

Housing (Cladding Remediation) (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 32 Long Title	Schedule
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Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Mark Griffin

9 In section 1, page 1, line 16, at end insert—

<() the specific type or types and Euroclass rating or ratings of cladding and insulation used by the building’s external wall cladding system,>

Mark Griffin

10 In section 1, page 1, line 18, after <mitigate> insert <any>

Mark Griffin

11 In section 1, page 1, line 18, leave out <(directly or indirectly)>

Mark Griffin

12 In section 1, page 1, line 25, after <mitigate> insert <any>

Mark Griffin

13 In section 1, page 1, line 25, leave out <(directly or indirectly)>

Section 3

Mark Griffin

14 In section 3, page 2, line 33, at end insert—

<() Each single-building assessment report must identify the person who is responsible for carrying out remediation work identified during the single-building assessment.>

Section 6

Mark Griffin

- 15 In section 6, page 4, line 13, after <mitigate> insert <any>

Mark Griffin

- 16 In section 6, page 4, line 13, leave out <(directly or indirectly)>

Paul McLennan

- 1 In section 6, page 4, line 14, leave out <the> and insert <a>

Pam Duncan-Glancy

- 17 In section 6, page 4, line 17, after <premises> insert <—
() without the plan or plans (as the case may be) being prepared in accordance with section (*Personal emergency evacuation plan: remediation work*),
()>

After section 6

Pam Duncan-Glancy

- 18 After section 6, insert—
- <Personal emergency evacuation plan: remediation work**
- (1) Before beginning work on premises in accordance with section 6, the Scottish Ministers must, on request of any occupier with a disability, prepare a personal emergency evacuation plan in relation to that occupier.
 - (2) A request under subsection (1) may be made during the notice period specified in section 6(3).
 - (3) A personal emergency evacuation plan prepared under subsection (1) will expire on the day on which the Scottish Ministers amend the cladding assurance register to confirm that the work carried out in accordance with section 6 has been completed.>

Section 7

Mark Griffin

- 19 In section 7, page 4, line 34, leave out <a> and insert <any>

Mark Griffin

- 20 In section 7, page 4, line 35, leave out <(directly or indirectly)>

Section 8

Mark Griffin

- 21 In section 8, page 5, line 16, leave out <(directly or indirectly)>

After section 9

Pam Duncan-Glancy

- 22 After section 9, insert—

<Personal emergency evacuation plans

Personal emergency evacuation plans

- (1) The Scottish Ministers may by regulations make provision in relation to the development and provision of personal emergency evacuation plans for occupiers of a building to which a single-building assessment applies who have a disability.
- (2) Regulations must provide for any personal emergency evacuation plan to expire on the day on which the Scottish Ministers amend the cladding assurance register under section 1(3)(ab) to confirm that all necessary works have been completed.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.>

Section 10

Paul McLennan

- 2 In section 10, page 6, line 35, at end insert—

<() The sheriff must—

- (a) hold a hearing on an appeal under this section within 21 days of the appeal being made, and
- (b) give the parties to the appeal an opportunity to make representations at the hearing.

() At the hearing, the sheriff may—

- (a) determine the appeal, or
- (b) on a motion of a party or on the sheriff's own initiative, continue the proceedings.

() In deciding whether to continue the proceedings and, if so, to when, the sheriff must have regard to all the circumstances of the case, including the effect that any continuation of proceedings would have in relation to the elimination or mitigation of risks to human life that—

- (a) are (directly or indirectly) created or exacerbated by a building's external wall cladding system, and
- (b) were identified in the single-building assessment report or the additional work assessment report which identified the need for the work to which the decision appealed relates.>

Paul McLennan

- 3 In section 10, page 7, line 4, leave out subsection (5)

After section 19

Pam Duncan-Glancy

23 After section 19, insert—

<PART

INDEPENDENT REVIEW

Independent reviewer

- (1) For the purposes of this Act, there is to be an independent reviewer.
- (2) The independent reviewer's purpose is to approve—
 - (a) the arrangement of a single-building assessment,
 - (b) the single-building assessment report, and
 - (c) the arrangement of any work to be carried out as identified in the single-building assessment report.
- (3) The Scottish Ministers may, by regulations, make further provision as to the expertise and reimbursement of the independent reviewer.
- (4) Regulations under this section are subject to the affirmative procedure.>

Pam Duncan-Glancy

24 After section 19, insert—

<PART

ENGAGEMENT WITH OWNERS AND OCCUPIERS

Pre-assessment engagement

- (1) The Scottish Ministers must, where a relevant assessment arranged by them under Chapter 1 of Part 2 in relation to a building involves entry on premises, use their best endeavours to ensure that, before the first premises are entered for the purposes of the arrangement, the persons mentioned in subsection (2) are—
 - (a) informed that the assessment is to be carried out, and
 - (b) given a reasonable opportunity to put questions about the assessment to a person appointed for that purpose by the Scottish Ministers.
- (2) The persons are—
 - (a) where the assessment is arranged by the Scottish Ministers in order to enable a relevant assessment arranged by another person to be completed, the owners and occupiers of premises that—
 - (i) form part of the building to which the assessment relates, and
 - (ii) are to be entered pursuant to the arrangement made by the Scottish Ministers,
 - (b) otherwise, the owners and occupiers of the building to which the assessment relates.
- (3) Without prejudice to the generality of subsection (1), the Scottish Ministers' duty under that subsection is to be regarded as fulfilled if the person carrying out the assessment arranged by the Scottish Ministers has a duty, under an agreement with the Scottish

Ministers, to use the person's best endeavours to ensure that the persons mentioned in subsection (2) are—

- (a) informed that the assessment is to be carried out, and
 - (b) given a reasonable opportunity to put questions about the assessment to a person appointed for that purpose by the person carrying out the assessment.
- (4) In this section and sections (*Post-assessment engagement: reports*) and (*Post-assessment engagement: remediation work*), “relevant assessment” means—
- (a) a single-building assessment, or
 - (b) an additional work assessment.>

Miles Briggs

25 After section 19, insert—

<Post-assessment engagement: reports

- (1) The Scottish Ministers must, where they arranged a relevant assessment in relation to a building under Chapter 1 of Part 2, use their best endeavours to ensure that the persons mentioned in subsection (2) are—
- (a) so far as practicable, informed, in plain language, of the conclusions contained in the report of the assessment, and
 - (b) given a reasonable opportunity to put questions about the report to a person appointed for that purpose by the Scottish Ministers.
- (2) The persons are—
- (a) where the assessment was arranged by the Scottish Ministers in order to enable a relevant assessment arranged by another person to be completed, the owners and occupiers of premises that—
 - (i) form part of the building to which the assessment related, and
 - (ii) were entered pursuant to the arrangement made by the Scottish Ministers,
 - (b) otherwise, the owners and occupiers of the building to which the assessment related.
- (3) Without prejudice to the generality of subsection (1), the Scottish Ministers' duty under that subsection is to be regarded as fulfilled if the person who carried out the assessment has a duty, under an agreement with the Scottish Ministers, to use the person's best endeavours to ensure that the persons mentioned in subsection (2) are—
- (a) so far as practicable, informed, in plain language, of the conclusions contained in the report of the assessment, and
 - (b) given a reasonable opportunity to put questions about the report to a person appointed for that purpose by the person who carried out the assessment.>

Miles Briggs

26 After section 19, insert—

<Post-assessment engagement: remediation work

- (1) The Scottish Ministers must, where they arrange remediation work in relation to a building under Chapter 1 of Part 2, use their best endeavours to ensure that the persons mentioned in subsection (2) are—
 - (a) before the remediation work begins—
 - (i) informed that the work is to be carried out, and
 - (ii) given a reasonable opportunity to put questions about the work to a person appointed for that purpose by the Scottish Ministers,
 - (b) while the remediation work is carried out—
 - (i) kept informed, so far as is practicable, about the progress of the work, and
 - (ii) given a reasonable opportunity to put questions about the progress of the work to a person appointed for the purpose by the Scottish Ministers,
 - (c) as soon as practicable after the building’s entry in the cladding assurance register is amended to record the date on which the Scottish Ministers were satisfied that the work had been completed, informed of that fact.
- (2) The persons are—
 - (a) where the work is arranged by the Scottish Ministers in order to enable remediation work arranged by another person to be completed, the owners and occupiers of premises that—
 - (i) form part of the building to which the relevant assessment that identified the work as being needed related, and
 - (ii) are to be entered pursuant to the arrangement made by the Scottish Ministers,
 - (b) otherwise, the owners and occupiers of the building to which the relevant assessment that identified the work as being needed related.
- (3) Without prejudice to the generality of subsection (1), the Scottish Ministers’ duty under that subsection is to be regarded as fulfilled if the person carrying out the work arranged by the Scottish Ministers has a duty, under an agreement with the Scottish Ministers, to use the person’s best endeavours to ensure that the persons mentioned in subsection (2) are—
 - (a) informed that the work is to be carried out, and
 - (b) given a reasonable opportunity to put questions about the work to a person appointed for that purpose by the person carrying out the assessment.
- (4) Where remediation work is arranged by the Scottish Ministers under section 7, the Scottish Ministers need comply with the duties imposed by subsection (1)(a) and (b) only to the extent that is practicable in the circumstances.
- (5) In this section, “remediation work” means work identified in a single-building assessment report or an additional work assessment report as being needed to eliminate or mitigate risks to human life that are (directly or indirectly) created or exacerbated by a building’s external wall cladding system.>

Section 20

Mark Griffin

- 27 In section 20, page 11, line 29, after <addressing,> insert <any>

Mark Griffin

- 28 In section 20, page 11, line 30, leave out <(directly or indirectly)>

Pam Duncan-Glancy

- 29 In section 20, page 11, line 36, at end insert—

<() independent oversight of the development and delivery of single-building assessments.>

Miles Briggs

- 30 In section 20, page 12, line 9, at end insert <(including in relation to decisions by the person about another person's membership of the scheme).>

Miles Briggs

- 31 In section 20, page 12, line 9, at end insert—

<() make different provision for different developers with regard to the size or other characteristics of a developer.>

Paul McLennan

- 32 In section 20, page 12, line 9, at end insert—

<() make provision—

- (i) requiring the Scottish Ministers to use their best endeavours to secure the outcome mentioned in subsection (4A), and
- (ii) describing circumstances in which such a requirement is to be regarded as having been complied with.

(4A) The outcome is that, in relation to any single-building assessment, additional work assessment or work identified in a single-building assessment report or an additional work assessment report as being needed to eliminate or mitigate risks to human life that are (directly or indirectly) created or exacerbated by a building's external wall cladding system arranged by a member of the scheme, the member uses the member's best endeavours to ensure that the owners and occupiers of the building are—

- (a) informed that the assessment or work is to be carried out, and
- (b) given a reasonable opportunity to put questions about the assessment or work to a person appointed for that purpose by the member.>

Section 21

Miles Briggs

- 33 In section 21, page 12, line 20, after <developer> insert <with an annual turnover above a level specified in the regulations>

Mark Griffin

- 34 In section 21, page 12, line 33, leave out <(directly or indirectly)>

Mark Griffin

- 35 In section 21, page 12, line 33, leave out <a> and insert <any>

Section 22

Miles Briggs

- 36 In section 22, page 13, line 12, leave out <may> and insert <must>

Section 23

Miles Briggs

- 37 In section 23, page 13, line 21, leave out <may> and insert <must>

Section 24

Miles Briggs

- 38 In section 24, page 14, line 11, leave out <may> and insert <must>

After section 24

Graham Simpson

- 39 After section 24, insert—

<PART

PROGRESS REPORTS

Reports on progress with single-building assessments and remediation work

- (1) The Scottish Ministers must prepare a report on the progress made during each reporting period in the arranging and carrying out of—
 - (a) single-building assessments, and
 - (b) remediation work identified as being needed in single-building assessment reports and additional work assessment reports.

- (2) A report under subsection (1)—
 - (a) must include the information described in section (*Content of reports under section (Reports on progress with single-building assessments and remediation work)*)(1),
 - (b) may include such other information as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers must, as soon as practicable after the end of each reporting period—
 - (a) lay the report prepared under subsection (1) for that period before the Scottish Parliament, and
 - (b) publish the report.
- (4) In this section and section (*Content of reports under section (Reports on progress with single-building assessments and remediation work)*)—

“remediation work” means work to eliminate or mitigate any risk to human life that is (directly or indirectly) created or exacerbated by a building’s external wall cladding system,

“reporting period” means—

 - (a) the period of 18 months beginning with the day on which this section comes into force,
 - (b) each of the subsequent 9 periods of one year beginning with the day after the last day of the preceding reporting period.
- (5) The Scottish Ministers may by regulations amend subsection (4) to increase the number of one year reporting periods in relation to which a report under subsection (1) must be prepared.>

Graham Simpson

40 After section 24, insert—

<Content of reports under section (*Reports on progress with single-building assessments and remediation work*)

- (1) The information referred to in section (*Reports on progress with single-building assessments and remediation work*)(2)(a) is the following information—
 - (a) the number of persons who are, on the last day of the reporting period, a member of a responsible developers scheme established by regulations made under section 20(1),
 - (b) the number of buildings in relation to which a single-building assessment arranged by—
 - (i) the Scottish Ministers,
 - (ii) a responsible developers scheme member,
 is in progress on the last day of the reporting period,
 - (c) the number of buildings in relation to which remediation work identified as being needed in a single-building assessment report or an additional work assessment report and arranged by—
 - (i) the Scottish Ministers,
 - (ii) a responsible developers scheme member,

- is in progress on the last day of the reporting period,
- (d) the number of times during the reporting period that each type of event listed in subsection (2) occurred,
 - (e) the number of entries for buildings in the cladding assurance register (whenever created) that—
 - (i) record that the single-building assessment report relating to the building identifies remediation work as being needed, but
 - (ii) have not, on or before the last day of the reporting period, been amended to include a date on which the Scottish Ministers were satisfied that the work was completed,
 - (f) the number of entries for buildings in the register (whenever created) that—
 - (i) have been amended (at any time) to record that an additional work assessment relating to the building identifies remediation work as being needed, but
 - (ii) have not, on or before the last day of the reporting period, been amended to include a date on which the Scottish Ministers were satisfied that the work was completed.
- (2) The events referred to in subsection (1)(d) are—
- (a) the creation of an entry for a building in the register that records that the single-building assessment report relating to the building—
 - (i) identifies remediation work as being needed,
 - (ii) does not identify any such work as being needed,
 - (b) the amendment of an entry for a building in the register (whenever created) to record that an additional work assessment report relating to the building—
 - (i) identifies remediation work as being needed,
 - (ii) does not identify any such work as being needed,
 - (c) the amendment of an entry for a building in the register (whenever created) that records that a single-building assessment report relating to the building identifies remediation work as being needed to include the date on which the Scottish Ministers were satisfied that the work was complete,
 - (d) the amendment of an entry for a building in the register (whenever created) that has been amended (at any time) to record that an additional work assessment report relating to the building identifies remediation work as being needed to include the date on which the Scottish Ministers were satisfied that the work was complete.>

Section 25

Mark Griffin

- 41 In section 25, page 15, line 2, leave out <(directly or indirectly)>

Mark Griffin

- 42 In section 25, page 15, line 5, at end insert—
- <() whether any risk of the kind which is identified is deemed tolerable,>

Mark Griffin

- 43 In section 25, page 15, line 5, at end insert—
<() the specific type or types and Euroclass rating or ratings of cladding and insulation used by the building’s external wall cladding system,>

Mark Griffin

- 44 In section 25, page 15, line 5, at end insert—
<() the person who is responsible for the works needed to eliminate or mitigate any risk of the kind which is identified,>

Paul McLennan

- 4 In section 25, page 15, line 10, at beginning insert—
<(1A) In this Act,>

Mark Griffin

- 45 In section 25, page 15, line 18, after <mitigate> insert <any>

Mark Griffin

- 46 In section 25, page 15, line 19, leave out <(directly or indirectly)>

Paul McLennan

- 5 Divide section 25 into two sections, the first (*Meaning of single-building assessment*) to consist of subsections (1) and (2) and the second (*Meaning of additional work assessment*) to consist of subsection (1A)

Paul McLennan

- 6 Move section (*Meaning of additional work assessment*) to after section 26

Section 26

Paul McLennan

- 7 In section 26, page 15, line 36, after <change> insert <or clarify>

Mark Griffin

- 47 In section 26, page 16, line 5, at end insert—
<() stands less than 11 metres above the ground.>

Section 28

Paul McLennan

- 8 In section 28, page 17, line 20, at end insert—

- <() It is for the Scottish Ministers to determine any question that arises as to whether, and to what extent, a structure constitutes, or a number of conjoined structures constitute, one building for the purposes of any provision of this Act, and their decision is final.>

Section 30

Graham Simpson

- 48** In section 30, page 17, line 31, at end insert—

- <() Regulations under section (*Reports on progress with single-building assessments and remediation work*) are subject to the negative procedure.>

Section 31

Graham Simpson

- 49** In section 31, page 18, line 4, at end insert—

- <() Regulations under this section may amend subsection (4) of section (*Reports on progress with single-building assessments and remediation work*) so that the text referring to the day on which the section comes into force instead specifies the date on which the section actually comes into force.>

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