

2014 No. 44

BUILDING REGULATIONS

**The Building (Amendment) Regulations (Northern Ireland)
2014**

Made - - - - - *24th February 2014*

Coming into operation - - - - - *25th February 2014*

The Department of Finance and Personnel, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the environment and in exercise of the powers conferred by section 2(2) of the said Act and Articles 3 and 5(1) of, and paragraphs 6, 17, 17D and 22 of Schedule 1 to, the Building Regulations (Northern Ireland) Order 1979(c), and now vested in it(d), and after consultation with the Building Regulations Advisory Committee and such other bodies as appear to be representative of the interests concerned(e) makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Building (Amendment) Regulations (Northern Ireland) 2014 and shall come into operation on 25th February 2014.

Interpretation

2. In these Regulations “the principal Regulations” means the Building Regulations (Northern Ireland) 2012(f).

Transitional provisions

3.—(1) The principal Regulations shall continue to apply to—

- (a) plans deposited or a building notice given in accordance with the principal Regulations before the commencement of these Regulations;
- (b) building work carried out in accordance with such plans or such building notice with or without any departure or deviation from those plans or that building notice; and
- (c) building work completed before the commencement of these Regulations,

as if the amendments effected by these Regulations had not been made.

(2) In paragraph (1)—

(a) S.I. 2008 No. 301
(b) 1972c. 68
(c) S.I. 1979/1709 (N.I. 16) as amended by S.I. 1990/1510 (N.I. 14), Article 38(1) and Schedule 1, Part II and 2009 c.4
(d) See S.R. 1999 No.481 Article 6 and Schedule 4, Part II
(e) S.I. 1979/1709 (N.I. 16) Article 5(4)
(f) S.R. 2012 No.192 as amended by S.R. 2012 No.375

- (a) “building notice” means a notice given under regulation 9 (Giving of notices and deposit of plans) of the principal Regulations; and
- (b) “building work” has the same meaning as in the principal Regulations.

Amendment of the principal Regulations

4. The principal Regulations shall be amended as provided in regulations 5 to 7.

Amendment of Part A (Interpretation and general)

5.—(1) In regulation 2(1) (Interpretation and general) in the definition of “Fixed building service”—

- (a) at the end of paragraph (a) delete “or”;
- (b) at the end of paragraph (b) insert “or”; and
- (c) after paragraph (b) insert—
“(c) any combination of systems of the kinds referred to in paragraphs (a) and (b);”.

(2) In regulation 4 (Exemptions)—

- (a) paragraph (2) for “paragraph (3)” substitute “paragraphs (3) and (6)”; and
- (b) after paragraph (5) insert—

“(6) Notwithstanding the provisions of paragraph (2)(a), building work in connection with any buildings belonging to any statutory undertakers and held or used by them for the purposes of their undertaking shall, subject to regulation 38, comply with the requirements of regulations 40, 43(1)(a), 43A and 43B.”.

Amendment of Part F (Conservation of fuel and power)

6.—(1) For regulation 38 substitute—

“Application and interpretation

38.—(1) Subject to paragraphs (2), (3) and (4) this Part shall apply to any building and where a building contains one or more dwellings to each dwelling separately.

(2) The energy efficiency requirements shall not apply to—

- (a) protected buildings, where compliance with the energy efficiency requirements would unacceptably alter their character or appearance;
- (b) buildings used as places of worship and for religious activities;
- (c) temporary buildings with a planned time of use of 2 years or less, industrial sites, workshops and non-residential agricultural buildings with a low energy demand; and
- (d) stand-alone buildings other than dwellings, with a total useful floor area of less than 50m².

(3) Regulation 40 shall not apply to—

- (a) the extension of a dwelling; and
- (b) the extension of a building other than a dwelling, unless the extension has a total useful floor area that is both—
 - (i) greater than 100m²; and
 - (ii) greater than 25% of the total useful floor area of the existing building.

(4) Regulation 45 shall not apply to the provision or extension of any fixed building service where commissioning is not possible.

(5) In this Part, the following terms have the same meaning as in European Parliament and the Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (recast)—

- (i) “industrial sites”;
- (ii) “low energy demand”;
- (iii) “non-residential agricultural buildings”;
- (iv) “places of worship”;
- (v) “religious activities”;
- (vi) “stand-alone”; and
- (vii) “workshops”.

(6) In this Part—

“Building envelope” in relation to a building, means the walls, floor, roof, windows, doors, roof windows and rooflights;

“Change of energy status” means any change which results in a building becoming a building to which the energy efficiency requirements of these Regulations apply, where previously it was not;

“Cogeneration” means simultaneous generation in one process of thermal energy and one or both of the following—

- (a) electrical energy;
- (b) mechanical energy;

“District or block heating or cooling” means the distribution of thermal energy in the form of steam, hot water or chilled liquids, from a central source of production through a network to multiple buildings or sites, for the use of space or process heating or cooling;

“Energy efficiency requirements” means the requirements of regulations 39, 40, 41, 43, 43A, 43B and 47;

“Energy from renewable sources” means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

“Heat pump” means a machine, device or installation that transfers heat from natural surroundings such as air, water or ground to buildings or industrial applications by reversing the natural flow of heat such that it flows from a lower to higher temperature. (For reversible heat pumps, it may also move heat from the building to the natural surroundings.);

“High-efficiency alternative systems” include—

- (a) decentralised energy supply systems based on energy from renewable sources;
- (b) cogeneration;
- (c) district or block heating or cooling, particularly where it is based entirely or partially on energy from renewable sources; and
- (d) heat pumps;

“Major renovation” means the renovation of a building where more than 25% of the surface area of the building envelope undergoes renovation;

“National calculation methodology” means—

- (a) in relation to a dwelling, the Government’s Standard Assessment Procedure (SAP) for Energy Rating of Dwellings; and
- (b) in relation to a building other than a dwelling—
 - (i) the Simplified Building Energy Model (SBEM); or
 - (ii) a Dynamic Simulation Model (DSM),

that is implemented with Government approved software;

“Nearly zero-energy building” means a building that has a very high energy performance, as determined in accordance with the National calculation methodology, where the nearly zero or very low amount of energy required should be covered to a very significant extent by energy from renewable sources, including energy from renewable sources produced on-site or nearby;

“Pipes, ducts and vessels” means any pipe, any duct and any vessel in a space heating or space cooling system that is intended to carry a heated or chilled liquid or gas and includes any associated fittings;

“Protected building” has the same meaning as in Article 3A(2) of the Building Regulations (Northern Ireland) Order 1979;

“Renovation of a thermal element” means the provision of a new layer to a thermal element or the replacement of an existing layer (other than where a partial replacement layer is provided solely as a means of patch repair to a flat roof) but does not include thin decorative surface finishes;

“Space cooling system” does not include a system or that part of a system which cools or stores water solely for a commercial or industrial process;

“Space heating system” does not include a system or that part of a system which heats or stores water solely for a commercial or industrial process;

“Target carbon dioxide emission rate” means the rate of carbon dioxide emission measured in kilograms of carbon dioxide per square metre of total useful floor area per year;

“Thermal element” means a wall, floor or roof (but does not include windows, doors, roof windows or rooflights) which separates a thermally conditioned space from—

- (a) the external environment including the ground; or
- (b) in the case of floors and walls, another part of the building which is —
 - (i) thermally unconditioned;
 - (ii) an extension falling within Class 8 of Schedule 2; or
 - (iii) in the case of a building other than a dwelling, conditioned to a different temperature,

and includes all parts of the element between the surface bounding the conditioned space and the external environment or other part of the building as the case may be; and

“Total useful floor area” means the total area of all enclosed spaces measured to the inside face of the external walls, that is, the gross floor area, and in the case of sloping surfaces such as staircases, galleries, raked auditoria and tiered terraces shall be taken as their area on plan but shall exclude areas that are not enclosed such as open floors, covered ways and balconies.”.

(2) In regulation 40(1) and (2) for “38(2)(b)” substitute “38(3)(b)”.

(3) For regulation 43 substitute—

“Renovation of thermal elements

43.—(1) Where the renovation of an individual thermal element—

- (a) constitutes a major renovation; or
- (b) amounts to the renovation of more than 50% of the surface area of the thermal element,

the renovation shall be carried out so as to ensure that the whole of the thermal element complies with the requirement of regulation 39(a)(i) in so far that it is technically, functionally and economically feasible.

(2) Where the whole or any part of an individual thermal element is to be replaced and such work—

- (a) constitutes a major renovation; or
- (b) in the case of part replacement, amounts to the renovation of more than 50% of the surface area of the thermal element,

the whole of the thermal element shall be replaced to comply with the requirement of regulation 39(a)(i) in so far that it is technically, functionally and economically feasible.”.

(4) After regulation 43 insert—

“Consideration of high-efficiency alternative systems

43A.—(1) Where a building is to be erected, the person carrying out the work shall, before construction begins, undertake an analysis of and give consideration to the use of available high-efficiency alternative systems in the work. Such systems include—

- (a) decentralised energy supply systems based on energy from renewable sources;
- (b) cogeneration;
- (c) district or block heating or cooling, particularly where it is based entirely or partially on energy from renewable sources; and
- (d) heat pumps.

(2) The analysis referred to in paragraph (1)—

- (a) shall be documented and take into account the technical, environmental and economic feasibility of using high-efficiency alternative systems;
- (b) may be carried out for individual buildings or for groups of similar buildings or for common typologies of buildings in the same area; and
- (c) in so far as it relates to collective heating and cooling systems, may be carried out for all buildings connected to the system in the same area.

Nearly zero-energy requirements for new buildings

43B.—(1) Where a building is erected, it must be a nearly zero-energy building.

(2) For the purposes of paragraph (1)—

- (a) in respect of new buildings occupied by public authorities, this regulation shall apply from 1st January 2019; and
- (b) in respect of all new buildings, this regulation shall apply from 31st December 2020.”.

Amendment of Schedule 3 Part A – Giving of notices and deposit of plans

7. Schedule 3 Part A (Giving of notices and deposit of plans) shall be amended as follows—

(a) after paragraph (10) of Rule B: Erection of buildings, insert—

“(11) A notice stating that the analysis required by regulation 43A in Part F has been carried out and is available for verification.”.

(b) after paragraph (12) of Rule F: Additional requirements, insert—

“(13) Documented analysis for the purposes of regulation 43A in Part F.”.

Sealed with the Official Seal of the Department of Finance and Personnel on 24th February 2014.



Seamus McCrystal
A senior officer of the
Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building Regulations (Northern Ireland) 2012 (the principal Regulations) and they come into operation on 25th February 2014. These Regulations transpose Articles 2, 4, 6, 7 and 9 of European Parliament and the Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (“the recast Directive”).

These Regulations amend the principal Regulations as follows–

Regulation 5(1) amends regulation 2(1) of Part A by extending the definition of “Fixed building service”.

Regulation 5(2) applies certain energy efficiency requirements to buildings belonging to statutory undertakers.

Regulation 6 amends Part F of the principal Regulations:

1. Regulation 38 has been replaced and includes the following–

- (a) 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 do not apply.
- (b) Regulation 38(5) and (6) amends or inserts new definitions in Part F.

2. Regulation 43 is amended to transpose fully the requirements of Article 7 by recognising the term “major renovation”. The remaining provisions of the amended regulation 43 reflect existing domestic 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.

3. Regulation 43A transposes a requirement arising from Article 6 of the recast Directive relating to consideration of high-efficiency alternative systems for new buildings; and

4. Regulation 43B transposes a requirement arising from Article 9 of the recast Directive relating to a requirement for all new buildings to be nearly zero-energy buildings.

Regulation 7 amends Schedule 3, Part A. Paragraph (a) inserts a new paragraph (11) into Rule B: Erection of buildings requiring a notice stating that the analysis required by regulation 43A in Part F has been carried out and is available for verification. Paragraph (b) inserts a new paragraph (13) into Rule F: Additional requirements requiring documented analysis for the purposes of regulation 43A in Part F.

A Regulatory Impact Assessment has been prepared along with a Transposition Note. Copies may be downloaded from www.buildingregulationsni.gov.uk, or alternatively, hard copies may be requested from Building Standards Branch, Department of Finance and Personnel, 3rd Floor, Northland House, 3-5a Frederick Street, Belfast, BT1 2NR.

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STATUTORY RULES OF NORTHERN IRELAND

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£5.75

N6073 2/2014 446073T 19585

ISBN 978-0-337-99279-7



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