# EXPLANATORY MEMORANDUM TO

## The Building Regulations (Northern Ireland) 2012

## 2012 No. 192

## 1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Finance and Personnel to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Articles 3, 5(1), (2), and (3), 5A(1), 8, 9, 12, 15, 16(1) and (2), 17(1), (2), 2A) and (5), 18(5), 18B, 18C(1) and 19 of, and paragraphs 1 to 7, 9 to13 and 17 to 22 of Schedule 1 to, the Building Regulations (Northern Ireland) Order 1979 and is subject to the negative resolution procedure.

## 2. Purpose

2.1. The overall objective of the Building Regulations is to improve the health, safety, welfare and convenience of people in or about buildings; improve the conservation of fuel and power; further the protection and enhancement of the environment and promote sustainable development.

2.2. This Statutory Rule revokes and replaces the Building Regulations (Northern Ireland) 2000 and all subsequent amending Regulations ("the 2000 Regulations"). It allows for the introduction of new guidance-based Technical Booklets for all Parts of the regulations and sets new requirements relating to the following specific Parts:-

2.3. Part A (Interpretation and general) introduces new provisions for (optional) type approvals; restricts the use of a building notice to works to an existing dwelling that do not increase the floor area by more than 10 sq. m., or, in the case of a roof space conversion, 3 sq.m.; mandates the issue of a completion certificate; specifies a period of 12 months from the date of notification of completion to a district council within which the council may issue a contravention notice; extends the power of a district council to dispense with or relax requirements; and clarifies the application and interpretation of some existing regulations and defined terms;

2.4. Part C (Site preparation and resistance to contaminants and moisture) references the revised radon affected areas included in the Northern Ireland Environment Agency publication “Radon in Dwellings in Northern Ireland: 2009 Review and Atlas”; extends the requirement to limit the ingress of radon in alterations and extensions to dwellings (including conservatories), irrespective of size; and extends the requirement to avoid any harmful effect caused by contaminants to material change of use cases;

2.5. Part F (Conservation of fuel and power) sets energy efficiency standards that will achieve on average a 25% reduction in carbon dioxide emissions

over 2006 levels. Revised guidance is provided for - minimising thermal bridging at construction joints; inclusion of party wall heat losses in calculations; modular and portable buildings; shell and core developments and first fit-out work; limiting the effects of solar gain in summer; and non-exempt conservatories or porches;

2.6. Part G (Resistance to the passage of sound) extends the scope of the 2000 Regulations to buildings containing domestic accommodation, including dwellings and schools and sets revised standards. Revised guidance to support alternative ways of meeting the requirements is provided.

2.7. Part K (Ventilation) sets requirements for the provision of ventilation in new and renovated buildings and for demonstrating compliance with the requirements; provides for evidence of testing and commissioning of the ventilation system; and requires giving information about the system and its maintenance requirements to the owner / occupier (new dwellings). Revised guidance in support of the requirements is provided.

2.8. Part L (Combustion appliances and fuel storage systems) sets requirements for the provision of detection and warning of the presence of carbon monoxide gas. Revised guidance on: solid biofuel as a solid fuel; relaxation of flue clearance requirements for solid biofuel; ventilation for non-room-sealed combustion appliances; and concealed flues is provided.

2.9. Part P (Sanitary appliances and unvented hot water storage systems and reducing the risk of scalding) sets requirements to ensure that delivered water temperature is not excessive and limits the temperature of hot water supplied to baths. Revised guidance on how the requirements may be achieved is provided.

2.10. For completeness, the position regarding the remaining Parts is as follows:- the requirements of Parts B (Materials and workmanship) and J (Solid waste in buildings) are not amended but new Technical Booklets provide guidance on compliance; the standards in Parts D (Structure), E (Fire safety), N (Drainage) and V (Glazing) are not amended, although new guidance based Technical Booklets have been provided; the standards in Parts H (Stairs, ramps, guarding and protection from impact) and R (Access to and use of buildings) are not amended, but new guidance based Technical Booklets have been provided and technical standards for stairs and ramps are now included only in Technical Booklet H.

## 3. Background

3.1. In the 2000 Regulations (and prior to that), mandatory requirements were complemented by provisions that described methods or materials which were deemed-to-satisfy the relevant functional or performance requirements. The Building Regulations (Amendment) Act (Northern Ireland) 2009 amended the Building Regulations (Northern Ireland) Order 1979 to remove the requirement to provide deemed-to-satisfy provisions and to provide the Department with a power to prepare and publish guidance with respect to the requirements of any provision of building regulations. In progressing the move to a guidance-based system the Department also took the opportunity to enhance certain requirements as outlined in section 2.

## 4. Consultation

4.1. There is a statutory duty to consult the Northern Ireland Building Regulations Advisory Committee (NIBRAC) and such other bodies as appear to the Department to be representative of the interests concerned.

4.2. NIBRAC was actively involved in the development of these amendments to the building regulations and has agreed that it is appropriate to adopt the amendments.

4.3. Public consultation took place in two phases - Phase 1 ran from July – October 2010 and Phase 2 ran from July – October 2011. The consultation documentation was notified to 421 consultees, and the average response rate was 10%. By and large respondees agreed with the proposals, for example to introduce a type approval system; to enhance thermal and sound standards; and to limit the temperature of hot water delivered to baths to reduce the risk of scalding.

4.4. The Department also amended some of the proposals to take account of consultation comments, such as increasing the proposed limit for exempt porches to 5sq. m.; limiting the use of building notices to roofspace conversions under 3sq. m. and to other extensions under 10sq. m.; and linking the issue of completion certificates to plans approved. In a number of instances the Department has also clarified or provided additional guidance in the Technical Booklets.

4.5. Consultation proposals, a summary of consultation responses and outcomes were submitted to the Finance and Personnel Committee of the Northern Ireland Legislative Assembly.

## 5. Equality Impact

5.1. A screening test indicated that there was no adverse impact on equality of opportunity or the needs of rural customers therefore a full Equality Impact Assessment was not considered necessary.

## 6. Regulatory Impact

6.1. The amendments apply to all relevant buildings and therefore have an affect on all sectors, businesses, building owners, developers, etc.. The amendments impose some additional burdens on designers, builders, and developers who will have to meet higher standards. Industry and district council Building Control will have to bear the cost of learning and understanding the impact of the changes. They should not require any new skills so it is anticipated that these costs will relate to initial familiarization/training costs and, for designers, review of on-going design work which has yet to be deposited with the district council. Any increase in time required by Building Control to assess plans and inspect work on site in order to ensure compliance with requirements would be a matter to be addressed by the Prescribed Fees Regulations.

6.2. The Department considers that the amendments will have no significant effect on competition in any markets as they will apply equally. The majority of the changes are intended to introduce guidance in line with current practice and as such should not significantly alter the current status quo.

6.3. Buildings will require more insulation material, higher efficiency boilers, more sophisticated services, energy meters etc. Overall, an increase in capital cost of constructing buildings will mean a larger market for suppliers in total.

6.4. Demand is likely to fall for products with poorer energy efficiency, however, there should be a corresponding rise in demand for products with higher energy efficiency, for Low and Zero Carbon (LZC) products and for sound insulation materials. As Government has previously publicised its 5 -10 year plan towards low or zero carbon buildings and similar amendments are/have been made in England & Wales (E&W) and Scotland, materials manufacturers have been innovative and have developed such materials and suppliers have promoted offers of low carbon solutions at lower cost to developers. The new sound insulation standards have been in operation elsewhere for some time, consequently the market for products and testing is well developed.

## 7. Financial Implications

7.1. The estimated annual cost of achieving the higher standards introduced is £55.3m. The estimated benefits over a 10 year period are £148.5m. The average cost per dwelling of the proposals is estimated to be £1,285. This consists of £523 for Part F (Conservation of fuel and power), £260 (or £610 including flats and maisonettes) for Part G (Resistance to the passage of sound), £410 for Part K (Ventilation), £42 for Part L (Combustion appliances and fuel storage systems) and £50 for Part P (Sanitary appliances…and reducing the risk of scalding).

7.2. Due to the re-designation of radon affected areas, dwellings in a number of geographic areas will henceforth require incorporation of radon protection measures, while in other areas such measures will no longer be required. It is estimated that the number of dwellings in re-designated radon affected areas has decreased from approximately 28% in the previous Report in 1999 to 11% of total housing stock. The saving / cost per dwelling will be +/- £400.

## 8. Section 24 of the Northern Ireland Act 1998

8.1. It is the view of the Department that these Regulations are compatible with section 24 of the Northern Ireland Act 1998.

## 9. EU Implications

9.1. These Regulations were notified in draft to the European Commission in accordance with Directive 98/34/EC and clearance was confirmed on 25 October 2010.

## 10. Parity or Replicatory Measure

10.1. The Regulations harmonise standards in Northern Ireland with those operating elsewhere in the UK.

## 11. Additional Information

11.1. Not applicable.