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The Royal Institute of the Architects of Ireland  
The Registration Body for Architects in Ireland

**Written Submissions**  
**of**  
**The Royal Institute of the Architects of Ireland**  
**Joint Oireachtas Committee on Housing, Planning, Community and Local Government**  
**4 October 2017**

**Re: General Scheme of the Building Control (Construction Industry Register Ireland) Bill 2007**

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**1. Introduction**

On behalf of the RIAI we thank you for the opportunity to address the Joint Oireachtas Committee.

The RIAI welcomes the publication of the General Scheme of the Construction Industry Register Ireland Bill 2017. The Registration of Contractors in Ireland is an important step in strengthening consumer protection and achieving higher standards in construction.

The RIAI has been operating a Registration system since 2008, and is currently the largest Registration body in the construction sector. We understand the obligations and duties required to deliver a system that is both robust and transparent.

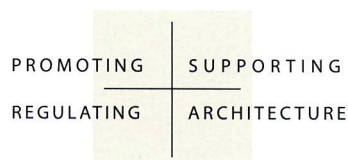
There are many aspects to the proposed Bill which the RIAI welcomes and these include the independence of the Admissions and Registration Board, the requirement that those on the Register have appropriate training and experience and the requirement that Registrants participate in Continuing Professional Development.

There are, however, a number of suggestions we would like the Committee to consider in its scrutiny of this Bill. We believe that these measures would enhance consumer protection and specifically provide appropriate redress for consumer if things go wrong.

We also have some suggestions, based on our experience, which might assist the practical operation of the new Registration structure.

**2. Background**

The RIAI recognises that there are very significant challenges ahead in regard to the built environment. It is vital that we work towards achieving the highest quality in our buildings, infrastructure and public spaces and put in place all systems necessary to ensure the safety of the people who use them.



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The RIAI is a company limited by guarantee without share capital, registered in Ireland. Company Registration Number: 003498. Company Registered Address: 8 Merrion Square, Dublin 2, Ireland. VAT Number IE 0053555U. Company Charitable Tax Exemption Number CHY 5436.



The challenges Ireland faces include:

- Current and future housing crises:
  - Increased urbanisation and population growth. An estimated population growth of two million people (the population of Dublin, Kildare, Meath and Wicklow) in Ireland requiring over 800,000 additional homes by 2060;
- Climate change and the consequent increased flooding risks;
- Ageing population:
  - In 2013, there were 540,000 people in Ireland aged 65 or over, equating to 12% of the total population.
  - In 2041, it is projected that there will be 1.4m people aged 65 or over equating to 22% of the total population.

The quality of our built environment is critical to our standard of living, level of social inclusion and Ireland's attractiveness as a destination for Foreign Direct Investment.

There have been considerable advances in the construction sector in the protection of the public and improvement in standards over the last ten years, including the Registration for Architects, Quantity Surveyors and Building Surveyors, and improvements in Health and Safety legislation.

The RIAI believes that the introduction of the Construction Industry Register Ireland Bill is an essential element in strengthening this position and fully supports the proposed CIRI Bill.

Building is complex and the complexity is increasing.

*A study by the National Association of Home Builders (USA) estimated that over 3,000 components are used in constructing a house.*

Design process, material selection, and environmental demands all impact the type, style and performance of buildings. The complex application of our regulation system requires particular skill and knowledge of:

- The Planning Acts
- Health and Safety Legislation
- The Building Regulations, including:
  - Part B Fire regulations
  - Part D Materials and Workmanship Standards etc.
  - Part L Energy Performance regulations
  - Part M Disabled Access



- The Building Control (Amendment) Regulations

Every decision on the design, material and construction and the ability or professionalism of the individual or company providing the service or product has an effect on the performance and durability of the building.

The issue of most concern to the public is the quality and safety of their homes. It is imperative that homes are built to the highest standards and that they are safe, durable and enjoyable places to live.

### **3. The RIAI is making recommendations for two additions to the proposed Bill and a number of operational changes.**

Delivering high standards in construction is vital but as the Committee is aware the Registration System is designed to ensure that those using a specific title are competent to do so. If a person, or in the case of the CIRI Bill, a company does not meet the standards of knowledge skill and competence a fitness to practice complaint can be made against them. The purpose of the Professional Conduct Committee and Fitness to Practice is to sanction or remove from the register those who are found to have breached the registration requirements or, have been found guilty of poor professional performance to prevent them from continuing in the profession or trade for the future protection of the Public.

This procedure does not provide for financial redress for the consumer who may have been affected by the contractor's poor performance. The RIAI suggests that this deficiency can be addressed by amending the Bill before the Committee in two areas –Professional Indemnity Insurance and Latent Defect Insurance.

#### **3.1. Professional Indemnity Insurance and Defects Liability Insurance**

The RIAI recommends that the matter of redress for clients of Contractors should also be considered by the Committee.

Professional Indemnity (PI) Insurance provides clients with protection if following an error or omission in professional advice or service they suffer a financial loss. For example, where a contractor may need to adjust the design provided to fit the actual work and the contractor creates a contingent exposure, the contractor should carry insurance to protect the end user.

Architects are required under the RIAI Code of Conduct to carry an appropriate level of Professional Indemnity Insurance. The RIAI recommends that Contractors are similarly required to have PI insurance to cover their work.

In addition to carrying insurance cover to address consequential damage from a building defect, contractor registrants should also be obliged to carry adequate insurance to cover the remedying of defects. The RIAI recommends that, as is the case with all other construction professionals, the consumer is afforded adequate protection and recourse against poor performance.





The General Scheme does not propose any requirement for contractor registrants to have adequate and appropriate professional indemnity cover or any other form of insurance. From a consumer protection position the RIAI believes that holding adequate and appropriate professional indemnity cover is fundamental in the protection of the consumer.

This could be provided for in section 7(1) Code of Conduct.

### **3.2. Latent Defects Insurance (LDI)**

Even with all of the registration systems and regulatory systems in place the complexity of building means that things can still go wrong. To further protect clients and home owners the RIAI recommends that Latent Defects Insurance (LDI) is mandatory requirement for all new build residential developments.

LDI is insurance taken out in respect of specific new-build premises or building works to provide cover in the event of an inherent defect in the design, workmanship or materials becoming apparent after practical completion. LDI cover is generally provided for between 10-12 years after practical completion. It provides a quick remedy for the consumer in the event that a defect does arise. LDI is common in many developed countries and is even mandatory in some, such as France, where it is known as decennial insurance.

LDI is a prudent, effective and appropriate risk management tool that can protect what is generally the largest investment a consumer will make during their lifetime. It provides the quickest most cost effective remedy for home and building owners should a problem arise.

The RIAI is a proponent of LDI and believes that in the interest of consumer protection LDI should be legislated for.

### **3.3. Operational Matters**

The RIAI as the Registration Body for Architects under the Building Control Act 2007 has substantial experience of the structures and systems required to operate a registration body which has a lay majority on all of its Boards and where the Boards operate independently of the RIAI.

The RIAI from its experience would make the following recommendations for changes to the provisions within the proposed Bill which it believes would lead to expedient decision making.

### **Sections 4 and 24 Admissions and Registration Board**

The General Scheme provides for an Admissions and Registration Board consisting of a Chairperson and 10 ordinary members: 5 industry nominees and 5 Ministerial nominees. The Board must sit with a majority of Ministerial nominees and has a quorum of 6. The Chairperson does not appear to be included in the majority as that person is a Ministerial Appointee not a nominee. Our experience is that this requirement places a disproportionate burden on the Ministerial nominees. We suggest either reducing the quorum provided in section 24(5) or increasing the number of Ministerial nominees in section 4.



### **Section 12 Appeals Committee**

The same situation arises under section 12 where there is a Chairperson and 4 ordinary members: 2 industry nominees and 2 Ministerial nominees. The Committee must sit with a majority of Ministerial nominees and has a quorum of 3. In this situation we suggest an increase to the number of Ministerial nominees.

### **In summary**

The RIAI as the Registration Body for Architects in Ireland supports the need for standards and consumer protection in all areas of the construction sector.

The introduction of CIRI is an important step in continuing to improve standards in the built environment and one which the RIAI supports. We believe that our recommendations outlined above will further strengthen the consumer protection intentions of the Bill and we ask that the Committee consider inclusion of these recommendations.

### **About the Royal Institute of the Architects of Ireland**

Founded in 1839, with 3380 members, the RIAI is the support and registration body for architects in Ireland and the membership body for architectural technologists.

The Building Control Act 2007 designates the RIAI as the Registration Body for architects and as the Competent Authority for architects under Directive 2005/35/EC.

The RIAI works to ensure the safety of the public through the efficient and effective administration of the Register of Architects and the maintenance of standards within architectural education.