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STATUTORY INSTRUMENTS

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**1979 No. 1709 (N.I. 16)**

**NORTHERN IRELAND**

**The Building Regulations  
(Northern Ireland) Order 1979**

*Laid before Parliament in draft*

*Made* 19th December 1979

*Coming into operation in accordance with Article 1 (2)*

**ARRANGEMENT OF ORDER**

**Article**

1. Title and commencement.
2. Interpretation.
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17. Appeals to the Department.
18. Powers in relation to buildings which contravene building regulations.
19. Deposit of plans to be of no effect after certain interval.
20. Civil liability.
21. Penalties.
22. Application of building regulations to the Crown.
23. Regulations to be subject to negative resolution.
24. Transitional provisions, amendments and repeals.

SCHEDULES:

Schedule 1—Matters in regard to which building regulations may be made.

Schedule 2—Saving for building bye-laws.

Schedule 3—Repeals.

At the Court at Buckingham Palace, the 19th day of December 1979

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*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 (b) shall apply to Article 1 and 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;

“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;

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(a) 1974 c. 28.

(b) 1954 c. 33 (N.I.).

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

“premises” includes sites and buildings;

“prescribed”, except in relation to any matter which is expressly directed or authorised to be prescribed by regulations under Article 15 (7), means prescribed by building regulations;

“rack rent” means rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises as ascertained under the Rates (Northern Ireland) Order 1977 (a);

“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.

#### *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.

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(a) S.I. 1977/2157 (N.I. 28).

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

*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 bodies as appear to it to be representative of the interests concerned.

(3) The Department may, with the approval of the Department of the Civil Service, 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.

*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;
- (b) provide for particular requirements of the regulations to be deemed to be complied with where prescribed methods of construction, prescribed types of materials or other prescribed means are used in or in connection with buildings;
- (c) be framed to any extent by reference to a document published by or on behalf of the Department or any other person, or by reference to the approval or satisfaction of any prescribed person;
- (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, having regard to the need for securing 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 and for furthering the conservation of fuel and power.

*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 time of their erection) continuing requirements with respect to all or any of the following matters, namely—

- (a) the conditions subject to which any services, fittings or equipment provided in or in connection with any building of that class may be used;
- (b) the inspection and maintenance of any services, fittings or equipment so provided; and
- (c) the making of reports to any prescribed authority on the condition of any services, fittings or equipment so provided.

(3) If a person contravenes a continuing requirement imposed by virtue of this Article, the district council, without prejudice to its right to take proceedings for a fine in respect of the contravention, may execute any work or take any other action required to remedy the contravention, and may recover from that person the expenses reasonably incurred by it in doing so.

(4) Where a district council has power under paragraph (3) to execute any work or take any other action it may, before exercising that power, by notice require the owner or the occupier of the building to which the contravention referred to in that paragraph relates to execute that work or take that action within such time as is specified in the notice.

(5) The provisions of Article 15 shall have effect in relation to continuing requirements imposed by virtue of this Article subject to the following modifications, that is to say—

- (a) a direction under that Article shall, if it so provides, cease to have effect at the end of such period as may be specified in the direction; and
- (b) paragraph (4) of that Article shall be construed as also authorising the giving of a direction for a limited period.

*Type relaxation of building regulations by the Department*

7.—(1) If the Department considers that the operation of any requirement of building regulations would be unreasonable in relation to any particular type of building matter, it may, either on an application made to it or of its

own accord, give a direction dispensing with or relaxing that requirement generally in relation to that type of building matter, either unconditionally or subject to compliance with any conditions specified in the direction, being conditions with respect to matters directly connected with the dispensation or relaxation.

(2) A direction under paragraph (1)—

(a) shall, if it so provides, cease to have effect at the end of such period as may be specified in the direction;

(b) may be varied or revoked by a subsequent direction of the Department.

(3) Building regulations may require a person making an application under paragraph (1) to pay the prescribed fee to the Department but the Department may in any particular case remit the whole or part of any fee payable by virtue of this paragraph.

(4) Before giving a direction under this Article the Department shall consult such persons as appear to it to be representative of the interests concerned.

(5) Where the Department gives a direction under this Article it shall publish notice of that fact in such manner as it thinks fit.

(6) A person who contravenes any condition specified in a direction given under this Article or permits any such condition to be contravened shall be guilty of an offence under this Order.

(7) If at any time a direction under paragraph (1) dispensing with or relaxing a requirement of building regulations ceases to have effect by virtue of paragraph (2) (a) or is varied or revoked under paragraph (2) (b), that fact shall not affect the continued operation of the direction (with any conditions specified therein) in any case in which before that time plans of the proposed work were, in accordance with building regulations, deposited with a district council.

(8) In this Article and Article 8 “building matter” means any building or other matter whatsoever to which building regulations are in any circumstances applicable.

*Power of the Department to approve types of building, etc.*

8.—(1) The following provisions of this Article shall have effect with a view to enabling the Department, either on an application made to it or of its own accord, to approve any particular type of building matter as complying, either generally or in any class of case, with particular requirements of building regulations.

(2) Paragraph (1) applies only to such building matters as may be prescribed for the purposes of this Article.

(3) An application for the approval under this Article of a type of building matter shall comply with any requirements of building regulations as to the form of such applications and the particulars to be included therein.

(4) Where under paragraph (1) the Department approves a type of building matter as complying with particular requirements of building regulations either generally or in any class of case, it may issue a certificate to that effect specifying—

(a) the type of building matter to which the certificate relates;

(b) the requirements of building regulations to which the certificate relates;  
and

(c) where applicable, the class or classes of case to which the certificate applies.

(5) A certificate under this Article may specify conditions subject to which it would continue to have effect and shall, if it so provides, cease to have effect at the end of such period as may be specified in the certificate.

(6) If, while a certificate under this Article is in force, it is found, in any particular case involving a building matter of the type to which the certificate relates, that the building matter in question is of that type and the case is one to which the certificate applies, that building matter shall in that particular case be deemed to comply with the requirements of building regulations to which the certificate relates.

(7) The Department may vary a certificate under this Article either on an application made to it or of its own accord; but in the case of a certificate issued on an application made by a person under paragraph (1), the Department, except where it varies it on the application of that person, shall before varying it give that person reasonable notice that it proposes to do so.

(8) Building regulations may require a person making an application under paragraph (1) or (7) to pay the prescribed fee to the Department but the Department may in any particular case remit the whole or part of any fee payable by virtue of this paragraph.

(9) The Department may revoke a certificate issued under this Article but before doing so in the case of a certificate issued on an application under paragraph (1) shall give the person on whose application the certificate was issued reasonable notice that it proposes to do so.

(10) Where the Department issues a certificate under this Article or varies or revokes a certificate so issued, it shall publish notice of that fact in such manner as it thinks fit.

(11) If at any time a certificate under this Article ceases to have effect by virtue of paragraph (5) or is varied or revoked under the preceding provisions of this Article that fact shall not affect the continued operation of paragraph (6) by virtue of that certificate in any case in which before that time plans of the proposed work were, in accordance with building regulations, deposited with a district council.

(12) For the purposes of paragraph (4) or any variation of a certificate under paragraph (7), a class of case may be framed in any way that the Department thinks fit.

(13) The Department may by building regulations delegate to any person, to such extent and subject to such conditions as the Department may think fit, the powers of approval conferred on it by this Article; and so far as those powers are for the time being so delegated to any person, the preceding provisions of this Article (except paragraph (8)), shall (subject to any prescribed conditions) have effect in relation to that person with the substitution of references to that person for references to the Department.

*Special provisions as to materials, etc. unsuitable for permanent buildings*

9.—(1) This Article applies—

(a) to any work consisting of a part of a building, being a part in the construction of which there is used any material or component of a type which, in relation to a part of that description, is prescribed for the purposes of this sub-paragraph under paragraph (2); and

- (b) to any work provided in or in connection with a building, being work consisting of a service, fitting or item of equipment of a type so prescribed for the purposes of this sub-paragraph.
- (2) The Department may by building regulations—
- (a) prescribe a type of material or component for the purposes of paragraph (1) (a) if in its opinion materials or components of that type are likely to be unsuitable for use in the construction of a particular part of a permanent building in the absence of conditions with respect to the use of the building or with respect to any material or component of that type used in the construction of a part of that description;
- (b) prescribe a type of service, fitting or equipment for the purposes of paragraph (1) (b) if in its opinion services, fittings or equipment of that type are likely to be unsuitable for provision in or in connection with a permanent building in the absence of conditions with respect to the use of the building or with respect to any service, fitting or equipment of that type so provided.
- (3) Where plans of any proposed work are, in accordance with building regulations, deposited with a district council and the plans show that the proposed work would include or consist of work to which this Article applies, the council may, notwithstanding that the plans conform with the regulations—
- (a) reject the plans; or
- (b) in passing the plans fix a period on the expiration of which the work to which this Article applies or the relevant building (as the council may in passing the plans direct) must be removed and, if it thinks fit, impose with respect to the use of the relevant building or with respect to the work to which this Article applies such reasonable conditions, if any, as it considers appropriate, so however that no condition as to the use of the relevant building shall be imposed which conflicts with any condition imposed or having effect as if imposed under Parts IV and V of the Planning (Northern Ireland) Order 1972 (a).
- (4) If, in the case of any work in respect of which plans ought by virtue of building regulations to have been deposited with a district council but have not been so deposited, the work appears to the council to include or consist of work to which this Article applies, the council, without prejudice to its right to take proceedings in respect of any contravention of the regulations, may fix a period on the expiration of which the work to which this Article applies or the relevant building (as the council may in fixing the period direct) must be removed and, if it thinks fit, impose any conditions that might have been imposed under paragraph (3) in passing plans for the first-mentioned work and, where it fixes such a period, shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.
- (5) If, in the case of any work appearing to the district council to fall within paragraph (1) (b), plans of the work were not required by building regulations to be deposited with the council, and were not so deposited, the council may at any time within twelve months from the date of completion of the work fix a period on the expiration of which the work must be removed and, if it thinks fit, impose any conditions which, if plans of the work had been required to be, and had been, so deposited, might have been imposed under paragraph (3) in passing the plans and, where it fixes such a period, shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.

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(a) S.I. 1972/1634 (N.I. 17).



(6) A district council may from time to time extend any period fixed, or vary any conditions imposed, under this Article but so that, unless an application in that behalf is made to it by the owner of the relevant building, it shall not exercise its power of varying conditions so imposed except when granting an extension or further extension of the period fixed with respect to the work or building, as the case may be.

(7) Any person aggrieved by the action of a district council under this Article in rejecting plans, or in fixing or refusing to extend any period, or in imposing or refusing to vary any conditions, may appeal to the Department within the prescribed time and in the prescribed manner and the decision of the Department on an appeal brought by virtue of this paragraph—

(a) may confirm, revoke or vary the decision of the district council in any manner which to the Department seems proper in the circumstances; and

(b) shall be final and conclusive except on any question of law.

(8) Where a period has been fixed under this Article with respect to any work to which this Article applies or with respect to the relevant building, the owner of that building shall on the expiration of that period or, as the case may be, of that period as extended, remove the work or building with respect to which the period was fixed; and if he fails to do so, the district council may remove that work or building, as the case may be, and may recover from him the expenses reasonably incurred by it in doing so.

(9) A person who—

(a) contravenes any condition imposed under this Article or permits any such condition to be contravened; or

(b) contravenes paragraph (8);

shall be guilty of an offence under this Order.

(10) In this Article “the relevant building” means, in any particular case, the building mentioned in sub-paragraph (a) or, as the case may be, sub-paragraph (b), of paragraph (1).

#### *Enforcement of building regulations*

**10.**—(1) Every district council shall enforce building regulations in its district, subject to and in accordance with this Order.

(2) The Department may prescribe in building regulations qualifications for authorised officers.

#### *Powers of entry and inspection*

**11.**—(1) Subject to paragraph (2), an authorised officer may, on production if required of his authority, enter premises at any reasonable time for the purpose of—

(a) ascertaining whether there is or has been on, or in connection with, the premises any contravention of this Order or of building regulations;

(b) applying tests for conformity with building regulations;

(c) inspecting any building, where the officer has reasonable cause for believing that a change of use of the building has taken place or is intended;

(d) exercising any functions conferred, by this Order or by building regulations, on him or the person by whom he is authorised for the purposes of this paragraph in relation to premises which fail to comply with building regulations.

(2) A person shall not enter any premises, by virtue of paragraph (1) (c), unless he has served three days' notice of his intention to do so on the occupier and (if the owner is known) also on the owner of the premises.

(3) Where a justice of the peace is satisfied by complaint in writing on oath—

(a) that there are reasonable grounds for entering into any premises for any such purpose as is mentioned in paragraph (1), and

(b) that—

(i) admission to the premises has been refused, or that a refusal is apprehended and that notice of the intention to apply for a warrant has been served on the occupier; or

(ii) an application for admission, or the serving of such notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is temporarily absent,

he may, notwithstanding anything in paragraph (2), issue a warrant under his hand authorising a district council by any authorised officer, to enter the premises, by force if necessary.

(4) A person entering any premises by virtue of this Article, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as he found them.

(5) Every warrant granted under this Article shall continue in force for a period of twenty-eight days.

(6) Any person who wilfully obstructs any person acting in execution of any of the purposes mentioned in paragraph (1) shall be guilty of an offence under this Order.

(7) If any person who, by virtue of this Article, or of a warrant issued thereunder, enters a factory or work place, discloses to any person any information obtained by him in the factory or work place with regard to any manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence under this Order.

*Power to require or carry out tests for conformity with building regulations*

**12.**—(1) The following paragraph shall have effect for the purpose of enabling a district council to ascertain, as regards any work or proposed work to which building regulations for the enforcement of which it is responsible are applicable, whether any provision of building regulations is or would be contravened by, or by anything done or proposed to be done in connection with, that work.

(2) The district council shall have power for that purpose—

(a) to require by notice in writing any person by whom or on whose behalf the work was, is being or is proposed to be done to carry out such reasonable tests of or in connection with the work as may be specified in the requirement; or

(b) itself to carry out any reasonable tests of or in connection with the work, and to take any samples necessary to enable it to carry out any such test.

(3) Without prejudice to the generality of paragraph (2), the matters with

respect to which tests may be required or carried out under that paragraph include—

- (a) tests of the soil or subsoil of the site of any building;
- (b) tests of any material, component or combination of components which has been, is being or is proposed to be used in the construction of a building, and tests of any service, fitting or equipment which has been, is being or is proposed to be provided in or in connection with a building.

(4) A district council shall have power, for the purpose of ascertaining whether there is or has been, in the case of any building, any contravention of any continuing requirement that applies in relation to that building—

- (a) to require by notice in writing the owner or occupier of the building to carry out such reasonable tests as may be specified in the requirement under this sub-paragraph; or
- (b) itself to carry out any tests which it has power to require under sub-paragraph (a), and to take any samples necessary to enable it to carry out any such test.

In this paragraph “continuing requirement” means a continuing requirement imposed by building regulations made by virtue of Article 6 (1) or (2).

(5) The expense of carrying out any tests which a person is required to carry out under this Article shall be met by that person but the district council, on an application made to it, may, if it thinks it reasonable to do so, direct that the expense of carrying out any such tests, or such part of that expense as may be specified in the direction, shall be met by the district council.

(6) Any question arising under this Article between a district council and any person as to the reasonableness—

- (a) of any test specified in a requirement imposed on him by the council under this Article; or
- (b) of a refusal by the council to give a direction under paragraph (5) on an application made by him; or
- (c) of a direction under that paragraph given on such an application,

may on the application of that person be determined by a court of summary jurisdiction; and in a case falling within sub-paragraph (b) or (c) the court may order the expense to which the application relates to be met by the district council to such extent as the court thinks just.

#### *Plans deposited with a district council*

**13.—**(1) Where plans of any proposed works are deposited with a district council in accordance with building regulations, the district council shall, subject to paragraph (3)—

- (a) if the plans are neither defective nor show that the proposed works would contravene any building regulation, pass the plans; or
- (b) if the plans are defective or show that the proposed works would contravene any building regulation, reject the plans.

(2) Building regulations may—

- (a) make provision for requiring district councils in such circumstances as may be prescribed to consult any prescribed person before taking any prescribed step in connection with any work or other matter to which building regulations are applicable;
- (b) authorise a district council to accept, as evidence that the requirements of building regulations as to matters of a prescribed description are or

would be satisfied, certificates to that effect by persons of any class or description prescribed in relation to those matters or by a person nominated in writing by the Department in any particular case;

- (c) provide for the issue by a district council of certificates to the effect that, so far as the council concerned has been able to ascertain after taking all reasonable steps in that behalf, the requirements of building regulations as to matters of any prescribed description are satisfied in any particular case, and for such certificates to be evidence (but not conclusive evidence) of compliance with the regulations;
- (d) make provision—
  - (i) for prohibiting, in prescribed circumstances, the carrying out of proposed work of any prescribed class involving matters of any prescribed description unless there has been deposited with the district council a certificate such as is mentioned in sub-paragraph (b);
  - (ii) for enabling, in cases where such a certificate is required by virtue of the preceding provision, any dispute as to whether a certificate ought to be issued to be referred to the Department;
  - (iii) for enabling the Department on any such reference to give such directions as it thinks fit;
- (e) authorise district councils to charge prescribed fees for or in connection with the performance of prescribed functions of theirs relating to building regulations.

(3) A district council with which plans are deposited in accordance with building regulations shall, within such period as may be prescribed, notify the person on whose behalf the plans were deposited whether or not the plans have been passed.

(4) For the purposes of paragraph (3)—

- (a) a notice passing the plans shall state that the passing operates as an approval of those plans only for the purposes of the requirements of building regulations; and
- (b) a notice rejecting the plans shall specify the grounds of the rejection.

*Miscellaneous provisions as to the approval of plans*

**14.**—(1) A district council with whom plans of any proposed work are deposited in accordance with building regulations may in prescribed cases pass them by stages in accordance with the regulations and, where a district council passes any such plans to a limited extent at any stage,—

- (a) it shall impose conditions as to the depositing of further plans in connection with the proposed work; and
- (b) it may impose conditions for securing that, pending the deposit of such of the further plans as it may indicate, the proposed work will not be proceeded with except to such extent as it may in accordance with the regulations authorise.

(2) A person who contravenes any condition imposed by a district council under paragraph (1) other than a condition as to the depositing of further plans, or permits any such condition to be contravened, shall be guilty of an offence under this Order.

(3) A district council with whom plans of any proposed work are deposited in accordance with building regulations may—

- (a) notwithstanding that the plans are defective or show that the work would contravene any of the building regulations, pass the plans provisionally, that is to say, subject to any modifications which it thinks necessary for remedying the defect or avoiding the contravention, indicating the modifications in the notice of approval and—
  - (i) if, within a prescribed time and in a prescribed manner so indicated, the person by or on behalf of whom the plans were deposited notifies the council that he agrees to the modifications, the plans shall be treated as having been passed subject to those modifications;
  - (ii) if not, the plans shall be treated as having been rejected, and
- (b) notwithstanding that the plans are neither defective nor show that the proposed works would contravene any building regulation, approve them provisionally in such circumstances as may be prescribed, such approval being subject to the result of such investigations or other processes as may be prescribed.

(4) In cases where by virtue of paragraph (1) or (3) plans are passed by stages or provisionally, the provisions of Article 13 shall have effect subject to such modifications as may be prescribed.

(5) Where plans of any proposed work have been passed under Article 13 by a district council, the person by or on behalf of whom the plans were in accordance with building regulations deposited with the council may, and in such cases as may be prescribed shall, for the purpose of obtaining the approval of the council to any proposed departure or deviation from the plans as passed, deposit plans of any such departure or deviation; and that Article shall apply in relation to plans deposited under this paragraph as it applies in relation to the plans originally deposited.

#### *Relaxation of building regulations*

15.—(1) Subject to this Article if, in relation to any particular building or any class of building, it appears to the Department that it is unreasonable that any provision of the building regulations (being a provision which apart from this Article applies, or by reason of a proposed change of use will apply, to that building or class of building) should apply to the building or class of building, or should so apply without relaxation, the Department may—

- (a) in the case of a particular building, on an application made to it in that behalf give a direction dispensing with or relaxing that provision in relation to that building;
- (b) in the case of a class of building, either on an application made to it in that behalf or of its own accord and in either case after consultation with the Advisory Committee give a direction dispensing with or relaxing that provision generally in relation to that class of building.

(2) The Department may by regulations provide, as regards any provision of the building regulations, that the power to dispense with or relax that provision under paragraph (1) (a) shall be exercisable by district councils instead of by the Department, but any regulations made under this paragraph shall except applications made by district councils and may except applications of any other description.

(3) A direction under paragraph (1) shall not be given in respect of any provision of the building regulations which is described in those regulations as not being subject to such a direction.

(4) Subject to paragraph (5), a direction under paragraph (1) may be given either unconditionally or subject to such conditions specified in the direction as appear to the Department or, as the case may be, the district council to be required as a direct result of the dispensation or relaxation, not being conditions by virtue of which the direction is to cease to have effect in whole or in part, or an obligation to carry out any operation is to arise for any person, either—

(a) on a fixed date, or

(b) on, or on a date fixed by reference to, the occurrence of any event.

(5) A direction under paragraph (1) (b) for the purposes of a notice served under Article 13 (3) shall have effect during such period as may be specified in the direction.

(6) The Department shall notify all district councils of the giving of a direction under paragraph (1) (b) and shall make available to them a copy of any such direction without charge.

(7) Without prejudice to the power conferred by Article 16 (2) to prescribe the period there mentioned by building regulations the Department may make regulations with respect to the procedure to be followed in connection with applications and directions under this Article and with appeals under Article 16.

(8) Unless the context otherwise requires, references in this or any other transferred provision including a local provision (whether passed or made before or after the making of this Order) to building regulations shall, in relation to any building or class of building with respect to which a direction under this Article or Article 16 (3) is for the time being in force, be construed as references to building regulations as, subject to that direction, they apply to that building or class of building.

*Appeals against the decision of district councils in applications for relaxation of building regulations*

**16.—(1)** If a district council—

(a) refuses an application to dispense with or relax any provision of building regulations which it has power to dispense with or relax, or

(b) grants such an application subject to conditions,

the applicant may, within such period from the date on which the district council notifies him of its decision as may be prescribed by regulations made under Article 15 (7), appeal to the Department against the refusal or, as the case may be, against any of those conditions.

(2) If within such period as may be prescribed or within such extended period as may at any time be agreed in writing between an applicant under paragraph (1) and the district council, the district council does not notify the applicant of its decision on the application, paragraph (1) shall apply in relation to the application as if the district council had refused the application and notified the applicant of its decision on the last day of that period.

(3) On any appeal under this Article the Department—

(a) may confirm the decision of the district council, or

(b) may substitute for that decision such other decision as seems to the Department proper, and for that purpose may give any such direction as the Department might have given if the appeal had been an application

made to the Department under Article 15 (1) (a) and the power to dispense with or relax the provision in question had been exercisable by the Department under that Article.

#### *Appeals to the Department*

**17.**—(1) Any applicant aggrieved by the rejection of plans required by building regulations to be deposited with a district council may by notice in writing appeal to the Department within such period as may be prescribed.

(2) If within such period as may be prescribed, commencing with the date of the application, or within such extended period as may at any time be agreed in writing between an applicant under paragraph (1) and the district council, the district council does not notify the applicant of rejection, paragraph (1) shall apply in relation to the application as if the district council had rejected the plans and notified the applicant of its decision at the end of that period.

(3) The Department may by regulations provide for appeals to the Department from decisions of district councils in matters other than the rejection of plans deposited with those councils.

(4) Before determining an appeal under paragraph (1) the Department may if it thinks fit or if the person who made the application or the district council so requests afford to that person and that district council an opportunity of appearing before and being heard by a person appointed by the Department for that purpose.

(5) The decision of the Department on an appeal brought by virtue of this Article—

(a) may confirm, revoke or vary the decision of the district council in any manner which to the Department seems proper in the circumstances; and

(b) shall be final and conclusive, except on any question of law.

(6) Any question of law arising in connection with the determination by the Department of an appeal under this Article may, if the Department thinks fit, be referred for decision to the Court of Appeal and, where the Department decides so to refer such a question, it shall give notice of its intention to do so to the applicant and the district council.

(7) An applicant or district council aggrieved by a decision of the Department on a point of law arising on an appeal under this Article which is not referred for decision to the Court of Appeal under paragraph (6) may appeal from that decision to the Court of Appeal.

(8) The decision of the Court of Appeal on a point of law referred to it under paragraph (6) or (7) shall be final.

#### *Powers in relation to buildings which contravene building regulations*

**18.**—(1) If any works to which building regulations apply contravene any of those regulations, the district council of the district in which those works are being or have been done may by notice served on the owner require him to pull down or remove the works or, if he so elects and the council so agrees, to effect such alterations or additions therein as may be necessary to make the works comply with the requirements of building regulations.

(2) Where a district council has power to serve a notice under paragraph (1) on the owner of any work, it may in addition or instead serve such a notice on one or more of the following persons, namely, the occupier, the person

executing the work, the person causing the work to be executed and any other person appearing to the council to have control over the work.

(3) If any person on whom a notice is served under paragraph (1) fails to comply with the notice before the expiration of twenty-eight days from the date on which the notice is served, the district council may pull down or remove the works in question or effect such alterations or additions therein as it deems necessary to make the works conform with building regulations and the council may recover from that person the expenses reasonably incurred by the council in so doing.

(4) A notice shall not be served under paragraph (1) after the expiration of twelve months from the date of completion of the works in question, unless—

- (a) the district council considers that the building ought, having regard to the need for securing the health, safety, welfare and convenience of persons in or about the building and of others who may be affected by the building or matters connected with the building and for furthering the conservation of fuel and power, to be pulled down or removed, or to be altered or added to, to comply with the requirements of building regulations; and
- (b) the Department consents to the service of the notice.

(5) Where—

- (a) in accordance with building regulations, a district council has passed any plans in relation to a building; and
- (b) works have been executed in accordance with the plans and any requirement made by the district council as a condition of passing the plans,

it shall not be open to the district council to serve a notice under paragraph (1) on the ground that those works contravene any building regulations; but nothing in this paragraph shall be taken to prevent such a notice from being served (before the expiration of twelve months from the completion of the works) in respect of anything of which particulars were not required to be shown in the plans.

*Deposit of plans to be of no effect after certain interval*

19. Where plans of any proposed works have, in accordance with building regulations, been deposited with a district council, and—

- (a) the plans have been passed by the council, or
- (b) notice of rejection of the plans has not been given within such period as the Department may prescribe in building regulations,

and in either case, the works to which the plans relate have not been commenced—

- (i) where the plans were deposited before 1st October 1973, within three years from that day; and
- (ii) where the plans were deposited on or after that day within three years from the deposit of the plans,

the district council may, at any time before the works are commenced, by notice to the person by whom or on whose behalf the plans were deposited, or the owner for the time being of the land to which the plans relate, declare that the deposit of the plans shall be of no effect, and when such a notice is served, this Order and the regulations made thereunder shall as respects the proposed works have effect as if that deposit had not been made.



*Civil liability*

20.—(1) Subject to the provisions of this Article, breach of a duty imposed by building regulations shall, so far as it causes damage, be actionable except in so far as the regulations provide otherwise; and as regards any such duty building regulations may provide for any prescribed defence to be available in any action for breach of that duty brought by virtue of this paragraph.

(2) Paragraph (1) and any defence provided for in regulations made by virtue thereof shall not apply in the case of a breach of such a duty in connection with a building erected before the date on which Article 12A (1) of the Building Regulations (Northern Ireland) Order 1972 (a) came into force unless the regulations imposing the duty apply to or in connection with the building by virtue of paragraph (2) of Article 6.

(3) Nothing in this Article shall be construed as affecting the extent (if any) to which breach—

(a) of a duty imposed by or arising in connection with this Order or any other enactment relating to building regulations; or

(b) of a duty imposed by building regulations in a case to which paragraph (1) does not apply,

is actionable, or as prejudicing any right of action which exists apart from the enactments relating to building regulations.

(4) In this Article “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).

*Penalties*

21.—(1) Any person who contravenes any provisions contained in building regulations, or a notice under Article 18 (1), shall be guilty of an offence under this Order.

(2) Any person guilty of an offence under this Order shall, except as specified in paragraph (3), be liable on summary conviction to a fine not exceeding £400 and a further fine not exceeding £50 for each day during which the offence continues after conviction therefor.

(3) Any person guilty of an offence under Article 11 (6) shall be liable on summary conviction to a fine not exceeding £50.

(4) Subject to paragraph (7), if an application for a direction under Article 15 is made after any person has, in consequence of the carrying out in contravention of building regulations of the work to which the application relates, become liable to a fine continuing from day to day, the daily fine shall not be recoverable in respect of any day after the making of the application and before it is withdrawn or finally disposed of.

(5) Where an application for a direction under Article 15 is withdrawn or finally disposed of without any direction being given, the Department or district council, as the case may be, may order that the daily fine shall not be recoverable in respect of any day during such further period not exceeding twenty-eight days as may be specified in the order.

(6) The giving of a direction under Article 15 shall not affect the liability of any person for an offence committed before that giving, except so far as the liability depends on the continuation of the offence after the direction is given.

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(a) S.I. 1972/1996 (N.I. 19).

(7) Paragraph (4) shall not apply to an application for a direction under Article 15 which is a repetition or substantially a repetition of a previous application for a direction.

*Application of building regulations to the Crown*

22.—(1) Except in so far as building regulations provide otherwise, the substantive requirements of building regulations—

- (a) shall apply in relation to work carried out or proposed to be carried out by or on behalf of a Crown authority (whether or not in relation to a Crown building) as they would apply if the person by or on behalf of whom the work was or is being carried out were not a Crown authority;
- (b) so far as they consist of continuing requirements, shall apply to Crown authorities (whether or not in relation to Crown buildings) as they apply to persons who are not Crown authorities.

(2) Except in so far as building regulations provide otherwise, building regulations and the enactments relating to building regulations—

- (a) shall apply in relation to work carried out or proposed to be carried out in relation to a Crown building, otherwise than by or on behalf of a Crown authority, and Article 6 and building regulations made by virtue thereof, shall in relation to a Crown building apply to persons other than Crown authorities as they would apply if the building were not a Crown building; and
- (b) shall apply in relation to work carried out or proposed to be carried out by or on behalf of a government department acting for a person other than a Crown authority as they would apply if the work had been or were to be carried out by that person.

(3) In the case of work carried out or proposed to be carried out by or on behalf of a Crown authority, and in any case in which a Crown authority is or (apart from any dispensation or relaxation) will be subject to any continuing requirements, that authority may exercise the like powers of dispensing with or relaxing building regulations as are conferred on the Department and district councils by virtue of Article 15.

(4) Article 20 and any building regulations made by virtue of paragraph (1) of that Article shall apply in relation to duties imposed by building regulations in their application in accordance with the preceding provisions of this Article.

(5) In this Article—

“continuing requirement” means a continuing requirement of building regulations imposed by virtue of Article 6 (1) or (2);

“Crown authority” means the Crown Estate Commissioners, a Minister of the Crown, a department of the Government of Northern Ireland or of the United Kingdom or any other person whose functions are performed on behalf of the Crown (not being a person or body whose functions are performed on behalf of Her Majesty in Her private capacity);

“Crown building” means a building in which there is a Crown interest;

“Crown interest” means an interest belonging to Her Majesty in right of the Crown or belonging to a department of the Government of Northern Ireland or of the United Kingdom, or held in trust for Her Majesty for the purposes of such a Government department;

“the substantive requirements of building regulations” means the requirements of building regulations with respect to the design and construction

of buildings and the provision of services, fittings and equipment in or in connection with buildings (including requirements imposed by virtue of Article 6 (1) or (2) (a) or (b)) as distinct from procedural requirements.

(6) The preceding provisions of this Article shall, with any necessary modifications, apply in relation to the making of a material change in the use of a building within the meaning of building regulations made for the purposes of Article 5 (1) (d) as they apply in relation to the carrying out of work.

*Regulations to be subject to negative resolution*

23. Regulations (including building regulations) made under this Order shall be subject to negative resolution.

*Transitional provisions, amendments and repeals*

24.—(1) Schedule 2 (which re-enacts transitional provisions contained in the Building Regulations (Northern Ireland) Order 1972) shall have effect.

(2) Without prejudice to any other provision of this Order, any transferred provision (including a local provision) conferring power to make building bye-laws shall continue to have effect in so far as may be necessary for the purposes of Schedule 2.

(3) In paragraph (2) “building bye-laws” has the meaning assigned to it by paragraph 1 of Schedule 2.

(4) In section 4 (1) of the Water Supplies and Sewerage Act (Northern Ireland) 1945 (a), for the words “building byelaws” there shall be substituted the words “building regulations”.

(5) In section 23 of the Clean Air Act (Northern Ireland) 1964 (b), for subsection (2) there shall be substituted the following subsection:—

“(2) Any regulations made under subsection (1) shall be deemed to be regulations made in accordance with the provisions of the Building Regulations (Northern Ireland) Order 1979 and shall have effect accordingly.”.

(6) The statutory provisions set out in columns 1 and 2 of Schedule 3 are hereby repealed to the extent specified in column 3 of that Schedule.

(7) Any local provision which is inconsistent with any provision of any building regulation made or direction given under this Order shall cease to have effect.

*N. E. Leigh,*  
Clerk of the Privy Council.

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(a) 1945 c. 17 (N.I.).

(b) 1964 c. 16 (N.I.).

## SCHEDULES

Article 3 (1) (a).

### SCHEDULE 1

MATTERS IN REGARD TO WHICH BUILDING REGULATIONS MAY BE MADE

1. Preparation of sites.
2. Suitability, durability and use of materials and components (including surface finishes).
3. Structural strength and stability, including—
  - (a) precautions against overloading, impact and explosion;
  - (b) measures to safeguard adjacent buildings and services;
  - (c) underpinning.
4. Fire precautions, including—
  - (a) structural measures to resist the outbreak and spread of fire and to mitigate its effects;
  - (b) services, fittings and equipment designed to mitigate the effects of fire or to facilitate fire-fighting;
  - (c) means of escape in case of fire and means for securing that such means of escape can be safely and effectively used at all material times.
5. Resistance to moisture and decay.
6. Measures affecting the transmission of heat.
7. Measures affecting the transmission of sound.
8. Measures to prevent infestation.
9. Measures affecting the emission of smoke, gases, fumes, grit or dust or other noxious or offensive substances.
10. Drainage (including waste disposal units).
11. Cesspools and other means for the reception, treatment or disposal of foul matter.
12. Storage, treatment and removal of waste.
13. Installations utilising solid fuel, oil, gas, electricity or any other fuel or power (including appliances, storage tanks, heat exchangers, ducts, fans and other equipment).
14. Telecommunications services (including telephones and radio and television wiring installations).
15. Lifts, escalators, hoists, conveyors and moving footways.
16. Plant providing air under pressure.
17. Standards of heating, artificial lighting, mechanical ventilation and air conditioning and provision of power outlets.
18. Open space about buildings and the natural lighting and ventilation of buildings.
19. Accommodation for specific purposes in or in connection with buildings, and the dimensions of rooms and other spaces within buildings.
20. Means of access to and egress from buildings and parts of buildings.
21. Prevention of danger and obstruction to persons in and about buildings (including passers-by).
22. Matters connected with or ancillary to any of the matters mentioned in the preceding provisions of this Schedule.

## Article 24 (1).

## SCHEDULE 2

## SAVING FOR BUILDING BYE-LAWS

## 1. In this Order—

“building bye-laws” includes—

- (a) bye-laws made by any sanitary authority under section 41 of the Public Health (Ireland) Act 1878 (a) with respect to new buildings and new streets;
- (b) any enactments in section 109 of the Towns Improvement Clauses Act 1847 (b), section 43 of the Towns Improvement (Ireland) Act 1854 (c), or in any local Acts dealing with construction of new buildings, including the drainage thereof, and the laying out and construction and drainage of new streets, and any bye-laws made with respect to such matters under any such local Act;

“local authority” means the council of a borough, county borough or of an urban or rural district.

## 2. Any building bye-law in force immediately before 1st October 1973 shall only have effect in relation to—

- (a) plans which, in accordance with building bye-laws, were deposited with a local authority before 1st October 1973; and
- (b) work carried out in accordance with plans deposited before 1st October 1973, with or without departure or deviations from those plans; and
- (c) work carried out and completed before 1st October 1973.

3.—(1) Subject to this paragraph, a district council may, on an application made after 1st October 1973 by any person (other than the district council), give a direction, with the consent of the Department, dispensing with or relaxing any requirement of building bye-laws.

(2) The Department may on an application made after 1st October 1973 by a district council give such a direction as is mentioned in sub-paragraph (1) in favour of the district council.

(3) Articles 15 and 16 shall apply in relation to any application or direction under this paragraph as if references to building regulations included references to building bye-laws, and as if an application or direction under this paragraph were an application or direction under Article 15.

(4) The amendments made by paragraphs (4) and (5) of Article 24 shall not apply so as to affect any reference in the enactments amended to building bye-laws as in force before 1st October 1973 or as continued in force by the provisions contained in this Schedule.

## Article 24 (6).

## SCHEDULE 3

## REPEALS

Number	Short Title	Extent of Repeal
S.I. 1972/1996 (N.I. 19).	The Building Regulations (Northern Ireland) Order 1972.	The whole Order.
S.I. 1978/1038 (N.I. 8).	The Building Regulations (Northern Ireland) Order 1978.	The whole Order.

(a) 1878 c. 52.

(b) 1847 c. 34.

(c) 1854 c. 103.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order consolidates the Building Regulations (Northern Ireland) Order 1972 as amended by the Building Regulations (Northern Ireland) Order 1978 and other enactments.



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STATUTORY INSTRUMENTS

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**1979 No. 1709 (N.I. 16)**

**NORTHERN IRELAND**

**The Building Regulations  
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