

Helen McEntee TD  
Minister for Justice  
Dept of Justice  
Stephens Green  
Dublin 2

2 June 2022

### **Duty of Care Legislation**

Dear Minister McEntee,

I refer to the recent announcement that the Government has approved amendments to the Occupiers Liability Act 1995 as part of the measures aimed at driving down insurance costs.

RGDATA welcomes this development but does require clarification in a number of important respects:

**Scope of changes** – we urgently require clarification on the scope of changes that are proposed in the legislation as there is a prima facie divergence between your claims about the scope of the legislation in the press statement announcing the new measure and the exact provisions of the Heads of the Bill as published.

In the Statement announcing the Government’s decision on the reform of the duty of care law, you are quoted as saying that the amendments proposed will include;

*“Changing the standard to clarify that when the occupier of a property has acted with reckless disregard for a visitor or a customer, it is the standard of reckless disregard rather than reasonable grounds that should apply in relation to the consideration of liability”*

However, the Heads of the Bill (Head 2) only purport to change the standard in cases of recreational users or trespassers rather than visitors or customers. This is a significant distinction and one which needs to be clarified as the provision in the Heads of the Bill does not achieve the level of reform which you reference in the press statement. For the record, RGDATA would welcome the reform in the terms you outlined rather than those reflected in Head 2 of the Bill. It would introduce a far more appropriate level of liability for occupiers.

**Timing of reforms** - RGDATA, along with many other stakeholders in the SME sector are deeply impatient for these reforms to be introduced. We sent comparable proposals to the Department of Justice over two years ago and believe that at this stage, the time for action has passed. The Government should commit to introducing the legislation through the Houses of the Oireachtas before the summer recess. There is no need for any further delays.

We would also urge the Government to introduce measures to compel the insurance sector to pass on savings secured as a result of the reforms that have been brought in by Government. There needs to be some mechanism or structure to compel (and shame) insurers to pass on savings to customers rather than shareholders. Otherwise, the purpose and objective of the reform programme will have been frustrated by the actions of a sector that all too often puts its own corporate needs ahead of the challenges being faced by hard pressed policy holders.

I look forward to receiving the clarification on the issues set out above.

Yours sincerely,

A handwritten signature in black ink that reads "Tara Buckley". The signature is written in a cursive, flowing style with a long, sweeping tail on the letter 'y'.

Tara Buckley  
Director General  
RGDATA