

## **EXPLANATORY MEMORANDUM TO**

### **The Building (Amendment No.2) Regulations (Northern Ireland) 2010**

#### **SR 2010 No. 382**

#### **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) of, and paragraphs 4, 6, 9, 13, 17, 17C, 17D and 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 Statutory Rule will amend Part A of and Schedules 2 and 5 to the Building Regulations (Northern Ireland) 2000

#### **3. Background**

- 3.1. The amendment introduces a new regulation in relation to single applications for multiple-house developments. Under the new provisions, where work has not commenced on individual buildings within three years of the date of the deposit of plans, a district council may consider each building as a separate deposit for the purposes of Article 19 of the Building Regulations (Northern Ireland) Order 1979 when declaring the plans to be of no effect.
- 3.2. The amendment also takes account of changes to other fire safety legislation and clarifies when certain information is to be provided where a building is created through a material change of use.
- 3.3. The Department is also using the opportunity to clarify or correct certain issues contained in Technical Booklets F1, F2 and L which support the Regulations, and to give visible recognition to Eurocode BSEN 81-58 2003.

#### **4. Consultation**

- 4.1. Consultation on the proposed changes ran between 12 March - 4 June 2010. A total of 30 responses were received which were largely supportive of the proposed amendments. A total of 3 questions (from 18) elicited responses that were more than 10% negative.
- 4.2. In relation to the Department's proposed definition of "substantially commenced", 48.8% felt that this should tie in closer to planning definitions. The Department has taken this on board, and the definition of "commenced" in the Statutory Rule reflects that contained in planning legislation.
- 4.3. 32% of respondents disagreed with the Department's proposals in relation to the provision of information relating to carbon emissions when a

building undergoes a material change of use. The Department has changed the wording of the proposed amendment to better clarify this requirement.

- 4.4. 32% also expressed concern that a proposed change to Technical Booklet F1 would make it difficult to construct a highly-glazed extension. Having considered their comments, the Department has withdrawn this proposal.

## **5. Equality Impact**

- 5.1. Consideration was given to compliance with section 75 of the Northern Ireland Act 1998. An assessment was not considered necessary as building regulations apply to all, regardless of s.75 classification

## **6. Regulatory Impact**

- 6.1. A Regulatory Impact Assessment has been prepared and is attached to this Explanatory Memorandum.

## **7. Financial Implications**

- 7.1. In summary, the changes are seen as generally cost-neutral, as the proposals largely clarify or confirm the Department's original intent. In the case of the amendments that take account of new fire safety regulations, there may actually be a slight saving from a possible reduction in the number of sets of plans required.
- 7.2. While the proposals in relation to multiple-building applications do not prevent applicants from submitting plans for a large number of dwellings on one application, they may voluntarily reduce the number of buildings per application to reflect more closely their anticipated 3-year construction forecast. However, within the 3-year period, if a developer wishes to add additional dwellings to the original application, Article 14(5) of the Building Regulations (NI) Order 1979 allows for amendments to existing approvals. In such case the developer would continue to benefit from a reduction in fees applicable in multi dwelling applications.

## **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. Not applicable.

## **10. Parity or Replicatory Measure**

- 10.1. Not applicable.

## **11. Additional Information**

- 11.1. Not applicable.