

EXPLANATORY MEMORANDUM TO

Building (Prescribed Fees) (Amendment) Regulations (Northern Ireland) 2013

2013 No. 60

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Finance and Personnel (the Department) 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(1), 5(1), (2) and (3), 8(3) and 13(2)(e) and (3) of the Building Regulations (Northern Ireland) Order 1979 (the 1979 Order) and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This Statutory Rule amends the Building (Prescribed Fees) Regulations (Northern Ireland) 1997. The Regulations are amended as follows -
- 2.2. Fee charges are increased by 20% for mainly domestic building applications, but for applications consisting of 10 dwellings or more, this increase would gradually reduce to 11.5% where the application consists of 20 or more dwellings.
- 2.3. "Type approval" is introduced as a prescribed function (where the applicant may wish to build the same dwelling type in more than one district council area) and fee charges are set for assessment of type approval applications.
- 2.4. A 50% plan fee discount is set when plans for a development containing "type approved" dwellings are deposited with an individual council named in the Type Approval certificate.
- 2.5. Specified fee amounts are set for works for fixed building services, e.g. heating installations and renewable technologies, so that fees relate to the district council involvement rather than to the cost of the installation.
- 2.6. Minor administrative and procedural revisions are made to reflect the provisions of the Building Regulations (Northern Ireland) 2012 (the Building Regulations) including a requirement that fee charges due are to be paid in full before a district council may issue a completion certificate.

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 1979 Order places a duty on a district council to "enforce building regulations in its district" (article 10(1)) by passing plans deposited with it

where "the plans are neither defective nor show that the proposed works would contravene any building regulation" (article 13(1)) or otherwise reject the plans. The 1979 Order also provides for a district council to issue a completion certificate to the effect that "so far as the council concerned has been able to ascertain after taking all reasonable steps in that behalf, (that) the requirements of building regulations as to matters of any prescribed description are satisfied in any particular case" (article 13 (2)(c)).

- 3.4. To facilitate a district council in fulfilling its statutory duty in respect of building regulations, the Building Regulations set a number of statutory notifications requiring the applicant to notify the district council when stages of work have been reached so that, if appropriate, an inspection of the works may be undertaken. District council Building Control surveyors also undertake a number of additional inspections appropriate to the type of development.
- 3.5. The 1979 Order also authorises "district councils to charge prescribed fees for or in connection with the performance of prescribed functions of theirs relating to building regulations "(article 13(2)(e)).
- 3.6. The Department sets the prescribed fee charges. In addition to setting new fee charges, this Statutory Rule reflects provisions of the Building Regulations.
- 3.7. Prescribed fees were first introduced for building regulations in Northern Ireland in 1982. Before the introduction of fees, the cost of the Building Control function in district councils was borne by ratepayers.

4. Consultation

- 4.1. A public consultation was carried out from 28 September 2012 to 23 November 2012. A total of 457 notifications of the proposals were issued, and 29 responses were received, mainly from district councils. Respondents were largely supportive of the proposals. As an outcome of the consultation, the Department is not proceeding with a proposal to require payment of the inspection fee before the first site inspection as respondents considered a requirement which permits withholding a completion certificate until fee charges are paid in full as being the more effective deterrent to non-payment of fee.
- 4.2. As this is a minor amendment a further consultation was not required.

5. Equality Impact

- 5.1. The regulations have been screened out of the Equality Impact Programme as they apply to everyone across the board, irrespective of Section 75 status. Exemptions in the 1997 Prescribed Fees regulations continue to apply.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment has been completed.

7. Financial Implications

- 7.1. The financial implications of the rise in fees applies to everyone involved in the building or renovating of new or existing buildings for the domestic housing market.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. It is the view of the Department that the amended 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. None.