

EXPLANATORY MEMORANDUM TO

Building (Amendment) Regulations (Northern Ireland) 2014

2014 No. 44

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 section 2(2) of the European Communities Act 1972, Articles 3, 5(1) and paragraphs 6, 17, 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 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 amends the Building Regulations (Northern Ireland) 2012 (the principal Regulations); it transposes articles 2, 4, 6, 7 and 9 of the European Parliament and Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (recast) (“the recast Directive”) by setting new requirements relating to the following specific Parts –
- 2.3. Part A – Regulation 5 amends Regulation 1(1) of the principal Regulations in that the definition of “Fixed building service” is clarified that such a service may be a combination of the systems referred to in the original definition, this also amends Regulation 4 (Exemptions) of the principal Regulations, to apply certain energy efficiency requirements of the Building Regulations to those building belonging to statutory undertakers where previously the Building Regulations did not apply to them, thus recognising the spirit of the recast Directive.
- 2.4. Part F – Regulation 6 amends Part F of the principal Regulations. The changes are described in paragraphs 2.5 to 2.9.
- 2.5. Regulation 38 of the principal Regulations has been replaced and now incorporates the following –
 - 2.5.1. Regulation 38(2) transposes, in part, Article 4 of the recast Directive setting out those categories of building to which energy efficiency requirements of the Building Regulations will not apply.
 - 2.5.2. Regulation 38(5) or (6) amends or inserts new definitions in Part F.
- 2.6. The amended regulation 43 of the principal Regulations fully transposes the requirements of Article 7 by recognising the term “major renovation”. The remaining provisions of regulation 43 reflect existing domestic technical policy where more than 50% of an individual thermal element’s surface area is to be renovated or replaced. All the requirements in the amended regulation 43 are now subject to the Article 7 qualification that the requirement to meet the minimum energy performance requirements applies only where technically, functionally and economically feasible.

- 2.7. The new Regulation 43A of the principal Regulations transposes Article 6.1 requiring Member States to ensure that, before construction of a new building starts, the technical, environmental and economic feasibility of high-efficiency alternative systems is considered and taken into account.
- 2.8. The new Regulation 43B of the principal Regulations transposes Article 9 requiring Member States to ensure that when buildings are erected they are nearly zero-energy buildings.

3. Background

- 3.1. The Department has responsibility for maintaining building regulations in Northern Ireland.
- 3.2. The 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, to protect and enhance the environment and to promote sustainable development. The current Building Regulations came into operation on 31 October 2012.
- 3.3. The Recast Energy Performance of Buildings Directive 2010/31/EU (the recast Directive) requires Member States to transpose its requirements into national law. It includes all of the requirements which were in the original Directive, extends its scope, 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.

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 consulted on the development of these amendments to the building regulations.
- 4.3. Public consultation took place

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. A Regulatory Impact Assessment has been completed.

7. Financial Implications

- 7.1. 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 additional requirements.

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. The amendments imposed by this Statutory Rule on the Building Regulations (Northern Ireland) 2012 transpose those outstanding Articles of the European Parliament and Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings.

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

12. “21 Day Rule”

12.1. To mitigate the risk of the European Court of Justice imposing financial penalties these regulations, transposing the outstanding requirements of the recast Directive, require to come into operation on or before 25th February 2014. To achieve this required setting aside the “21 day laying rule.