RULES OF THE APPEALS BOARD

Introduction

1.1 The Appeals Board ("the Board") is established pursuant to section 24 of the Building Control Act, 2007 ("the Act"). A person adversely affected by a decision of the Admissions Board, the Technical Assessment Board or the Professional Conduct Committee may appeal to the Board against the decision.

1.2 Section 61 (3) of the Act entitles the Royal Institute of the Architects of Ireland ("the RIAI") to make rules for the various committees and boards provided for under the Act. This document contains the Rules for the time being for the Board. In the event of a conflict between these Rules and the provisions of the Act, the provisions of the Act shall take precedence.

Membership & General

2.1 The Board shall consist of a chairperson and 5 ordinary members, 2 of whom are architects nominated for appointment by the RIAI, and 2 of whom are not Architects and are nominated for appointment by the Minister for the Environment Community and Local Government. The remaining member is also not an Architect and is nominated for appointment by the Minister for the Environment Community and Local Government with the consent of, the Minister for Jobs, Enterprise and Innovation. None of the members shall be a member of any other Board
or Committee established by the Act. The Chairperson of the Board shall be a solicitor, a barrister or a former judge of the Circuit Court, High Court or Supreme Court and be appointed as chairperson by the Minister.

2.2 The term of office of members of the Board shall be for a period of 3 years unless the member dies or resigns during that time. A member shall not serve for more than two consecutive terms of office. Where a member sooner dies or resigns, a casual vacancy arises which may be filled in accordance with section 70(4)(b) of the Act.

2.3 The quorum for meetings of the Board shall be 4 with a majority of those four people being non-architects and this number may include the Chairperson.

2.4 The Board has decided that the meetings will be held in private unless in exceptional circumstances where the Chairperson of the Board has ruled otherwise.

2.5 It shall be compulsory for all members of the Board to declare any conflicts of interest in relation to all matters before the Board. The Chairperson of the Board will consider any such conflict and make a decision as to the member’s future involvement in any particular matter in which there is a conflict. All Board members must comply with the ‘General Provisions’ set down in section 6 of the rules for registration which address conduct of board members, removal of board members and the handling of correspondence.

2.6 Members of the Board shall keep confidential all matters arising in consideration of an appeal, save for matters that are in the public domain or are otherwise lawfully disclosed to them. Members of the board are not permitted to disclose any matters relating to an appeal to any members of the public or media or any other parties save to staff of the
2.7 Neither the Board nor RIAI shall be liable for costs incurred by any party to the appeal in taking legal or other advice on the appeal, or availing of legal or other representation or witnesses for the hearing of the appeal.

2.8 A person adversely affected by a decision of the Admissions Board, the Technical Assessment Board or the Professional Conduct Committee may appeal to the Board against that decision.

2.9 An appeal may be based on either procedural or substantive matters or both.

2.10 In these rules the “decision maker” is whichever of the three bodies; the Admissions Board, the Technical Assessment Board or the Professional Conduct Committee that made the decision which is being appealed.

2.11 An appeal shall be in writing and lodged with the Board within 3 months after the date of the decision being appealed against. The appeal shall specify the decision to which it relates and the grounds upon which it rests.

2.12 A person may in writing, at any time before the appeal is heard, withdraw the appeal in whole or in part by notifying the Board in writing of the withdrawal.

2.13 A witness at a hearing conducted by the Board has the same immunities and privileges as if he or she were a witness before the High Court.

2.14 The Board may require that a legal assessor be present for any hearing.
**Appeals of decisions of the Admissions Board and Technical Assessment Board**

3.1 Rules 3.2 to 3.10 below apply only in the case of an appeal of a decision of the Admissions Board or the Technical Assessment Board.

3.2 When an applicant appeals a decision of the Admission Board or the Technical Assessment Board, the Board will be notified.

3.3 The Board will then hold a preliminary meeting to review the appeal and the application submitted by the Applicant to the Admissions Board or the Technical Assessment Board.

3.4 The Chairperson may then decide if it is deemed appropriate, to issue one or more or all of the following directions with a view to holding a hearing before the Board:

   (a) Direct in writing the appellant to attend before the Board on a date and at a time and place specified in the direction;

   (b) Direct in writing any other person whose evidence the Board may require, to attend before the Board on a date and at a time and place specified in that direction and may direct the person to bring any document in the person’s possession relating to the appeal;

   (c) Request the relevant Board whose decision is being appealed against to produce any documents in its possession relating to the appeal, together with its observations on the appeal;

   (d) Give any other direction for the purpose of the proceedings that appears to the Chairperson to be fair and reasonable.

3.5 At the hearing, the Appellant and or his/her legal representative will present his/her appeal to the Board, together with any submissions he/she may wish to make.
3.6 The Chairperson of the relevant decision maker and or his/her nominee(s) will then have the opportunity to make submissions to the Board.

3.7 The Appellant will then have a right of reply to any submissions made by the Chairperson of the relevant decision maker and or his/her nominee(s) under Rule 3.6.

3.8 Both the Appellant (or his/her legal representative) and the Chairperson of the relevant decision maker (or his/her nominee(s)) will have the right to cross-examine any witnesses who give evidence.

3.9 The Board shall have the right to examine and question the parties to the appeal and any witnesses who give evidence.

3.10 The Board has made provision for the following procedures:

(a) The Appellant and the Chairperson of the Admissions Board or Technical Assessment Board will be notified by post of the date, time, and place of the sitting of the Board;

(b) The Appellant will be advised in writing of his/her right to be present at the Board sitting and to present his/her case in person or at his/her own expense, through a legal representative;

(c) The examination of witnesses will be based on direct examination and cross examination were applicable.

(e) The proceedings will be recorded.
Appeals relating to decisions of the Professional Conduct Committee

4.1 Rules 4.2 to 4.9 below apply only in the case of an appeal of a decision of the Professional Conduct Committee.

4.2 When a person appeals a decision of the Professional Conduct Committee, the Board will be duly notified.

4.3 In advance of hearing the appeal, the Chairperson of the Board may:-

(a) Direct in writing the appellant to attend before the Board on a date, time and place specified in the direction;
(b) Direct in writing any other person whose evidence the Board may require to attend before the Board on a date, time and place specified in the direction and may direct that the person bring any document in the person’s possession relating to the appeal;
(c) Request the Professional Conduct Committee to produce any documents in its possession relating to the appeal together with its observations on the appeal;
(d) Give any other direction for the purpose of the proceedings that appears to the Chairperson to be fair and reasonable.

4.4 The parties to an appeal in this section 4 of the Rules shall be the registered architect (the subject of the complaint which gave rise to the decision of the PCC under appeal) and the Registrar of the RIAI. Whichever of those parties has made the appeal is referred to in this section 4 as “the Appellant” and the other party is referred to as “the Respondent”.

4.5 At the hearing, the Appellant and or his/her legal representative will present his/her appeal to the Board, together with any submissions he/she may wish to make.
4.6 The Respondent (or his / her legal representative) will have the opportunity to make submissions to the Board.

4.7 The Appellant will then have a right of reply to anything said by the Respondent (or his/her legal representative) and the Chairperson of the decision making Committee and or his/her nominee(s).

4.8 Each party will have the right to cross examine any witnesses who give evidence.

4.9 The Board shall have the right to examine and question the parties to the appeal and any witnesses brought by either party or summoned by the Board.

4.10 The Board has made provision for the following procedures:-

(a) The Appellant, the Respondent and the Chairperson of the Professional Conduct Committee will be notified by post of the date, time, and place of the sitting of the Board;

(b) The Appellant and the Respondent will be advised in writing of their right to be present at the Board sitting and to present their case in person or at their own expense, through a legal representative;

(c) The examination of witnesses will be based on direct examination and cross examination where applicable;

(d) Evidence will be taken under oath;

(e) The proceedings will be recorded.
Decision of the Board

5.1 After the conclusion of the hearing the Board may:

(a) confirm the decision of the decision maker subject to any amendment the Board thinks fit,

(b) annul the decision and direct the decision maker to make a new decision or

(c) give such other directions as it thinks appropriate.

5.2 The Chairperson of the Board shall notify:

1. the Appellant in writing sent by prepaid registered post to the appellant’s stated address, of the decision taken on the appeal, the date on which it was made and the reasons for it and shall also advise the appellant of the right to appeal to the High Court against the Appeal’s Board’s decision.

2. the relevant decision maker against whose decision the appeal was made of the decision taken on the appeal, the date on which it was made and the reasons for it;

3. where the appellant was the person who had lodged the complaint with the Professional Conduct Committee under Part 6 of the Act, the registered architect in respect of whom the complaint was made, stating the decision taken on appeal, the date on which it was made and the reasons for it.

5.3 A person adversely affected by a decision of the Board may, within 3 months after the date of such decision, appeal to the High Court against the decision.
**Section 27- other Jurisdiction of the Appeals Board**

6.1 A complaint may be made to the Board under section 27 of the Building Control Act 2007, that the Admissions Board failed to make a decision:

- referred to in section 15(5) within the period specified in that subsection

- or

- referred to in section 16 (11) unless subparagraph (ii) of section 27 (1) (b) applied, the period specified in that subsection or if that the period has been extended under section 16 (12) or if that period has been extended more than once under that subsection (12), the last period of such extension.

The Board, when hearing a complaint of this type shall give the Admissions Board and the Appellant an opportunity to be heard.

6.2 After conclusion of the hearing the Board may, as it thinks appropriate:

1. give a direction to the Admissions Board to make a decision forthwith or

2. make a decision on the application concerned referred to in section 15 or 16 themselves and where they do so they shall notify the Admissions Board and the Appellant of the decision and the right to appeal this decision to the High Court.
Variation of these Rules

7.1 The RIAI on its own initiative or upon request from the Board, and in consultation with them, may vary these rules at any time and in accordance with section 61(3) of the Act.

Dated this 13\textsuperscript{th} day of December 2013