

BUILDING REGULATIONS (AMENDMENT) BILL - PROGRESS UPDATE @ 26 October 2009

No.	Detail of CFP Recommendations / Views	Plans / Progress	Complete
1	CFP welcomed the provisions in the Bill to aid updating and streamlining existing regulatory and enforcement provisions & in extending the general principles of the primary legislation to reflect the increasing significance of energy conservation, sustainable development and environmental protection.	Noted.	√
2	CFP welcomed the provisions in clause 1 of the Bill, which will facilitate any future decision by DFP to introduce a requirement in building regulations for a percentage of energy used in new buildings to be derived from Low or Zero Carbon (LZC) systems.	Noted.	√
3	CFP was content with the commitment which DFP gave to consider how buildings not covered by the definition of “protected buildings” in clause 2 might be addressed in guidance issued to district councils & looked forward to being apprised of the outcome of this exercise.	<p>S2 of the 2009 Act commenced 31st August 2009.</p> <p>Standing Agenda item for quarterly Building Control liaison meeting (BCLM). BC draft guidance has been discussed with Historic Buildings and English Heritage reps and cleared by BC Standards Panel.</p> <p>BCNI has arranged to meet NI Environment Agency Friday 13th November 2009 to progress the guidance document. Both Building Control and NIEA will be required to approve formally</p>	

		when content is finalised. DFP will forward final paper to CFP on behalf of Building Control.	
4	CFP welcomed the DFP's acknowledgement of the calls to strengthen the statutory duty on district councils re preserving the character of protected buildings. It recommended this clause be amended, as agreed with DFP, as follows: leave out "have regard to" and insert "take account of".	Amendment proposed by Minister and accepted at Consideration Stage 13/1/09. Amendment included in the "Act".	√
5	In view of its formal application in GB, CFP recommends that, where possible, the Code for Sustainable Homes (CSH) is used to inform the forthcoming guidance documents pertaining to domestic property.	CSH already informs the path of amendments to BR standards and will continue to do so. As building standards rise, the Code standards will also be raised.	√
6	CFP shared the concerns of stakeholders that difficulties could arise if individual district councils do not accept the type approvals of building matters by other councils and concluded that an appropriate form of legislative/legal intervention is likely to be required if the proposed voluntary arrangements fail to ensure consistency of approach by district councils.	Standing Agenda item for quarterly BCLM. BC has developed draft proposals which have been received positively by DCs. A pilot in N Down, Lisburn and Belfast involving approval of portable buildings has worked well. Issues re fees have to be addressed. BC hope to finalise arrangements within the next 6 months to allow formal consultation with all DCs, and will work with DFP in developing the required legislative changes.	
7	CFP agreed with the Department's proposal to retain the civil liability provision in Article 20 of the principal Order, to assist compliance.	Amendment proposed by Minister and accepted at Consideration Stage 13/1/09 Included in the "Act".	√

8	CFP called on the Department to establish formal protocols covering both the publication of the basis for appeal decisions and the turnaround time for such decisions & will monitor the performance of DFP in this area.	Guidance published on BR website 30/1/08. Summary of recent appeals on BR website. Officials now working in partnership with a BC Standards Panel to clarify procedural and technical issues which may give rise to appeals. Business Plan 09/10 contains specific targets. Appeals database provides progress monitoring information.	
9	CFP recommended that the present appeals mechanism is reviewed at a later date to assess its effectiveness in the context of the change from “deemed-to-satisfy” to guidance-based documents.	Noted (for future action).	
10	CFP shared concerns on the gap in the regulations which would allow individual houses within multi-house applications to be built to outdated standards, that the current slow-down in the property market could increase the risk in this regard & called on DFP to bring forward the necessary subordinate legislation to close this loophole at the earliest opportunity.	Statistics provided by BC are being analysed. Proposal to amend the Building Regs to lapse approval for any properties in a multi-dwelling application not commenced within 3 years has been discussed with NI Building Regulations Advisory Committee. DSO advice sought, including on the need to define ‘commenced’.	
11	CFP noted DFP agreement to facilitate discussion with Building Control to examine how best to address the outdated legislation on dangerous buildings and places, including consideration of which Department would be best placed to take this forward, recommended that this review is given priority and looks forward to considering the findings.	Standing Agenda item for quarterly BCLM. BC has established a Dangerous Structures working group with which DFP met on 22 June 2009 to consider:- <ul style="list-style-type: none"> all available existing legislation, the extent of problems regarding powers to locate 	

		<p>owners and identify persons responsible for dangerous structures;</p> <ul style="list-style-type: none"> • whether or not councils should have powers in relation to demolitions and dilapidations and to deal with the wide remit of problems presented by dangerous open and vacant properties; and • proposals for new legislative provisions to modernise and enhance the powers of district councils in this area. <p>The group has decided that related matters such as dilapidations and demolitions should be covered by legislative provision. This is therefore a long-term project which will require consultation and collaboration with other agencies which may have statutory duties or responsibilities in this area. The working group is currently attempting to create linkages across different parts of councils and other agencies which have responsibilities or an interest in this area. The group will prepare a scoping paper setting out the current position and preferred option(s) to address problem, which the Department will forward to CFP.</p>	
12	Given that developers are increasingly working on a cross-border basis, CFP encouraged DFP to examine the scope for establishing more formal north-south and east-west	Meeting with E, W & S held on 28 th May in Belfast Agenda: Purpose of meetings; Background to regulatory systems; Review of Building Control	

	arrangements for co-ordinating policy and legislation on building regulations where appropriate.	(E&W); Approved Document review; Registers of Building Control information; Competent persons schemes/Certification; Building Control enforcement/risk assessment; Technical reviews; Acoustics in Schools; Fire Performance of Timber Frame buildings; Generic (UK wide) 2nd tier documents; EPBD and EPBD2; Construction Products Regulations; and frequency / location of meeting. Next meeting London Dec 2009 to include RoI.	
13	Mindful of the fact that the current building regulations apply to only a small percentage of the total building stock in NI, CFP considered that continued focus should be placed on identifying and introducing additional measures aimed at reducing the carbon footprint of existing buildings.	Planned amendments to Part F in 2010 & 2013 already announced. Requirements already in place for consequential improvements to thermal standards when refurbishments are proposed; Contribution through DECs; Govt Estate target to be Carbon Neutral by 2015. BREEAM measurements applied.	
14.	CFP welcomed the introduction of Energy Performance Certificates (EPCs) but sought assurance from DFP that all necessary preparations were being made ahead of the introduction of EPCs, in particular to raise public awareness and to ensure the availability of trained and accredited assessors.	The Department publicised the requirements by means of:- <ul style="list-style-type: none"> • press releases, adverts, posters & radio and television interviews; • a series of public information seminars attended by approximately 1500 people; • advisory mailshots / visits to estate / letting agents and random checks on properties advertised; 	

		<ul style="list-style-type: none"> • information leaflets to MLAs and Building Control for libraries, Citizens Advice Bureaux, Consumer Council offices, estate agents and solicitors offices etc; • guidance documents on compliance for non-dwellings, DEC's & air-con requirements; • articles on the NICS intranet and in staff magazines; and • a dedicated website (www.epb.dfpni.gov.uk). <p>EPC lodgements @ 25/10/09: 46,355 for new dwellings & existing dwellings for sale or rent; 717 non-domestic buildings; 1130 DEC's.</p>	
15	<p>CFP looked forward to examining the outcome of the consultation on 'green rebates', which should inform consideration of the potential of temporary rates reliefs /rebates as a tool for reducing household carbon emissions by encouraging the retro-fit of existing homes with energy saving materials. Such measures would have the added benefit of helping to address fuel poverty.</p>	<p>Progress report below provided by LPS.</p> <p>Eligibility for the rate rebate applying to existing housing stock will be confined initially to works undertaken to meet modern standards of insulation (cavity wall and loft). However the Bill passed through the Assembly allows the scope of the scheme to be extended at a future date.</p> <p>CFP will be aware that the Department will review the scheme at an early stage and if it is deemed to be successful then its extension will be given serious consideration; which may include</p>	

		<p>the greater use of energy saving materials and even the possibility of incentivising retro fitting of renewable energy technology in existing homes. Enhancing the scheme in this way will require research and consultation with stakeholders, to ensure that any future phases of the scheme are effective and deliver value for money. The Energy Saving Trust has commissioned the University of Ulster to undertake a pilot study of the current state of the housing stock in terms of its energy efficiency, using data provided by LPS and this will be helpful in informing future policy development.</p> <p>It is also planned to introduce a new scheme to incentivise the building of new zero and low carbon homes. It will give the first occupiers of such homes full rate relief for up to five years and two years respectively.</p> <p>Both schemes require primary and subordinate legislation to be made. The primary legislation has passed through its final stage at the Assembly and it is hoped that the rating bill will receive royal assent in early November. Subordinate legislation is currently being developed in relation to both schemes and it is intended to brief the Committee on the detail in due course. All of this will allow both schemes to come into effect in April 2010.</p>	
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16	CFP called on the DFP Minister to review the basis for the building regulations function falling within DFP and, in conjunction with the Minister of the Environment, to consider the case for transferring this function (and possibly also the related responsibilities for the government estate and sponsorship of the construction industry) to the Department of the Environment (DoE) with the aim of ensuring closer policy co-ordination between the building regulations and planning functions.	It is anticipated that all Departments' functions will be reviewed following the implementation of the Review of Public Administration. Any proposal to transfer the building regulations, government estate and/or construction sponsorship functions to DOE would be considered at that time. Such matters would require Executive approval.	√
17	CFP recommended that DFP uses building regulations to further promote and encourage the use of LZC technology by establishing 2016 as a firm target date for all newbuilds in NI to be zero carbon, thereby keeping pace with developments in GB and RoI; and that it follows the example of England and Wales in working jointly with the construction industry to achieve the 2016 target.	To ensure that changes to Northern Ireland standards keep pace with changes in the other jurisdictions, the (previous) Minister committed officials to working with counterparts in the other jurisdictions to introduce thermal amendments that will maintain the Northern Ireland Building Regulations to the same standards that will be established for those jurisdictions (2010, 2013, 2016). This work is under way and officials will be working with counterparts to analyse E&W consultation responses in preparation for the first of a series of amendments which will be consulted on in NI in 2010.	
18	CFP called on the Department to regularly assess the cost-effectiveness of LZC systems in light of the ongoing increases in fossil fuel prices; and on the basis of the	DECC, Defra, DCLG, CT & EST regularly produce assessments which DFP will monitor. DETI consultations on Sustainable Energy Strategy &	

	changing circumstances, keep under review the option of using building regulations to require that a proportion of the energy needs of newbuilds is provided from LZC systems.	Bioenergy Action Plan will include consideration of cost-effectiveness of LZC systems in NI. New powers in the 2009 Amendment Act will facilitate any future amendments to BRs that may require the inclusion of LZC systems. C/R item 20.	
19	CFP welcomed Planning Service consideration of both permitted development rights for small-scale renewable energy systems and the potential for planning policy to take forward the concept of “macrogeneration” schemes for new housing developments. In this regard, the Committee shared the information which it received on similar legislative changes in the Republic with the Assembly’s Committee for the Environment.	<p>Noted. Letter issued to Planning Service (PS) 02/03/09. PS responded 29/06/09 <i>‘PPS18 sets out the Department’s planning policy for development that generates energy from renewable resources and that requires the submission of a planning application. While PPS18 aims to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment, it does not introduce a mandatory requirement for integrated renewable energy either at a micro or macro level.’</i></p> <p>[Re Backland development, PS also responded that paragraph 5.23 of PPS 3 'Access, Movement and Parking' deals with the issue of backland development, stating <i>‘in processing planning applications Planning Service will as a matter of course consult all relevant agencies and bodies on site layout and design to establish and ensure safe access’.</i>]</p>	√

20	CFP understood concerns at the ending of the 'Reconnect' grant scheme and considered that continued provision of an appropriate level of grant funding for household renewables is especially important in light of the decision not to proceed with introducing mandatory microgeneration into the building regulations. CFP called on the Minister to work with his Executive colleagues to ensure that the necessary priority is given to funding the uptake and development of LZC technologies.	Noted (Reconnect scheme was DETI-managed). DETI undertakes the policy lead in relation to renewable technologies.	√
21	CFP considered that using building regulations to promote and facilitate both energy efficiency and the use of renewable energy in buildings can play an important part in helping NI to achieve the targets which have been set at an EU, UK and regional level for reductions in carbon dioxide emissions and greenhouse gases and increases in renewable energy generation.	Minister has committed to amending the BRs to keep pace with requirements elsewhere in the UK (2010, 2013, 2016); Will use E&W data to extrapolate NI contribution to reducing CO ₂ emissions when developing relevant RIAs.	
22	CFP looked forward to considering the contribution which DFP will make to forthcoming plans by the Executive to strategically address Sustainable Development and, in particular, the role which will be identified for building regulations.	DFP contributes fully to OFMDFM drafts & other input requests; Will use RIAs to assess the contribution of changes to BR standards, concentrating initially on improving thermal standards but in the future will look at issues such as water use, accessibility etc. Additionally there is a contribution from introducing EPCs and DEC's, likely to be enhanced through implementation of EPBD (2).	