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Llywodraeth Cymru
Welsh Government

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Welsh Government

Consultation - Summary of Responses
and the Welsh Government Response to:

The Consultation on the Draft Building
Regulations &c. (Amendment) (Wales)
Regulations 2013

Content

Background	1
The Responses	2
Analysis of Responses	2
Government Response	4
Next Steps	4

Background

1. The Welsh Government issued a consultation on the draft Building Regulations &c. (Amendment) (Wales) Regulations 2013 (“the draft regulations”). The draft regulations introduce changes in Wales through amendments to the Building Regulations 2010 (“the building regulations”) and to the Building (Approved Inspectors etc) Regulations 2010. In broad terms, the amendments seek to implement elements of the EU Directive 2010/31/EU (“the Directive”) on the energy performance of buildings, facilitate the Green Deal, extend provisions providing for completion certificates and update schedule 3 of the building regulations which provides for self-certification (competent person) schemes.
2. Section 14(7) of the Building Act 1984 requires the Welsh Ministers to consult the Building Regulations Advisory Committee for Wales (BRACW) and such other such bodies as appear to them to be representative of the interests concerned before making building regulations that contain substantive requirements.
3. We issued a four week public consultation on 23 January 2013. This shortened consultation period was partly due to the desire to implement the changes to facilitate the Green Deal in Wales as soon as possible. The Welsh Government wishes to provide equality of opportunity for homeowners and businesses in Wales, especially in relation to the Green Deal Cashback Scheme which is open for a limited period and could provide up to £1000 cash-back from the UK Government to help pay for Green Deal installations.
4. We are required by law to implement the Directive and so did not seek views on whether or not the Directive should be implemented, rather we sought views on our proposed approach to implementation. Where the Directive offered options, we consulted on our choices. The consultation also sought views on our proposed approach to implementing the changes to facilitate the Green Deal in Wales. The Green Deal is a UK Government environmental initiative that provides opportunities for business in Wales and we did not seek views on whether or not the Welsh Government should facilitate the Green Deal in Wales.
5. We also consulted the BRACW, Local Authority Building Control (LABC) and the Competent Persons Forum on amendments to schedule 3 to the building regulations.
6. The draft regulations are based on regulations already made in England which are titled “The Building Regulations &c. (Amendment) Regulations 2012” S.I.2012/3119 (“England’s regulations”). The amendments made by the draft regulations have already been the subject of consultation in England.

The Responses

7. There were 20 responses to the consultation. 6 respondents did not answer the consultation question, with 3 of these making general comments in relation to building regulations and 3 respondents simply acknowledging the consultation whilst offering no further comments.
8. There was almost 100% support for the draft regulations, with the only area of disagreement in relation to the costs in the RIA.
9. Respondents were categorised into sectors as follows:

1. Manufacture/Supply Chain	2
2. Specific Interest	4
3. Building Control Bodies (inc. LABC)	4
4. Designers/Engineer/Surveyor	1
5. Builders/Developers	2
6. Energy Sector	0
7. Property management	0
8. Competent Persons Scheme	2
9. Green Deal	0
10. Other	5

10. Those categorised as “Other” came from ASDA, Network Rail, Hywel Dda Health Board and 2 individual members of the public.
11. We should like to thank all those who responded to the consultation.

Analysis of Responses

Question 1

Do you agree with our proposed approach, that the additional exemption listed in the paragraph above should not be added to the exemptions in regulation 21 of the building regulations?

12. 100% of respondents answered yes to this question.
13. The comments presented suggest that there is support for the maximum number of properties being covered by the regulations and that the proposed approach is fair and will help achieve our low carbon aspirations.

Question 2

Do you agree with the proposed application of option (b)?

14. 86% of respondents agreed, whilst 14% answered “Don’t know” to this question.

15. The respondents agreed that option b was the simpler option and that it would help to address the existing built environment.

Question 3

Do you agree with our proposal to mirror England's Regulations which transpose articles 2, 3, 6, 7, 9 and 11 of the Directive?

If you do not agree, please state why not and where you believe that our approach to the transposition of the said articles should differ.

16. There was 100% support for this proposal.

17. Respondents agreed that we should keep the draft regulations broadly similar to those in England and that this would provide benefits for manufacturing in Wales. Respondents wanted clarity on further changes to meet the 2020 target. One respondent commented that the new regulation 25A was in part unnecessary as many developers would already consider alternative systems at the start of a development.

Question 4

Do you agree with our proposal that our draft Regulations which facilitate the Green Deal in Wales and which amend the provisions that provide for completion certificates in Wales should mirror England's Regulations?

18. There was 100% support for this proposal.

19. Respondents agreed that keeping consistency with England was good as it provided clarity for consumers and the industry. Respondents agreed that it was good to have equal opportunity for access to the Green Deal and that there was no benefit to be different.

Question 5

Do you agree with the costs and benefits outlined in the RIA?

20. 43% of respondents agreed with the RIA, 21% did not agree with the RIA and 36% answered "Don't know".

21. Those who did not agree with the costs and benefits outlined in the RIA felt it required further engagement and that there was insufficient costs and analysis on windows. These comments came from the fenestration industry. Those who answered "don't know" felt they did not have the economic background to make an informed decision.

Question 6

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

22. No further comments were provided in this section. However, some respondents provided additional comments in covering letters.

23. These comments included:

- The required levels are unrealistically high;
- The changes will mean many traditional stone buildings will become unsalable;
- There is a need to avoid higher costs in Wales relative to England;
- Concern over the application of Green Deal in the historic built environment; and
- Locally listed buildings may not be covered by the exemptions.

Government Response

24. The Welsh Government is pleased that the majority of respondents agreed with our approach to the transposition of the Directive and the facilitation of the Green Deal. On this occasion, the Welsh Government have mirrored the approach taken in England as there was no benefit to introducing differences. This approach has been wholeheartedly supported.

25. In the near future the Welsh Government will introduce significant changes to the building regulations in Wales in order to further our low carbon aspirations and to achieve improvements that will benefit the people of Wales by encouraging improvements in safety, efficiency and best practice.

26. We are pleased that there was clear support in the consultation responses for the Welsh Governments low carbon aspirations.

27. We recognise the concerns in relation to retrofit measures for the traditional buildings in Wales and are working with the Wales Low/Zero Carbon Hub to address this issue.

Next Steps

28. The Minister for Housing & Regeneration will make the Building Regulations &c. (Amendment) (Wales) Regulations before the end of March 2013. These will be largely the same as the draft regulations. The regulations will be subject to the negative resolution procedure.

29. The Construction Unit will issue a Departmental Circular notifying the industry of the changes and issue an amendment slip for changes to the Approved Document Part L.