STATUTORY INSTRUMENTS

1979 No. 1709 (N.I. 16)

Building Regulations (Northern Ireland) Order 1979 [F1]

[19th December 1979]

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F1 functions transf. by SR 1999/481

Title and commencement

1.—(1) This Order may be cited as the Building Regulations (Northern Ireland) Order 1979.

(2) This Order shall come into operation on such day or days as the Head of the Department may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and to the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"Act" includes an Act of the Parliament of the United Kingdom;

"Advisory Committee" has the meaning assigned to it by Article 4(1);

"authorised officer" means a person authorised in writing by a district council to act for the purposes of Article 11;

"building" and any reference to a building or the construction or erection of a building shall be construed in accordance with paragraph (3);

"building regulations" has the meaning assigned to it by Article 3(1);

"construct" includes alter, erect, extend and fit;

[[F2]"contravention notice" has the meaning assigned to it by Article 18(2);**]**

"the Department" means the Department of Finance;

"local provision" means any provision contained in or operative by virtue of any local or personal Act or any Act confirming a provisional order which relates to the subject-matter of this Order or of any building regulations;

"owner" means the person for the time being receiving the rack rent of any premises whether on his own account or as agent or trustee for any other person, or who would so receive the same if such premises were let at a rack rent;

"plans" includes any document, drawing, specifications or materials referred to in building regulations;

"premises" includes sites and buildings;

[[F2]"prescribed" means prescribed by building regulations;**]**

[F3]...

"site" in relation to a house, building, or other erection means the whole space to be occupied by such house, building or other erection between the level of the bottom of the foundations and the level of the base of the walls;

"statutory provision" and "transferred provision" have the respective meanings assigned to them by paragraphs (*f*) and (*g*) of section 1 of the Interpretation Act (Northern Ireland) 1954 .

(3) In this Order—

(a) "building" means any permanent or temporary building and includes any other structure or erection of whatever kind or nature (whether permanent or temporary) and in this sub-paragraph "structure or erection" shall include a vehicle, vessel, hovercraft, aircraft or other moveable object of any kind in such circumstances as building regulations prescribe (being circumstances which in the opinion of the Department justify treating it for those purposes as a building);

(b) any reference to a building includes a reference to part of a building, and any reference to the provision of services, fittings and equipment in or in connection with buildings, or to services, fittings and equipment so provided, includes a reference to the affixing of things to buildings or, as the case may be, to things so affixed; and

(c) without prejudice to the definition of "construct" in paragraph (2), references to the construction or erection of a building include references to—

(i) the carrying out of such operations (whether for the reconstruction of a building, the roofing over an open space between walls or buildings, or otherwise) as may be designated in building regulations as operations falling to be treated for those purposes as the construction or erection of a building, and

(ii) the conversion of a moveable object into what is by virtue of sub-paragraph (*a*) a building,

and "construct" and "erect" shall be construed accordingly.

[[F4](4) For the purposes of this Order "low or zero carbon system" means any system used for the generation of electricity or the production of heat which, in generating electricity or (as the case may be) producing heat, relies wholly or mainly on a source of energy or a technology mentioned in paragraph (5).

(5) Those sources of energy and technologies are—

(a) biomass;

(b) biofuels;

(c) fuel cells;

(d) photovoltaics;

(e) water (including waves and tides);

(f) wind;

(g) solar power;

(h) geothermal sources;

(i) combined heat and power systems;

(j) other sources of energy and technologies for the generation of electricity or the production of heat, the use of which would, in the opinion of the Department, cut emissions of carbon dioxide and other greenhouse gases.

(6) In paragraph (5)(j) "other greenhouse gases" means—

(a) methane;

(b) nitrous oxide;

(c) hydrofluorocarbons;

(d) perfluorocarbons;

(e) sulphur hexafluoride.**]**

F2 1990 NI 14

F3 Words in art. 2(2) repealed (15.5.2012) by Building Regulations (Amendment) Act (Northern Ireland) 2009 (c. 4), ss. 13, 15(4), **Sch.**; S.R. 2012/186, art. 2(d) (The repeals Sch. being fully in operation at 31.10.2012 for this amendment by S.R. 2012/186, art. 3(b))

F4 Art. 2(4)-(6) added (31.8.2009) by Building Regulations (Amendment) Act (Northern Ireland) 2009 (c. 4), **ss. 1(1)**, 15(4); S.R. 2009/272, **art. 2(a)**

Building regulations

3.—(1) The Department may make regulations to be known (and in this Order referred to) as "building regulations"

(a) for all or any of the matters set out in Schedule 1; and

(b) for such other matters relating to buildings as appear to the Department after consultation with the Advisory Committee to be relevant to the purposes of this Order.

(2) Building regulations may be expressed in terms of performance, types of material, methods of construction or of ensuring safety, or otherwise.

[F5**Protected buildings**

3A.—(1) In carrying out any of its functions under building regulations a district council shall take account of the desirability of preserving the character of protected buildings.

(2) In this Article "protected buildings" means—

(a) listed buildings within the meaning of the **[**F6Planning Act (Northern Ireland) 2011**]** ; and

(b) buildings situated in conservation areas within the meaning of **[**F7that Act**]** .**]**

F5 Art. 3A inserted (31.8.2009) by Building Regulations (Amendment) Act (Northern Ireland) 2009 (c. 4), **ss. 2**, 15(4); S.R. 2009/272, **art. 2(b)**

F6 Words in art. 3A(2)(a) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern-Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 22(a)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F7 Words in art. 3A(2)(b) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern-Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 22(b)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Building Regulations Advisory Committee

4.—(1) The Building Regulations Advisory Committee (in this Order referred to as "the Advisory Committee") shall continue to exist to advise the Department upon the amendment of building regulations and upon any matter arising out of or connected with the amendment or operation of building regulations which may be referred to the Advisory Committee by the Department.

(2) Members of the Advisory Committee shall be appointed by the Department after consultation with such **[**F8persons**]** as appear to it to be representative of the interests concerned.

(3) The Department may, with the approval of the Department of**[**F9 Finance and Personnel**]**, pay to members of the Advisory Committee such out-of-pocket expenses (including travelling expenses and subsistence allowances) reasonably and properly incurred in connection with the business of the Advisory Committee, as the Department may determine.

F8 Word in art. 4(2) substituted (31.8.2009) by Building Regulations (Amendment) Act (Northern Ireland) 2009 (c. 4), **ss. 3**, 15(4); S.R. 2009/272, **art. 2(c)**
F9 1982 NI 6

Further provisions as to the making of building regulations and the exemption therefrom of certain classes of buildings

5.—(1) Without prejudice to the generality of Article 3(1) building regulations may—

(a) classify buildings by reference to size, design, purpose, location or any other description whatsoever;

F10(b) . . . . . .

(c) be framed to any extent by reference to **[**F11guidance**]** published **[**F12 (whether before or after the making of the regulations)**][**F13by the Department in accordance with Article 5A;**]**

(d) make provision with respect to buildings or parts of buildings, together with any services, fittings or equipment provided in or in connection therewith, in cases where the purposes for which or the manner or circumstances in which a building or part of a building is used change in a way that constitutes a material change of use of the building or part within the meaning of the expression "material change of use" as defined for the purposes of this sub-paragraph by building regulations;

(e) make a prescribed person or class of persons (instead of district councils) responsible for performing prescribed functions of district councils under or in connection with building regulations, and for that purpose provide for any prescribed transferred provision relating to building regulations and any prescribed provision of such regulations to apply (with any prescribed modifications) in relation to a prescribed person or a person of a prescribed class as that transferred provision or provision applies in relation to a district council.

(2) Building regulations may exempt from all or any of the provisions of building regulations any prescribed class of buildings, services, fittings or equipment.

(3) Building regulations shall provide in appropriate cases for the deposit of plans with district councils and the serving of notices on district councils.

(4) Before amending any building regulations the Department shall consult the Advisory Committee and such other bodies as appear to the Department to be representative of the interests concerned.

(5) Requirements specified in any building regulations shall be such as in the opinion of the Department can reasonably be expected to be attained in buildings of the classes to which they relate, **[**F14 having regard to the need to—

(a) secure the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings;

(b) further the conservation of fuel and power;

(c) further the protection and enhancement of the environment; and

(d) promote sustainable development.**]**

F10 Art. 5(1)(b) repealed (31.10.2012) by Building Regulations (Amendment) Act (Northern Ireland) 2009 (c. 4), ss. 4(a), 15(4), **Sch.**; S.R. 2012/186, art. 3(a)
F11 Word in art. 5(1)(c) substituted (15.5.2012) by Building Regulations (Amendment) Act (Northern Ireland) 2009 (c. 4), **ss. 4(b)(i)**, 15(4); S.R. 2012/186, art. 2(a)
F12 1990 NI 14
F13 Words in art. 5(1)(c) substituted (15.5.2012) by Building Regulations (Amendment) Act (Northern Ireland) 2009 (c. 4), **ss. 4(b)(ii)**, 15(4); S.R. 2012/186, art. 2(a)
F14 Words in art. 5(5) substituted (31.8.2009) by Building Regulations (Amendment) Act (Northern Ireland) 2009 (c. 4), **ss. 4(c)**, 15(4); S.R. 2009/272, **art. 2(d)**

[F15Guidance for purposes of building regulations

5A.—(1) The Department may prepare guidance with respect to the requirements of any provision of building regulations.

(2) After preparing a draft of the guidance the Department—

(a) shall send a copy of the draft to such persons as it thinks are representative of those having an interest in building regulations;

(b) shall consider any representations made to it about the draft by such persons;

(c) may amend the draft accordingly.

(3) After the Department has proceeded under paragraph (2) it shall publish the guidance in such manner as it thinks appropriate.

(4) The Department shall from time to time review the guidance and if it thinks it appropriate—

(a) revise the guidance; or

(b) withdraw the guidance.

(5) Paragraphs (1) to (3) apply to a revision of the guidance as they apply to its preparation.

(6) Where the Department withdraws guidance under paragraph (4)(b) it shall publish notice of that fact in such manner as it thinks appropriate.

(7) A failure on the part of a person to comply with guidance published under this Article does not of itself render that person liable to any civil or criminal proceedings; but the guidance is admissible in evidence in such proceedings and a court may take account of any failure to act in accordance with it in deciding any question in the proceedings.**]**

F15 Art. 5A inserted (15.5.2012) by Building Regulations (Amendment) Act (Northern Ireland) 2009 (c. 4), **ss. 5(1)**, 15(4); S.R. 2012/186, art. 2(b)

Continuing requirements

6.—(1) Building regulations may impose on owners and occupiers of buildings to which building regulations are applicable such continuing requirements as the Department considers appropriate for securing, with respect to any provision of building regulations designated in the regulations as a provision to which those requirements relate, that the purposes of that provision are not frustrated; but a continuing requirement imposed by virtue of this paragraph shall not apply in relation to a building unless a provision of building regulations so designated as one to which the requirement relates applies to that building.

(2) Building regulations may impose on owners and occupiers of buildings of any prescribed class (whenever erected, and whether or not any building regulations were applicable to them at the