



Department of
**Finance and
Personnel**

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Building Regulations (Northern Ireland) 2012

Consultation Proposals for the Building (Amendment) Regulations (Northern Ireland) 2014

(closing date for the receipt of responses is 4:00 pm on 29 January 2014)

December 2013

Introduction

The Department of Finance and Personnel has policy responsibility for maintaining the Building Regulations.

The Building Regulations apply to most building work and are made principally to secure the health, safety, welfare and convenience of people in or about buildings, further the conservation of fuel and power, further the protection and enhancement of the environment and promotion of sustainable development.

The regulations set mainly functional requirements and are supported by Technical Booklets giving guidance, including performance standards and design provisions, relating to compliance with specific aspects of the Building Regulations for the more common building situations.

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1. BACKGROUND

1.1 The Department of Finance and Personnel has responsibility for maintaining the Building Regulations for Northern Ireland.

1.2 Building Regulations apply to most building work and are made generally to ensure the health, safety, welfare and convenience of people in and around buildings, to further the conservation of fuel and power, protect and enhance the environment and to promote sustainable development. The current building regulations are The Building Regulations (Northern Ireland) 2012 (as amended) (the Building Regulations), and were made using powers provided in the Building Regulations (Northern Ireland) Order 1979 (as amended).

1.3 The Recast Energy Performance of Buildings Directive 2010/31/EU (EPBD2) requires Member States to transpose its requirements into national law. It includes all of the requirements which were in the first EPBD, extends the scope of the original Directive, strengthens certain provisions, and clarifies other aspects, to ensure buildings continue to improve in terms of energy performance, to encourage the use of renewable energy where possible to meet the higher standards, to use energy more efficiently and also to reduce emissions.

2. INTRODUCTION TO CONSULTATION PROPOSALS

2.1 The purpose of this consultation is to obtain comments and views of interested parties on proposals for changes to parts of the Building Regulations to transpose outstanding elements of the EPBD2 and to clarify certain procedural provisions of the regulations.

2.2 The proposals for Part A and Part F are included in **principle form**, see Item 4. This will give consultees an overview of all of the proposed alterations and additions to the current regulations.

3. CONSULTATION PACKAGE – CONTENT AND RESPONSE

3.1 In addition to these proposals, the documents making up this consultation are:

- Dear Consultee letter;
- Response Form for Consultees; and
- Regulatory Impact Assessment.

All of the documents are available online at www.buildingregulationsni.gov.uk

3.2 Where changes in Technical Booklets F1 and F2 are proposed, the intent is explained in Section 6.

Responding to this consultation

3.3 We look forward to receiving your comments and views concerning any of the proposals contained in this consultation. In order to assist our analysis of responses please use the Response Form included on the website and submit your reply electronically to karen.mckernon@dfpni.gov.uk

Alternatively your response may be posted or faxed to:

Karen McKernon
Consultation Co-ordinator
Department of Finance and Personnel
Building Standards Branch
Level 5
Causeway Exchange
1-7 Bedford Street
BELFAST BT2 7EG
Fax: (028) 90823282

The Department will consider all the responses to this consultation received on or before the closing date, which is **4.00 pm on 29 January 2014**.

Submissions made after this date cannot be considered.

Code of practice on consultations

3.4 In light of the requirements of the Code of Practice on Access to Government and the Freedom of Information Act, responses may be made available to the public on request. We may also wish to make responses to this consultation available to the Northern Ireland Assembly and for public inspection either at the Building Standards Branch office or on the website.

3.6 You have the option of indicating that you wish your response to remain confidential and the Department will generally respect that request. Should it be decided that the public interest must override that request, the Department will contact you before disclosure and, if appropriate, provide you with an opportunity for your response to be withdrawn.

PROPOSALS FOR AMENDMENT BUILDING REGULATIONS

4. Part A (Interpretation and general)

4.1 Part A of the Building Regulations has two main purposes:

- to establish processes and procedures relating to the application of the regulations; and
- to define the main terms used in the regulations.

4.2 The Department proposes to amend two of the current Part A regulations.

4.3 The current definition for fixed building services will be expanded to clarify that it includes any combination of services given in paragraphs (a) and (b), of the present definition, for heating, cooling or lighting. There are no cost implications for this proposal.

4.4 At present, Building Regulations do not apply to buildings belonging to statutory undertakers (excluding dwellings and those buildings used as, offices, shops, showrooms or passenger stations). It is proposed, in keeping with the spirit of the EPBD2, that buildings belonging to statutory undertakers must comply with the energy efficiency requirements of the Building Regulations. It is also proposed that there will be no requirement on statutory undertakers to comply with the procedural regulations.

4.5 The application of the energy efficiency requirements to buildings belonging to statutory undertakers will be subject to the application of regulation 38 so that any exemptions in relation to compliance with the energy efficiency requirements may be enjoyed by statutory undertakers.

5. Part F (Conservation of fuel and power)

5.1 The EPBD2 requires Member States to transpose its requirements into national law. This Directive builds on the original 2002 Directive and in Northern Ireland was transposed into legislation through the Building Regulations and the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008. The proposals will transpose outstanding elements of the EPBD2.

5.2 As a result of the transposition of Directive 2010/31/EU, the significant amendments to the Building Regulations will be as follows:

- The existing regulation 43 controlling the renovation of thermal elements will be amended to include the term “major renovation” and the proviso that the requirement for renovation applies insofar that it is technically, functionally and economically feasible. The other amendment of regulation 43 reflects domestic policy (the existing standards in technical guidance), in relation to when more than 50% of an individual thermal element’s surface area is to be renovated or replaced.
- Recognition of the current domestic policy position (the existing standards in technical guidance) exempting certain building types from the requirement to comply with regulation 40. For example, where a building is heated to temperatures substantially lower than that provided for human comfort or the buildings target carbon dioxide emission rate is established through another regulatory framework.
- A new regulation will be introduced to require the consideration of the use of high-efficiency alternative systems in all new buildings and to notify the district council that consideration has been undertaken and is available for verification.
- The introduction of a new regulation to require all buildings to be “nearly zero-energy buildings”. This regulation will not come into operation until 2018 and at that time will be restricted to new buildings occupied and owned by a public authority. From 2020 the scope will be widened to include all new buildings.

5.3 Directive 2010/31/EU also gives Member States discretionary powers not to apply energy performance requirements to certain categories of buildings. Therefore, it is proposed to exempt the buildings listed below from the energy performance requirements (see 4.4 above) of the Building Regulations:

- listed buildings and buildings in a conservation area, where compliance would unacceptably alter their character or appearance;
- buildings used as places of worship and for religious activities;
- temporary buildings with a planned time of use of two years or less;
- industrial sites, workshops and non-residential agricultural buildings with low energy demand; and

- stand alone buildings other than dwellings with a total useful floor area of less than 50m².

5.4 To support this exemption, it is proposed to define “energy efficiency requirements” as those regulations controlling:

- Conservation measures (regulation 39);
- Target carbon dioxide emission rate (regulation 40);
- Consequential improvements (regulation 41);
- Renovation of a thermal element (regulation 43);
- Consideration of high-efficiency alternative systems (new regulation);
and
- Provision of information (regulation 47).

6. PROPOSALS FOR AMENDMENTS TO TECHNICAL BOOKLETS F1 AND F2

6.1 Technical Booklet F1

6.1.1 Changes are proposed to be made to the Performance section to take account of :

- new regulation 43A requiring consideration to be given to the use of high efficiency alternative systems for all new buildings; and
- recognition of the term “major renovation”.

6.1.2 Definitions supporting those new terms used in the amending guidance and provisions will be added to Section 1 General.

6.1.3 In Section 2 (New dwellings), guidance will be given to support the proposed new regulation 43A consideration of the use of high-efficiency alternative systems. This will relate to:

- analysing/taking into account/documenting;
- giving consideration to;
- notifying the District Council; and
- making the analysis available for verification.

6.1.4 Guidance will be given on the possible headline content of the analysis, for example:

- the identity of the applicant/agent;
- the location of the site;
- the use of the proposed building;
- if high efficiency alternative systems are specified;
- the systems proposed; and
- the rationale influencing the decision to incorporate, or not to incorporate, high efficiency alternative systems.

6.1.5 The Department proposes to clarify the existing policy position set out in the guidance of Technical Booklet F1, to recognise the term “major renovation”.

6.1.6 It is also proposed to clarify the existing policy position in relation to protected buildings.

6.2 Technical Booklet F2

6.2.1 Changes are proposed to be made to the Performance section to take account of:

- new regulation 43A requiring consideration to be given to the use of high efficiency alternative systems for all new buildings; and
- recognition of the term “major renovation”.

6.2.2 Definitions supporting those new terms used in the amending guidance and provisions will be added to Section 1 General.

6.2.3 Guidance and provisions will be given to support the proposed amendment to regulation 38 exempting certain buildings from the energy efficiency requirements of the Building Regulations. This will provide specific detail of each category of exempted buildings.

6.2.4 As well as those buildings proposed to be exempt from the energy efficiency requirements of the Building Regulations (see 6.2.3) it is recognised that other building types require special consideration in relation to energy efficiency. It is proposed to clarify existing guidance on the reasonable provision for energy efficiency solutions for the following building types:

- buildings having a low energy demand;
- certain industrial buildings and agricultural buildings;
- modular and portable buildings; and
- shell and core developments.

6.2.5 In Section 2 (New buildings other than dwellings), guidance will be given to support the proposed new regulation 43A consideration of the use of high-efficiency alternative systems. This will relate to:

- analysing/taking into account/documenting;
- giving consideration to;
- notifying the District Council; and
- making the analysis available for verification.

6.2.6 Guidance will be given on the possible headline content of the analysis, for example:

- the identity of the applicant/agent;
- the location of the site;
- the use of the proposed building;
- if high efficiency alternative systems are specified;
- the systems proposed; and
- the rationale influencing the decision to incorporate, or not to incorporate, high efficiency alternative systems.

6.2.7 In Section 3 (Existing buildings other than dwellings), it is proposed to clarify existing guidance on those existing building types that require special consideration in relation to energy efficiency. This guidance will be similar to that proposed for Section 2 (see item 6.2.4).

6.2.8 The Department proposes to clarify the existing policy position set out in the guidance of Technical Booklet F2, to recognise the term “major renovation”.

6.2.9 It is also proposed to clarify the existing policy position in relation to protected buildings.