



RIAS | The Royal Incorporation of Architects in Scotland

Aonachadh Rìoghail nan Ailtire ann an Alba

Finance and Constitution Committee
The Scottish Parliament
Edinburgh
EH99 1SP

25th September 2020

By email- Finance.Constitution@parliament.scot

Dear Sirs,

UK INTERNAL MARKET BILL 2020

We note that the Committee has sought evidence in respect of the anticipated impacts of the UK Internal Market Bill 2020.

The RIAS is the professional body for all chartered architects in Scotland. Our membership numbers approximately 5,200, which includes Honorary Fellows, Fellows, Members, Students, Affiliates and Retired Members. We have charitable status and offers a wide range of services and products for architects, students of architecture, construction industry professionals and all those with an interest in the built environment and the design process. It is separate from the Royal Institute of British Architects, but co-ordinates on matters of common interest.

Responsibility for issues such as those currently under discussions falls to our Practice Committee. Other specialist committees and working groups cover areas such as Sustainability, Planning, Procurement, and Construction Contracts. The committee regularly consults with stakeholders such as the Scottish Government's Building Standards Division (BSD), LABSS, and other professional bodies.

The White Paper

The RIAS wishes to highlight the following items as a precursor to comments on the Bill.

- The RIAS consider that identification of the building regulations as a barrier to trade in paragraphs 16 and 17 of the July White Paper is misleading. Scotland has always had a distinct regulatory framework. There is no evidence which we are aware of supporting the proposition that the different standards so arising have discriminated directly or indirectly against those operating across the different jurisdictions within the UK.
- We likewise do not accept that there is, or is likely to be, a cumulative impact across the construction sector as set out in paragraph 21 of the White Paper. The basis of the calculation set out at Figure 22 is opaque and has not been the subject of wider review within the profession.
- The RIAS concur with the Part 2 of the Paper generally regarding mutual recognition of professional qualifications based on the compatibility of qualifications. Architecture is regulated at UK level already under the terms of the Architects Act 1997. We consider such baseline recognition to be essential to a free market for professional services across the UK.

PRESIDENT Christina Gaiger PRIAS



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- We also consider that there is a need for clarification in respect of paragraph 51. Scotland operates certification schemes in respect of the building regulations (thermal performance, structural engineering, electrical installations). There are additional professional accreditation schemes in respect of areas such as architectural conservation and building sustainability. These mirror distinct Scottish legislation and regulations. We are concerned that the White Paper recommendations, if taken to their conclusion, could undermine these systems.

The Bill

Part 1 of the Bill deals with goods and materials. Clause 3 prevents a prohibition of the sale of goods approved in one part of the UK. Clauses 5 and 6 of the bill makes provision for non-discrimination for goods: those on sale in one part of the UK should not be affected – directly or indirectly – by way of a relevant connection that they have with another part of the UK. We share the Law Society of Scotland’s previous evidence that this could render a statutory provision in devolved legislation to “no effect”. We note that clauses 6(3) and 6(5), for example, empower the Secretary of State to act in respect of (amongst other things) the sale of goods, inspection and registration, and the regulation of businesses thereof.

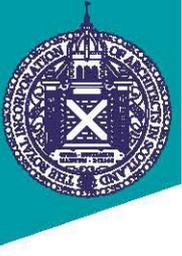
We acknowledge that the scope of this will be clarified in secondary legislation. Nevertheless, we have concerns in terms of the potential impact on the independence of the Scottish Building Regulations. In 2005, for example, Scotland introduced significant restrictions on the use of flammable cladding materials in high storey, high risk residential structures. This was a restriction on the use of goods and materials. Under the current Bill, such action would be potentially *ultra-viries*.

There is similarly a potential impact on energy performance and sustainability standards under the Regulations. Scotland is moving towards a zero-carbon approach which will, in all likelihood, require a carbon modelling system in lieu of energy performance. That could be construed as indirect discrimination. The lesser standards used elsewhere in the UK would apply, affecting our own climate response or indeed our response to the harsher weather found in Scotland.

Part 2 of the Bill deals with services and hence the work of our profession across the proposed Single Market. Clause 18 concerns direct discrimination in the regulation of services. We agree with the Law Society of Scotland regarding the adverse impact of Clause 18(1), which would potentially challenge the ability of the devolved administration to legislate on such matters. Clause 19 deals with indirect discrimination and although the protection of public safety or security is identified as a legitimate aim (Cause 19(6)) we do not understand this as involving the building regulatory system or construction frameworks. Part 3, Clauses 22 and 26 make similar provision.

The Scottish Building Regulations make provision for certifiers of design and construction. These are maintained as registers of approved persons. It is likely that our own response to the Cole and Hackett reports will lead to a further, similar accreditation scheme. The effect of the clauses in the Internal Market Bill would be to prevent such schemes, or at least to result in a degree of convergence with the systems used elsewhere in the UK. We have very considerable concerns about the wider impacts which this might have on the Regulations and our ability, as architects, to ensure compliance.

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In our view the underlying problem with this Bill lies in an apparent assumption that regulatory differences create barriers to trade that must be suppressed. We do not accept that there is such a problem in terms of the construction sector and the associated regulatory framework used in Scotland. Whilst we agree that there could be a case for the setting of minimum regulatory standards across the United Kingdom, there must still be the ability for the devolved administrations to set higher standards where reasonably required for public safety, environmental standards, and associated processes. The lowest common denominator should not be the benchmark.

Please do not hesitate to contact us should wish to discuss any of these matters or where further evidence may be of assistance.

Yours sincerely,

Christina Gaiger
President

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