
STATUTORY INSTRUMENTS

1978 No. 1038 (N.I. 8)

NORTHERN IRELAND

**The Building Regulations
(Northern Ireland) Order 1978**

Laid before Parliament in draft

Made

25th July 1978

Coming into operation on days to be appointed under Article 1 (2)

ARRANGEMENT OF ORDER

Article

1. Title, citation and commencement.
2. Interpretation.
3. Definitions for purposes of principal Order.
4. Building regulations.
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10. Increase of penalties.
11. Civil liability.
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SCHEDULE—Schedule to be substituted for Schedule 1 to principal Order.

At the Court at Buckingham Palace, the 25th day of July 1978

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title, citation and commencement

1.—(1) This Order may be cited as the Building Regulations (Northern Ireland) Order 1978 and may be cited together with the Building Regulations (Northern Ireland) Order 1972 (a) as the Building Regulations (Northern Ireland) Orders 1972 and 1978.

(2) This Order shall come into operation on such day or days as the Head of the Department of Finance may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of Finance;

“the principal Order” means the Building Regulations (Northern Ireland) Order 1972.

Definitions for purposes of principal Order

3.—(1) In Article 2 (2) of the principal Order the definition of “responsible person” is hereby repealed and after the definition of “premises” there shall be inserted the following definition:—

““prescribed” means prescribed by building regulation”.

(2) After paragraph (2) of Article 2 of the principal Order there shall be inserted the following paragraph:—

“(2A) In this Order—

(a) “building” means any permanent or temporary building and includes any other structure or erection of whatever kind or nature (whether permanent or temporary) and in this paragraph “structure or erection” shall include a vehicle, vessel, hovercraft, aircraft or other moveable object of any kind in such circumstances as building regulations prescribe (being circumstances which in the opinion of the Department justify treating it for those purposes as a building);

(b) any reference to a building includes a reference to part of a building, and any reference to the provision of services, fittings and equipment in or in connection with buildings, or to services, fittings and equipment so provided, includes a reference to the affixing of things to buildings or, as the case may be, to things so affixed; and

(c) without prejudice to the definition of “construct” in paragraph (2), references to the construction or erection of a building shall include references to—

(i) the carrying out of such operations (whether for the reconstruction of a building, the roofing over of an open space between walls or buildings, or otherwise) as may be designated in building regulations as operations falling to be treated for those purposes as the construction or erection of a building, and

(ii) the conversion of a moveable object into what is by virtue of subparagraph (a) a building,

and “construct” and “erect” shall be construed accordingly.”.

(a) S.I. 1972/1996 (N.I. 19). (b) 1954 c. 33 (N.I.).

Building regulations

4.—(1) For paragraphs (1) and (2) of Article 5 of the principal Order there shall be substituted the following paragraphs:—

“(1) Without prejudice to the generality of Article 3 (1) building regulations may—

- (a) classify buildings by reference to size, design, purpose, location or any other description whatsoever;
- (b) provide for particular requirements of the regulations to be deemed to be complied with where prescribed methods of construction, prescribed types of materials or other prescribed means are used in or in connection with buildings;
- (c) be framed to any extent by reference to a document published by or on behalf of the Department or any other person, or by reference to the approval or satisfaction of any prescribed person;
- (d) make provision with respect to buildings or parts of buildings, together with any services, fittings or equipment provided in or in connection therewith, in cases where the purposes for which or the manner or circumstances in which a building or part of a building is used change in a way that constitutes a material change of use of the building or part within the meaning of the expression “material change of use” as defined for the purposes of this sub-paragraph by building regulations;
- (e) make a prescribed person or class of persons (instead of district councils) responsible for performing prescribed functions of district councils under or in connection with building regulations, and for that purpose may provide for any prescribed transferred provision relating to building regulations and any prescribed provision of such regulations to apply (with any prescribed modifications) in relation to a prescribed person or a person of a prescribed class as that transferred provision or provision applies in relation to a district council.

(2) Building regulations may exempt from all or any of the provisions of building regulations any prescribed class of buildings, services, fittings or equipment.”.

(2) In Article 5 (5) of the principal Order (purposes for which building regulations may be made) for the words from the word “securing” there shall be substituted the words “securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings and for furthering the conservation of fuel and power.”.

(3) For Schedule 1 to the principal Order (matters in regard to which building regulations may be made) there shall be substituted the Schedule contained in the Schedule to this Order.

(4) In Article 2 (2) of the principal Order the definition of “change of use” is hereby repealed.

Continuing requirements and power to approve types of building, etc.

5. After Article 5 of the principal Order there shall be inserted the following Articles:—

“Continuing requirements

5A.—(1) Building regulations may impose on owners and occupiers of buildings to which building regulations are applicable such continuing requirements as the Department considers appropriate for securing, with respect to any provision of building regulations designated in the regulations as a provision to which those requirements relate, that the purposes of that provision are not frustrated; but a continuing requirement imposed by virtue of this paragraph shall not apply in relation to a building unless a provision of building regulations so designated as one to which the requirement relates applies to that building.

(2) Building regulations may impose on owners and occupiers of buildings of any prescribed class (whenever erected, and whether or not any building regulations were applicable to them at the time of their erection) continuing requirements with respect to all or any of the following matters, namely—

- (a) the conditions subject to which any services, fittings or equipment provided in or in connection with any building of that class may be used;
- (b) the inspection and maintenance of any services, fittings or equipment so provided; and
- (c) the making of reports to any prescribed authority on the condition of any services, fittings or equipment so provided.

(3) If a person contravenes a continuing requirement imposed by virtue of this Article, the district council, without prejudice to its right to take proceedings for a fine in respect of the contravention, may execute any work or take any other action required to remedy the contravention, and may recover from that person the expenses reasonably incurred by it in doing so.

(4) Where a district council has power under paragraph (3) to execute any work or take any other action it may, before exercising that power, by notice require the owner or the occupier of the building to which the contravention referred to in that paragraph relates to execute that work or take that action within such time as is specified in the notice.

(5) The provisions of Article 9 shall have effect in relation to continuing requirements imposed by virtue of this Article subject to the following modifications, that is to say—

- (a) a direction under that Article shall, if it so provides, cease to have effect at the end of such period as may be specified in the direction; and
- (b) paragraph (4) of that Article shall be construed as also authorising the giving of a direction for a limited period.

Type relaxation of building regulations

5B.—(1) If the Department considers that the operation of any requirement of building regulations would be unreasonable in relation to any particular type of building matter, it may, either on an application made to it or of its own accord, give a direction dispensing with or relaxing that requirement generally in relation to that type of building matter, either unconditionally or subject to compliance with any conditions specified in the direction, being conditions with respect to matters directly connected with the dispensation or relaxation.

- (2) A direction under paragraph (1)—
- (a) shall, if it so provides, cease to have effect at the end of such period as may be specified in the direction;
 - (b) may be varied or revoked by a subsequent direction of the Department.
- (3) Building regulations may require a person making an application under paragraph (1) to pay the prescribed fee to the Department but the Department may in any particular case remit the whole or part of any fee payable by virtue of this paragraph.
- (4) Before giving a direction under this Article the Department shall consult such persons as appear to it to be representative of the interests concerned.
- (5) Where the Department gives a direction under this Article it shall publish notice of that fact in such manner as it thinks fit.
- (6) A person who contravenes any condition specified in a direction given under this Article or permits any such condition to be contravened shall be guilty of an offence under this Order.
- (7) If at any time a direction under paragraph (1) dispensing with or relaxing a requirement of building regulations ceases to have effect by virtue of paragraph (2) (a) or is varied or revoked under paragraph (2) (b), that fact shall not affect the continued operation of the direction (with any conditions specified therein) in any case in which before that time plans of the proposed work were, in accordance with building regulations, deposited with a district council.
- (8) In this Article and Article 5C “building matter” means any building or other matter whatsoever to which building regulations are in any circumstances applicable.

Power of Department to approve types of building, etc.

5C.—(1) The following provisions of this Article shall have effect with a view to enabling the Department, either on an application made to it or of its own accord, to approve any particular type of building matter as complying, either generally or in any class of case, with particular requirements of building regulations.

(2) Paragraph (1) applies only to such building matters as may be prescribed for the purposes of this Article.

(3) An application for the approval under this Article of a type of building matter shall comply with any requirements of building regulations as to the form of such applications and the particulars to be included therein.

(4) Where under paragraph (1) the Department approves a type of building matter as complying with particular requirements of building regulations either generally or in any class of case, it may issue a certificate to that effect specifying—

- (a) the type of building matter to which the certificate relates;
- (b) the requirements of building regulations to which the certificate relates; and
- (c) where applicable, the class or classes of case to which the certificate applies.

(5) A certificate under this Article may specify conditions subject to which it would continue to have effect and shall, if it so provides, cease to have effect at the end of such period as may be specified in the certificate.

(6) If, while a certificate under this Article is in force, it is found, in any particular case involving a building matter of the type to which the certificate relates, that the building matter in question is of that type and the case is one to which the certificate applies, that building matter shall in that particular case be deemed to comply with the requirements of building regulations to which the certificate relates.

(7) The Department may vary a certificate under this Article either on an application made to it or of its own accord; but in the case of a certificate issued on an application made by a person under paragraph (1), the Department, except where it varies it on the application of that person, shall before varying it give that person reasonable notice that it proposes to do so.

(8) Building regulations may require a person making an application under paragraph (1) or (7) to pay the prescribed fee to the Department but the Department may in any particular case remit the whole or part of any fee payable by virtue of this paragraph.

(9) The Department may revoke a certificate issued under this Article but before doing so in the case of a certificate issued on an application under paragraph (1) shall give the person on whose application the certificate was issued reasonable notice that it proposes to do so.

(10) Where the Department issues a certificate under this Article or varies or revokes a certificate so issued, it shall publish notice of that fact in such manner as it thinks fit.

(11) If at any time a certificate under this Article ceases to have effect by virtue of paragraph (5) or is varied or revoked under the preceding provisions of this Article that fact shall not affect the continued operation of paragraph (6) by virtue of that certificate in any case in which before that time plans of the proposed work were, in accordance with building regulations, deposited with a district council.

(12) For the purposes of paragraph (4) or any variation of a certificate under paragraph (7), a class of case may be framed in any way that the Department thinks fit.

(13) The Department may by building regulations delegate to any person, to such extent and subject to such conditions as the Department may think fit, the powers of approval conferred on it by this Article; and so far as those powers are for the time being so delegated to any person, the preceding provisions of this Article (except paragraph 8), shall (subject to any prescribed conditions) have effect in relation to that person with the substitution of references to that person for references to the Department.

Special provisions as to materials, etc. unsuitable for permanent buildings

5D.—(1) This Article applies—

(a) to any work consisting of a part of a building, being a part in the construction of which there is used any material or component of a type which, in relation to a part of that description, is prescribed for the purposes of this sub-paragraph under paragraph (2); and

(b) to any work provided in or in connection with a building, being work consisting of a service, fitting or item of equipment of a type so prescribed for the purposes of this sub-paragraph.

(2) The Department may by building regulations—

(a) prescribe a type of material or component for the purposes of paragraph (1) (a) if in its opinion materials or components of that type are likely to be unsuitable for use in the construction of a particular part of a permanent building in the absence of conditions with respect to the use of the building or with respect to any material or component of that type used in the construction of a part of that description;

(b) prescribe a type of service, fitting or equipment for the purposes of paragraph (1) (b) if in its opinion services, fittings or equipment of that type are likely to be unsuitable for provision in or in connection with a permanent building in the absence of conditions with respect to the use of the building or with respect to any service, fitting or equipment of that type so provided.

(3) Where plans of any proposed work are, in accordance with building regulations, deposited with a district council and the plans show that the proposed work would include or consist of work to which this Article applies, the council may, notwithstanding that the plans conform with the regulations—

(a) reject the plans; or

(b) in passing the plans fix a period on the expiration of which the work to which this Article applies or the relevant building (as the council may in passing the plans direct) must be removed and, if it thinks fit, impose with respect to the use of the relevant building or with respect to the work to which this Article applies such reasonable conditions, if any, as it considers appropriate, so however that no condition as to the use of the relevant building shall be imposed which conflicts with any condition imposed or having effect as if imposed under Parts IV and V of the Planning Order (Northern Ireland) 1972 (a).

(4) If, in the case of any work in respect of which plans ought by virtue of building regulations to have been deposited with a district council but have not been so deposited, the work appears to the council to include or consist of work to which this Article applies, the council, without prejudice to its right to take proceedings in respect of any contravention of the regulations, may fix a period on the expiration of which the work to which this Article applies or the relevant building (as the council may in fixing the period direct) must be removed and, if it thinks fit, impose any conditions that might have been imposed under paragraph (3) in passing plans for the first-mentioned work and, where it fixes such a period, shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.

(5) If, in the case of any work appearing to the district council to fall within paragraph (1) (b), plans of the work were not required by building regulations to be deposited with the council, and were not so deposited, the council may at any time within twelve months from the date of completion of the work fix a period on the expiration of which the work must be

removed and, if it thinks fit, impose any conditions which, if plans of the work had been required to be, and had been, so deposited, might have been imposed under paragraph (3) in passing the plans and, where it fixes such a period, shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.

(6) A district council may from time to time extend any period fixed, or vary any conditions imposed, under this Article but so that, unless an application in that behalf is made to it by the owner of the relevant building, it shall not exercise its power of varying conditions so imposed except when granting an extension or further extension of the period fixed with respect to the work or building, as the case may be.

(7) Any person aggrieved by the action of a district council under this Article in rejecting plans, or in fixing or refusing to extend any period, or in imposing or refusing to vary any conditions, may appeal to the Department within the prescribed time and in the prescribed manner and the decision of the Department on an appeal brought by virtue of this paragraph—

(a) may confirm, revoke or vary the decision of the district council in any manner which to the Department seems proper in the circumstances; and

(b) shall be final and conclusive except on any question of law.

(8) Where a period has been fixed under this Article with respect to any work to which this Article applies or with respect to the relevant building, the owner of that building shall on the expiration of that period or, as the case may be, of that period as extended, remove the work or building with respect to which the period was fixed; and if he fails to do so, the district council may remove that work or building, as the case may be, and may recover from him the expenses reasonably incurred by it in doing so.

(9) A person who—

(a) contravenes any condition imposed under this Article or permits any such condition to be contravened; or

(b) contravenes paragraph (8);

shall be guilty of an offence under this Order.

(10) In this Article “the relevant building” means, in any particular case, the building mentioned in sub-paragraph (a) or, as the case may be, sub-paragraph (b) of paragraph (1).”.

Power to require or carry out tests for conformity with building regulations

6.—(1) For sub-paragraph (b) of Article 7 (1) of the principal Order there shall be substituted the following sub-paragraph—

“(b) applying tests for conformity with building regulations;”.

(2) After Article 7 of the principal Order there shall be inserted the following Article:—

“Power to require or carry out tests for conformity with building regulations

7A.—(1) The following paragraph shall have effect for the purpose of enabling a district council to ascertain, as regards any work or proposed work to which building regulations for the enforcement of which it is responsible are applicable, whether any provision of building regulations is or would be contravened by, or by anything done or proposed to be done in connection with, that work.

(2) The district council shall have power for that purpose—

(a) to require by notice in writing any person by whom or on whose behalf the work was, is being or is proposed to be done to carry out such

reasonable tests of or in connection with the work as may be specified in the requirement; or

(b) itself to carry out any reasonable tests of or in connection with the work, and to take any samples necessary to enable it to carry out any such test.

(3) Without prejudice to the generality of paragraph (2), the matters with respect to which tests may be required or carried out under that paragraph include—

(a) tests of the soil or subsoil of the site of any building;

(b) tests of any material, component or combination of components which has been, is being or is proposed to be used in the construction of a building, and tests of any service, fitting or equipment which has been, is being or is proposed to be provided in or in connection with a building.

(4) A district council shall have power, for the purpose of ascertaining whether there is or has been, in the case of any building, any contravention of any continuing requirement that applies in relation to that building—

(a) to require by notice in writing the owner or occupier of the building to carry out such reasonable tests as may be specified in the requirement under this sub-paragraph; or

(b) itself to carry out any tests which it has power to require under sub-paragraph (a), and to take any samples necessary to enable it to carry out any such test.

In this paragraph “continuing requirement” means a continuing requirement imposed by building regulations made by virtue of Article 5A (1) or (2).

(5) The expense of carrying out any tests which a person is required to carry out under this Article shall be met by that person but the district council, on an application made to it, may, if it thinks it reasonable to do so, direct that the expense of carrying out any such tests, or such part of that expense as may be specified in the direction, shall be met by the district council.

(6) Any question arising under this Article between a district council and any person as to the reasonableness—

(a) of any test specified in a requirement imposed on him by the council under this Article; or

(b) of a refusal by the council to give a direction under paragraph (5) on an application made by him; or

(c) of a direction under that paragraph given on such an application,

may on the application of that person be determined by a court of summary jurisdiction; and in a case falling within sub-paragraph (b) or (c) the court may order the expense to which the application relates to be met by the district council to such extent as the court thinks just.”.

Plans deposited with district councils

7.—(1) After paragraph (1) of Article 8 of the principal Order (plans deposited with district councils) there shall be added the following paragraph:—

“(1A) Building regulations may—

(a) make provision for requiring district councils in such circumstances as may be prescribed to consult any prescribed person before taking any prescribed step in connection with any work or other matter to which building regulations are applicable;

- (b) authorise a district council to accept, as evidence that the requirements of building regulations as to matters of a prescribed description are or would be satisfied, certificates to that effect by persons of any class or description prescribed in relation to those matters or by a person nominated in writing by the Department in any particular case;
- (c) provide for the issue by a district council of certificates to the effect that, so far as the council concerned has been able to ascertain after taking all reasonable steps in that behalf, the requirements of building regulations as to matters of any prescribed description are satisfied in any particular case, and for such certificates to be evidence (but not conclusive evidence) of compliance with the regulations;
- (d) make provision—
 - (i) for prohibiting, in prescribed circumstances, the carrying out of proposed work of any prescribed class involving matters of any prescribed description unless there has been deposited with the district council a certificate such as is mentioned in sub-paragraph (b);
 - (ii) for enabling, in cases where such a certificate is required by virtue of the preceding provision, any dispute as to whether a certificate ought to be issued to be referred to the Department;
 - (iii) for enabling the Department on any such reference to give such directions as it thinks fit;
- (e) authorise district councils to charge prescribed fees for or in connection with the performance of prescribed functions of theirs relating to building regulations.”.

(2) After Article 8 of the principal Order there shall be inserted the following Article:—

“Miscellaneous provisions as to the approval of plans

8A.—(1) A district council with whom plans of any proposed work are deposited in accordance with building regulations may in prescribed cases pass them by stages in accordance with the regulations and, where a district council passes any such plans to a limited extent at any stage,—

- (a) it shall impose conditions as to the depositing of further plans in connection with the proposed work; and
- (b) it may impose conditions for securing that, pending the deposit of such of the further plans as it may indicate, the proposed work will not be proceeded with except to such extent as it may in accordance with the regulations authorise.

(2) A person who contravenes any condition imposed by a district council under paragraph (1) other than a condition as to the depositing of further plans, or permits any such condition to be contravened, shall be guilty of an offence under this Order.

(3) A district council with whom plans of any proposed work are deposited in accordance with building regulations may—

- (a) notwithstanding that the plans are defective or show that the work would contravene any of the building regulations, pass the plans provisionally, that is to say, subject to any modifications which it thinks necessary for remedying the defect or avoiding the contravention, indicating the modifications in the notice of approval and—

- (i) if, within a prescribed time and in a prescribed manner so indicated, the person by or on behalf of whom the plans were deposited notifies the council that he agrees to the modifications, the plans shall be treated as having been passed subject to those modifications;
 - (ii) if not, the plans shall be treated as having been rejected, and
 - (b) notwithstanding that the plans are neither defective nor show that the proposed works would contravene any building regulation approve them provisionally in such circumstances as may be prescribed, such approval being subject to the result of such investigations or other processes as may be prescribed.
- (4) In cases where by virtue of paragraph (1) or (3) plans are passed by stages or provisionally, the provisions of Article 8 shall have effect subject to such modifications as may be prescribed.
- (5) Where plans of any proposed work have been passed under Article 8 by a district council, the person by or on behalf of whom the plans were in accordance with building regulations deposited with the council may, and in such cases as may be prescribed shall, for the purpose of obtaining the approval of the council to any proposed departure or deviation from the plans as passed, deposit plans of any such departure or deviation; and that Article shall apply in relation to plans deposited under this paragraph as it applies in relation to the plans originally deposited.”.

Appeals

- 8.—(1) In Article 10 (2) of the principal Order (appeal where district council does not notify applicant for relaxation of building regulations of decision within prescribed period) for the words “the prescribed period referred to in paragraph (1)” there shall be substituted the words “such period as may be prescribed”.
- (2) In Article 11 (1) of the principal Order (appeals to Department within twenty-eight days) for the words from “twenty-eight days” to the end there shall be substituted the words “such period as may be prescribed.”.
- (3) In Article 11 (2) of the principal Order (appeal where district council does not notify applicant of rejection of plans within prescribed period) after the words “of the application” there shall be inserted the words “or within such extended period as may at any time be agreed in writing between an applicant under paragraph (1) and the district council”.
- (4) At the end of Article 11 of the principal Order there shall be added the following paragraphs:—
- “(6) Any question of law arising in connection with the determination by the Department of an appeal under this Article may, if the Department thinks fit, be referred for decision to the Court of Appeal and, where the Department decides to so refer such a question, it shall give notice of its intention to do so to the applicant and the district council.
- (7) An applicant or district council aggrieved by a decision of the Department on a point of law arising on an appeal under this Article which is not referred for decision to the Court of Appeal under paragraph (6) may appeal from that decision to the Court of Appeal.
- (8) The decision of the Court of Appeal on a point of law referred to it under paragraph (6) or (7) shall be final.”.

Powers in relation to buildings which contravene building regulations

9.—(1) In Article 12 of the principal Order, in paragraph (1) for the words “responsible person” there shall be substituted the word “owner”, in paragraphs (1) and (2) after the word “alterations” there shall be inserted the words “or additions” and after paragraph (1) there shall be inserted the following paragraph:—

“(1A) Where a district council has power to serve a notice under paragraph (1) on the owner of any work, it may in addition or instead serve such a notice on one or more of the following persons, namely, the occupier, the person executing the work, the person causing the work to be executed and any other person appearing to the council to have control over the work.”.

(2) In Article 12 (3) of the principal Order for the words from the words “and convenience” to the words “be made” there shall be substituted the words “welfare and convenience of persons in or about the building and of others who may be affected by the building or matters connected with the building and for furthering the conservation of fuel and power” and after the word “altered” there shall be inserted the words “or added to”.

(3) At the end of Article 12 (4) of the principal Order there shall be added the words “but nothing in this paragraph shall be taken to prevent such a notice from being served (before the expiration of twelve months from the completion of the works) in respect of anything of which particulars were not required to be shown in the plans.”.

Increase of penalties

10.—(1) The maximum penalty to which a person guilty of an offence under the principal Order (other than an offence of obstruction under Article 7 (6)) is liable shall be increased to £400 and the maximum penalty to which such a person is liable for each day during which such an offence continues after conviction thereof shall be increased to £50 and accordingly in Article 13 (2) of the principal Order for “£100” there shall be substituted “£400” and for “£10” there shall be substituted “£50”.

(2) The maximum penalty to which a person guilty of an offence under Article 7 (6) of the principal Order is liable shall be increased to £50 and accordingly in Article 13 (3) of the principal Order for “£10” there shall be substituted “£50”.

Civil liability

11. After Article 12 of the principal Order there shall be inserted the following Article:—

“Civil liability

12A.—(1) Subject to the provisions of this Article, breach of a duty imposed by building regulations shall, so far as it causes damage, be actionable except in so far as the regulations provide otherwise; and as regards any such duty building regulations may provide for any prescribed defence to be available in any action for breach of that duty brought by virtue of this paragraph.

(2) Paragraph (1) and any defence provided for in regulations made by virtue thereof shall not apply in the case of a breach of such a duty in connection with a building erected before the date on which that paragraph comes into force unless the regulations imposing the duty apply to or in connection with the building by virtue of paragraph (2) of Article 5A.

(3) Nothing in this Article shall be construed as affecting the extent (if any) to which breach—

(a) of a duty imposed by or arising in connection with this Order or any other enactment relating to building regulations; or

(b) of a duty imposed by building regulations in a case to which paragraph (1) does not apply,

is actionable, or as prejudicing any right of action which exists apart from the enactments relating to building regulations.

(4) In this Article “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).”.

Application of building regulations to Crown

12. After Article 13 of the principal Order there shall be inserted the following Article:—

“Application of building regulations to Crown

13A.—(1) Except in so far as building regulations provide otherwise, the substantive requirements of building regulations—

(a) shall apply in relation to work carried out or proposed to be carried out by or on behalf of a Crown authority (whether or not in relation to a Crown building) as they would apply if the person by or on behalf of whom the work was or is being carried out were not a Crown authority;

(b) so far as they consist of continuing requirements, shall apply to Crown authorities (whether or not in relation to Crown buildings) as they apply to persons who are not Crown authorities.

(2) Except in so far as building regulations provide otherwise, building regulations and the enactments relating to building regulations—

(a) shall apply in relation to work carried out or proposed to be carried out in relation to a Crown building, otherwise than by or on behalf of a Crown authority, and Article 5A and building regulations made by virtue thereof, shall in relation to a Crown building apply to persons other than Crown authorities as they would apply if the building were not a Crown building; and

(b) shall apply in relation to work carried out or proposed to be carried out by or on behalf of a government department acting for a person other than a Crown authority as they would apply if the work had been or were to be carried out by that person.

(3) In the case of work carried out or proposed to be carried out by or on behalf of a Crown authority, and in any case in which a Crown authority is or (apart from any dispensation or relaxation) will be subject to any continuing requirements, that authority may exercise the like powers of dispensing with or relaxing building regulations as are conferred on the Department and district councils by virtue of Article 9.

(4) Article 12A and any building regulations made by virtue of paragraph (1) of that Article shall apply in relation to duties imposed by building regulations in their application in accordance with the preceding provisions of this Article.

(5) In this Article—

“continuing requirement” means a continuing requirement of building regulations imposed by virtue of Article 5A (1) or (2);

“Crown authority” means the Crown Estate Commissioners, a Minister of the Crown, a department of the Government of Northern Ireland or of the United Kingdom or any other person whose functions are performed on behalf of the Crown (not being a person or body whose functions are performed on behalf of Her Majesty in Her private capacity);

“Crown building” means a building in which there is a Crown interest;

“Crown interest” means an interest belonging to Her Majesty in right of the Crown or belonging to a department of the Government of Northern Ireland or of the United Kingdom, or held in trust for Her Majesty for the purposes of such a Government department;

“the substantive requirements of building regulations” means the requirements of building regulations with respect to the design and construction of buildings and the provision of services, fittings and equipment in or in connection with buildings (including requirements imposed by virtue of Article 5A (1) or (2) (a) or (b)) as distinct from procedural requirements.

(6) The preceding provisions of this Article shall, with any necessary modifications, apply in relation to the making of a material change in the use of a building within the meaning of building regulations made for the purposes of Article 5 (1) (d) as they apply in relation to the carrying out of work.”.

N. E. Leigh,

Clerk of the Privy Council.

Article 4 (4).

SCHEDULE

SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 1 TO PRINCIPAL ORDER

Article 3 (1) (a).

SCHEDULE 1

MATTERS IN REGARD TO WHICH BUILDING REGULATIONS MAY BE MADE

1. Preparation of sites.
2. Suitability, durability and use of materials and components (including surface finishes).
3. Structural strength and stability, including—
 - (a) precautions against overloading, impact and explosion;
 - (b) measures to safeguard adjacent buildings and services;
 - (c) underpinning.
4. Fire precautions, including—
 - (a) structural measures to resist the outbreak and spread of fire and to mitigate its effects;
 - (b) services, fittings and equipment designed to mitigate the effects of fire or to facilitate fire-fighting;
 - (c) means of escape in case of fire and means for securing that such means of escape can be safely and effectively used at all material times.
5. Resistance to moisture and decay.
6. Measures affecting the transmission of heat.
7. Measures affecting the transmission of sound.
8. Measures to prevent infestation.

9. Measures affecting the emission of smoke, gases, fumes, grit or dust or other noxious or offensive substances.
 10. Drainage (including waste disposal units).
 11. Cesspools and other means for the reception, treatment or disposal of foul matter.
 12. Storage, treatment and removal of waste.
 13. Installations utilising solid fuel, oil, gas, electricity or any other fuel or power (including appliances, storage tanks, heat exchangers, ducts, fans and other equipment).
 14. Telecommunications services (including telephones and radio and television wiring installations).
 15. Lifts, escalators, hoists, conveyors and moving footways.
 16. Plant providing air under pressure.
 17. Standards of heating, artificial lighting, mechanical ventilation and air-conditioning and provision of power outlets.
 18. Open space about buildings and the natural lighting and ventilation of buildings.
 19. Accommodation for specific purposes in or in connection with buildings, and the dimensions of rooms and other spaces within buildings.
 20. Means of access to and egress from buildings and parts of buildings.
 21. Prevention of danger and obstruction to persons in and about buildings (including passers-by).
 22. Matters connected with or ancillary to any of the matters mentioned in the preceding provisions of this Schedule.
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EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order widens the scope and purposes of building regulations which may be made under the Building Regulations (Northern Ireland) Order 1972 and makes procedures for the approval of building plans more flexible. It introduces new provisions regarding continuing requirements, enables building regulations to be applied to building work undertaken by the Crown and makes provision for civil liability for damage caused by breach of a duty under building regulations.

STATUTORY INSTRUMENTS

1978 No. 1038 (N.I. 8)

NORTHERN IRELAND

**The Building Regulations
(Northern Ireland) Order 1978**

Printed in Northern Ireland by Bell, Logan & Carswell Ltd., and published by Her Majesty's Stationery Office

95 Z46 Dd153289 K18 8/78

ISBN 0 11 084038 0