EXPLANATORY MEMORANDUM TO

THE ARCHITECTS ACT 1997 (AMENDMENT) REGULATIONS 2022

2022 No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

2.1 The purpose of the Architects Act 1997 (Amendment) Regulations 2022 ("this instrument") is to amend the Architects Act 1997 ("the Act") to allow the regulator, the Architects Registration Board (ARB), to enter into agreements with overseas regulators. This instrument will also remove the remaining provisions which continue alignment to the EU's Mutual Recognition of Professional Qualifications ("MRPQ") Directive.

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 the 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 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 Act 1997 (Amendment) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 In order to comply with our EU law obligations on the mutual recognition of professional qualifications, the Act contained provisions that provided for the automatic recognition of European architectural qualifications. The Architects Act 1997 (Amendment) (EU Exit) Regulations 2019 (the 2019 Regulations) ensured that European architectural qualifications were still recognised after the UK formally left the EU on 31 January 2020. This instrument removes the provisions of the Act that provide for, and support, the automatic recognition of European architectural qualifications.

7. Policy background

What is being done and why?

7.1 The Professional Qualifications Act 2022, was introduced to make provisions relating to the entitlement to practise regulated professions in the UK. This instrument uses the powers provided in the Act to end the automatic recognition of European architectural qualifications and also to enable the ARB to enter into recognition agreements with suitable international counterparts. Following the UK's exit from the EU, UK regulators may agree reciprocal agreements with their counterparts in non-EU countries. The provisions in this instrument will enable the UK to take advantage of global opportunities in the architectural profession.

7.2 The ARB has received interest from regulators in various countries for regulator-led recognition agreements. In response to this, and the UK's exit from the EU, the ARB has developed a set of core principles to guide negotiations with their counterparts. The ARB now stands ready to use the power provided through this instrument to enter into recognition agreements with suitable regulators.

7.3 This instrument is being laid so that the UK can end the automatic recognition of European architectural qualifications and focus on developing agreements for reciprocal recognition of qualifications between the UK and partner jurisdictions. This does not affect EU architects who are already on the ARB's Register. Architects already on the Register will continue to be recognised in the UK.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not trigger the statement requirements under the European Union (Withdrawal) Act.

8.2 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 because it removes the automatic recognition of European architectural qualifications which was initially introduced to comply with our EU law obligations and maintained after the UK left the EU in order to provide continuity for business.

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. Respondents noted that they wanted a process which allowed for reciprocity and were supportive of easier routes for mutual recognition as long as high standards of professional quality were maintained. When asked whether respondents would support the new recognition system for international architects if it was not reciprocal 64% of respondents stated that they would not support the system if it was not reciprocal. The provisions in this instrument will enable the ARB to enter into reciprocal agreements

with their international counterparts which will enable international architects to practise in the UK and UK architects to practise abroad.

10.2 The Department has followed the requirements set out in section 15 and 17 Professional Qualification Act and consulted with Devolved Administrations, the regulator and interested parties. The Devolved Administrations have confirmed their agreement for this SI to be made. The Department also consulted with professional bodies in all four nations who support the legislative changes this instrument is making.

10.3 In accordance with section 17 Professional Qualifications Act, the Secretary of State has published a report on the consultation with a Northern Ireland department.

10.4 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 has 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 An announcement of the key elements of the legislative changes will be published on gov.uk on 14 November 2022. Guidance on how to join the UK architects register is available at arb.org.uk.

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. Only those businesses sponsoring international architects are expected to be impacted by this instrument. Where a business is sponsoring an architect with overseas qualifications from a country with which the ARB has signed an agreement, a cost saving of approximately £5800 is expected for each architect sponsored. There is no data on how many architects are sponsored in the UK the Department has therefore estimated, based on the size of UK architectural practices and the number of annual international architects entering the UK register, that approximately 37 architects may be sponsored per annum. Of these architects the Department expects approximately 33.3% may benefit from international agreements currently being negotiated by the ARB. This would lead to an annual saving of approximately £71,000. Where a business is sponsoring an architect with qualifications from the EU, in the absence of an agreement under the TCA, a new cost of approximately £7300 per application is expected. Based on the number of EU applicants currently entering the UK register this could lead to an annual cost of approximately £750,000. The Department expects the cost to be much lower as the regulator has committed to continuing the recognition of European qualifications operationally for a limited time period to bridge the gap between this instrument coming into force and an agreement under the TCA. The Department has assessed the business impact in compliance with the Better Regulation Framework and determined costs to be below the de minimis threshold.

12.4 An overarching impact assessment for the Professional Qualifications Act 2022 can be found at bills.parliament.uk/Publications/41514/Documents/259.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses, to the extent to which they recruit and sponsor internationally qualified architects.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

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. Although small businesses are free to sponsor international architects, due to their small size they are less likely to have the financial resources available to sponsor international architects. Sponsorship is normally undertaken by large and medium sized firms. Therefore this measure is unlikely to have an impact on small businesses as the measure mainly impacts those businesses sponsoring international architects.

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.