

Housing (Cladding Remediation) (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 8
Sections 9 to 32

Schedule
Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Paul McLennan

- 10 In section 1, page 1, line 13, leave out from <if> to end of line 18

Mark Griffin

- 44 In section 1, page 1, line 15, leave out <a> and insert <any>

Mark Griffin

- 45 In section 1, page 1, line 15, leave out <(directly or indirectly)>

Paul McLennan

- 11 In section 1, page 1, line 20, after <must> insert <, when first created,>

Mark Griffin

- 46 In section 1, page 1, line 21, 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

- 47 In section 1, page 1, line 23, after <mitigate> insert <any>

Mark Griffin

- 48 In section 1, page 1, line 23, leave out <(directly or indirectly)>

Paul McLennan

- 12 In section 1, page 2, leave out lines 1 and 2 and insert—

- <(aa) must be amended, as soon as reasonably practicable after any additional work assessment is carried out in relation to it, to include the following information—
- (i) when the additional work assessment was carried out,
 - (ii) what additional work (if any) the additional work assessment report identified as being needed to eliminate or mitigate risks to human life that are (directly or indirectly) created or exacerbated by the building’s external wall cladding system,
- (ab) must be amended, as soon as reasonably practicable after the Scottish Ministers are satisfied that any work mentioned in paragraph (a)(ii) and any work mentioned in paragraph (aa)(ii) has been completed, to include the date on which they were so satisfied.>

Miles Briggs

- 49 In section 1, page 2, leave out line 3

Section 2

Paul McLennan

- 13 In section 2, page 2, line 12, after <assessment> insert <or an additional work assessment>

After section 2

Graham Simpson

- 5* After section 2, insert—

<PART

REGISTER OF OWNERS OR OCCUPIERS

Register of owner or occupiers of buildings with external wall cladding systems

- (1) Once a building has been registered in the cladding assurance register, a register of the owners and occupiers of that building is to be created.
- (2) The purpose of the register under subsection (1) is to maintain up to date contact details for owners and occupiers in the event of—
 - (a) arranging work to be carried out to the building, or
 - (b) a fire so long as the building has not had remedial work carried out.
- (3) The register is to be maintained by either—
 - (a) the building’s factor,
 - (b) a resident’s committee responsible for the building,
 - (c) such other person as the Scottish Ministers consider appropriate.>

Before section 3

Miles Briggs

50 Before section 3, insert—

<Owners and occupiers not liable for costs of managing cladding

No owner or occupier is liable for any costs associated with managing the building's external wall cladding system until works have been carried out under sections 6 or 7.>

Pam Duncan-Glancy

51 Before section 3, insert—

<Committee for single-building assessments

- (1) The Scottish Ministers must establish and maintain a committee with the function of giving advice to the Scottish Ministers about the development and improvement of single-building assessments within the meaning of section 25.
- (2) The committee is to consist of—
 - (a) owners,
 - (b) occupiers,
 - (c) persons representing an organisation that represents, supports or promotes the interests of any description of owners or occupiers of buildings that would qualify for a single-building assessment,
 - (d) such other persons as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers must take all reasonable steps to ensure that the committee includes—
 - (a) one or more occupier who is disabled,
 - (b) a person representing an organisation that represents, supports or promotes the interests of any description of disabled people that include owners or occupiers of such buildings.
- (4) The Scottish Ministers must consult the committee before bringing into force any section under this Part (or revising any of their duties under this Part).>

Pam Duncan-Glancy

52 Before section 3, insert—

<Independent reviewer

- (1) For the purposes of this Act, there is to be a 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 sections are subject to the affirmative procedure.>

Section 3

Mark Griffin

- 53 In section 3, page 2, line 30, at end insert—

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

Miles Briggs

- 54 In section 3, page 2, line 30, at end insert—

<() For the avoidance of doubt, no owner or occupier is liable for any costs associated with arranging for a single-building assessment.>

Pam Duncan-Glancy

- 55 In section 3, page 2, line 30, at end insert—

<() Before arranging for a single-building assessment to be carried out under subsection (1), the Scottish Ministers must consult with—

- (a) owners,
- (b) occupiers,
- (c) any resident association or committee,

of the building for which the single-building assessment is being arranged.>

After section 3

Paul McLennan

- 14 After section 3, insert—

<Power to arrange additional work assessment

- (1) The Scottish Ministers may arrange for an additional work assessment to be carried out in relation to a building in relation to which a single-building assessment has been carried out.
- (2) Subsection (3) applies where—
 - (a) something needs to be done on premises for the purposes of carrying out an assessment arranged under subsection (1), and
 - (b) the premises are not premises on which a person carrying out work under an arrangement made under this Chapter is entitled, by virtue of section 11, to do anything reasonably required to carry out that work.
- (3) Anything that needs to be done on the premises for the purposes of carrying out an assessment arranged under subsection (1) may not be done, without the consent of the owner, before the end of the notice period.

- (4) The notice period is a period of 7 days beginning with the day that the Scottish Ministers give the premises' owner a written notice explaining what the carrying out of the assessment may entail.
- (5) At the same time as giving notice to the premises' owner in order to begin the notice period, the Scottish Ministers are to give a written notice in the same terms to any occupier of the premises.>

Section 4

Paul McLennan

- 15 In section 4, page 3, line 7, after <assessment> insert <or an additional work assessment>

Section 6

Paul McLennan

- 16 In section 6, page 3, line 28, leave out <in a single-building assessment report>

Mark Griffin

- 56 In section 6, page 3, line 29, after <mitigate> insert <any>

Mark Griffin

- 57 In section 6, page 3, line 30, leave out <(directly or indirectly)>

Graham Simpson

- 17 In section 6, page 3, line 31, after <system> insert <, including any associated fire safety risks>

Paul McLennan

- 18 In section 6, page 3, line 31, at end insert <in—
(a) a single-building assessment report, or
(b) an additional work assessment report.>

Pam Duncan-Glancy

- 58 In section 6, page 3, line 31, at end insert—
<() Any work arranged under subsection (1) must adhere to the latest fire safety guidance.>

Miles Briggs

- 59 In section 6, page 3, line 31, at end insert—
<() For the avoidance of doubt, no owner or occupier is liable for any costs associated with arranging for work to be carried out or the carrying out of that work as identified in a single-building assessment report.>

Paul McLennan

- 19 In section 6, page 3, line 32, leave out <(1)> and insert <(1)(a) or (b)>

Paul McLennan

- 20 In section 6, page 3, line 34, after <period> insert <in relation to the work identified as mentioned in subsection (1)(a) or, as the case may be, (b)>

Section 7

Mark Griffin

- 60 In section 7, page 4, line 12, leave out <a> and insert <any>

Mark Griffin

- 61 In section 7, page 4, line 13, leave out <(directly or indirectly)>

Paul McLennan

- 21 In section 7, page 4, line 15, after <report> insert <or an additional work assessment report>

Paul McLennan

- 22 In section 7, page 4, line 16, after <assessment> insert <or an additional work assessment>

Miles Briggs

- 62 In section 7, page 4, line 19, at end insert—
<() For the avoidance of doubt, no owner or occupier is liable for any costs associated with arranging for work to be carried out under this section or the carrying out of that work.>

Section 8

Miles Briggs

- 63 In section 8, page 4, line 26, after <Ministers’> insert <reasonable>

Paul McLennan

- 23 In section 8, page 4, line 26, after <opinion> insert—
<()>

Paul McLennan

- 24 In section 8, page 4, line 26, after <lives> insert <, or
() continued occupation of the premises would mean that there would be a substantial risk to the lives of the occupants of any other premises,>

Mark Griffin

64 In section 8, page 4, line 27, leave out <(directly or indirectly)>

Paul McLennan

25 In section 8, page 4, line 28, at end insert <or an additional work assessment,>

Miles Briggs

65 In section 8, page 4, line 30, after <their> insert <reasonable>

Paul McLennan

26 In section 8, page 5, line 10, after <be> insert <conspicuously>

After section 9

Miles Briggs

2* After section 9, insert—

<Duty to inform

Duty to inform

The Scottish Ministers must inform the premises' owner and any occupier of the premises of—

- (a) the results of a single-building assessment under section 3,
- (b) on-going arrangements for work to be carried out under section 6,
- (c) any other matters relating to the premises for the purpose of this Act as the Scottish Ministers consider appropriate.>

Section 10

Graham Simpson

7 In section 10, page 6, line 9, at end insert—

<() On an appeal under this section, the sheriff must—

- (a) nominate a panel of technical experts with the knowledge and expertise of remediation work, and
- (b) have regard to the views expressed by the panel in making their decision on an appeal.>

Section 11

Paul McLennan

27 In section 11, page 6, line 21, leave out <either>

Paul McLennan

- 28 In section 11, page 6, line 22, after <assessment> insert <, an additional work assessment>

Paul McLennan

- 29 In section 11, page 7, line 11, after <3(2)> insert <, (*Power to arrange additional work assessment*)(3)>

Section 12

Paul McLennan

- 30 In section 12, page 8, leave out line 4

Section 13

Paul McLennan

- 31 In section 13, page 8, line 7, after <assessment> insert <, an additional work assessment>

Section 14

Paul McLennan

- 32 In section 14, page 8, line 18, after <assessment> insert <, an additional work assessment>

Section 16

Paul McLennan

- 33 In section 16, page 9, line 35, leave out <if> and insert <48 hours after>

Paul McLennan

- 34 In section 16, page 9, line 36, after <be> insert <conspicuously>

After section 17

Pam Duncan-Glancy

- 66* After section 17, insert—

<PART

RISK ASSESSMENT FOR OCCUPIERS WITH A DISABILITY

Risk assessment for any occupier with a disability

- (1) Where a single-building assessment report has identified any risk to human life that is (directly or indirectly) created or exacerbated by the building's external wall cladding system, the Scottish Ministers must make a specific assessment of the risks as a result of the external wall cladding system for each occupier with a disability, including measures for securing the means of escape.

- (2) A specific assessment under subsection (1) must remain in place until all remediation work identified in a single-building assessment report has been completed.
- (3) For the avoidance of doubt, an occupier with a disability under this section may also be an owner but need not be.>

Section 20

Miles Briggs

- 67* In section 20, page 11, line 10, leave out <(or more than one)>

Miles Briggs

- 68 In section 20, page 11, line 12, leave out <address, or contribute> and insert <make a reasonable and proportionate contribution>

Mark Griffin

- 69 In section 20, page 11, line 12, after <addressing,> insert <any>

Mark Griffin

- 70 In section 20, page 11, line 13, leave out <(directly or indirectly)>

Miles Briggs

- 71 In section 20, page 11, leave out lines 25 and 26

Paul McLennan

- 35 In section 20, page 11, line 28, at end insert—
- <() Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) such persons as appear to the Scottish Ministers to represent the interests of persons carrying on, for business purposes, activities connected with the construction or other development of buildings which are wholly or partly residential, and
 - (b) such other persons,
- as the Scottish Ministers consider appropriate.>

Section 21

Miles Briggs

- 3 In section 21, page 11, line 33, after <, and> insert <the developer's annual turn over is over £10 million, and>

Miles Briggs

- 72 In section 21, page 11, line 34, leave out <has> and insert <poses a risk to human life created or exacerbated by>

Paul McLennan

36 In section 21, page 12, line 6, after <construction> insert <or other development>

Mark Griffin

73 In section 21, page 12, line 9, leave out <(directly or indirectly)>

Mark Griffin

74 In section 21, page 12, line 9, leave out <a> and insert <any>

Section 22

Paul McLennan

37 In section 22, page 12, line 17, after <assessments> insert <and additional work assessments>

Paul McLennan

38 In section 22, page 12, line 18, at end insert <or an additional work assessment report,>

Miles Briggs

75 In section 22, page 12, line 19, after <making> insert <reasonable and proportionate>

Paul McLennan

39 In section 22, page 12, line 20, after <assessments> insert <and additional work assessments>

Paul McLennan

40 In section 22, page 12, line 21, at end insert <or an additional work assessment report,>

Miles Briggs

76 In section 22, page 12, line 24, leave out <may> and insert <must>

Section 23

Miles Briggs

77 In section 23, page 12, line 33, leave out <may> and insert <must>

Miles Briggs

78 In section 23, page 12, line 36, at end insert—

<() Regulations must provide details—

- (a) about the process to be followed when making an appeal to a court or tribunal, and
- (b) about the process a person operating a scheme must follow when taking decisions about another person's membership.>

Section 24

Miles Briggs

79 Leave out section 24

After section 24

Graham Simpson

8 After section 24, insert—

<PART

REINSURANCE SCHEME

Reinsurance scheme

- (1) The Scottish Ministers must, by regulations, provide a reinsurance scheme to promote affordability and availability of insurance for an owner or occupier of a premise with, or at risk from, an external wall cladding system.
- (2) Regulations under this section are subject to the affirmative procedure.
- (3) In so far as any provision of this Act, or any provision made under it, would relate to a reserved matter, the provision is (to the extent it would so relate) of no effect.>

Miles Briggs

1* After section 24, insert—

<PART

REVIEW OF SINGLE-BUILDING ASSESSMENT

Review of single-building assessment

- (1) The Scottish Ministers must conduct a review of whether the meaning of single-building assessment should be extended to a building that contains at least one room that is used, or intended to be used, as either overnight accommodation or short-term dwelling.
- (2) The review must be completed as soon as practicable after 12 months of this Act receiving Royal Assent.
- (3) On completing the review, the Scottish Ministers must—
 - (a) lay a report on the review before the Scottish Parliament,
 - (b) publish the report in such a manner as they consider appropriate.
- (4) The report under subsection (3) must include a statement of—
 - (a) the action, if any, the Scottish Ministers intend to take as a result of the review,
 - (b) where the Scottish Ministers do not intend to take steps to make provision for the matters in this section, their reasons for this.>

Miles Briggs

4* After section 24, insert—

<PART

REPORT ON IMPACTS

Reports by the Scottish Ministers on impact of provisions

- (1) The Scottish Ministers must, in respect of each reporting period—
 - (a) undertake a review of the impact of the provisions in this Act on the construction industry,
 - (b) prepare a report on that review.
- (2) Each of the following is a “reporting period”—
 - (a) in the case of the first report, the period of 12 months beginning with the day after Royal Assent,
 - (b) each successive period of 12 months until a date specified in regulations made by the Scottish Ministers.>

Graham Simpson

6* After section 24, insert—

<PART

ANNUAL REPORT

Annual Report

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period—
 - (a) prepare and publish a report on the results of single-building assessments, and
 - (b) lay the report before the Scottish Parliament.
- (2) The report must include, in relation to the reporting period to which the report relates—
 - (a) the number of single-building assessments that were arranged,
 - (b) the results of single-building assessments broken down by reference to any work to be carried out (either under section 6 or otherwise) that is identified for—
 - (i) external wall cladding system,
 - (ii) other fire associated building construction issues,
 - (iii) fundamental associated construction issues,
 - (iv) general health and safety works,
 - (v) maintaining building standards.
- (3) In this section, the “reporting period” is the period of one year beginning with the day on which this section comes into force and each subsequent period of one year.>

Miles Briggs

80* After section 24, insert—

<PART

ANNUAL REVIEW

Annual review of the Act

- (1) The Scottish Ministers must annually—
 - (a) undertake a review of the operation of this Act, and
 - (b) prepare a report on that review.
- (2) The review must include—
 - (a) a consultation with any industries impacted by or with an interest in the provisions of the Act to ensure ongoing compliance and effectiveness,
 - (b) an annual economic analysis of the cladding programme in Scotland.
- (3) The Scottish Ministers must, as soon as reasonably practicable after preparing the report—
 - (a) publish the report, and
 - (b) lay the report before the Scottish Parliament.>

Section 25

Mark Griffin

- 81 In section 25, page 14, line 16, leave out <(directly or indirectly)>

Mark Griffin

- 82 In section 25, page 14, line 19, at end insert—
<() who is responsible for the works needed to eliminate or mitigate any risk of that kind which is identified,>

Mark Griffin

- 83 In section 25, page 14, line 19, at end insert—
<() whether any risk of that kind which is identified is deemed tolerable,>

Mark Griffin

- 84 In section 25, page 14, line 19, 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,>

Paul McLennan

- 41 In section 25, page 14, line 23, at end insert—
<an “additional work assessment” means an assessment that—
(a) relates to a building in relation to which a single-building assessment has been carried out,

- (b) is required as a result of additional information coming to light in the period between—
 - (i) the single-building assessment report being completed, and
 - (ii) the date on which the Scottish Ministers were satisfied that any work identified in that report, or in 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 the building’s external wall cladding system had been completed,
- (c) assesses, and culminates in a report on, whether any additional work is needed to eliminate or mitigate such risks, and
- (d) is carried out—
 - (i) in accordance with the standards for the time being specified by the Scottish Ministers, and
 - (ii) by a person authorised by the Scottish Ministers to carry it out.>

Paul McLennan

42 In section 25, page 14, line 23, at end insert—

<() For the purposes of—

- (a) subsection (1), a building stands 11 metres or more above the ground if, excluding roof-top plant areas and any top storey consisting exclusively of plant rooms, the building has at least one storey the finished floor level of which, measuring vertically, is (or would be if it was directly above the building’s lowest point) 11 metres or more higher than the building’s lowest point,
- (b) paragraph (a), a building’s lowest point is the point at which the surface of the ground adjacent to the building is lowest.>

Section 26

Mark Griffin

85 In section 26, page 14, line 31, at end insert—

<() stands less than 11 metres above the ground.>

Section 28

Paul McLennan

43 In section 28, page 16, line 2, at end insert—

<“additional work assessment report” means the report of an additional work assessment by the person who carried out the assessment,>

Section 31

Graham Simpson

9 In section 31, page 16, line 26, after <Part> insert <and section (*Annual report*)>

Pam Duncan-Glancy

- 86** In section 31, page 16, line 26, after <Part> insert <and section (*Committee for single-building assessments*)>

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