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## Royal Institute of British Architects response to the Intellectual Property Office consultation on transitional arrangements for the repeal of section 52 of the Copyright, Designs and Patents Act 1988

The Royal Institute of British Architects champions better buildings, communities and the environment through architecture and our 40,000 members. We provide the standards, training, support and recognition that put our members – in the UK and overseas – at the peak of their profession. With government and our partners, we work to improve the design quality of public buildings, new homes and new communities.

1. The RIBA welcomes the opportunity to respond to this consultation and the decision to extend the deadline to allow for further submissions.
2. As part of our work aimed at championing architecture and the work of architects, the RIBA holds a collection of around 1.5 million photos as part of our archive. In addition to exhibiting these photos in our galleries and offices, the RIBA operates a publishing company and an online image library of over 90,000 images.
3. As a member of the British Association of Picture Libraries & Agencies (BAPLA), the RIBA would like to endorse the position outlined in their response to this consultation. Our response below focuses on some of the main issues and how they relate specifically to the work of the RIBA.

### **The RIBA supports many of the proposed changes, however a much longer transition period is required to avoid unintended damage to the work of image libraries**

4. The RIBA's primary concern relating to the proposed repeal of section 52 of the Copyright, Designs and Patents Act 1988 relates to the six month transition period being proposed. We are disappointed that the five year transition period which was previously being discussed has been shortened so drastically.
5. The RIBA supports the direction of travel outlined in the consultation. While we expect the changes to have an impact on our picture library, we believe that provided that there is a suitable transition period for the introduction of the new regulations it should be manageable.
6. Our online library grows by approximately 6,000 images per year, ensuring that new images in the library are compliant with the new regulations would be relatively straightforward.

7. However, we are concerned about the implications of a six-month transition period given that the image library has limited staff resources. At present there are two full-time and two part-time members of staff working in the picture library. Complying with the new legislation over a six-month period would cause significant disruption to their work.

**The current proposals lack the clarity that image libraries need to easily assess how many images are likely to be covered by the new regulations**

8. The present set of proposals fails to give clear guidance around the types of image that are likely to be covered by the repeal of section 52. While many of the images in the RIBA collection are likely to fall outside the scope of the new proposals, there are many types of image that may or may not fall under the terms of the new regulations and will require expert consideration.
9. At present, we have no automated means of assessing how many of the 90,000 images in the online image library are likely to be affected by the proposed changes. Carrying out an assessment of whether an image meets the terms of the new regulations will require library staff to examine each image in turn.
10. This process would need expert guidance in identifying whether relevant items were included and whether they met the definition of a work of artistic craftsmanship. Further work to clarify who is the owner of the design copyright would be required on many occasions.
11. In addition, we would welcome clarification of what counts as 'incidental' for the Act. At present, this is not defined. We are concerned that this ambiguity may open up image libraries to potential legal action.

**The RIBA supports proposals for a distinction between different types of reproduction and a twin-track approach to transition periods**

12. The RIBA would like to add its support to BAPLA's proposals that there be a distinction between transitional periods for 3D replicas and 2D copies.
13. We believe that in the case of items such as furniture, there is a significant difference between the financial implications of the manufacturing of physical reproductions and the printing of copies of the image of that item. For that reason we would urge the Intellectual Property Office to consider whether it would be appropriate to consult on two different transitional arrangements.