

"Crucially, professional control of the Register was taken away by the government's decision which was realised in the 1996/97 Act. This had not been generally expected by those of the membership who before then had been in favour of continuing protection of the title 'architect'. The significance and effect of the change is now becoming more widely understood."

(ARB Review Task Group Report, Appendix 2 - September 2004)

Introductory

By the 1990s it was almost universally accepted that the time had come to bring the statutory Architects' Registration Council as it then was to an end. Opinion within the profession was divided among those who held that statutory registration should be discontinued altogether and those who held that the registration body should be reconstituted.

In the event the body was reconstituted as the Architects Registration Board (1996/1997 Acts). But it was only after the event that many in the profession came to appreciate the effect of the new requirement that the majority of the Board should be non-architects and appointed by the government.

After nearly a decade of experience of this regime, the profession and others could usefully consider whether the time has indeed come for discontinuance of statutory registration. It can be seen that the regime originating with the 1931 Act served a useful purpose in its day and under very different conditions from the present. But it is not apparent that the ARB regime serves any positively productive purpose which could not be done as well or better by other means, and it must be possible to ask: has the continuation of the Register under the 1997 Act, and the protection of title that goes with it, been merely the final phase of an administrative device that has now outlived its usefulness?

What follows sets out a case for discontinuance of statutory registration. It was available in more or less the same terms in 2004 at the time the RIBA Council's Task Group on ARB was preparing the report quoted above (the Highton Report), and a certain amount of the historical background set out below (including the chronology of key events) was used in an appendix to the Group's Report.

The 1931 Regime

Statutory registration has its origin within the architectural profession in the latter part of the nineteenth century. It was then (as now) a matter of controversy. However, by 1905 the RIBA had established a policy to secure satisfactory training of architects by statutory means.

The basis of the policy (on registration) had always been that the profession was governed by voluntary associations of practising architects and that the profession would retain control of registration. This was reflected in the composition of the registration body (ARCUK) established by the 1931 Act. Shortly after, in the book published on occasion of the Institute's centenary celebration in 1934 (*note 1*), in the concluding paragraphs of the chapter on statutory registration (*note 2*), Harry Barnes F.R.I.B.A., Chairman of the Registration Committee, wrote -

" I do not conceive the purpose of the Registration Act to be that of protecting the Architectural profession. The interests of the Profession are of course legitimate but are best served by the Architectural Associations in which some 80 per cent of those practising architecture are to be found.

The object of the Registration Act is to ensure to the public that the architects they employ possess capacity and character.

Under the purview of the Board of Architectural Education no one will enjoy the title of "Registered Architect" without giving evidence of his capacity, and under that of the Discipline Committee no one will retain the title whose character has been weighed in the balance and found wanting.

The Architects' Registration Council of the United Kingdom can never, therefore, on this view be a rival of any Architectural Association and least of all of the Royal Institute of British Architects.

The Architects' Registration Council stands at the gateway of the realm of Architectural practice, but within that realm the affairs of the Architect are best administered by those voluntary Associations to which he has allied himself and over the actions of which he has complete control."

After more than half a century times have changed and a regime of quite another kind has been installed.

To continue, or not to continue

Under present conditions there are essentially two options respecting registration -

1. Continuance of the Register of Architects under the ARB regime, subject to amendment of the Act to modify the Board's statutory powers.
2. Discontinuance of the Register of Architects by repeal of the Act subject to interim and transitional arrangements, and other measures (such as regarding education and discipline).

The choice between continuance and discontinuance is the fundamental issue. A number of subsidiary issues, including the question of the loss of professional control of the Register have been raised (see Highton Report). But even if the ills they indicate could be remedied, the following analysis indicates that the fundamental issue would remain unresolved.

(1) Protection of the title 'architect'

In relation to statutory protection of title, three aspects of the world in which architects are practising invite examination. In summary -

- The design quality of the built environment: this is essentially a cultural concern which was and remains one of the principal reasons for the formation and continuance of the RIBA as a chartered body. It has connotations not only for this country but world wide. It is beyond the ambit of statutory protection of title.
- The technical sufficiency of buildings: the public interest is secured under Building Regulations and other enactments. This too is beyond the statutory protection of the title 'architect'.
- The business of architectural practice: contracts of engagement for professional services are always between a business entity (whether individual, firm, partnership, or company) and the client, and are governed by the general law, including consumer protection legislation where applicable. Protection of the title 'architect' for business entities is of no practical relevance for securing the performance of architectural services.

Can it be maintained in the light of experience since the inception of the Register under the 1931 Act, and more particularly under the ARB regime from 1997, that protection of title serves useful purposes in respect of the aspects indicated above (namely, promoting the quality of the built environment, or securing the technical sufficiency of buildings or the performance of architectural services)? If protection of the title 'architect' were discontinued the adverse effect is likely to be nil.

(2) Due recognition for Chartered Architects

Moreover, there is an anomaly which discontinuance would remove. This is that a person qualified and duly elected as a full chartered member of the RIBA is not permitted to practise using the title 'Architect' or 'Chartered Architect' (*note 3*). In fact, the duality of control over the style 'Chartered Architect', which confers a professional status well recognised by the general public, and the statutory control of the use of the common word 'architect' tends more to confusion than clarity.

Discontinuance would allow a Chartered Architect to practise as such without further registration, and would leave the Institute with its proper responsibility for determining the qualifications recognised for conferring professional status to practise as a Chartered Architect. The Institute exercises this responsibility in furtherance of the objective: "the advancement of Architecture and the promotion of the acquirement of the knowledge of the Arts and Sciences connected therewith" (Charter Article 2.1).

(3) **Registration without statutory protection of title**

If there is a case for maintaining a register of persons qualified as architects without the statutory protection of title what sort of body is best able to prescribe and develop the qualifications? Surely that can only be a body constituted mainly, if not exclusively, of members of the practising profession.

Of course the RIBA has such a register of Chartered Architects. Is there a need for a register for persons who are qualified to become chartered architects but have chosen not to? It should be noted that a certain proportion of persons who are qualified to be chartered architects choose neither to be registered nor join the Institute and yet may be engaged in performing architectural services. In a free economy it must be for the chartered body to make itself sufficiently attractive to maintain its membership and in any event persons who choose not to be chartered members of the RIBA are free to form their own professional association(s) with their own exclusive use of title.

(4) **Registration related to protected function: Building Regulations**

There may be a case for a registration regime in respect of part of the function of building design, namely, for the purpose of the Building Act 1984. Registration could be given to persons specifically qualified, whether in the field of architecture, engineering, or surveying, that is, across all disciplines contributing to the building process; and if that proposal were adopted all the chartered bodies would be expected to collaborate in enabling this to be done. In the 21st century such a thing is likely to be more useful than the Architects Act and a better bargain both for the public at large (*note 4*) and for clients who, as building owners and developers, are required to comply with statutory provisions under the Building Act. Implementation of statutory registration in this field would have the advantage of being able to draw on the existing law as contained in the Building Act 1984 (*note 5*).

NOTES

(as numbered in text)

1. The Growth and Work of the Royal Institute of British Architects edited by J.A.Gotch PPRIBA.
2. In this chapter the author includes an informative account of the history of registration quoting extensively an article published in the RIBA Journal of 8th August 1931 by Charles MacArthur Butler, Secretary of the RIBA Registration Committee and first Registrar to ARCUK.
3. This is especially anomalous when it is considered that (a) full chartered membership of the Institute is conditional on a person passing its examinations (or having obtained qualifications giving exemption from those examinations), and (b) the RIBA's position as the principal body of practising architects in deciding the attributes which are fitting and necessary in an individual who is to be a member of the architects' profession. When registration was controlled by the profession and the RIBA had a dominant influence this anomaly could be satisfactorily explained, but this is no longer the case.
4. e.g. in the saving of some of the resources devoted to Building Control by Local Authorities.

5. See section 17 (approved certifiers) and section 49 (approved inspectors). See also, section 7 of the Scotland (Building) Act 2003.

APPENDIX

Statutory registration - chronology of key events

- 1834 Royal Institute of British Architects granted its Royal Charter.
- 1884 Society of Architects formed, after a campaign by a group of ARIBA to be allowed to vote on RIBA affairs had been resisted by FRIBA.
- 1887 Architects and Engineers Registration Act Committee formed as an independent committee to promote a bill for registration of architects, engineers and surveyors. The bill was withdrawn after chief bodies representing engineers petitioned against it.
- 1889&1891 Architects Registration Bill Committee put forward bills for registration of architects, which were strongly supported by the Society of Architects but opposed by an independent group of prominent architects and artists.
- 1892 Papers published, defining the profession of architecture:
Norman Shaw and T.G.Jackson (eds.) "Architecture, A Profession or an Art".
William H. White "The Architect and his artists, An essay to assist the public in considering the question is architecture a profession or an art".
- 1902 Architects Registration Bill Committee amalgamated with the Society of Architects as a joint Registration Committee.
- 1905 RIBA Education Policy was adopted for statutory powers to secure satisfactory training for architects by way of registration of title, by and through the RIBA.
- 1908 RIBA Licentiate Class formed, for architects who could show evidence of competence, without exams. On closure in 1913, over 2000 had been accepted.
- 1924-1959 RIBA Standing Registration Committee
- 1925 Amalgamation of RIBA and Society of Architects: most of Soc. of Arch. Members transferred to Licentiate class, which was reopened.
- 1927 RIBA Registration Committee has draft bill introduced in Parliament, but opposed by IAAS and FAS.
- 1931 Bill recast and enacted as the Architects (Registration) Act 1931, enabling the Register of Architects to be established under a statutory body called the Architects Registration Council of the United Kingdom (ARCUK). The Council was to be made up of representatives of all architectural bodies in U.K. in proportion to the numbers of their memberships on the Register, and representatives from government departments and related professional bodies. Under ARCUK, the RIBA system of exams etc. was accepted for registration. (The provisions of the Act constituting the Board of Architectural Education were repealed when ARCUK was reconstituted as ARB in 1996/7.)
- 1938 The Architects Registration Act, 1938 changed the protected title from "Registered Architect" to "Architect".

- 1992 Government, in response to a request from ARCUK, commissioned review of the Architects Registration Acts by an independent assessor (John Warne).
- 1993 Warne Report published - principal recommendation: abolition of protection of title 'architect' and disbanding of ARCUK. RIBA Council initially supported this recommendation, but this was resisted by the RIBA membership. As a result RIBA campaigned for the retention of protection of title with a 'stream-lined' registration board.
- 1996 Part III of Housing Grants, Construction and Regeneration Act 1996, among other things, reconstituted the registration body as the Architects Registration Board (ARB).
- 1997 Architects Act 1997, a consolidating act, brought together the provisions of Part III of the 1996 Act and previous registration legislation. The Architects Registration Board then established with a majority of appointed lay members and a minority of elected Architect members.

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(Minor corrections 8 December 2006)