

Date: 11th May, 2015

Att: Mr. Paudie Coffey  
Minister of State  
Dept. of the Environment, Community and Local Government.



Our Ref: GIAI

**Re: Submission to the Department of the Environment, Community and Local Government; regarding the Building Control Regulations in response to the announcement by Mr Paudie Coffey T.D., Minister of State at the Department, of a review of the Building Control (Amendment) regulations 2014, S.I.9 of 2014.**

Dear Sir,

I refer to the above and hereby make a submission on behalf of the GIAI for your consideration. Whilst I understand that the particular matter of concern is with the effects of S.I.9 on consumers and the recovery of the building industry, it is with the exclusion of practically trained architects from the role of Assigned Certifier and the potential options which may be under consideration to encourage such group to become Registered Architects which is of most concern to the GIAI and its members.

The Group of Independent Architects in Ireland (GIAI), formed in 1997 to represent a body of professional, Acquired Rights Architects (prior to BCA 2007) who had been practicing for a minimum period of ten years without formal qualifications, and had established that right to practice. The GIAI contributed to a document published by the Royal Institute of the Architects of Ireland (RIAI), in October 27<sup>th</sup> 1999, entitled "*A Framework for Registration for the Architectural Profession in Ireland*"

The GIAI have actively supported the registration of architects and are in general agreement with the Act, however notwithstanding this, we have lobbied at various stages in the passing of legislation and subsequently wrote to Dick Roche, John Gormley and Phil Hogan the then Ministers for the Environment against items which we had, and still have, grave concerns with as outlined below.

#### **Fair and Equitable Validation of Acquired Rights**

Of major concern to the GIAI is the fact that the mechanism for the assessment/validation of practically trained architects as currently presented permits a departure from the regime envisaged in the Framework Document namely; "should acknowledge the established right of those in practice, without formal qualifications, for many years (via a 'grandfather clause')".

In addition, the GIAI submit that the mechanism being applied under the TA system is entirely inappropriate on the grounds that it is not equitable or consistent with the assessment procedures adopted by the Department of Environment when previously assessing those persons who were accepted on what was known as the "Minister's List" and which category of person is referred to in Section 12 (2) (d) of the BCA 2007, permitting an automatic route to registration.

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Those persons who were on the "Ministers List" are a comparable group of people to those members of the GIAI, who had enjoyed a right to practice without formal qualifications and who are deemed eligible to seek registration under the BCA 2007, through an assessment route. In accordance with the constitutional principle of equality, the members of the GIAI held and continue to hold a legitimate expectation that the present and comparable "grandfather" group, who would now be seeking registration, would be assessed in an equitable and consistent manner as those assessed under the "Ministers List".



### **Onerous Technical Assessment**

As you are no doubt aware, to date, relatively few have applied to be assessed, effectively by the RIAI, however, three of our members have successfully come through the process, one of whom utilized the appeal process, and are now registered, whilst one other is pending an appeal. Thus we have reliable information as to how onerous the process is in terms of both time and financial resources for those who can afford these resources at a period when earning a living in the construction industry; in the current economic environment is a daily challenge.

One of our members has advised that the time expended on his application and submission equated 1 person x 35 hours for six months and incurred production / presentation costs of €2000.00 in addition to the excessive assessment fee of €4,500.00. This particular member had the resources and back up of a sizable practice to which he is a partner. The other three members as outlined above have all experienced the same time commitment and high costs, and in one case includes barrister's fees of €10,000 to lodge a successful appeal. All of those who are eligible for the TA route are de-facto of an age whereby work and family commitments are proving neigh on impossible to give this time commitment and find the financial resources to follow this route.

### **Protection of Title and not Function**

We have been advised on numerous occasions by the RIAI and by the past Minister Roche and indeed as described in the Act that the restriction is on the use of the title "Architect" and not the function of carrying out the work of such. However, with the publishing of *Building Control (Amendment) Regulations, 2014* denying the right to certify compliance with the building regulations to non-registered architects, has effectively excluded a significant number of our members from continuing to practice independently or to be employed as architects with obvious consequences on their abilities to continue earning their livelihoods, their only recourse being to subject themselves to the, presently, onerous unreasonable level of assessment and cross examination of the exorbitant, in both time and money, TA route, without any comfort of reasonable expectation of success.

Thus the 2007 Act, introduced ostensibly to protect, *inter alia*, the 'title' 'architect' is now to be used to protect the function performed by many of our unregistered members, many of whom would have an in-depth technical knowledge of the Building Regulations, due to their earlier academic training and practical experience.

### **Independence of RIAI**

The RIAI, being a body that represent and have the interest of academically trained architects to consider, may be perceived not to be independent, as was stated in the Competition Authority's Report on Architects Registration. Their track record in not supporting alternative routes to qualification via part time academic courses or support for Ministers List inclusion in the EU



Architects Directive together with the exclusive nomination of RIAI architects to the Expert Panel assessment and interview, leads to a lack of confidence in the impartiality of their involvement in the preparation of the Technical Assessment process. Indeed their recent total lack of support for the case of their Architectural Technician/Technologist members to be considered by the DOE to be included as competent certifiers under the *Building Control (Amendment) Regulations, 2014* demonstrates their single minded approach.

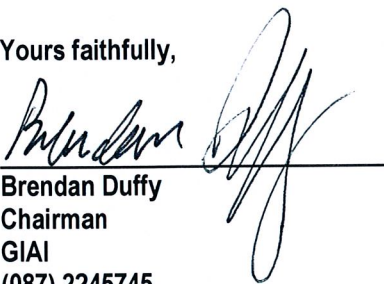
## Conclusion

In order to give confidence in the system for those eligible to apply for Technical Assessment the following needs to be addressed;

- Assessment process which takes a holistic account of the body of work, experience and testimonies of peer professionals rather than a forensic, academic scrutiny and cross referencing of competencies. The assessment should be similar to that which applied for the "Ministers List".
- A separation of RIAI involvement with the process, giving confidence in a fair assessment process. An Assessment Panel with peer professionals, Engineers/Quantity Surveyors, and not just RIAI nominated architects.
- A Portfolio, demonstrating a body of work with testimonies and references, not requiring such meticulous cross referencing of competencies or presentation, leading to a much reduced input of time and cost requirement.
- A greatly reduced cost comparable to the Surveyors assessment route.

Having regard to the considerable contributions we have made throughout the whole process we ask that you give due consideration to the above with a view to achieving improvements which must lead to a more reasonable and fair process and a significant increase in the number of non-academically qualified architects willing to engage in an assessment process which gives confidence for those applying for registration, and thus expanding the Assigned Certifier base. Should you wish to develop any of these matters further, please do not hesitate to contact the undersigned.

Yours faithfully,



Brendan Duffy

Chairman

GIAI

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