

● PO-CH/NL/0520  
PART A

Part, A.

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Chancellor's (Lawson) Papers:  
Building and Fire Regulations .

DD's: 25 Year.

*Phillips*  
8/3/96

PO CH | NL | 0520 .  
PT.A .

PNP

FROM: S N WOOD  
DATE: 11 August 1988

FINANCIAL SECRETARY

cc PS/Chancellor  
Sir P Middleton  
Mr Anson  
Mr Monck  
Mr Phillips  
Mr Burgner  
Mrs Case  
Mr Burr  
Mrs Holmans  
Mr Revolta  
Ms Young  
Mr Cotmore  
Mr Westwater  
Mr Cropper  
Mr Tyrie  
Mr Call

12/2

**MISC 133, 12 JULY : BUILDING AND FIRE REGULATIONS**

At the meeting of MISC 133 on 12 July, which you chaired, the proposed review by consultants of the building and fire regulations was discussed. Following the meeting, there has been a further round of correspondence on:

- a. the drafting amendment to the terms of reference discussed at the meeting, to replace the vague phrase "unnecessary burdens on business"; and
- b. a dispute over whether it had been, or should have been, agreed that there should subsequently be a cost-benefit analysis of the Building Regulations in 1989.

This submission, which has been delayed while we have held further talks with DOE officials over the substance of the second item, deals with each in turn.

Terms of reference

3. Clause (i) of the terms of reference was originally drafted as follows (disputed words in brackets):-

"To examine whether the extent and effect of any overlap between building control legislation and legislation intended to protect occupants from fire or the way the legislation is implemented places (unnecessary burdens on business);

I understand that the meeting felt this formulation was not sufficiently precise, and officials were asked to work up a new draft making clear what criteria could be used to justify placing burdens of this sort on business. Officials have agreed the following replacement for the words in brackets above:-

"burdens on business which are more than are necessary to achieve the appropriate level of health and safety;"

As you will see, the new wording requires a justification in terms of what is necessary to achieve an appropriate level of health and safety. This is a satisfactory outcome and I recommend you to agree. The revised terms of reference are at Annex A.

#### Cost-benefit analysis

4. The minutes of the meeting on 12 July record that there was agreement that the Group hoped that a cost-benefit analysis of the Building Regulations could be prepared by DOE in 1989, outside the consultancy study of the overlap between the Building and the Fire Regulations.

5. Immediately before the meeting, Mr Maude had written to you on 11 July agreeing that there should be a more fundamental review but suggesting that the best approach would be piecemeal, beginning with the consultants' work on the costs and benefits of the overlaps between the Building and Fire Regulations, and continuing by drawing on the compliance costs assessments which DOE are including in the second phase of their ongoing review of building control.

6. Since the meeting, Mr Renton has written to you on 28 July to dispute the minutes, arguing that a cost-benefit assessment was

not agreed and was inappropriate to fire safety legislation. Mr Trippier had written on 26 July, also taking issue with the minutes. He argued that:-

- a. DOE was already engaged in a review, to sift out unnecessary Building Regulations and simplify what remained;
- b. DOE now as a matter of course compared the compliance cost of new building control requirements with the number of accidents prevented or other benefits expected; and
- c. there was no prospect of doing away with the Regulations altogether.

7. Mr Tyrie and I have met DOE, and I have separately met the EDU, to discuss the position. The EDU confirmed DOE's argument that there was very little complaint from industry or the public against the restructured Building Regulations. They reminded us of the extent of the change for the better brought about in recent years. Following the Building Act 1984, DOE have steadily swept away the detailed statutory instruments that used to comprise the Building Regulations. DOE have worked under the supervision of the Building Regulations Advisory Committee (BRAC), a panel made up of builders, architects, surveyors, property developers and academics. (List attached at Annex B). The essential approach now followed is to express simple requirements in secondary legislation and back these up with non-statutory "Approved Documents". These are intended to give builders and designers greater flexibility than was available under the old and very detailed regulations. They set out alternative approaches which may be adopted, if relevant, at the discretion of the designer. Some examples of the simple requirements of the regulations themselves are set out at Annex C. Most of these are value statements with which it would be difficult to quarrel: for example, stairways have to provide safe passage for users. The Approved Documents are, of course, considerably longer.

8. The Act provides for the Secretary of State to make exemptions for classes and types of building work, and to relax the requirements, after consultation with the local authority, in cases where their application would be unreasonable. Moreover, it provides for the Secretary of State to delegate authority to approved bodies. The National House-Building Council (NHBC), for example, has the power to give building control approvals for new buildings.

9. DOE and the BRAC are in the course of consultation on further revisions to the Regulations and Approved Documents, in which they are comparing compliance costs with estimates of accidents prevented. Of the areas listed in Annex C, they have so far reviewed Insulation, Ventilation, Hygiene, Drainage and Energy Conservation.

10. DOE accept that the interest of the small businessman converting properties into flats, who may find the building regulations particularly irksome, may not be well represented on the BRAC at present, and are prepared to consider nominations for this kind of interest. We have no name to suggest, but DOE should be asked to pursue.

11. It seems to us that in the light of this further information on the approach towards deregulation in DOE, who accept the principle of cost-benefit analysis but prefer a piecemeal approach, that the best way to proceed would be:-

- a. to reaffirm the applicability of cost-benefit analysis, against Mr Renton;
- b. to note that DOE are undertaking a section-by-section review of the Regulations, including compliance cost assessments; and
- c. to suggest that DOE should report progress on its review of the Regulations with a commentary from the BRAC,

when the Committee considers the consultants' report on the overlap between building and fire regulations next year. The Committee can at that stage decide whether DOE's approach is satisfactory.

12. A draft letter to Mr Trippier in this sense is attached.

A handwritten signature consisting of the letters 'S' and 'N' in a cursive, stylized font.

S N WOOD

**DRAFT LETTER FROM FINANCIAL SECRETARY TO:**

David Trippier RD JP MP  
Parliamentary Under Secretary  
Department of the Environment  
2 Marsham Street  
LONDON  
SW1P 3EB

August 1988

**MISC 133 : REVIEW OF BUILDING AND FIRE REGULATIONS**

Thank you for your letter of 26 July. I have also received Francis Maude's letter of 26 July and Tim Renton's of 28 July.

2. You and Tim both took issue with the minutes of the meeting of MISC 133 on 12 July. I really cannot accept Tim's dismissal of cost-benefit analysis as an analytical tool in fire safety legislation. It is a recognised feature of decisions on the allocation of scarce resources in other areas where human life is at stake, and I see no grounds for making an exception of fire safety.

3. The minutes correctly record my summing up of the meeting, from which I do not recall any dissent at the time. But although I expressed the hope that a cost-benefit analysis of the Building Regulations would be carried out in 1989, I recognised that the Group had not taken a final decision and that we should have to come back to this at a later date.

4. I have reflected on the points you made in your letter of 26 July, and my officials have had a helpful discussion with yours. My point throughout has been that cost-benefit analysis would



provide us with clear information on the impact on business of the existing regime, and the balance of advantage. I understand that your officials are in the course of a review of the Regulations, section by section, in which they are assessing compliance costs and balancing these against injuries prevented, with the general presumption that the Regulations should, in line with the policy underlying the 1984 Building Act, be purged of unnecessary material and simplified as far as possible.

5. In my view the Committee should have the opportunity to consider the progress of this work when it is further advanced, to see whether it is in practice delivering a satisfactory balance between, on the one hand, health and safety and, on the other, freedom from unnecessary regulation. I therefore propose that DOE should report to MISC 133, when it considers the consultants' report next year, on the progress of their review of the Building Regulations and their assessment of the balance of costs and benefits from the sections of the Regulations reviewed up to that time, with the views of the Building Regulations Advisory Committee. The Committee could then assess whether a study by consultants would be desirable or whether your Department's procedures were producing satisfactory progress.

6. I have noted your officials' offer to consider a nomination of a <sup>small business</sup> ~~consumers~~ representative to the BRAC. I do not have a named individual in mind, but I believe that a representative of small builders specialising in conversion work would be appropriate and would be grateful if you would take steps to find a suitable person.

7. I note from Francis Maude's letter that officials have reached agreement on the terms of reference for the study by consultants of the overlap between the Building and Fire Regulations, and I am content with these. I note that the next step will be a meeting of the official steering group.

8. I am copying this letter to Tim Renton, Francis Maude and to other members of MISC 133.

**NORMAN LAMONT**

REVISED TERMS OF REFERENCE FOR CONSULTANTS

(1) To examine whether the extent and effect of any overlap between building control legislation and legislation intended to protect occupants from fire or the way the legislation is implemented places burdens on business which are more than are necessary to achieve the appropriate level of health and safety; and specifically to examine:

- (a) any weakness in the links between building control authorities and fire authorities at the planning/construction stage and the extent to which a properly structured consultation procedure and national guidelines would be beneficial;
- (b) whether consultation processes could be simplified (if for example there were a requirement for fire authorities to be provided with their own copies of plans);
- (c) problems (of inconsistency for example) caused by local legislation;
- (d) the scope for improvements in the control procedures with a view to ensuring that they result in a single certificate issued by the building control authority perhaps with separate appendices concerning fire matters;
- (e) means of overcoming the delays that arise whilst new architectural developments are assessed and the practicability of guidance on the alternatives to structural fire precautions in innovative buildings which cannot comply with appropriate existing regulations or codes of practice;

and in the light of this,

- (2) Undertake an examination of the technical and practical skills required to permit authoritative advice to be given on all fire prevention aspects of building, planning, construction, and adaptation for use;
- (3) consider the training and management requirements necessary to secure their consistent enforcement;
- (4) On the basis of this examination to make recommendations, in particular, on the most appropriate methods of enforcement, including the forms of authority by which it would best be done, and the scope for the further involvement of the private sector taking account of any implications there would be for existing legislation.

The present membership of the Committee is as follows:

CHAIRMAN

Mr J W Turner CBE FCIQB  
Chairman, E Turner & Sons Ltd,  
Building Contractors, Chairman  
of Building Employers  
Confederation.

MEMBERS

Mr B Aspin BSc Eng  
Technical Director, Ideal Homes  
London Ltd.

Mr N J Bright Mphil CEng  
FIStruct E MICE MIBI  
Technical Director, Celcon Ltd.

Professor P J Burberry MSc  
FIAS DipArch RIBA FCIQB  
Professor of Building,  
University of Manchester  
Institute of Science and  
Technology.

Mr B T A Collins QFSM  
FIFireE FRIM FInstPet  
Chief Fire Officer,  
Humberside CC

Mr B A Cox CEng MISTructE  
FIAS  
Consultant, Scott-White and  
Hookins.

Mr L W Davis MEE FIBCO  
Chief Building Control  
Officer, Solihull MBC

Mr H R C Dawson ARICS MCIQB  
Group Manager, Capital and  
Counties Plc.

Mr S J Ham DipArch RIBA  
Consultant Fire Architect

Professor E Happold  
Professor of Building Engineering  
University of Bath.

Mr G C Jones LLB  
Former Chief Executive and  
Town Clerk, Gillingham BC.  
Member of British Board of  
Agreement.

Mr K L Mainstone FRIBA  
Partner, Percy Thomas  
Partnership.

Mr R Manning  
Managing Director, Shotcrete  
Services.

Mr O D Willmore DipArch  
RIBA  
Private Architectural Practice

ANNEX C

A. Structure

Buildings must be constructed so that all dead, imposed and wind loads are sustained and transmitted to the ground:

- a. safely, and
- b. without causing such settlement of the ground, or such deflection or deformation of the building, as will impair the stability of any other building.

3. The building shall be so constructed that movements of the subsoil caused by swelling, shrinkage or freezing will not impair the stability of any part of the building.

4. Large public buildings (eg blocks of flats) must be constructed so that in the event of an accident the structure will not be damaged to an extent disproportionate to the cause of the damage.

B. Fire

5. Buildings must be constructed so that, in the event of fire,

- a. the occupants are able to reach a place of safety;
- b. they will resist collapse for a sufficient period of time to allow evacuation of the occupants and prevent further rapid fire spread.
- c. the spread of fire within and between buildings is kept to a minimum.

C. Materials, workmanship, site preparation and moisture exclusion

6. Building work is required to be carried out with proper materials and in a workmanlike manner. Materials should be

- a. suitable in nature and quality in relation to the purposes for, and conditions in which, they are used;
- b. adequately mixed and prepared; and
- c. applied, use or fixed so as adequately to perform the functions for which they are designed.

7. The ground to be covered by the building is required to be reasonably free from vegetable matter.

8. Precautions must be taken to prevent any substances found on or in the ground from causing a danger to health. Subsoil drainage must be provided if it is necessary to avoid:-

- a. the passage of moisture from the ground to the inside of the building; or
- b. drainage to the fabric of the building.

9. The floors, walls and roof of a building are required adequately to resist the passage of moisture to the inside of the building.

D. Toxic substances

10. Where insulating material is inserted into a cavity in a cavity wall reasonable precautions must be taken to prevent toxic fumes from penetrating occupied parts of the building.

E. Sound insulation

11. A wall which

- a. separates any dwelling from another dwelling or from another building; or
- b. separates any habitable room in a dwelling from any other part of the same building which is not used exclusively with that dwelling

must be so constructed as to provide reasonable resistance to the transmission of airborne sound.

12. A floor which

- a. separates a dwelling from another dwelling; or
- b. separates a dwelling from another part of the same building which is not used exclusively with that dwelling

must be so constructed as to provide reasonable resistance to the transmission of airborne sound, and a floor above a dwelling which fulfils the conditions at (a) and (b) above must provide reasonable resistance to the transmission of impact sound.

F. Ventilation

13. In dwellings, buildings containing dwellings, bathrooms and rooms containing sanitary conveniences there must be means of ventilation so that an adequate supply of air may be provided for people in the building.

## G. Hygiene

14. Dwellings are required to be provided with adequate food storage accommodation or an equivalent space where this may be provided by the occupier.

15. Dwellings are required to be provided with a bathroom containing a fixed bath or shower. Hot and cold water must be supplied to it.

16. If a hot water storage system is not vented to the atmosphere, adequate precautions must be taken to:

- a. prevent the water temperature exceeding 100 deg.C; and
- b. ensure that any hot water discharged from safety devices is conveyed safely to a disposal point where it is visible but will not be a danger to users of the building.

17. Sufficient sanitary conveniences must be provided in buildings.

## H. Drainage and waste disposal

18. Any system which carries foul water from appliances in a building to a foul water outfall is required to be adequate.

19. Any cesspool, septic tank or settlement tank must be so constructed that:

- a. it is accessible for emptying
- b. it does not contaminate water supplies in the event of leakage or spilling over of the contents.

20. Any system which carries rainwater from the roof of a building to a rainwater outfall is required to be adequate.



J. Heat producing appliances

21. Heat producing appliances are required to be provided with an adequate supply of air for combustion of the fuel and for efficient operation of the chimney or flue, and to have adequate provision for the discharge of the products of combustion to the outside air.

22. The construction of fireplaces and chimneys and the installations of heat producing appliances and flue pipes must be carried out so as to reduce to a reasonable level the risk of the building catching fire in consequences of their use.

K. Stairways, ramps and guards

23. Stairways and ramps which form part of the structure of a building are required to provide safe passage for users.

L. Conservation of fuel and power

24. This sets out detailed provisions, allowing the designer to compare the energy efficiency of his building with those of a defined standard building.

CONFIDENTIAL

*pl obtain X*FROM: A G TYRIE  
DATE: 7 September 1988

FINANCIAL SECRETARY

cc PS/Chancellor  
Sir P Middleton  
Mr Anson  
Mr Monck  
Mr S Wood  
Mr Cropper  
Mr Call*AS*  
*Burton*  
*Stuart*  
*Agui*

MISC 133 : BUILDING AND FIRE REGULATIONS

I have seen Steven Wood's minute of 11 August. X

2. I do not agree with paragraph 5 of the letter he suggests you send to David Trippier, which says that DOE should report to MISC 133 next year on progress with the building regulations. This would effectively kick the issue into touch.

3. However hard we press, it now seems that we will not get a proper cost-benefit done of these regulations, which is a pity. I think such an analysis would have probably thrown up some shocking statistics and anomalies between one regulation and another. So I have another suggestion.

4. A distinction can and should be drawn between regulations with an explicit health or safety objective on the one hand, and regulations which set out what consumers ought to want on the other. A good example of the latter are the proposed energy conservation regulations which are extremely detailed. The vast majority of the housing stock does not at present comply with them, nor will it. Purchasers of older properties are well aware that their heating costs may be higher. In my view energy conservation can be left to the consumers. If consumers want fuel-efficient houses builders will soon realise there is a premium for building them that way.

5. I suggest the creation of another category of regulation for new build which was not mandatory and backed by statute but merely issued as guidelines. Energy regulations would be an ideal candidate for treatment as guidelines. Builders who chose to construct houses which did not comply to the guidelines would be required merely to tell the first purchaser of those aspects in which they did not fulfil them. There would be little

difference between this and what a surveyor is supposed to tell the prospective purchaser for a house in the second market.

6. As I mentioned to you, I have had a preliminary chat with Richard Hewes of the EDU to see what he thinks of the idea. He is warmly supportive and wrote me a letter on 11 August, which I attach. Are you attracted?

7. More generally, I was not as convinced as Steven of DOE's arguments. They have undoubtedly improved the building and fire regulations and made them somewhat more digestible. They are right to point out that builders and the relevant representative bodies feel that progress has been made with the regulations. From the builders' angle, provided everybody is faced with the same burden, it is relatively simple for them to pass that burden on to consumers in the form of higher prices. It is the consumers who lose out with excessive regulation, through higher costs and reduced choice.

PP RCJ  
A G TYRIE

# dti

A Tyrie Esq  
HM Treasury  
Parliament Street  
LONDON SW1

**The Enterprise and  
Deregulation Unit**

1-19 Victoria Street  
London SW1H 0ET

Switchboard  
01-215 7877

Telex 8811074/5 DTHQ G  
Fax 01-222 2629

Direct line 01-215 5390  
Our ref  
Your ref  
Date 11 August 1988

*Dear Andrew,*

**BUILDING REGULATIONS**

We spoke on the telephone last week about how a distinction might be drawn between those matters which related to fire and safety requirements and those which were really concerned with questions of quality. For the former, regulation is clearly appropriate. For the latter, whilst it might be right for guidance on suitable standards and practices to be issued, this need not be mandatory, since these were matters where some scope for customers to choose what they wanted to pay for was appropriate.

You asked whether EDU would support an approach on these lines and, if so, how best this might be handled. I am sorry that I was not able to reach you on the telephone again before you started your leave - hence this letter.

The approach you had in mind is certainly one that we would support. I suggested when we spoke that it might be best for it to be raised initially in the context of one of the consultation documents recently issued on aspects of the building regulations. Having looked at the consultation document on fuel and power conservation, it seems to me that this provides an excellent opening. The document (a copy of which is attached for ease of reference) is accompanied by a draft CCA, which in itself is most welcome. CCA's should of course address alternatives to regulation and indeed paragraph 1 on page 2 refers to "standards that are appropriate for regulation". I suggest therefore that, if this matter is to be pursued in the way you had in mind, this might be done by referring to the consultation document, the draft CCA and the need to consider alternatives to regulation and to ask DoE to look at this part of the building regulations

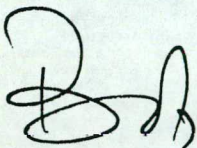
AA/40.

A Tyrie Esq

11 August 1988

accordingly. If we can use this part of the regulations successfully as an example of where this approach can be applied, we can then press for a similar approach to other aspects covered by the building regulations.

If you decide to pursue this, please keep me in touch and we will chip in our support at the appropriate time.

*Yours sincerely,*  


R A C HEWES  
Director



FROM: MISS M P WALLACE  
DATE: 12 September 1988

*MP*

PS/FINANCIAL SECRETARY

cc Sir P Middleton  
Mr Anson  
Mr Monck  
Mr S Wood  
Mr Cropper  
Mr Call

MISC 133: BUILDING AND FIRE REGULATIONS

The Chancellor has seen Mr Tyrie's minute of 7 September, and commented that, as a former Energy Secretary, he agrees.

*mpw.*

MOTRA WALLACE

*[Handwritten signature]*

FROM: S N WOOD  
DATE: 30 September 1988

FINANCIAL SECRETARY

cc PS/Chancellor Rm 12/2  
Sir P Middleton  
Mr Anson  
Mr Monck  
Mr M L Williams  
Ms E Young  
Mr Cotmore  
Mr Tyrie  
Mr Call

*[Handwritten notes in red ink:]*  
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of a world  
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MISC 133 : BUILDING AND FIRE REGULATIONS

You discussed with Mr M Williams, Mr Tyrie and myself on Wednesday 21 September how your proposals for a review of the Building Regulations should be taken forward, in the light of MISC 133 colleagues' reactions at the meeting on 12 July.

2. You concluded that you should write to MISC 133 colleagues, accepting for the time being that there should not be a full cost-benefit analysis of the regulations. Instead, you proposed to pick up DOE's suggestion, made to us at official level, and endorsed by Mr Tyrie, that a closer look should be taken at the Energy Conservation section of the Building Regulations.

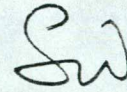
3. This is an instance of a regulation for which the case stands or falls by relatively straightforward economic arguments, rather than the more complex judgement required in assessing regulations which are justified on health and safety grounds. The energy conservation regulation is relatively detailed and technical, compared with the others reformed since the Building Act of 1984, and of course neither DOE nor Home Office will feel quite so proprietorial towards it as towards others of the regulations.

4. The issues have, of course, been considered before, but the world has changed sufficiently for a review to be worthwhile. PE are content for this suggestion to be pressed forward.

5. Mr Maude's letter of 11 July made the helpful point that the second phase of the DOE's ongoing review of building control will include compliance cost assessment where the regulations needing

overhaul are likely to be burdensome to business. He pointed out that this was a way into cost-benefit analysis (as indeed I had in mind in my submission of 11 August, which suggested that you might invite DOE to report to the Committee on this next year). The draft reply accepts this suggestion.

6. I attach a draft letter to Mr Maude, which incorporates some comments from Mr Williams and Mr Tyrie, for you to consider.



S N WOOD



**DRAFT LETTER FROM THE FINANCIAL SECRETARY TO:**

The Hon Francis Maude MP  
Parliamentary Under Secretary of State  
Department of Trade & Industry  
1 Victoria Street  
LONDON SW1H 0ET

**MISC 133: BUILDING AND FIRE REGULATIONS**

It was clear from our discussion at MISC 133 on 12 July that colleagues had reservations about my suggestion that a full-scale cost benefit analysis of building and fire regulations should be conducted. In the light of colleagues' comments I would be content for the Committee next year to consider the matter again on the basis of the results of DOE's compliance costs assessments being undertaken for certain of the regulations, as you suggested in your letter to me of 11 July.

However, I would propose in the meantime a more limited enquiry on the energy conservation element of the building regulations.

In large measure the justification for the existence of any Government intervention in this area is on economic rather than health and safety grounds. I think we need to consider very carefully the extent to which, if at all, the Government should be 'giving purchasers of new build what's best for them' in the energy conservation field. Where the Government does have a role I think there is a strong case for saying it should be advisory, not statutory.

I therefore suggest that officials from the Departments of Energy and Environment, consulting the Treasury, re-examine the justification for the present energy conservation section of the building regulations, and consider whether, if it is justified, it should nonetheless take the form of advisory standards rather than statutorily enforceable regulations. Where builders do not meet recommended standards it would then be for consideration whether they should be required to inform purchasers of new build of those areas where the building does not meet the recommended energy conservation standards.

I am copying this letter to colleagues on MISC 133 and to Peter Morrison.

**NORMAN LAMONT**



Treasury Chambers, Parliament Street, SW1P 3AG

The Hon Francis Maude MP  
Parliamentary Under Secretary of State  
for Corporate Affairs  
Department of Trade & Industry  
1-19 Victoria Street  
LONDON SW1H 0ET

cc: *MP 2*  
*PS/Chancellor*  
Sir P Middleton  
Mr. Anson  
Mr. Marsh  
Mr. M. W. Williams

Ms. Young  
Mr. Colmore  
Mr. S. Wood  
Mr. Tysie  
7 October 1988

Mr. Call

*Francis Maude*  
**MISC 133: BUILDING AND FIRE REGULATIONS**

It was clear from our discussion at MISC 133 on 12 July that colleagues had reservations about my suggestion that we should conduct a full-scale cost/benefit analysis of building and fire regulations. In the light of colleagues' comments, I would be content to accept the proposal in your letter to me of 11 July for the Committee to consider the matter again next year on the basis of the results of DOE's compliance costs assessments being undertaken for certain of the regulations.

However, I would suggest considering in the meantime a more limited enquiry on the energy conservation element of the building regulations.

In large measure the justification for the existence of any Government intervention in this area is on economic rather than health and safety grounds. I think we need to consider very carefully the extent to which, if at all, the Government should be dictating to purchasers of new build in the energy conservation field. And where the Government does have a role, I think there is a strong case for saying it should be advisory, not statutory.

I therefore suggest that officials from the Departments of Energy and Environment, consulting the Treasury, re-examine the justification for the present energy conservation section of the building regulations, and consider whether, if it is justified, it should nonetheless take the form of advisory standards rather than statutory enforceable regulations. It would then be for consideration whether builders who do not meet recommended standards should be required to inform purchasers of new build of those areas where the building does not meet the recommended energy conservation standards.

I am copying this letter to colleagues on MISC 133, and to Peter Morrison.

*Norman Lamont*  
**NORMAN LAMONT**



24 OCT 1988

DEPARTMENT OF ENERGY  
THAMES HOUSE SOUTH  
MILLBANK  
LONDON SW1P 4QJ

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Switchboard 01-211 3000

PARLIAMENTARY UNDER  
SECRETARY OF STATE  
The Rt Hon Norman Lamont MP  
Financial Secretary  
HM Treasury  
Parliamentary Street  
LONDON  
SW1P 3AG

FINANCIAL SECRETARY	
REC.	24 OCT 1988
ACTION	Mc. S. Wood
COMES TO	Ps/Chancellor
	Sir P. Middleton
	Mr. Anson, Mr. Monck
	Mr. M.L. Williams Ms. Young

24 October 1988

*Dear Norman,*

**BUILDING REGULATIONS**

As I have taken over responsibility for energy efficiency from Peter Morrison, I am replying to your letter of 7 October to Francis Maude.

When the role of energy efficiency standards in Building Regulations was examined in 1985 as part of an examination of possibilities for deregulation, the then Secretary of State for Energy argued that this would be a fundamentally retrograde step.

This was accepted by colleagues, and the 1985 White Paper on 'Lifting the Burden' recognised explicitly that Building Regulations have a role in setting basic standards of cost-effective energy efficiency. The inclusion of Part L within the draft Regulations which are currently out for public consultation reflects that decision.

Nothing has happened since 1985 which would in my view justify a change in our position. Any attempt now to remove the statutory basis of the energy efficiency element in the Regulations would be widely perceived as an abrupt reversal of the Government's attitude to energy efficiency and would run counter to all we have been saying and trying to achieve in this field. It would be particularly damaging coming at a time of increasing concern over the effects of energy production and use on the environment.

Nor do I believe that there is any widespread demand for deregulation in this area. The feedback I have received on this aspect of the new draft Regulations has been generally positive, and when DOE earlier proposed deregulating industrial buildings this proposal received almost unanimous opposition. Considerable care has been taken over the cost effectiveness of energy efficiency measures in the Regulations.

cc: Mr. Tykier Mr. Call.



Against this background I believe that we have a clear political commitment to the inclusion of energy efficiency in Building Regulations, and no useful purpose would be served by a re-examination by officials.

I am copying this letter to recipients of yours.

Yours sincerely,

*Baroness Hooper*

**BARONESS HOOPER**

25 OCT 1988

dti

the department for Enterprise

The Hon. Francis Maude MP  
Parliamentary Under Secretary of State for  
Corporate Affairs

The Rt Hon Norman Lamont MP  
Financial Secretary to the  
Treasury  
Treasury Chambers  
Parliament Street  
LONDON SW1

Department of  
Trade and Industry

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FINANCIAL SECRETARY	
REC.	25 OCT 1988
ACTION	MK. S. WOOD
COPIES TO	PS / Chancellor Z
	Sir P. Middleton
	Mr. Asson Mr. Mouch
	Mr. M. I. Williams

215 4417

Direct line  
Our ref  
Your ref  
Date

21 October 1988

*See Name*

*MS. Young Mr. Tyrie  
Mr. Call.*

MISC 133: BUILDING AND FIRE REGULATIONS

Thank you for your letter of 7 October about your suggestion that MISC 133 should conduct a full scale cost-benefit analysis of the building and fire regulations. I agree that it would be appropriate for MISC 133 to consider this again next year, following the results of the DOE's Compliance cost assessments which are being undertaken in their 2nd phase Review of the Building Regulations.

In the meantime I support your proposal that we should look afresh at the justification for the present energy conservation provisions in the conservation of fuel and power section of the building regulations. Now that this particular section of the building regulations is the subject of public consultation and a compliance cost assessment is being prepared it is a particularly good time to look at this. I hope therefore that Peter Morrison and Michael Howard will be able to agree that their officials and yours should re-examine this issue as you propose.

I am copying this letter to Peter Morrison and to colleagues of MISC 133.

FRANCIS MAUDE

JCEAHR



Pyp



Ch [Done, 15/11]  
AA

Do you want to  
have a word with  
Ando Tyrie about  
PEM's point on  
conflicts of interest  
or shall I?

You, Psk - v -

AA

PERSONAL AND CONFIDENTIAL

FROM: A G TYRIE  
DATE: 4 November 1988  
cc: Chief Secretary  
Financial Secretary  
Paymaster General  
Economic Secretary  
Mr Monck  
Mrs Chaplin  
Mr Call

CHANCELLOR

*Thanks.*

SOME POLITICS OF PLANNING

As you know, since the Election and the collapse of the Alliance threat in the Shires I have been advocating some action in the housing/planning field. The weakness of the centre ground leaves nowhere for disaffected Tory NIMBYs to go and provides us with opportunity. Last July you gave me permission to get help from Nick Monck to take some work forward; the attached note is an updated version of a draft I sent to him and other officials to set the ball rolling.

2. Since then we have had Nigel's note which is entitled, pejoratively, "regional imbalances" with which I almost entirely disagree. Rather than catalogue my objections to it I would just say that we have tried all sorts of regional policy in the past - they all cost us dearly in lost competitiveness and jobs. Nigel hasn't said anything to change my view on that.

3. In sum the attached paper says that if you ration a good you can expect problems. We have them:

- Economic competitiveness foregone.



- The knock-on effects of equity withdrawal made possible by higher house prices - the fall in the savings ratio, deepening of the current account deficit, etc.
- Labour immobility.

4. It is the need to tackle these largely macro economic problems that has prompted my interest. Of course there are also an enormous number of other appalling consequences of planning rationing which could be addressed, for example:

- the attendant corruption. Most people who have been close to the system have their own stories to tell.
- the absurd and arbitrary allocation of planning gain to landowners and developers.
- the at best incompetent and at worst flagrantly discriminatory administration of the rules at local level.
- the grinding *Jaundice!* Jaundice-like slowness of the appeals procedure. This stacks the cards in favour of the big developers who know how to handle appeals and is a contributory factor to the dull monotonous Wimpey-type estates which often get constructed. Their unattractiveness itself fuels local anti-development pressure.

But these are DOE's pigeon, not ours.

#### Action

5. In the short-term I think we must content ourselves with making modest progress by stealth, and in some cases just holding the line. The suggestions in my paper are mostly designed to do this.

6. In the longer term we have a substantial task in changing attitudes, and winning general acceptance about the scale of the problem. Mr Ridley has done his best with some brave speeches, sadly devalued by the exposure in the press of his own NIMBYsm!


7. We have achieved a lot over the last ten years by taking on vested interests and substituting their support with a more broadly based and "populist" appeal. Now we have another massive vested interest to handle: the "not an inch" Environment Lobby. Unless we are prepared to see many of the benefits of hard won deregulation and economic reform choked off we will have to find a way to tackle them.

8. It will not be easy. Over a period of time we need to prepare and deploy arguments which can win back some of our supporters, such as:

- The extent to which higher house prices are inhibiting middle-class offspring from setting up home where they grew up.
- The need to increase the size of villages to the point where they can justify a local school and support local shops.
- Ways in which we can defuse some of the environmental innovative packages. Mr Byatt's "common land" proposal is aimed at that.

9. We also badly need some imaginative ideas for the radical reform of the planning system, with a fourth term in mind. Apart from the obvious problems of leaks we will have the difficulty that the DOE are just as unlikely to come up with decent proposals as is the Department of Health on reform of the NHS.

10. Although it is not often perceived as such the 1947 Town and Country Planning Act was part of the post-War Attlee settlement and was originally intended to sit alongside the sweeping nationalisation of land. Like child benefit and the library service it has become a middle-class racket. After ten years we are now, tentatively, finding the courage to unstitch other parts of the hallowed Attlee settlement. Sooner or later we will have to unstitch his planning legislation, too.

  
A G TYRIE

ppp pl

FROM: H C GOODMAN

DATE: 9 November 1988

- note at end*
1. MR WILLIAMS
  2. FINANCIAL SECRETARY

cc PS/Chancellor  
PS/Chief Secretary  
Sir P Middleton  
Mr Anson  
Mr Phillips  
Mr Burgner  
Mr Moore  
Mrs Holmans  
Mr McIntyre  
Mr Saunders  
Mr Wood  
Mr Revolta  
Ms Young  
Mr Cotmore  
Mr Morgan  
Mr Westwater  
Mr Tyrie  
Mr Call

#### BUILDING REGULATIONS

You wrote to Francis Maude on 7 October proposing that officials from Energy, Environment and the Treasury look at the economics of the energy conservation element of the building regulations. As we feared, Baroness Hooper has now responded to you arguing that the status of these regulations remains unchanged; that any change would be perceived as a reversal of Government policy on energy efficiency; that the regulations are cost-effective and that no re-examination by officials of the issues is required.

2. As you said in your letter the justification for energy conservation regulations must be economic. So within the Treasury we have looked again critically at Baroness Hooper's assertion. We have taken as our starting point the proposed regulations on which the Department of Environment went out to consultation in July and have considered whether they can be justified on purely economic criteria.

3. Our conclusion is that they can: the economic return to an individual of using the proposed regulations would be about

10 per cent, about twice that from investing in new power supplies. We have then looked at some of the issues which would have to be addressed in switching from regulations to guidelines and on this the final judgement is political. We therefore recommend that you wait to see what consensus emerges.

#### The new proposals

4. We examined the cost-effectiveness to an individual insulating their new home of the proposed new standards. DoE are recommending changes both to the level in energy efficiency terms of insulation required and the way in which these requirements should be satisfied. Taking their proposals for roofs, floors, walls, cylinders and heating together the typical cost for a semi-detached house, depending on the construction of the house would be £235 to £500. The annual fuel savings are estimated at £42, which means that the payback occurs within 5 to 12 years.

5. The proposed regulations have been calculated to produce a return to the consumer at least as good as the return on investment in marginal fuel supplies so that the net present value per unit of capital is above one. This means that they will be better off by buying insulation at the outset than by spending a little more on fuel every year subsequently. The result is that, taking account of the 60 year average life of insulation the internal rate of return of the insulation is 1½ per centage point higher than that currently required on the alternative fuel supplies.

6. Because DoE believe it is important to achieve a consensus in the building industry, they use the current level of heating, insulation costs and gas prices. None of these is realistic. The more widespread insulation becomes, the better the techniques of design, manufacture and fitting, which will reduce initial costs. DoE also assume heat levels do not change, but there is a secular upward trend in line with rising incomes, which will raise later savings. Their gas price assumptions however produce the biggest distortion in the figures. For other purposes (including the evidence being submitted at Hinkley B and for decisions on the

North Sea fiscal regime), we are using a central forecast of rises in gas prices to 2000 of nearly 50% per cent and to 2010 of about 65%. If these prices were used to calculate the returns on the regulations proposed by DoE the returns on them would be around 10% (instead of 6½%) a figure that will be well above the proposed higher test discount rate. There is a case for using a basket of fuels instead. We have not calculated the effect of these, but at current prices it would be above the gas price.

7. Baroness Hooper refers to decisions taken in 1985 when the White Paper on deregulation was published, which specifically addressed the status of this section of the building regulations, saying no issue of principle has changed since. The figures used in the new calculations for the regulations are no longer entirely up to date, (because they were agreed before the consultation period began). But what they show is an increase in the cost-effectiveness of insulation of about 25% since 1981, the previous time the regulations had been updated and an improvement in the economic case since 1985. This is because material costs rose by less than fuel costs in the intervening period.

8. A further consideration is that the cost of insulating a building initially is significantly lower than trying to do it subsequently. This is largely because of lower labour costs, but for some techniques (for example filling cavity walls or dealing with suspended floors), the opportunity for action will not arise again. The difference in costs estimated by the building industry for commercial and industrial buildings between new build and retrofit is thirty per cent.

9. Following the consultations the regulations have been re-designed in order to allow different techniques in order to allow different techniques to be used to meet the energy efficiency standards. This will allow builders to minimise costs in line with the construction of the house.

10. It would appear, then, that judged solely on economic criteria the proposals would pass muster.

Guideline or Regulations

11 It is not possible to do a cost-benefit analysis of the efficacy of regulations over guidelines, because we do not know to what extent, in the absence of regulations people would follow guidelines. Regulations in this area have existed since 1974. So, many other economic factors (the level of energy prices, and earnings, which determine heating expenditure, the level of insulation costs etc) have changed in the intervening period that it is very difficult to disentangle their effect from those of the regulations to design a satisfactory base case. Comparisons with other countries are not really useful either since they have similar regulations and do not rely on guidelines. Apparently the nearest country without such a regime is Egypt!

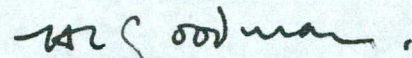
12. You will wish to make a political judgement on the competing claims of the various interest groups: builders, industrialists, consumers with an opportunity to insulate their homes and the public at large. For the consumer there is in principle a question of choice, but given the technical knowledge required to judge whether a U-value of  $0.45 \text{ W/m}^2\text{K}$  or  $0.6 \text{ W/m}^2\text{K}$  is right, (in fact less means more) it may not be possible for many people to exercise it effectively; and there is the perhaps more significant point, that a choice made now on new buildings closes off some options on that building for decades to come. In some cases it is also possible to make offsetting savings on the heating system installed, if the building is well-insulated.

13. The response from the industrialists whom DoE have consulted has been largely favourable and over 90 per cent including the CBI opposed de-regulation. Small businesses were less happy: those supplying insulation, of course, agreed with the proposals, but others including the National Federation of Small Businesses did not. To meet their concerns it is now proposed that instead of particular requirements, alternative methods for achieving the desired level of the energy efficiency, which will be self-certified, will be allowed.

14. The presentation of any change in the status of these regulations would need careful handling. For, if consumers now make irresponsible choices part of the burden of costs will fall on the public at large. Baroness Hooper indicates concern over how it would impact on the Energy Efficiency campaign and, at a time when concerns about the ozone layer on the one hand and radioactive waste on the other are making decisions on power supplies increasingly sensitive, some may see further energy efficiency savings as an option for abating these conflicts, at least in the medium term. Similarly ST advise that the Departments of Health and Social Security would have an interest. The Department of Health are mounting a campaign which covers home insulation, this winter, on the risks to health arising from cold weather.

#### Next Steps

15. As explained the judgement on whether to make a change is largely political. I understand that DTI officials will be advising Francis Maude that the economic case for regulations is satisfactory. We will get a crosscheck from the NAO before Christmas. They have been studying the effectiveness of the Department of Energy's efficiency measures including the building regulations to see whether they are satisfactory in meeting their targets. There is no need to write to Baroness Hooper at this stage. You will wish to see how other colleagues respond to your letter. We will of course be happy to discuss this further, if you would find that helpful.

  
H C GOODMAN

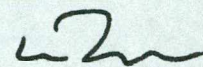


I am sympathetic to the general case in favour of guidelines, rather than regulations. But in the light of Ms Goodman's analysis, I agree with her that you may want to wait to see what colleagues say. I would in particular point out the following political and economic considerations:

(i) the background of, on the one hand, the Prime Ministers' comments on acid rain and the greenhouse effect and, on the other, public concern about nuclear power, most recently as expressed at the Hinkley Enquiry. Energy Efficiency, along with renewables, is seen as the only way to escape both problems.

(ii) one implication of deregulation is that consumers may choose the option that is economically inefficient, not only for them, but for nation as a whole (and the social losses may be somewhat greater over time than the private losses).

(iii) Mr Parkinson is getting a bad press for reducing the budget of the EEO, a process that has continued in the recent public expenditure survey. He would need little prompting to paint any move towards deregulation as the Treasury further pulling the rug from under him by damaging the effectiveness of the EEO's reduced budget.



M L WILLIAMS

RESTRICTED

FROM: A G TYRIE

DATE: 9 November 1988

FINANCIAL SECRETARY

cc: PS/Chancellor  
PS/Chief Secretary  
Sir P Middleton  
Mr Anson  
Mr Phillips  
Mr Burgner  
Mr Moore  
Mrs Holmans  
Ms Goodman  
Mr McIntyre  
Mr Saunders  
Mr Wood  
Mr Revolta  
Mr Williams  
Mr Young  
Mr Cotmore  
Mr Morgan  
Mr Westwater  
Mrs Chaplin  
Mr Call

**BUILDING REGULATIONS**

I have read Helen Goodman's note of 9 November.

2. It shows that insulating homes yields an economic return. That is generally agreed but it doesn't take us very far. It would be relevant if, in the absence of statutory requirements, builders ceased all insulation work. But only the most unreconstructed interventionists would argue that. Clearly, good insulation is a selling point for homes. Let the market decide.

3. It would be much more useful to know whether the existing or proposed level of regulation is pitched at the point of optimum economic efficiency. But we do not have this information and it seems that nobody has ever done the work (I recognise that it's all very complicated). That is the sort of

cost benefit analysis which, in my opinion, should have been done years ago, and for the whole of the building regulations.

4. Incidentally, I take all the analysis on the economic return set out in Helen Goodman's note with a large pinch of salt not least because no assessment appears to have been made of the damage to the structure of buildings caused by the build up of condensation in over-insulated buildings. I have seen this sort of damage myself on a Wimpey estate. It is one of the points made in the House Builders' Federation submission on energy conservation measures.

5. I also think Baroness Hooper's suggestion that a switch to guidelines for energy conservation measures for new build would have serious repercussions on the Government's presentation of its case on the ozone layer and the disposal of radio-active waste is pretty far fetched.

AGT.

A G TYRIE

CONFIDENTIAL



*Are you now dealing*

FROM: R C M SATCHWELL  
DATE: 14 November 1988

MS GOODMAN

cc

- PS/Chancellor
- PS/Chief Secretary
- Sir P Middleton
- Mr Anson
- Mr Phillips
- Mr Burgner
- Mr Moore
- Mrs Holmans
- Mr McIntyre
- Mr Revolta
- Mr Saunders
- Mr M L Williams
- Mr Wood
- Ms Young
- Mr Cotmore
- Mr Morgan
- Mr Westwater
- Mr Tyrie
- Mr Call

**BUILDING REGULATIONS**

The Financial Secretary was most grateful for your and Mr Tyrie's minutes of 9 November. He agrees that we should wait and see what support we get for the proposals in his letter of 7 October.

*R.C.M.S.*

**R C M SATCHWELL**  
**Private Secretary**



2 MARSHAM STREET  
LONDON SW1P 3EB

01-276 3000

My ref:

Your ref:

12 January 1989

The Rt Hon Nigel Lawson MP  
HM Treasury  
Parliament Street  
LONDON  
SW1 3AG

CH/EXCHEQUER	
REC.	13 JAN 1989
ACTION	FST
COPIES TO	

✓ 13/1

✓

*Dear Nigel*

I have seen a copy of Norman Lamont's letter of 7 October to Francis Maude proposing an enquiry into the energy conservation element of the building regulations.

I understand and indeed share his doubts about whether energy conservation should be secured through regulation: it may well be more efficient to find ways of bringing market forces properly into play.

However, since Norman wrote, things have moved on on a broader front. As you know, we are currently addressing energy policy more generally in relation to environmental issues such as the greenhouse effect and climatic change. I think it would be wise to address these broader policy issues before deciding how to take forward any more narrowly focused review of energy conservation and the building regulations.

I am copying this letter to Cecil Parkinson and Members of MISC 133.

*Nicholas Ridley*

NICHOLAS RIDLEY