

## **EXPLANATORY MEMORANDUM TO**

### **The Building (Amendment) Regulations (Northern Ireland) 2022 SR No. 71**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Finance to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by Articles 3, 5(1), 5(2), 5A(1) and 9 of, and paragraphs 1, 2, 4, 5, 9, 17C, 21 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 purpose of this Statutory Rule is to amend the Building Regulations (Northern Ireland) 2012 (as amended) (“the principal Regulations”). The following Parts of the principal Regulations are therefore amended as follows:
- 2.2. Part A (Interpretation and general) – Regulation 5 amends the Table to Regulation 8 (Application to material change of use) to apply the new regulation 23(2) to buildings which become a ‘relevant building’ through a material change of use.
- 2.3. Part B (Materials and workmanship) – is amended as follows:
  - (a) Regulation 6(1) amends Regulation 22 (Interpretation) to introduce new definitions for ‘External wall’ and ‘Specified attachment’;
  - (b) Regulation 6(2) amends Regulation 23 (Fitness of materials and workmanship) to:
    - (i) introduce a new requirement in 23(2) to require materials which become part of an external wall or specified attachment of a ‘relevant building’ to achieve a minimum performance classification in terms of reaction to fire.
    - (ii) introduce a list of materials/components in 23(3), which will be exempt from the new requirement in 23(2); and
    - (iii) introduce new definitions in 23(4) for “relevant building” and “above ground level” that are terms specified in the new requirement in 23(2).
- 2.4. Part C (Site preparation and resistance to contaminants and moisture) – Regulation 7 amends Regulation 25 “Application and interpretation” of the principal Regulations, paragraph (3) definition of “radon affected area” to refer to the latest (2015 Public Health England (PHE) publication, ‘Radon in Northern Ireland: Indicative atlas’.

#### **3. Background**

- 3.1. The Department of Finance has responsibility for maintaining the 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 about 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 31st October 2012 through S.R. 2012 No. 192 and were later amended through S.R. 2012 No. 375, S.R. 2014 No. 44 and S.R. 2016 No. 412.

#### **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 principal Regulations.
- 4.3. Public consultation on this amendment took place from 14th August 2020 to 9th October 2020. The Government response to the consultation including a summary of consultation responses is published on the Department's website. A total of 43 responses were received which were largely supportive in relation to the fire safety and radon amendment proposals
- 4.4. Consultation proposals, a summary of consultation responses and outcomes were submitted to the Finance 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. Final Regulatory Impact Assessments have been completed for the Part B and Part C changes and are published on the Department's website.
- 6.2. The amendments in relation to Part B will apply to 'relevant buildings' only i.e. those buildings mainly of a residential type with a top storey over 18m in height. The Department estimates that 3 buildings per annum will be affected by the new requirement, the impact on industry here will be low. The amendment will impose some additional burden on designers, builders, contractors and developers who will have to comply with the new requirement, particularly so for those who are involved in high-rise building developments.
- 6.3. For Part C the proposed amendment to update the defined affected area Indicative atlas, from the 2009 HPA publication to the 2015 PHE publication is assessed as resulting in more dwellings being located in a radon affected area. Due to the re-designation of radon affected areas, dwellings in a number of geographic areas will henceforth require incorporation of radon protection measures. The Department estimates that an additional 9% of new homes and

extensions will be required to install radon protective measures through the introduction of the latest Radon Atlas maps. The impact in terms of familiarisation with the new proposals for industry and District Council building control is also low.

- 6.2. The Part C amendment also imposes the additional burden on housing sector designers, builders, and developers who will have to meet the additional requirements associated with the updated radon mapping. Industry and district council Building Control should not require any new skills, so it is anticipated that up-skilling costs will relate to initial familiarization costs.

## **7. Financial Implications**

- 7.1. Financial implications are set out in the final Regulatory Impact assessment for Part B that is published on the Department's website. Modest costs of £127k per annum for industry are estimated. For the first year, further familiarisation costs of £121k per annum to industry and £13k to District Councils for enforcement are estimated. The total cost for the first year is £261K with a recurring annual cost of £127K to industry thereafter.
- 7.2. Financial implications are set out in the final Regulatory Impact assessments for Part C that is published on the Department's website. As a result of using the updated Radon Atlas maps the Regulatory Impact Assessment estimates that as a result the proportion of homes requiring radon protective measures will increase indicating total costs of £103,500 for the first year and £81,000 per annum ongoing costs thereafter to industry. For dwellings located in a Radon Affected Area the cost per dwelling of radon protective measures will be in the range of £400 to £500, depending on if 'basic' or 'full' radon protection measures are required.

## **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 (2020/0504/UK) in draft to the European Commission in accordance with Directive 2015/1535/EU. The standstill period ended on the 11 November 2020. There were no comments from the Commission.

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

- 10.1. The Regulations harmonise standards in Northern Ireland with similar requirements in other jurisdictions of the UK.

## **11. Additional Information**

- 11.1. Not applicable.