultation through our consultation list, social media channels and our Ebulletin. The details of any representations received will then be brought back to the Board for consideration at its meeting of 27 January 2020. Subject to the Board's agreement, the revised Rules would then become effective on the date of approval, with the exception of the adjustments which would be needed in the event of the UK leaving the EU without a deal, which would only become effective on Exit Day if this were to materialise.

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, and being ready to update the Rules in the event of a no deal EU exit occurring, will ensure that the organisation and the Board can continue to operate under the Act.

At the time the Board considers the proposed adjustments to the Rules, we will still be subject to the Government's advice in relation to the election period. In order to avoid any ambiguity and any contravention of the guidance, we are proposing to issue the consultation once the election period has ceased.

We have made a series of adjustments to the General Rules in 2019 in order to accommodate changes in the Board's governance arrangements and changes which were made to the Act. Whilst it has been necessary to make these changes and circumstances have meant that we have had to do this in a piecemeal way, it would be prudent to keep any further changes in the short term to a minimum in order to let the revised governance arrangements bed in. Continued adjustments are not deemed to be good practice and there

is a risk of reputational damage if ARB is seen to be continuously making adjustments to its governance arrangements.

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. It is additionally proposing some adjustments so that the organisation can continue to operate in the event of a no deal exit from the EU. (If the latter adjustments are not required, they will not be taken forward). The Board will issue 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 will be made available on ARB's website. We will also publicise the consultation via ARB's E-bulletin and social media channels. Any representations will be taken into consideration by the Board at its meeting of 27 January 2020 before it makes any adjustments to the rules.

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

If the Board agrees the recommendations set out in section 2 of this paper, a consultation will be undertaken and the details published on the ARB website for a period of five weeks, with any representations being brought back to the Board at its meeting on 27 January 2020 so that it can then make its final decision.