

EVEBRIEF

Legal & Parliamentary

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RATES RETENTION CREATES NEW CHALLENGES



Hilary Wescombe
Editor

We have a fairly mixed bag of material in this issue with something for everyone. Our most important case is at item 21 and relates to legal advice privilege. The Supreme Court has ruled that this privilege only applies to legal advice given by members of the legal profession and cannot be extended to other professions, even if the advice is legal advice and is given by someone competent to give it.

In the rating section we have four Statutory Instruments which in themselves may not seem particularly interesting. However, they pave the way for an important change to the rating system coming in from 1 April 2013. But first the good news for small businesses on rating is confirmation of the continuation of the enhanced small business rate relief scheme (item 7). Qualifying businesses with assessments below RV £6,000 pay no rates with a sliding scale of relief for assessments between RV £6,000 and £12,000.

The remaining rating Statutory Instruments tackle some of the preliminary technical issues required for the Government's Business Rates Retention Scheme. Under the current system which has operated since 1990, rates are collected by Local Authorities and paid into a central pool to be redistributed as part of the formula grant calculated using a complex formula and the money is used to fund a wide range of local services.

From April 2013, Local Authorities will be retaining 50% of business rate growth, the intention being that a strong incentive to promote local business growth will be created. The proposals also include a system of tariffs and top ups to correct changing pressures on local services. Ratepayers will not see any change in the way they pay rates but Local Authorities will face a considerable challenge in budgeting as their income fluctuates to reflect RV loss, backdated RV changes and new assessments. Local Authorities facing a downward trend are likely to see their problems compounded as the gap between areas that are seeing growth and those that are not widens.

A handwritten signature in black ink, reading "Hilary Wescombe".



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LANDLORD & TENANT

01 High Court

Break clause – overage agreement

*HFI FARNBOROUGH LLP V PARK GARAGE GROUP PLC
(2013) PLSCS 1 – Decision given 13.12.12

Facts: The claimants, HFI, owned petrol filling stations which were leased to the defendants, PGG, for 25 years from various dates in 2006 and 2007. The leases contained a break clause permitting HFI to terminate them on three months notice, but a separate overage agreement restricted HFI's power to exercise this clause and provided for overage payments to PGG in the event of HFI selling the property. Following difficulties with the Land Registry, the original agreements were varied. Clause 8.2 provided that HFI could not invoke the break clauses "unless the value of the Premises on the date the Break Clause is exercised exceeds the price". Clause 8.3 provided that if HFI exercised the break clause "it shall upon completing a sale of the Premises pay overage to the tenant within the seven days of such disposal being completed..." In April 2012 HFI served break notices, each notice being accompanied by a letter from a valuer stating that the value of the premises exceeded the price referred to in the lease as varied, but no details of the values relied on or the basis of the valuation were given.

Point of dispute: Whether HFI's claim for possession would be allowed. PGG argued that the notices were invalid. The issues were (i) whether, on the true construction of the lease, HFI were entitled to exercise the break clause if there was no agreed sale of the premises with vacant possession, and (ii) if they were so entitled, whether the leases should be rectified on the grounds of mutual mistake.

Held: HFI's claim for possession was dismissed and the claim for rectification was allowed.

- i. In interpreting a contractual provision it had to be ascertained what a reasonable person would have understood the parties to have meant. If a contractual term was capable of more than one interpretation the one which was most consistent with business common sense should be adopted. In the present case it was likely from a commercial point of view that clauses 8.2 and 8.3 were linked and that the break clause could only be exercised on a sale.
- ii. In the light of the above conclusion, the issues of rectification did not arise, save as regards the definition of sale costs and that claim was allowed.

PLANNING

02 Administrative Court

Wind farm – impact on nearby scheduled ancient monument – whether inspector making mistake of fact by overlooking change in expert evidence on the issue of impact

*MACARTHUR V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT [2013] PLSCS 11 – Decision given 15.01.13

Facts: The claimants were officers of action groups that opposed plans to develop two wind farms near Kings Lynn in Norfolk. The Ipa initially refused planning permission for the developments, partly on the grounds that they would have a harmful impact on the setting of a nearby hill fort, which was a scheduled ancient monument. On appeal the inspector appointed by the Sec of State overturned the Ipa's decision, concluding that the minor harm to the setting and heritage of the fort was outweighed by the benefits of the development in terms of renewable energy provision.

Point of dispute: Whether the claimants' application to quash the planning permission would be allowed. They argued that the inspector had failed to record a concession by the expert, given in his oral evidence, that his written evidence had under-assessed the impact of the wind turbines. They claimed that the inspector had accepted that the wind turbines would be "noticeable" from the fort, which upgraded to significant the environmental impact of the two developments; thus the inspector's decision was flawed as he had stated he agreed with the expert's evidence without addressing the difference between the written and the oral evidence.

Held: The claim was dismissed.

- i. A decision-maker's failure to correctly record or understand the evidence before it could amount to a material mistake of fact. However, such a mistake was not established in this case as there was conflicting and ambiguous evidence about what had happened at the inquiry. The mere use of the word "noticeable" by the expert was not a sufficient basis on which to conclude that he had changed his view in such a significant manner.
- ii. The reasons given by the inspector for his decision were adequate. He could set out his conclusions on the issues that the experts had addressed without explaining why he rejected the evidence of one expert or preferred another. His reasoning as to why he had concluded that the turbines would have only a minor adverse effect on the setting and heritage of the hill fort were clear and did not give rise to any substantial doubt as to whether he had made a mistake of fact in relation to the expert's evidence.

03 Administrative Court

Wind farm – Development plan

*SOUTH NORTHAMPTONSHIRE COUNCIL V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT [2013]
PLSCS 12 – Decision given 16.01.13

Facts: Planning permission to develop a wind farm comprising five wind turbines, with a maximum height of 125m, on a site in south Northamptonshire was refused by the SNC, the claimant. On appeal to the Sec of State the inspector gave considerable weight to the renewable energy policy in the NPPF, and although she found that the wind turbines would have a major impact on the landscape and would harm the setting of several heritage assets in the area, contrary to development plan policies, she found that the harm would not be substantial within the meaning of the NPPF. She granted planning permission for the turbines, considering that the harm to those assets and the impact on residential amenity were not sufficient to outweigh the wider economic and environmental benefits of the development.

Point of dispute: Whether SNC's application to quash the grant of permission would be allowed. It argued that the inspector had failed to attach proper weight to conflicts with the development plan and had therefore failed to comply with the statutory duty, under s38(6) of the Planning and Compulsory Purchase Act 2004, to make a determination in accordance with the development plan, unless material considerations indicated otherwise i.e. the inspector had applied the wrong test by carrying out a straightforward balancing exercise, weighing harms against benefits rather than according primacy to the development plan.

Held: The claim was allowed and permission for the development quashed. Section 38(6) of the 2004 instituted a "plan-led" system with a statutory presumption in favour of the development plan, and national planning policies were only material considerations. The inspector had erred by failing to accord to the development plan the priority required by the law. Nowhere in the inspector's decision had she mentioned the priority due to the development plan or shown that she was aware of the "plan-led" concept, and the way in which her decision letter was written pointed to it being more Framework-led than plan-led. She had failed to accord to the development plan the weight required by s38(6).

04 Government Consultation

**Streamlining the planning application process
Deadline for Comments: 04.03.13**

This consultation seeks views on measures to streamline the planning application process by simplifying the requirements for design and access statements, improving the validation stage and changing the requirements regarding local authority decisions notices.

<https://www.gov.uk/government/consultations/streamlining-the-planning-application-process>

05 Government Guidance

Planning Act 2008: guidance on the pre-application process

The 2008 Planning Act created a new development consent regime for nationally significant infrastructure projects in the fields of energy, transport, water, waste water and waste i.e. large scale developments such as new harbours, power stations and electricity power lines. This guidance is part of a package of statutory instruments and guidance for the 2008 Act and the major infrastructure sections of the Localism Act 2011. It sets out the necessary requirements and procedures and clarifies the scope and scale of the consultation required at the pre-application stage. All the processes required from an applicant prior to the submission of an application are covered, including the pre-application consultation, Environmental Impact Assessment, Habitats Regulations Assessments and advice on drafting a development consent order.

<https://www.gov.uk/government/publications/guidance-on-the-pre-application-process-for-major-infrastructure-projects>

06 Impact Assessment

Extending the life of planning permissions: impact assessment

This is the impact assessment of a one year extension of the temporary measures introduced in 2009 which enable applicants to extend the time limit for implementing existing planning permissions.

<https://www.gov.uk/government/publications/extending-the-life-of-planning-permissions>



RATING

07 Statutory Instrument

SI 2013/15 The Non-Domestic Rating (Small Business Rate Relief) (England) (Amendment) Order 2013

This Order, which comes into force on 11.2.13, makes provision for another year's continued temporary increase in the level of small business rate relief for the financial year commencing 01.04.13.

<http://www.legislation.gov.uk/uksi/2013/15/contents/made>

08 Statutory Instrument

SI 2013/106 The Non-Domestic Rating (Transitional Protection Payments) Regulations 2013

The Local Government Finance Act 1988 ("the Act") provides for non-domestic hereditaments to be revalued periodically, the last revaluation having taken place on 01.04.10. Regulations made under s57A of the Act set out the rules for a transitional relief scheme to protect ratepayers from large increases in their rates bills following revaluation in order to assist ratepayers whose bills would have increased above a certain amount by phasing in these increases gradually over up to five years. It is also phases in the reduction in bills of some ratepayers who would otherwise have seen their rates bills decrease immediately. The phasing in of the reductions funds the phasing in of the increases.

These regulations, which come into force on 18.02.13, make provision for adjusting payments to billing authorities where their income is less as a result of the operation of the transitional arrangements; and for payments by authorities where their income is greater.

<http://www.legislation.gov.uk/uksi/2013/106/contents/made>

09 Statutory Instrument

SI 2013/107 The Non-Domestic Rating (Designated Areas) Regulations 2013

These Regulations, which come into force on 18.02.13, designate specific areas within which a proportion of the non-domestic rating income is to be calculated in accordance with the Regulations. Such proportions are to be disregarded by each billing authority all or part of whose area falls within the designated area for the purpose of particular calculations made under Schedule 7B to the Local Government Finance Act 1988 (local retention of non-domestic rates). The calculations relate to the growth in income in the area.

<http://www.legislation.gov.uk/uksi/2013/107/contents/made>

10 Statutory Instrument

SI 2013/108 The Non-Domestic Rating (Renewable Energy Projects) Regulations 2013

These Regulations, which come into force on 18.02.13, designate classes of hereditaments in relation to which a billing authority may disregard an amount of non-domestic rating income for the purpose of certain calculations under Schedule 7B to the Local Government Act 1988 (local retention of non-domestic rates). These classes are:

- renewable power stations, which are defined in Reg. 5;
- splits, mergers, reorganisations and altered hereditaments formed from existing renewable power stations;
- hereditaments which generate electricity, although they are primarily used for other purposes; and
- cables and sub-stations associated with offshore generating plants.

<http://www.legislation.gov.uk/uksi/2013/108/contents/made>

REAL PROPERTY

11 High Court

Title to land – tenants in common – partition***ELLISON V CLEGHORN [2013] PLSCS – Decision given 14.01.13**

Facts: The claimant and the defendant were friends. In March 2005, they purchased some land as tenants in common with the intention of dividing it in two, each to build a house on his part which would be accessed by a shared driveway. They paid the purchase price in equal shares and obtained the necessary permissions to construct their respective properties. By the end of 2008 the defendant had constructed a five-bedroom house with a double garage which was situated on the edge of his land, adjacent to the claimant's property. Although work on the claimant's house started, it had to be demolished owing to the negligence of his building surveyors and the incompetence of his builder. The claimant contended that the position of the defendant's garage prevented him from building a satisfactory house on his property and he applied to the court for an order that all the property be sold and the proceeds of sale divided equally between himself and the defendant. Alternatively, he wanted to be repaid his contribution to the acquisition of the land, plus interest. The defendant counterclaimed for a declaration that he was already the beneficial owner of his part of the land, by constructive trust or proprietary estoppel, and sought a transfer of his part of the property into his sole name. Subsequently the parties agreed that appropriate relief might be granted by an order directing partition of the land pursuant to s14 of the Trustees of Land and Appointment of Trustees Act 1996.

Point of dispute: The nature of the relief that should be ordered.

Held: Partition was ordered with no payment by either party.

- i. Where the parties were already co-owners of the land which they had intended from the outset should be divided between them partition was the natural means of achieving that objective, with recourse to the court if the consent of all beneficiaries was not forthcoming. Section 15 of the 1996 Act required the court to have regard to the intentions of the persons who created the trust and to the purposes for which the trust property was held. On the evidence the common intention of the parties when they acquired the property was that it would be equally divided between them by area, the precise delineation of the boundary being a matter of calculation. The objective had been to create two homes, one for each of the parties and the fact that the claimant had failed to make significant progress towards this objective was not the defendant's fault. The siting of the defendant's garage did not hinder completion of the claimant's house. The two parts of the property should be partitioned with the boundary where it now lay, in a straight line in each direction from the line of the defendant's garage. The driveway should be added to the claimant's plot subject to rights of way and rights to maintain services and boundaries for the defendant, with shared obligations for maintenance.
- ii. It was not appropriate to order the defendant to pay equality money to the claimant to balance out the large difference in site value between the two plots. It had never been part of the original bargain that the two houses should be of equal value, or that the properties should have and preserve an equal development value. The intention had been to create plots of equal area rather than value.
- iii. Neither party should take any steps on their plot which might to a significant extent adversely impact on the achievement of the objective of creating a "nice house" on the other plot, or insist on a boundary that would make the other plot smaller. Even if the value of the claimant's plot was adversely affected by the position of the defendant's garage it would be unjust to award him compensation since he had not made any complaint for two years and until the defendant had started spending money on construction.

CONSTRUCTION

12 Statutory Instrument

SI 2013/10 The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013

These Regulations, which came into force on 27.01.13, amend the Building Regulations 2010 ("the Building Regulations") and the Energy Performance of Buildings (England and Wales) Regulations 2012 in connection with the green deal energy efficiency scheme created by Chapter 1 of Part 1 of the Energy Act 2011.

<http://www.legislation.gov.uk/uksi/2013/10/contents/made>

13 Government publication

A guide to air conditioning inspections for buildings

This guidance is intended to help anyone who manages or controls an air conditioning system in connection with the following:

- how the requirements of the Energy Performance of Buildings (England and Wales) Regulations 2012, and the Directive on which these Regulations are based, work in practice;
- how to apply the Regulations;
- the extent of their responsibilities; and
- the timing of inspections.

<https://www.gov.uk/government/publications/air-conditioning-inspections-for-buildings>

14 Government Publication

A guide to display energy certificates and advisory reports for public buildings

This guide is an introduction to the regulations for Display Energy Certificates for buildings occupied by a public authority.

<https://www.gov.uk/government/publications/display-energy-certificates-and-advisory-reports-for-public-buildings>

15 Government Publication

Local weights and measures authority guidance for Energy Performance Certificates and air conditioning inspections for buildings

This guidance is aimed at enforcement agencies and aims to help them in the understanding of:

- how the requirements of the Energy Performance of Buildings (England and Wales) Regulations 2012, and the Directive on which these Regulations are based, work in practice;
- how to apply the Regulations;
- the responsibilities for sellers, landlords, building owners, occupiers, builders and agents; and
- their role in ensuring that these responsibilities for providing Energy Performance Certificates and air conditioning inspection reports are met.

<https://www.gov.uk/government/publications/local-weights-and-measures-guidance-for-energy-certificates-and-air-conditioning-inspections-for-buildings>



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ENERGY

16 Government Publication

Offshore wind sector strategy: call for views Deadline for Comments: 04.02.13

As part of its industrial strategy programme, the government is developing a strategic partnership with the offshore wind sector. This “call for views” invites evidence and information on action that needs to be taken, by government and business, in the offshore wind sector.

<https://www.gov.uk/government/publications/offshore-wind-sector-strategy-call-for-views>

17 Government Publication

Housing Energy Fact File 2012: energy use in homes

The quantity of energy used in homes in the UK accounts for more than a quarter of total energy use and carbon dioxide emissions in this country. As more energy is used in housing than either road transport or industry, housing represents a major opportunity to cut energy use and CO₂ emissions. This fact file, which is intended for policy-makers, researchers and interested members of the public, aims to draw together most of the important data about energy use in homes in the UK since 1970. The current situation is described and changes that have taken place over the last 40 years shown.

<https://www.gov.uk/government/publications/housing-energy-fact-file-2012-energy-use-in-homes>

TRANSPORT

18 Government Publication

High speed rail: investing in Britain's future phase two – the route to Leeds, Manchester and beyond summary

This document summarises the Government’s initial preferences for phase two of HS2, extending the route north of Birmingham to Manchester and Leeds. It describes the role that high speed rail has to play in meeting the future transport and economic needs of this country, discusses the Government’s initial preferred route, station and depot options for this phase and shows the enhanced connectivity that HS2 will provide for regions.

<https://www.gov.uk/government/publications/high-speed-rail-investing-in-britains-future-phase-two-the-route-to-leeds-manchester-and-beyond-summary>

LONDON

19 Statutory Instrument

SI 2013/110 The London Thames Gateway Development Corporation (Dissolution) Order 2013

As from 24.01.13 the London Thames Gateway Development Corporation will cease to act except for the purpose of preparing its final accounts and report and winding up its affairs. The corporation will be dissolved on 28th February 2013.

<http://www.legislation.gov.uk/uksi/2013/110/contents/made>

20 London Assembly Government Publication

London Plan Implementation Plan

The London Implementation Plan (LIP) sets out how the policies of the London Plan will be translated into practical action. Providing an overview of the mechanisms which will ensure that the Mayor’s planning policies are effectively implemented, the LIP is intended to provide a more robust basis for infrastructure planning across London, as the consultation process revealed that many stakeholders, including boroughs, considered that implementation and infrastructure planning by the Mayor needed improvement.

The LIP is intended to:

- facilitate coordination and cooperation of activities to ensure that the London Plan is realised;
- inform developers and all delivery partners;
- provide communities with transparent and accessible information to enable them to get involved in the development of their area; and
- help boroughs in terms of the wider context for their local implementation and infrastructure planning and the preparation of their Community Infrastructure Levy.

Annex 1 of the Plan sets out a range of strategic implementation actions for the GLA Group, partner organisations and delivery agencies covering all policy areas. Another important section (chapter 3) addresses the strategic infrastructure required to support the growth set out in the London Plan Infrastructure in terms of transport, water, energy waste, telecommunications, social and green infrastructure. Over time the document will be refined and more detail added and it will be updated every year.

<http://www.london.gov.uk/publication/implementation-plan>

GENERAL

21 Supreme Court

Legal advice privilege – whether legal advice privilege confined to members of legal profession or extending to other persons giving legal advice

***R (ON THE APPLICATION OF PRUDENTIAL PLC) V SPECIAL COMMISSIONER OF INCOME TAX [2013] PLSCS 21 – Decision given 23.01.13

Facts: The appellants (P) were two companies in the same group who received statutory notices from an inspector of taxes, under s20 of the Taxes Management Act 1970, requiring them to produce certain documents in relation to their tax affairs, specifically the use of a tax avoidance scheme that had been marketed by a large firm of chartered accountants. P challenged the validity of the notices in judicial review proceedings, contending that the notices sought disclosure of documents that were covered by legal advice privilege (LAP) as they related to legal advice that the accountants had given to P. It was settled law that s20 could not be invoked to make anyone produce a document to which LAP attached.

Point of dispute: Whether P's appeal would be allowed against the ruling of the Court of Appeal, upholding the first instance decision, that LAP did not extend to legal advice given by someone other than a member of the legal profession.

Held: By a majority of 3 to 2, the appeal was dismissed. LAP was universally understood only to apply to communications in connection with advice given by members of the legal profession, including members of the Bar, members of the Law Society, members of the Chartered Institute of Legal Executives and foreign lawyers. Patent attorneys, trade mark agents and licensed conveyancers did not enjoy LAP and in 2001 the government had rejected a proposal that legal advice given by accountants should enjoy the same privilege as lawyers' advice. In the 1970 Act a distinction was made between tax advice given by a "barrister, an advocate or a solicitor" as opposed to a "tax adviser". It was not appropriate for the court to extend the scope of LAP to communications in connection with advice given by professionals other than lawyers, notwithstanding the strong case for doing so. The restriction on LAP to advice from members of the legal profession was explicable by reference to history, although illogical in the modern world. To extend the scope of LAP was for parliament for three reasons, (i) it would be likely to lead to uncertainty; (ii) questions of policy were involved; and (iii) where parliament had enacted relevant legislation relating to LAP, and on the assumption that LAP was confined to advice given by lawyers, it would be inappropriate for the court to extend it in the manner contended by P.

22 RICS Guide

Solicitor's Guide to the RICS Common Auction Conditions

The RICS Common Auction Conditions were originally published in 2002 with the intention of providing a plain English guide with all contact terms in a single place, simplifying the production of special conditions and striking a fair balance between buyers and sellers. This guide which is aimed at solicitors and conveyancers, aims to ensure that the terms of the Common Auction Conditions are understood and that the document is used correctly.

<http://www.rics.org/uk/knowledge/more-services/guides-advice/solicitors-guide-to-the-rics-common-auction-conditions/>



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Evebrief has been established for more than 30 years. It is a summary of the latest statutory and legal cases affecting the property industry and is widely regarded in the industry as the most comprehensive document of its type.

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Abbreviations

The following abbreviations are used in evebrief:

BLD	Lexis Nexis Butterworths (internal abbreviation)
EG	Estates Gazette
EGLR	Estates Gazette Law Reports
EWCA	England & Wales Court of Appeal
EWHC	England & Wales High Court
P&CR	Property, Planning and Compensation Reports
PLSCS	Property Law Service Case Summaries

The star system

Cases are marked with one, two or three stars as follows:

- *** Essential reading on the point of law or valuation with which the case is concerned, because it adds to, or clarifies or changes, the law.
- ** Noteworthy case which does not significantly alter the law or which relates to a relatively obscure point.
- * Interesting but non-essential reading.

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EVEBRIEF

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SCOTLAND

CONSTRUCTION

- 01 Statutory Instrument
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SI2013/12 The Energy Performance of Buildings (Scotland) Amendment Regulations 2013

These Regulations, which came into force on 27.01.13, amend the 2008 Regulations regarding the green deal energy efficiency scheme. Information relating to a green deal plan must now be included in the energy performance certificate and recommendations report of a green deal property.

<http://www.legislation.gov.uk/ssi/2013/12/contents/made>

- 02 Scottish Government Consultation
-

Review of the Building (Scotland) Regulations 2004: Technical Handbooks – Section 6: Energy Deadline for Comments: 15.04.13

This consultation contains proposals for the improvement of energy efficiency and reduction in greenhouse gas emissions arising from both the construction of new buildings and where work is carried out to existing buildings. Following publication of the 2007 Sullivan Report – 'A Low Carbon Building Standards Strategy for Scotland', Scottish Ministers gave a commitment to investigate the recommendations of that report. Amongst the 56 recommendations made by the Sullivan Report were proposals for staged improvements to energy standards within the building regulations with the aim of 'net zero carbon new buildings' by 2016/17 if practical. This consultation presents technical proposals to deliver further reductions in emissions with a view to introducing them in 2014.

<http://www.scotland.gov.uk/Publications/2013/01/4018/0>



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WALES

CONSTRUCTION

03 Welsh Assembly Government Consultation

Building regulations Deadline for Comments: 20.02.13

This consultation seeks views on changes to the Welsh building regulations which cover energy performance of buildings, the Green Deal and Competent Persons schemes in order to implement the requirement of the EU Directive 2010/31/EU on the Energy Performance of Buildings and to facilitate the Green Deal.

<http://new.wales.gov.uk/consultations/planning/building-regulations/?lang=en>

NORTHERN IRELAND

PLANNING

04 Bill

Planning Bill

The aim of this Bill, which was introduced to the Northern Ireland Assembly on 14.01.13, is to speed up reforms and modernise the planning system before the majority of planning powers transfer to local government in 2015.

The key provisions of the Bill include:

- The option to appoint persons other than the Planning Appeals Commission (PAC) to conduct inquiries on major planning applications;
- Changes to the planning appeals system to make this faster and fairer such as reducing the time limit for submitting appeals, restricting the introduction of new material at appeal, and allowing the PAC to award costs;
- A new duty for statutory consultees to respond to consultations within a prescribed time frame;
- Enhanced community involvement – developers will be required to consult the community before submitting major planning applications;
- Tougher enforcement – raising potential fines from £30,000 to £100,000 for a series of offences, introducing fixed penalty notices where an enforcement notice has not been complied with as an alternative to costly and lengthy prosecutions through the Courts, the introduction of multiple fees for retrospective planning applications;
- Promoting economic development by having regard to economic advantages or disadvantages of granting or refusing planning permission; and
- Measures to enhance the environment – e.g. a requirement to obtain the Department's consent prior to the felling of dying trees covered by a tree preservation order.

<http://www.northernireland.gov.uk/index/media-centre/news-departments/news-doe/news-doe-140113-new-legislation-decisive.htm>

CONSTRUCTION

05 Statutory Instrument

NISR 2013/12 The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2013

W.e.f. 18.02.13 these Regulations amend the 2008 Regulations ("the Principal Regulations"). The Principal Regulations implemented the provisions of Articles 7, 9 and 10 of Directive 2002/91/EC of the European Parliament of 16.12.02 on the energy performance of buildings ("the 2002 Directive"). These Regulations implement new requirements of Articles 4(2), 11, 12, 13, 16 and of 27 of the recast Directive 2010/31/EU of the European Parliament of 19.05.10 on the energy performance of buildings.

<http://www.legislation.gov.uk/nisr/2013/12/contents/made>