

**FROM THE HEAD OF DIVISION  
Philip Irwin**



Properties Division  
Causeway Exchange  
1-7 Bedford Street  
Belfast  
BT2 7EG  
Tel. No. 028 9051 2623  
Fax: 028 9082 3282  
E-mail: [Philip.Irwin@dfpni.gov.uk](mailto:Philip.Irwin@dfpni.gov.uk)

Date: 12<sup>th</sup> March 2010

**Dear Consultee,**

**Building Regulations (Northern Ireland) 2000 – Consultation on proposed New requirements relating to Plans of No Effect and minor amendments / clarifications and corrections to Parts A, E, F and L**

I am writing to invite you to respond to the Department's proposals for amending the Building Regulations (Northern Ireland) 2000 (the Building Regulations), together with certain Technical Booklets which support the Regulations.

The Building Regulations (Northern Ireland) 2000 (the Building Regulations) apply to most building work and are made principally to ensure the health, safety, welfare and convenience of people in and around building, the conservation of fuel and power, the protection and enhancement of the environment and the promotion of sustainable development.

The proposals in the consultation relate to the introduction of new requirements in relation to "Plans of no Effect"; to amend, clarify and/or correct requirements, or provisions supporting Part A (Interpretation and general), Part E (Fire Safety), Technical Booklets F1 and F2 (Conservation of fuel and power) and Technical Booklet L (Combustion appliances and fuel storage systems) of the Building Regulations.

In launching this consultation I would like to record my appreciation of the work the Northern Ireland Building Regulations Advisory Committee has put in, along with Departmental officials, on developing the proposals.

**Plans of No Effect**

Article 19 (Deposit of plans to be of no effect after certain interval) of the Building Regulations (Northern Ireland) Order 1979 (as amended) provides that where work on a development for which plans were deposited with the relevant district council has not commenced within three years of the deposit of plans, the district council may declare the plans to be of no effect i.e. as if the plans had not been deposited with the district council.

As the regulations stand currently, if an applicant deposits plans for a number of dwellings on one application, he must only commence work on one unit to “activate” the approval, thereby preventing the district council from declaring the plans to be of no effect for the remaining uncommenced units. In effect, this often allows developers to build houses against outdated building regulations. During consultation on an amendment to the 1979 Order, the Department was made aware of occasions where houses were being built against plans that were deposited many years previously (examples were cited of development taking place against 15 year-old plans).

## **Proposals**

The Department therefore proposes to amend Part A (Interpretation and general) of the Building Regulations (Northern Ireland) 2000 to ensure that where plans of a multi-dwelling development have been deposited with the district council but where construction on any building included on those plans has not commenced within the period of time permitted by Article 19, the district council may declare the deposit in relation to that building to “be of no effect” (as if the plans had never been deposited).

The amendment will propose that, for the purposes of Article 19, each dwelling in a deposit of plans will be treated as a separate deposit i.e. if a developer has not commenced work on any of the dwellings included in the plans 3 years after the date the plans were deposited, then for all intents and purposes, and if the district council declares, it will be as if these uncommenced dwellings were not included on the original deposit. A definition of substantial commencement for the purposes of Article 19 is also suggested.

## **Amendment to the provision of TER and DER/BER calculations where there is a material change of use**

The regulations currently require that the developer must provide the district council with the Target CO<sub>2</sub> Emissions Rate (TER) together with the Dwelling CO<sub>2</sub> Emissions Rate (DER) or, in the case of a building other than a dwelling, the Building CO<sub>2</sub> Emissions Rate (BER).

Where a building or dwelling was created by a material change of use, then there are alternative methods to the TER and DER/BER to prove compliance with the regulations (see Technical Booklet F1 paragraph 3.30 and Technical Booklet F2 paragraph 3.64).

## **Proposals**

The Department proposes to delete this requirement from regulation A11 (Notice of commencement and completion of certain stages of work), from Schedule 2 Part A (Giving of notices and deposit of plans) Rule E (Material changes of use), from Schedule 2 Part B (4) and from Technical Booklets F1 and F2.

## **Fire Services (NI) Order 1984**

The Building Regulations currently make two references to the above Order. The Department of Health, Social Services and Public Safety (DHSSPS) proposes to make new Fire Safety Regulations, which will give effect to the Fire and Rescue Services (NI) Order 2006 and will replace Part III of the Fire Services (NI) Order 1984 when it is repealed.

## **Proposals**

In preparation for the eventual repeal of the Fire Services (NI) Order 1984, the Department is taking this opportunity to consult on a proposal to replace the references to it with references to the Fire and Rescue Services (NI) Order 2006 and to take account of any regulatory impact on building regulations effected by DHSSPS' proposed new Fire Safety Regulations. *The timing and impact of this amendment to the Building Regulations will depend on the coming into operation of DHSSPS' new Fire Safety Regulations.*

### **Visible recognition of European Fire Resistance Test - Lift Landing Doors**

The Building Regulations provide that where references are given to British Standards or British Standards Codes of Practice, these references shall be construed as, amongst other standards, a reference to a harmonised European standard. Where possible it is expected that visible recognition is given to a European standard where such a standard provides equivalent levels of safety, suitability and fitness for purpose as that provided by a British Standard or British Standard Codes of Practice.

BS EN 81-58: 2003 *Safety rules for the construction and installation of lifts – Examination and tests Part 58: Landing doors fire resistance test* is a specific harmonised standard for the fire resistance testing of lift landing doors. This standard was developed under the EU Lifts Directive.

## **Proposal**

In addition to ongoing recognition of the current British Standards, the Department proposes amending Technical Booklet E to give visible recognition to BS EN 81-58: 2003.

### **Corrections/Clarifications**

The Department wishes to take the opportunity presented by this consultation to inform consultees of minor corrections and clarifications that it considers desirable to make, primarily to existing Technical Booklets F1, F2 & L, specifically to:

- delete aspects of provisions that are not necessary;
- provide clarification on some of the existing provisions where experience has shown that there is room for misinterpretation of the provisions; and
- correct references to diagrams or publications.

### **Clarification – efficiency of heating appliances**

The Department has been made aware that, in relation to the application of the provisions given in Technical Booklets F1 and F2:

- some parts of industry are interpreting the efficiency requirement for oil and gas boilers as a "peak efficiency" rather than as the intended "seasonal efficiency", which is the relevant efficiency referred to in the Domestic Heating Compliance Guide and the Non-domestic Heating, Cooling and Ventilation Compliance Guide (as appropriate); and

- the minimum efficiency of a domestic replacement boiler is being interpreted as up to 2 percentage points less efficient than the appliance being replaced (even if the efficiency of the appliance being replaced is less than the minimum 86% required by the regulations).

The Department proposes to amend Technical Booklets F1 and F2 to clarify that:

- any references to an oil or gas boiler's efficiency are to be construed as a reference to its seasonal efficiency;
- the minimum efficiency of any other heating appliances shall be not less than that recommended for its type as set out in the Domestic Heating Compliance Guide or in the Non-domestic Heating, Cooling and Ventilation Compliance Guide (as appropriate);
- the minimum efficiency of replacement boilers shall be not less than the efficiency (or seasonal efficiency for oil- or gas-fired boilers) set out in the relevant Guide; and
- related heating controls should meet the minimum control requirements set out in the relevant Guide.

### **Clarification – England & Wales-referenced guides**

Technical Booklets F1 and F2 refer to the Domestic Heating Compliance Guide and to the Non-Domestic Heating, Cooling and Ventilation Compliance Guide respectively, for further guidance on meeting the Building Regulations requirements. References to the Building Regulations in these Guides are to Part L (Conservation of fuel and power). Part L is the England and Wales (E&W) equivalent to Northern Ireland Part F (Conservation of fuel and power).

The Department proposes to include in Technical Booklets F1 and F2 clarification that references in the above Guides are valid for use in Northern Ireland and that the references to (E&W) Part L are to be read as also referring to (NI) Part F.

### **Correction – providing a building owner with an Energy Performance Certificate**

The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 (the EPB Regulations) amended the Building Regulations. At that time, provisions were included in Technical Booklets F1 and F2 to provide the owner of a building with an Energy Performance Certificate (EPC) within 5 days of completion of the building. However, as there are no transitional arrangements in the EPB Regulations, these provisions would not always apply to the requirements of the Building Regulations.

A requirement to provide the owner with an EPC is already included in The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008. The provision of an EPC to the district council on completion remains a building regulation requirement.

The Department proposes to delete from Technical Booklets F1 and F2 deemed-to-satisfy references to providing the owner of a building with a copy of an EPC.

### **Correction – amending Table 3.2 in Technical Booklet F1 and Table 3.3 in Technical Booklet F2 to refer to “area-weighted average” U-values**

When an existing dwelling is to be altered or extended, or a dwelling is to be created by a material change of use, Table 3.2 of Technical Booklet F1 sets out the thermal performance standards to be achieved by a wall, roof or floor which becomes part of the thermal envelope of the dwelling. Table 3.3 of Technical Booklet F2 sets out the thermal performance standard to be achieved by a replacement thermal element in a building such as a wall, roof or floor or by a new thermal element when, for example, an existing building is extended.

The Department proposes to clarify that the stated U-values for thermal elements listed in Table 3.2 in Technical Booklet F1 and in Table 3.3 in Technical Booklet F2 are “area-weighted average” U-values.

### **Correction – cross-references in Technical Booklets F1, F2 and L**

The Department has been aware that Technical Booklets F1, F2 and L (Combustion appliances and fuel storage systems) contains several incorrect cross-references. Technical Booklet L also contains a reference to an outdated version of an oil industry document, OFTEC Oil Fired Equipment Standard OFS T100 "Polyethylene Oil Storage tanks and Tank Bunds for Distillate Fuels" "Construction standards and Test procedures". These incorrect cross-references are minor and have not caused any difficulties.

The Department proposes to take the opportunity to correct the incorrect cross-references and to refer to OFS T100 2005.

As well as this letter the full package of consultation documents, accessed using the web address below, contains the following –

- Consultation paper;
- Consultation response form;
- Equality Impact Assessment; and
- Draft Regulatory Impact Assessment

The draft Regulatory Impact Assessment outlines the main issues and gives an assessment of the benefits of these proposed amendments and an estimate of the principal costs of the proposals.

### **Responding to this consultation**

Should you wish to take part in this consultation the consultation documents can be accessed online on the Building Standards Branch website, [www.buildingregulationsni.gov.uk](http://www.buildingregulationsni.gov.uk)

A hard copy of the documents or a copy in an alternative format may be obtained by telephoning 028 9051 2704 or by emailing [karen.mckernon@dfpni.gov.uk](mailto:karen.mckernon@dfpni.gov.uk).

I look forward to receiving your comments and views concerning the proposals contained in this consultation package. In order to assist our analysis of responses you

are asked to use the Response Form included on the web site and to submit your reply electronically.

Responses should preferably be returned electronically to [karen.mckernon@dfpni.gov.uk](mailto:karen.mckernon@dfpni.gov.uk) or alternatively posted to: -

Consultation Co-ordinator  
Department of Finance and Personnel  
Building Standards Branch  
Level 5  
Causeway Exchange  
1-7 Bedford Street  
Belfast  
BT2 7EG

The Department will consider all responses to this consultation received on or before the closing date, which is **Friday 4<sup>th</sup> June 2010**. *(It is important to note that submissions made after this date cannot be considered).*


### **Code of practice on consultations**

In light of the requirements of the Code of Practice on Access to Government and the Freedom of Information Act, all responses may be made available to the public on request. We may also wish to make responses to this consultation available to Parliament or the Northern Ireland Assembly and for public inspection either at the Building Standards Branch Office or website.

You have the option of indicating that you wish your response to remain confidential and the Department will generally respect that request. Should it be decided that the public interest must override that request; the Department will contact you before disclosure and if appropriate, provide an opportunity for your response to be withdrawn.

If you have any comments about the consultation process itself (rather than the content of the document) these should be directed to the consultation co-ordinator at the postal or e-mail address given above.

Yours faithfully



Philip Irwin