



RIAS | The Royal Incorporation of Architects in Scotland

Aonachadh Rìoghail nan Ailtire ann an Alba

Housing, Communities and Local Government Committee
House of Commons
London
SW1A 0AA

14th September 2020

Dear Housing, Communities and Local Government Committee,

PRE-LEGISLATIVE SCRUTINY OF THE BUILDING SAFETY BILL 2020

The Royal Incorporation of Architects in Scotland (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.

Part 2 – The Regulator and Its Functions

The RIAS notes that these provisions apply only to England. The HSE will not have additional regulatory powers in Scotland. It accordingly has no substantive comments to make in respect of this section.

Part 3 – Building Act 1984

Clause 38 onwards is relevant to the RIAS insofar as they pertain to matters of professional and industry competence which, whilst framed in terms of England, will have potential implications for professionals operating within Scotland and the other jurisdictions of the UK. Section 5B, for example, makes provision for the imposition of duties on relevant persons in connection with the planning or management of the works or such other matters as may be considered relevant.

Paragraph 357 of the explanatory notes indicates that the independent Review identified duty holders including the Client, Principal Designer and Principal Contractor who should be held accountable for building safety during design and construction phase. Paragraph 358 of these notes likewise indicates that when buildings are designed, constructed or refurbished, all dutyholders – including those already existing under the Construction (Design and Management) Regulations 2015 – will have formal responsibility for compliance with English building regulations. Paragraphs 359 to 362 make further provision for competence under these regulations. Paragraph 365 sets out further statutory guidance in the form of an Approved Document.

Any such guidance, Approved Codes of Practice, or similar documents should be framed in a way which recognises that there are differing jurisdictions and hence obligations for dutyholders within the UK. It would not be helpful, for example, for a nationally published document to impose additional and potentially onerous burdens on those undertaking works within the framework of the separate Building (Scotland) Act 2003.

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PRESIDENT Christina Gaiger PRIAS



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further note that such advice must reflect the risks inherent in different forms of procurement. In our opinion, for example, there is a substantive conflict of interest where an organisation is able to act as both principal designer and principal contractor.

Public protection is, of course, paramount. The RIAS supports measures to bring the English regulatory framework into step with those found elsewhere through, for example, pre-construction consents and removal of privatised inspection/approval systems. In doing so, this Bill is placing very onerous duties on those involved in construction within England. It is further understood (Paragraph 364 of the notes) that a breach of the duties imposed will be a criminal offence contrary to Section 35 of the Building Act. In the current marketplace, we believe that this will carry with it very significant financial implications. Professional Indemnity Insurance (PII) is unlikely to be available to designers in respect of, for example, fire safety issues. This may consequently impede the implementation and effectiveness of the legislation. The RIAS encourages MHCLG to consider in greater detail such financial implications and make provision as appropriate. The legislation should also make provision for a “level playing field” for all design professions whether architects, technologists, surveyors, or other specialists.

Part 4 – Higher Risk Buildings

The RIAS recommends that the definition of higher risk buildings be extended to include, for example, hospitals and schools where many of the same issues around fire performance of the envelope and vulnerable occupants occur. This should be implemented at an early stage, rather than subject to subsequent review and secondary legislation.

Part 5 – Supplementary and General

The RIAS supports the formation of a new homes ombudsman scheme (clause 106 onwards) and additional measures in respect of the testing and certification of construction products (clause 110).

Sections 111 and 112 concern the regulation of the architectural profession. The RIAS consider continuing professional development to be an essential part of the practice of architecture, and consider it entirely reasonable that provision be made for demonstration of this as part of normal registration procedures. We therefore support these aspects of the legislation. In terms of how that training need is identified and delivered, however, the RIAS is of the view that it is the chartered bodies who are best placed to deal with this together with, for example, the requirements of specialist accreditation schemes. In the case of Scotland we anticipate that this would include an element of consultation between the chartered bodies and the regulator. We understand from discussion with the regulator that this is the intent and would not intend to make any representations regarding this part of the emerging legislation, but recommend that this be confirmed by way of guidance material.

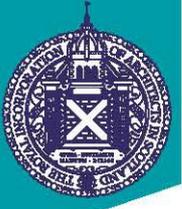
Please do not hesitate to contact us should wish to discuss any of these matters or where further evidence may be of assistance.

Yours sincerely,

Christina Gaiger
President

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