



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

## 2009 CHAPTER 4

An Act to amend the Building Regulations (Northern Ireland) Order 1979. [2nd March 2009]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### **Building regulations**

1.—(1) In Article 2 of the principal Order (interpretation) after paragraph (3) add—

“(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;

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*Changes to legislation: There are currently no known outstanding effects for the Building Regulations (Amendment) Act (Northern Ireland) 2009. (See end of Document for details)*

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- (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.”.

(2) In Schedule 1 to the principal Order (matters which may be included in building regulations)—

(a) for paragraph 2, substitute—

“**2** Suitability, durability, use, reuse and recycling of materials and components (including surface finishes) and the life cycle of materials and components.

**2A** Measures requiring the use of reused or recycled materials.”;

(b) in paragraph 13, after “heat exchangers” insert “ , low or zero carbon systems, heat networks ”;

(c) for paragraph 17 substitute—

“**17** Standards and performance of heating, mechanical ventilation and air conditioning.

**17A** Standards of artificial lighting and provision of power outlets.

**17B** Measures relating to the security of buildings.

**17C** Measures to prevent pollution and nuisance.

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**17D** Measures affecting the use of fuel or power (including the amount of fuel or power to be derived from a particular source or sources).

**17E** Measures affecting the sustainable use of water (including equipment for monitoring and measuring supplies of water).”.

### **Protected buildings**

**2** After Article 3 of the principal Order insert—

#### **“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 Planning (Northern Ireland) Order 1991; and
- (b) buildings situated in conservation areas within the meaning of that Order.”.

### **Building Regulations Advisory Committee**

**3** In Article 4 of the principal Order (Building Regulations Advisory Committee), in paragraph (2) for “bodies” substitute “ persons ”.

### **Further provisions as to the making of building regulations, etc.**

**4** In Article 5 of the principal Order (further provisions as to the making of building regulations, etc.)—

- (a) in paragraph (1), sub-paragraph (b) ceases to have effect;
- (b) in paragraph (1), in sub-paragraph (c)—
  - (i) for “a document” substitute “ guidance ”;
  - (ii) for the words from “by or on behalf of the Department or any other person” to the end of that sub-paragraph substitute “ by the Department in accordance with Article 5A; ”;
- (c) in paragraph (5) for the words from “having regard to” to the end of that paragraph substitute “having regard to the need to—

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- (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.”.

**Commencement Information**

- I1** S. 4 partly in operation; s. 4 not in operation at Royal Assent see s. 15; s. 4(c) in operation at 31.8.2009 by S.R. 2009/272, art. 2
- I2** S. 4(a) in operation at 31.10.2012 by S.R. 2012/186, art. 3
- I3** S. 4(b) in operation at 15.5.2012 by S.R. 2012/186, art. 2

**Guidance documents**

5.—(1) After Article 5 of the principal Order insert—

**“Guidance 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

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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.”.

(2) In Article 21 (penalties), in paragraph (1), for “Any person” substitute “Subject to Article 5A(7), any person”.

**Commencement Information**

**I4** S. 5 in operation at 15.5.2012 by S.R. 2012/186, art. 2

**Type approval**

**6.—(1)** In Article 8 of the principal Order (power of Department to approve types of building, etc.)—

- (a) for the heading substitute “ Power of district councils to approve types of building, etc. ”;
- (b) in paragraph (1) for “the Department, either on an application made to it or of its own accord” substitute “ a district council, on an application made to it ”;
- (c) after paragraph (3) insert—

“(3A) Before approving a type of building matter as complying with particular requirements of building regulations, either generally or in any class of case, a district council shall consult with such persons as may be prescribed.”;
- (d) in paragraph (4)—
  - (i) for “the Department” substitute “ a district council ”;
  - (ii) for “may” substitute “ shall ”;
- (e) for paragraph (7) substitute—

“(7) A district council may vary a certificate issued by it under this Article either on an application made to it or of its own accord and, except where it varies the certificate on the application of the person who applied for the certificate under paragraph (1), shall before varying it give that person reasonable notice that it proposes to do so.”;
- (f) paragraphs (8), (9) and (13) are omitted;
- (g) in paragraph (10)—
  - (i) for “the Department” substitute “ a district council ”;
  - (ii) the words “or revokes” are omitted;
  - (iii) for “manner as it thinks fit” substitute “ manner as may be prescribed ”;