



aimed at reducing the threat of carbon monoxide poisoning.

- Gives guidance on improving ventilation in "very airtight houses", especially those where energy efficiency improvements mean that previous escape routes for carbon monoxide (such as draughty windows in old houses) have been eliminated.

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New Building Regulations Parts

The changes

All of the new Approved Documents include amendments aimed at clarifying their requirements and making clear the distinction between required actions and guidance. In addition, each document includes several substantive changes from the current Approved Documents.

Part F

The changes to Part F of the Building Regulations 2000 aim to ensure buildings are adequately ventilated through natural and mechanical ventilation systems. In particular, the Approved Document for Part F:

- Increases ventilation requirements in certain situations.
- Aims to ensure that a building owner receives sufficient information to operate a building's ventilation system adequately.
- Introduces requirements for a builder to notify the relevant local authority building control body (BCB):
 - when a mechanical ventilation system is commissioned; and
 - of the measured air flow rate of a mechanical ventilation system installed in a new dwelling.

Part J

The changes to Part J aim to ensure that combustion appliances function safely in today's more airtight homes. In particular, the new Approved Document for Part J:

- Introduces new requirements

Part L

There are four separate Approved Documents to Part L:

- L1A, conservation of fuel and power (new dwellings).
- L1B, conservation of fuel and power (existing dwellings).
- L2A, conservation of fuel and power (new buildings other than dwellings).
- L2B, conservation of fuel and power (existing buildings other than dwellings).

All of these documents have been amended. Most significantly, the new Approved Documents for Part L:

- Adjust the way in which the target emission rate (TER) is calculated.
- Introduce a requirement to provide the BCB with a TER and dwelling emission rate (DER) before work commences. After completion, the builder must notify the BCB of the TER and DER actually achieved. Also, if the work was not carried out to specification, then the builder must confirm how the specification changed.

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Add margins of error (confidence factors), to calculations where actual energy efficiency figures are estimated or extrapolated from existing data. Where confidence factors already existed in the Approved Documents, many have been increased. In effect, this encourages a detailed energy assessment of every building.

Comment

Although all the new Approved Documents make technical amendments to the way in which work is carried out, Part L forms the bedrock of the changes. The alternations to Parts F and J derive largely from Part L. This is because the changes to Part L will result in buildings becoming more air tight which, in turn, requires improvement to ventilation systems (Part F) and combustion appliance safety (Part J).

The new Approved Documents are also significant from a policy perspective. This is because they arise as part of the government's environmental targets for zero carbon buildings (new homes from 2016 and new non-domestic buildings from 2019). In addition, government legislation requires an 80% reduction in greenhouse gas emissions by 2050. To achieve these targets, the energy efficiency of new buildings has to be improved

Double Insurance

In *National Farmers Union Mutual Insurance Society Ltd v HSBC Insurance (UK) Ltd* [2010] EWHC 773 (Comm), the sellers and buyers each held their own buildings insurance between exchange and completion. After exchange, a fire caused extensive damage and the buyers' insurer paid out in full to the buyers. The buyers' insurer claimed a contribution from the sellers' insurer on the basis that there was "double insurance".

The High Court held that, although the sellers' policy extended to "anyone buying" the property until the sale was completed, it also excluded payment if the buildings were insured under any other insurance. As the buyers had their own insurance, they were not covered by the sellers' policy and there was no double insurance: the buyer's insurer was not entitled to any contribution from the sellers' insurer.

Comment

This decision does not create new law but provides a useful illustration of the principles relating to double insurance and the reasons why both parties should insure between exchange of contracts and completion.

Can a personal break clause be exercised after assignment?

In *Linpac Mouldings Ltd and others v Aviva Life and Pensions UK Ltd* [2010] EWCA Civ 395, the Court of Appeal upheld the decision of the High Court that a personal break right was not exercisable at a time when the beneficiary of that right was not the tenant in possession.

The tenant did not appeal against the High Court's two other findings that:

- The landlord's refusal of consent to assignment was reasonable.
- The personal break right did not revive on re-assignment to the beneficiary of the right.

This decision confirms that "unambiguously clear" drafting is required for a break clause to be exercisable by a former tenant. A tenant with the benefit of a personal break clause could consider whether to underlet, if possible, rather than assign to preserve its right to exercise the break clause.

The New Coalition Government: Impact on the Property Industry

The newly formed coalition government has published a coalition agreement setting out what has been agreed between the Conservatives and Liberal Democrats on the issues they needed to resolve to enable them to work together.

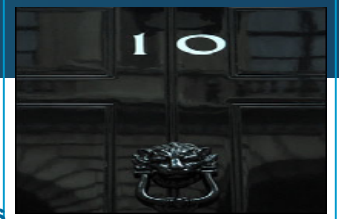
This document will be followed by a final Coalition Agreement, covering the full range of policies and including foreign, defence and domestic policy issues not covered in this document.

An emergency budget is planned within 50 days of the final Coalition Agreement and there will be a full Spending Review, reporting in autumn 2010.

It is not yet clear what the government will put into

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the Queen's Speech on 25 May 2010 and certainly more detail on the policies will emerge over the coming days. In the meantime, the following will be of interest to the property industry and property lawyers:

- Home Information Packs (HIPs) are to be scrapped but Energy Performance Certificates (EPCs) will be retained.
- The government will make provision for home energy improvements to be paid for by savings from lower energy bills.
- The government will continue with the plans to establish a high-speed rail network.
- The government will cancel plans for a third runway at Heathrow, and will refuse additional runways at Gatwick and Stansted.
- Measures will be introduced to promote green spaces and wildlife corridors to halt the loss of habitats and restore biodiversity.

The government will bring forward the national planning statement for ratification by Parliament so that new nuclear construction becomes possible. A consultation draft of National Policy Statement for Nuclear Power Generation (EN-6) was published in November 2009.

The Conservatives are committed to allowing the replacement of existing nuclear power stations provided that:

- the construction of new nuclear power stations is subject to the normal planning process for major projects; and
- the construction of new nuclear power stations will not receive any public subsidy.

The Liberal Democrats are opposed to any new nuclear construction and it has been agreed that a Liberal Democrat spokesman will speak against the new planning statement but that Liberal Democrat MPs will abstain from voting on the new statement. It is specifically agreed that this will not be regarded as an issue of confidence.

Health & Safety: New Gas Safety Register for Landlords

The Health and Safety Executive has launched a new website which sets out a landlord's legal obligations in relation to its tenant's gas safety. Topics covered include the landlord's responsibilities to:

- Repair and maintain pipework, flues and appliances.
- Arrange annual gas safety checks for appliances and flues.
- Keep gas safety check records (and provide copies to tenants).
- Keep tenants informed of their responsibilities.

The website also includes a link to the Gas Safe Register, which replaced the CORGI gas registration scheme in Great Britain on 1 April 2009

Park Home Sites

The Government has published a paper (the paper) confirming its position in light of the consultation responses (which are set out at part four of the paper).

The consultees generally supported the consultation proposals, particularly the requirement that only "fit and proper" persons should be allowed to manage park home sites.

The Government's aim is to introduce a fair, proportionate and cost effective licensing system that raises and maintains the standards of park home sites by ensuring they are safe, well-planned and well-managed, with appropriate facilities and services.

The Government will firstly set up a task force of representatives from Government, trade bodies, national residents' associations, local authority bodies and local authority practitioners.

The task force will:

- Consider the licensing reforms and advise



the Government on how they should be achieved.

- Recommend whether the Government should adopt a single or two-tier licence structure. The task force will need to have regard to the licensing structure options when recommending how the Government's proposals should be implemented.

Single or two-tier licence structure?

Under a single-tier structure, the local authority would issue a single licence for each site, granted to a "fit and proper" person who is suitable to hold the licence. The single licence would cover, for example, the specified number of units, layout, services, amenities and management.

Under a two-tier structure:

- A national licensing authority would issue a personal licence to fit and proper applicants who are suitable to manage park homes. A personal licence is a generic authority to manage any park home site.
- The local authority would issue a site licence covering the site's suitability, amenity and services.

Contacts

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