



Template for comments / observations returned during the consultation		Document: Building Control (Amendment) Regulations 2014, S.I. 9 of 2014	
Name of Organisation / Respondent	Article / Part / Schedule of the Building Control Regulations	Brief Overview of area of concern	Proposed change (if any)
Royal Institute of the Architects of Ireland	Information Paper 2	Application of appropriate standards and fair procedures for access to a regulated profession	Any proposal to amend the access requirements for the regulated profession of architect must address: Consumer Protection, Competence, Standards and the Irish and EU legal contexts and Standards, see submission content.

15 May 2015

RIAI submission re “*Information Document No. 2; New single dwellings (including self-build) and extensions to existing dwellings to inform public consultation on the Review of S.I. No. 9 of 2014 following its first 12 months of operation April 2015*”

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1. Introduction:

The Royal Institute of the Architects of Ireland (RIAI) is Ireland’s professional body for architects and architectural technologists. The RIAI is also the Statutory Registration Body and Competent Authority for Architects in Ireland (Section 13, Building Control Act 2007).

The RIAI has always taken a positive and proactive approach to ensuring that mechanisms for entry to the Register of Architects are fully activated and available to those wishing to either

- a) Acquire the necessary standard of knowledge skill and competence to register as an architect in Ireland, or
- b) Demonstrate that they have already achieved that standard.

The RIAI welcomes proposals and developments which could contribute to ensuring that all of those who have the knowledge skill and competence to register as architects are enabled to do so.

This paper is the RIAI’s response, in its capacity as Statutory Registration Body and Competent Authority for Architects, to a specific set of proposals set out in “*Information Document No. 2; New single dwellings (including self-build) and extensions to existing dwellings to inform public consultation on the Review of S.I. No. 9 of 2014 following its first 12 months of operation April 2015*”.



“Information Document No.2” sets out to address *“concerns in relation to the cost burden of Building Control requirements on single new dwellings on a single unit development and on extensions to existing dwellings”* and is described as relating specifically to the second item given in the Terms of Reference (see (b) below). However, given the scope and purpose of building regulation in Ireland it is necessary to assess any proposals through the full extent of the Terms of Reference set out, specifically items (c) and (d) which relate directly to the purpose of having regulations in the first place i.e. *“public safety, accessibility, energy efficiency, efficient use of resources and good building practice”* and the making of recommendations, which will strengthen and improve building control *“in keeping with the principles of good and fair administration”*.

Terms of Reference

The scope and objectives of the review are as follows:

- (a) To review the operation of S.I. No. 9 of 2014 in consultation with industry and local authority stakeholders and members of the public
- (b) To consider in particular the impact of S.I. No. 9 of 2014 on single dwellings and extensions to existing dwellings having regard to specific concerns which have been raised in relation the cost burden of the regulations and the level of certification required for this sector
- (c) To consider more generally the impact of S.I. No. 9 of 2014 on owners, occupiers and users of buildings have regard to the statutory purposes for which building regulations may be made (i.e. public safety, accessibility, energy efficiency, efficient use of resources and good building practice)
- (d) To make recommendations that will strengthen and improve the arrangements in place for the control of building activity in keeping with the principles of good and fair administration
- (e) To report with recommendations to the Minister of State as soon as possible, but in any event no later than 30 June 2015.

“Information Document No.2” sets out four options for addressing the issues identified by the Department. The RIAI, in its capacity as a professional body has responded separately on the other issues raised in the current consultation process. This submission is restricted to issues impacting on Registration.

2. Clarification:

The context for making the four Proposals presented under ‘Option B’ is given as follows in *“Information Document No.2”*:

At present the construction professional who gives the statutory certificate of compliance at commencement and completion must be a person who is either one of the three registered professional groupings typically involved with the design of buildings, namely a registered Architect, Building Surveyor or Chartered Engineer.

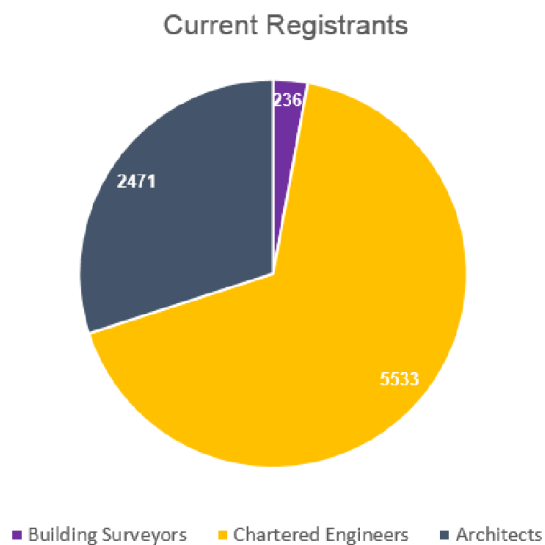
At present there are some 5,000 construction professionals registered on the Building Control Management System for the purposes of fulfilling the roles of design certifier and assigned certifier.

Broadening the pool of persons who may undertake these roles would obviously lead to more competition in the market place and increase the choice of providers available to consumers.

It may be that in particular geographical locations the number of professionals available for doing this work is limited. The Department is actively considering options which may broaden the pool of persons who may sign statutory certificates of compliance for building control purposes. Initiatives currently underway or under active consideration in this regard include:- *[document proceeds to set out the four options addressed in this submission under the heading 'Option B: Four proposals']*

At this time there are approximately 236 Building Surveyors (Source SCSl), 2471 Architects (RIAl database) and at least 5533 Chartered Engineers (2013 annual report). These numbers of registered professionals are rising continuously and, if architect numbers are anything to go by, they are growing at an increasingly rapid pace.

For example Quarter 1 admissions to the Register of Architects in 2015 were at 150% of those in Q1 2014 and exceeded the annual total for 2013.



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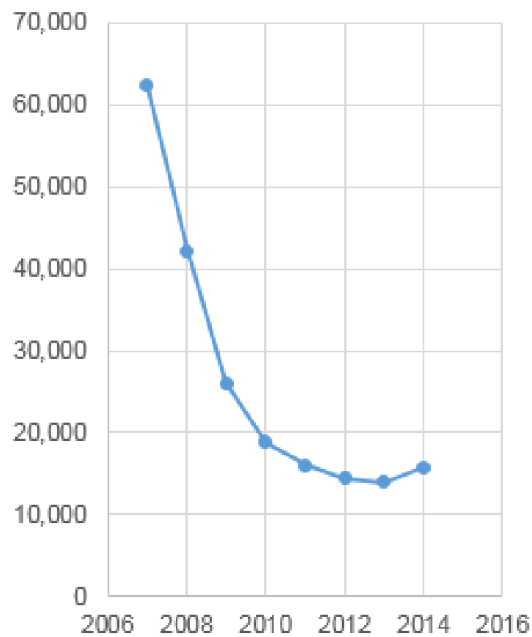
The forces driving this increase in the number of registered architects competent to provide services in relation to S.I. include:

- Recovery in the construction sector:
- Increasing numbers of graduates
- Graduates and qualified architects coming home
- Ongoing operation of diverse entry routes to the Register, and
- The EU Single Market

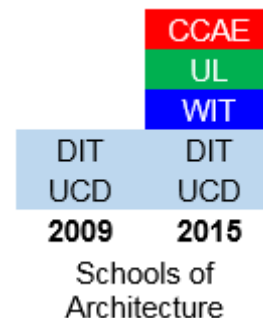
Recovery in the construction sector: All the core indicators, including for example Planning permissions granted (source CSO), indicate that the dramatic slump from 2007 onwards is turning around (source CSO). AECOM, which specialises in forecasting the construction economy, say that Ireland's construction industry grew by 12% last year and is estimating up to 15% growth in 2015 with a similar pattern being maintained in the years ahead.

Architects will go where there is work. Opportunities for architects are increasing and people are responding to this by registering for the first time or by returning to the register having taken time out when not practising architecture.

Planning Permissions Granted (Number)

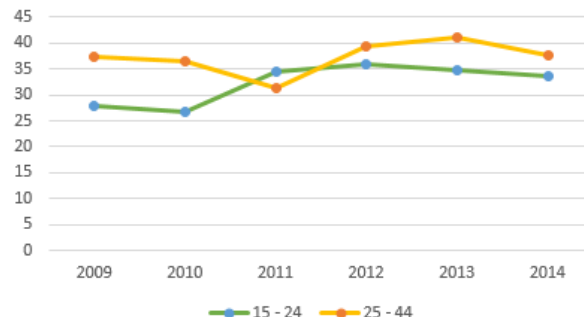


Increasing numbers of graduates: The existing Schools of Architecture (both in Dublin) have been joined by Waterford and Limerick which graduated their first cohorts in 2010, and Cork which graduated its first cohort in 2012. This development has greatly increased the number of graduates with the potential to exceed the 2009 level by 150%, or 180 graduates. Geographical spread has improved too with the southern half of the country now being well served. There are also two schools of architecture established in Northern Ireland, although both are on the eastern seaboard and at some remove from North-western counties.



Graduates and qualified architects coming home: Architects were high among the waves of graduates and young professionals who left this country from 2008 onwards. Increased opportunities mean that those who were forced to leave now have an opportunity to return home. Being able to work and exercise their profession in Irish towns and cities will give graduates and qualified professionals a chance to come home and will afford the State an opportunity to benefit from their education and experience. (Migration figures source CSO)

Estimated Migration (thousands) classified by Sex and Age Group, 2009 - 2014 (CSO)



Ongoing operation of diverse entry routes to the Register: The ongoing operation of diverse routes for entry to the register is contributing to the continued increase in the number of registered architects. It is important to note that one fifth (20%) of Irish based admissions to the register since it was launched in 2009 have been through non-traditional or 'grandfathering' routes.

Source	Formal Qualifications	'Grandfathering'	Total	% of overall total
EU	227		227	31%
Non EU/Mixed	57		57	8%
Irish	333	85	418	57%
Total	617	85	736	100%

The EU Single Market: The Single Market, 'one of the EUs greatest achievements', is core to EU financial recovery. Professional mobility is a key driver to grow the single market and Architects are ranked as the 13th most mobile profession in Europe (out of a list of 382 professions). The number of EU qualified architects registering in Ireland is growing again with 31% of current admissions coming through EU recognition systems.

3. Option B: Four Proposals

As noted, there are four Proposals set out in 'Option B'. It is unclear why this suite of proposals, with the exception of proposal (c), only considers architects when there are three professions, with quite varied numbers of registrants, recognised at this time for certification. No explanation is provided for this exclusive focus on the Register of Architects.

The following are the RIAI's response to/comments on the Proposals:

(a) Prescribing by regulation further courses and educational institutions which are recognised for the purposes inclusion on the register of Architects

Proposal (a) addresses the prescription of courses in architecture, this is a process which has been underway for some years and is ongoing. To date programmes provided by WIT, UL, and CCAE have all been prescribed ab initio. This provision has also included prescription of the Architects Register Admission Examination which is a core component of the framework for providing access to the Register of Architects for competent individuals who do not hold recognised qualifications.

It is not clear why there is no mention in the proposal of the other two certifying professions, Chartered Engineers and Building Surveyors.

(b) Reviewing the arrangements in place for the registration of Architects (the Fennell review)

Proposal (b) addresses the report prepared by Garrett Fennell, the Chair of the Admissions Board for the Architects Register. The RIAI has progressed the core recommendations and is further reviewing its own work with the help of relevant experts.

(c) Working in conjunction with industry stakeholders and representatives of relevant educational institutions to agree, through Quality Qualifications Ireland structures, a common standard for the discipline of Architectural Technologist as a first step towards its becoming a registered profession

The RIAI has engaged enthusiastically in discussions hosted by DECLG regarding the establishment of a Register for Architectural Technologists, having established a voluntary register and professional entry standards for Architectural Technologists in Ireland. The RIAI is a core proponent of progressing the QQI process which is currently underway to establish a common standard for the discipline of Architectural Technology as a first step towards its becoming a registered profession. Further comment at this point would be inappropriate in the context that QQI is already actively progressing this project.

4. Option B: Proposal D

In considering Proposal (d) the core issue to be addressed is competence in the context of regulation.

(d) Amending Part 3 of the Building Control Act 2007 to provide a 'Minister's List' means of providing access to the register of architects, subject to defined criteria, for established practitioners (having at least ten years' experience of relevance prior to the commencement of the Act of 2007) as an alternative to the current under-utilised and unpopular technical assessment procedure. In bringing forward any proposals, the Minister will have to objectively identify and defend the class or classes of persons who may be recognised by the Minister as a professional grouping undertaking comparable work to registered construction professionals. Any changes in existing arrangements for statutory registration must be consistent with relevant Irish and EU legislative requirements.

The objective of Proposal (d) appears to be to expand the architectural profession through an alternative entry mechanism, however there is no reference to consumer protection, competence or standards. Any proposal to amend the conditions for entry to a regulated profession with significant public and consumer impact has to address:

- Standards
- Public protection issues and the Irish and EU legal contexts
- Competence

4.1 Standards

The route most architects take to registration is a prescribed five year qualification in architecture followed by at least two years practical professional experience which is formally assessed. Other approaches to registration include EU and International qualifications and Irish based assessments addressing the EU minimum standard for mutual recognition of architects (Article 46 of the Professional Qualifications Directive).

The original “Minister’s List” process was operated by the Department of the Environment and included assessments by experts in the field, primarily qualified architects. The standard applied was Article 3 of the European “Architects Directive”, which is now better known as Article 46 of the Professional Qualifications Directive. The competencies set out in Article 46 have established the lowest common denominator for the recognition of architects in Europe for thirty years.

Any new process would at least need to use this standard as the minimum benchmark to be demonstrated. Unfortunately, there is no mention of standards in this proposal.

4.2 Public Protection issues and the Irish and EU legal contexts

Public and Consumer Protection: The Register of Architects has been in place since November 2009. What it means to be an architect is well understood in the public sphere through many sources including published information and other sources including the media where people like, for example, Dermot Bannon who describe themselves as architects have to be registered and to have met the required standards.

Consumer protection is the core driving force behind the regulation of architects in Ireland. Section 43(2) of the Consumer Protection Act states that

“A commercial practice is misleading if it would be likely to cause the average consumer to be deceived or misled in relation to any matter set out in subsection (3) and to make a transactional decision that the average consumer would not otherwise make.”

Subsection 3 includes at point f

“the nature, attributes or rights of the trader, including, without limitation, the following: (i) the trader’s identity, qualifications, assets or status;”

It is difficult to envisage legislation relating to the regulation of a profession actually running contrary to core principles of consumer protection legislation, but that is what Proposal (d) appears to do.

There is a knowledge imbalance, or asymmetry, between a registered professional and his or her client. In the field of architecture a domestic client may only engage in a construction project once in his or her lifetime. For this, among many reasons, it is essential that a person who presents himself or herself as a registered architect has not just attained but has demonstrated the level of knowledge skill and competence required.

It is the role of the State and the Statutory Regulator to ensure that the client of a registered professional can reasonably expect that professional to have been assessed and confirmed as having achieved a specific standard of knowledge, skill and competence. Otherwise the law of the land and the register itself could end up misleading Irish consumers.

The Professional Qualifications Directive and Regulation: Article 59 of the modernised Professional Qualifications Directive (2005/36/EC) which addresses professional regulation systems in Member States provides that

“requirements must be neither directly nor indirectly discriminatory on the basis of nationality or residence

While non-discrimination on the basis of nationality has long been core to EU Directives in this area, non-discrimination on the basis of residence is new and directly impacts the requirement in Proposal (d) which relates to “established practitioners (having at least ten years’ experience of relevance prior to the commencement of the Act of 2007)”. A new entry mechanism could not be restricted to experience in Ireland. Individuals with relevant experience from the entire EU and EEA would have to be included in any such scheme to comply with Directive 2005/36/EC.

As a small open economy Ireland has successfully worked hard to maintain and promote high standards among Irish service providers. However, anyone registered in Ireland on the basis of the proposed ‘Minister’s List’ would have automatic access to recognition in other EU Member States for the provision of services on a temporary and occasional basis as this mechanism relies on registration and insurance not qualifications (Directive 2005/36/EC). Other EU and EEA Member States would therefore take issue with such a new mechanism as set out in Proposal (d) if it does not guarantee proper assessment of competence.

Irish legislation, consumer protection, competition etc.: With regard to Irish legislation there are a variety of concerns arising from Proposal (d), not least that of consumer protection as raised above. There is also the issue of unfair competition where the majority of registrants are required to demonstrate a particular standard of knowledge skill and competence which defines the profession, but another group would appear, under this proposal, to be registered without demonstration and assessment of the required standard and would, on the basis of being registered, be able to compete as if they had fulfilled the same requirements.

4.3 Confirming Knowledge, Skill and Competence

There have been four core processes designed for those without recognised qualifications seeking to be recognised as architects in Ireland over the past two decades. They were the Minister’s List (1997), the Technical Assessment Pilot Scheme (2008), Technical Assessment (Statutory, 2009 onwards) and the Architects Register Admission Examination (2009 onwards). Between them to date those schemes have seen 255 people demonstrate the standard required for registration as an architect in Ireland.

The minimum standard of knowledge skill and competence required for registration as an architect is reflective of the depth and breadth of knowledge required to carry out the functions normally associated with an architect. This is not necessarily easy to acquire without formal education and yet carefully designed and implemented systems have enabled 255 people to demonstrate their knowledge skill and competence and so proceed to register.

The Fennell report, referred to in Proposal (b), states that standards are essential and must be maintained. The report is also very supportive of the ARAE ‘Register Admission Examination’ process which 56 people have completed successfully so far. It is hard to see how this important method for demonstrating the required standards for registering as an

architect would survive the introduction of a new 'Minister's list' as proposed here if it does not require that a specific standard of knowledge skill and competence be properly demonstrated.

Technical Assessment, which twenty people have completed successfully so far, has already been amended to make the system more flexible and the RIAI has already initiated discussions with QQI on how it might review and streamline the Technical Assessment process in light of the fact that it has been operating actively since 2010 and a review of systems is appropriate at this stage. The RIAI is committed to reviewing and refining systems so that they are fair and appropriate.

5. Conclusions:

When dealing with professions in general, and regulated professions in particular, consumer and public protection must always be the first consideration. Confirmation by the Registration Body that registered professionals have achieved the specified standards of knowledge skill and competence is of critical importance. The development of new mechanisms for entry to any profession, including architecture, must recognise this. Unfortunately Proposal (d) does not address these issues to any extent.

The RIAI continues in its commitment to ongoing review and analysis of entry mechanisms, and will continue to engage with interested parties to ensure that those who have the knowledge skill and competence to register as architects are enabled to do so.