

Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill

NZIBS Submission:

Following the introduction of the Building Product Information Requirements on December 11, 2023, we express our general support for the proposed Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill. We recognise this initiative as part of a broader government effort in building reform, for which we continue to provide submissions.

We agree in principle with the Notes to Editors section of the Ministers Press Release, which aims to:

- Enable recognition of overseas standards and certification schemes, removing the need for designers, builders, or Building Consent Authorities (BCAs) to verify standards.
- Streamline the citing of international standards with the new Building Products Specification, which can be used with Building Code documents to show compliance with the Building Code.
- Require BCAs to accept building products certified overseas and recognized by the Ministry of Business, Innovation and Employment (MBIE).

Education will be crucial for implementing the proposed amendments for BCAs, designers, builders, and building owners alike. Wider acceptance and recognition of overseas standards and certification schemes will require a shift in mindset. Despite familiarity with current New Zealand standards, the industry still faces daily challenges with New Zealand accredited products already in use when designing and constructing buildings.

Ensuring the overseas standards are accessible to BCAs and designers will be critical for enabling them to demonstrate and confirm compliance. Feedback from our members indicates that European standards are too expensive to purchase and update, often requiring searches for free explanatory documents online. Additionally, European standards are not user-friendly, as they are often performance-based, with manufacturers stating compliance without providing the actual test methods. In contrast, American standards tend to be very product-focused rather than system-oriented. Additionally, there is a lack of familiarity with the terminology and the conversion of imperial to metric units for ASTM standards.

We are also concerned that there is the potential for references within the overseas standard to be misinterpreted or misapplied in the New Zealand context, or being used to meet specific objectives rather than to genuinely demonstrate compliance. Typically, when our members investigate and raise concerns about the nominated products, they often refer the issue back to the designer to resolve, who then switches to a product or system with some form of NZ accreditation, noting these to have limitations.

While the government's proposals may offer potential cost and time savings, our geographic isolation and limited local demand/population may reduce these benefits. It will also be necessary to ensure that imported materials

align with New Zealand's unique environmental and seismic requirements. Clear warranties and protocols will be essential to manage product failures and ensure compliance with the New Zealand Building Code.

We also note that the bill introduces a limited good faith liability protection for BCAs, which remains to be fully clarified. As highlighted in previous legal cases related to the leaky building crisis, liability fell on BCAs due to joint and several liability rules. The risk of substandard materials entering the market is a concern for our institute, as the implications could be devastating to our industry.

Ultimately, while adopting international standards presents benefits to the New Zealand market, safeguarding the sustainability, durability, and safety of materials remains a priority. If properly implemented, this approach could drive innovation while maintaining the integrity of New Zealand's construction industry.

After reviewing MBIE's regulatory impact statement on mandating the acceptance of overseas building products, we are inclined to support Option 5, which takes a more holistic approach. However, we question whether MBIE has the necessary skills and resources to efficiently manage approvals. Scientists often have specialised knowledge, which means they may understand their area of expertise but overlook other potential failure mechanisms.

The success of the bill depends on MBIE's ability to support the legislation in a timely manner.

In conclusion, we need a system that gathers feedback and addresses failures throughout the design, review, construction, and post-construction phases.