

*These notes refer to the Building Regulations (Amendment) Act (Northern Ireland) 2009 (c.4) which received Royal Assent on 2 March 2009*

# Building Regulations (Amendment) Act (Northern Ireland) 2009

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

These Explanatory Notes relate to the Building Regulations (Amendment) Act 2009 which received Royal Assent on 2 March 2009. They have been prepared by the Department of Finance and Personnel (“the Department”) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.

The notes need to be read in conjunction with the Act. They do not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or Schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

The Act amends the [Building Regulations \(Northern Ireland\) Order 1979 No. 1709 \(N.I.16\)](#) (as amended by The Planning and [Building Regulations \(Amendment\) \(Northern Ireland\) Order 1990 No. 1510 \(N.I. 14\)](#)) (“the 1979 Order”). The new powers and amended provisions reflect the increasing significance of sustainability and environmental issues, as evidenced by the Sustainable Development Strategy for Northern Ireland, by extending the broad principles of the regulatory framework. The opportunity is also taken to streamline and clarify some of the existing regulatory and enforcement provisions.

### **CONSULTATION**

The Department conducted two public consultations on the content of the Act, firstly between January and May 2004 on the existing scope of the building regulations framework, and then from July to November 2005, on a range of policy proposals. Approximately 10% of consultees responded and were broadly supportive of the current framework and the policy changes proposed.

The Department also ran two stakeholder workshops for representatives from both district councils and the local construction industry, consulted with the Northern Ireland Building Regulations Advisory Committee (NIBRAC) and, as

part of a series of public seminars on amendments to the Building Regulations, made presentations on these proposals.

## **OPTIONS CONSIDERED**

Three options were considered:

Do nothing – not feasible, as the existing provisions are not adequate to cope with the requirements of modern buildings and increasing EU demands,

Radical overhaul of the entire building regulations process – not necessary, as evidence indicates contentment with the current regime; and

Amend the existing Order and introduce new provisions as appropriate – the preferred option, given the nature of the amendments proposed.

## **OVERVIEW**

The Act consists of 16 sections and 1 Schedule, which follow the order of the Articles as they appear in the 1979 Order as amended.

## **COMMENTARY ON SECTIONS**

### ***Section 1 Building Regulations:***

Schedule 1 to the 1979 Order is amended to enable building regulations made by the Department to regulate energy performance of buildings, including the proportion of energy used which is to come from a particular source.

### ***Section 2 Protected Buildings:***

this amendment requires district councils to take account of the preservation of the character of protected buildings when carrying out their functions under building regulations.

### ***Section 3 Building Regulations Advisory Committee:***

the process for appointing members is amended to reflect the Office of the Commissioner of Public Appointments for Northern Ireland's Code of Practice, which recommends that nominations to public bodies should come from suitable individuals or bodies.

### ***Section 4 Further provisions as to the making of building regulations:***

the deemed-to-satisfy provision is removed and replaced by a guidance-based system. The scope of building regulations is extended to include the protection and enhancement of the environment and the promotion of sustainable development.

***Section 5 Guidance documents:***

procedures are set out under which guidance with respect to the requirements of building regulations will be prepared and published.

***Section 6 Type-approvals:***

district councils are to be given the power to ‘type-approve’ certain non-site specific building matters (e.g. house type superstructures) in consultation with prescribed bodies, allowing for greater flexibility. Applicants may appeal the decision of a district council to the Department. Building regulations will detail the matters for which ‘type-approval’ may be sought.

***Section 7 Power to require or carry out tests:***

The Department is given the power to prescribe in building regulations the type of tests which a district council may carry out or require to be carried out to ensure that building regulations are not being contravened.

***Section 8 Contravention notices:***

district councils will not be allowed to issue contravention notices after a time (not exceeding 12 months after works are completed) to be prescribed by building regulations. The Department intends to make Regulations to make it mandatory to inform a district council of the date when those works are completed.

***Section 9 Registers of information:***

a new requirement for district councils to keep registers of information for public inspection formalises current practice and allows the Department to prescribe the format and content of registers.

***Section 10 False or misleading statements:***

this creates a new criminal offence of knowingly or recklessly submitting false information.

***Section 11 Application of building regulations to the Crown:***

Article 22 has not been commenced. To reflect modern procurement practice within the Crown estate, we now intend to do so. “Crown building” is defined as a building occupied by the Crown and Crown buildings are required (except where prescribed) to be compliant with the substantive requirements of building regulations.

***Section 12 Interpretation:***

this defines some of the terms used in the Act.

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***Section 13 Minor amendment:***

this removes the definition of “rack rent” from the 1979 Order.

***Section 14 Repeals:***

this states that the repeals of certain provisions of the 1979 Order are set out in the Schedule to the Act.

***Section 15 Commencement:***

provisions of this Act will be brought into operation on such day or days as the Department may appoint by order.

***Schedule Repeals:***

The Schedule sets out the provisions of the 1979 Order that are repealed by the Act.

**HANSARD REPORTS**

The following table sets out the dates of the Hansard reports for each stage of the Act’s passage through the Assembly.

<i>STAGE</i>	<i>DATE</i>
Introduction of the Act to the Committee for Finance and Personnel	7 November 2007
Introduction to the Assembly	25 February 2008
Second Stage Debate	4 March 2008
Committee Stage – Assembly research briefing	5 March 2008
Committee Stage – evidence from the Department of Finance and Personnel	12 March 2008
Committee Stage – evidence from the Sustainable Energy Association and the Climate Change Coalition Northern Ireland	2 April 2008
Committee Stage – evidence from Building Control Northern Ireland	9 April 2008
Committee Stage – evidence from the Northern Ireland Building Regulations Advisory Committee, the Chartered Institute of Architectural Technologists and the Royal Institution of Chartered Surveyors	16 April 2008
Committee Stage – evidence from the Association of Building Engineers and the Institution of Structural Engineers	23 April 2008
Committee Stage – evidence from the Energy Saving Trust, Local Authority Building Control for England and Wales	30 April 2008

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<b><i>STAGE</i></b>	<b><i>DATE</i></b>
and the Department of Environment, Heritage and Local Government, Republic of Ireland	
Committee Stage – evidence from Northern Ireland Environment Link	7 May 2008
Committee Stage – evidence from the Department of Finance and Personnel	14 May 2008
Committee Stage – evidence from the Department of Finance and Personnel	21 May 2008
Committee Stage – evidence from the Department of Finance and Personnel	28 May 2008
Committee’s report on the Act – Report number 23/07/08R	11 June 2008
Consideration Stage in the Assembly	13 January 2009
Further Consideration Stage	27 January 2009
Final Stage	17 February 2009
Royal Assent	2 March 2009