

+

**REGULATION FOR BUILDINGS: HARMONISATION OF LEGISLATION**

**Report and Recommendations of the Regulations Review Working Group**

**Foreword**

**Contents**

**Page No.**

<b>Section 1. Introduction</b>	<b>3</b>
<b>Section 2. Executive Summary and list of Recommendations</b>	<b>5</b>
<b>Section 3. Combining Legislation</b>	<b>8</b>
<b>Section 4. Enforcement</b>	<b>13</b>
<b>Section 5. Planning</b>	<b>16</b>
<b>Appendix A</b>	<b>Terms of Reference</b>
<b>Appendix B</b>	<b>Glossary of Terms</b>
<b>Appendix C</b>	<b>A List of Legislation affecting buildings</b>
<b>Appendix D</b>	<b>Issues of Overlap</b>
<b>Appendix E</b>	<b>Credits.</b>

**FOREWORD**  
**FROM PETER ROGERS, CHAIRMAN OF THE STRATEGIC FORUM**

Our work on Accelerating Change in the construction industry must be founded upon true mainstreaming of the concepts of good quality sustainable buildings and realising the benefits for us all of the 'whole life' approach, supported by the legislative process.

In this context the encouragement from Chris Leslie MP (Parliamentary Under Secretary of State at the Office of the Deputy Prime Minister) has enabled the whole industry Regulations Review Working Group, hosted by the Construction Industry Council, to produce this report in just six months. The report sets out the industry's recommendations for changes to the existing separate regimes to produce a cohesive and integrated framework for all legislation and its implementation as it affects buildings in order to eliminate overlap and waste.

I firmly believe that the adoption of the recommendations will provide beneficial changes and be a major element in achieving the objectives of the Strategic Forum. I would also like to thank everyone involved for their contributions to the report and its production.

*[Signed by Peter Rogers]*

January 2003

## **Section 1. Introduction**

- 1.1 On 11 June 2002, a delegation from the Construction Industry Council (CIC) led by its (then) Chairman Michael Dickson, met with Christopher Leslie MP, Parliamentary Under Secretary of State at the Office of the Deputy Prime Minister (ODPM). The meeting discussed ideas regarding greater harmonisation of regulations affecting the construction industry. This is considered necessary as the legislation has, for historical reasons, been put together without particular regard for cohesion and integration with measures already on the statute books. At the meeting, CIC undertook to prepare a report detailing recommendations for meeting current and future needs for the industry to contribute fully to the wider work of the government in delivering improved efficiency in the economy of the UK. It was further agreed that the report would be available by the end of 2002.
- 1.2 In the past legislation has covered separately the functions of the Building Regulations themselves and, more widely, fire, water, gas, health and safety, CDM (Construction Design and Management), planning and civil engineering works.
- 1.3 Following the meeting the CIC has received full support from the wider construction industry and advice of government officials in establishing a pan-industry Working Group to prepare this report and recommendations for the Minister. (Details of all the participants can be found at Appendix E to this report).
- 1.4 This report represents part of the construction industry's ongoing work on *Accelerating Change* following Sir John Egan's report *Rethinking Construction*. It proposes a logical approach for a modern legislative framework for a coherent and integrated set of regulations which affect buildings; benefiting all members of the construction team, and the UK economy as a whole. It embodies a sustainable 'whole-life' approach to buildings based on the principles of joined up government and thinking.
- 1.5 The proposed framework for building related regulations does not cover the very wide range of legislation for various types of civil engineering works, which also interacts with Planning.
- 1.6 The report and recommendations cover the principal requirements for achieving an integrated system of legislation for the life cycle of buildings, but do not address the details of particular sets of regulations.
- 1.7 It is acknowledged that the Building Act (1984) contains provisions that have the potential to encompass some of the areas that the report addresses but the proposals in the report extend beyond the potential of these provisions.
- 1.8 We believe that implementation of the recommendations within the report will require collective approval at Ministerial level as current responsibilities lie across departmental boundaries. However, we are convinced that the effect of a joined up governmental approach will benefit the UK economy and all members of the community, for this and future generations.
- 1.9 Proposals in the report will enable many of the Government's sustainability policy objectives to be achieved on a much shorter timescale than is currently the case. Apart

from a limited number of features, comprehensive sustainability measures for all aspects of our day-to-day life depend on expenditure for which the investor often receives no direct return, as the benefit accrues to third parties and/or the community as a whole. Until there is individual and collective acceptance that achieving sustainability explicitly means some financial burden to all of us, the voluntary inclusion of the relevant measures will be very slow. The construction industry which offers massive opportunities for improving the sustainability position is a good example of the prevailing situation. The report's recommendations, if implemented, provide a regulatory framework to accelerate the incorporation of sustainability features for buildings, where voluntary adoption is too slow, and spread the cost burden across everyone associated with buildings and the construction industry. Any such regulations will provide a 'level playing field' and, because buildings involve us all, the cost burden will be spread across the community - individuals and organisations.

- 1.10 The adoption of the recommendations contained in this report would also support the Government's policy and initiatives to combat 'cowboy builders/rogue traders' through the Quality Mark Scheme and might ultimately clarify a need for mandatory licensing.

## **Section 2. Executive Summary and list of Recommendations**

- 2.1** The report covers a range of issues and proposals relating to the legislation and its enforcement associated with the total life cycle of buildings:
- 2.1.1 The diversity of legislation affecting buildings throughout their ‘whole life’ is extensive. However, the legislative framework is not well suited to current and future needs. Government and industry have both called for ‘better regulation’ and ‘joined up thinking’. The Prime Minister in particular took up the theme in relation to all regulations in the published report *The Better Regulation Guide and Regulatory Impact Assessment*, where he stated ‘our regulatory framework is excessive or poorly conceived’. Work is already underway to rationalise the various regulatory regimes affecting buildings but further work needs to be done to ensure harmonisation between regimes and to develop synergies for the good of clients, the industry and the wider economy. The Regulations Review Working Group believes that cost benefits should be similar to those achieved by national standardisation under BSI (1-2% of a current £65bn estimated construction output). **(Paragraphs 3.1 – 3.3)**
- 2.1.2 Changes to primary and even secondary legislation take time but the need for improved effectiveness is urgent. Therefore it is argued that work should be done urgently to reinforce synergies between the following sets of regulations that affect the delivery of buildings: Building Regulations, Fire Regulations, Water Regulations and Construction (Design & Management) Regulations. **(Paragraph 3.4)**
- 2.1.3 Legislation has been enacted for a variety of reasons over past decades leaving many overlapping and sometimes conflicting requirements creating waste and inefficiency. Elimination of these problems would greatly assist achievement of the objectives of *Rethinking Construction* and *Accelerating Change*. **(Paragraph 3.6)**
- 2.1.4 The need for new legislation is discussed to enable an integrated approach to the regulatory framework affecting the whole life of buildings. **(Paragraphs 3.7-3.12)**
- 2.1.5 It is argued that all legislation relating to buildings should be considered in the context of whole life needs and the differing regulatory requirements pre and post practical completion are identified. **(Paragraph 3.14)**
- 2.1.6 First steps in reconsidering legislation in the context of the whole life of buildings are proposed involving a comprehensive government review supported by industry. **(Paragraph 3.15)**
- 2.1.7 It is proposed that a review be undertaken of the Regulatory Impact Assessment (RIA) **(Paragraph 3.16)**
- 2.1.8 Departments sponsoring legislation should, continue to be required to carry out an initial consultation, into technical practicability of proposals, with other departments and industry before formulating the detailed legislation and prior to full statutory public consultation. **(Paragraph 3. 17)**
- 2.1.9 There is a considered need for the integration of legislation in two stages – changes involving minimal impact on existing legislation, and new construction legislation. **(Paragraphs 3.18 – 3.19)**
- 2.1.10 Consideration should be given to the convergence of government agencies involved in the regulation of buildings into a single agency. **(Paragraph 3.20)**

- 2.1.11 Other short-term measures are proposed that could achieve significant efficiency improvements. **(Paragraph 3.21)**
- 2.1.12 Proposed timescales are outlined for achieving the recommendations in Section 3. **(Paragraph 3.22)**
- 2.1.13 The report notes common objectives in the review of several legislative regimes currently underway and the lack of resource common to enforcement agencies. Closer working between agencies can increase understanding of the legislation and improve efficiency and there is now a proven role for the private as well as public sector. **(Paragraphs 4.1-4.5)**
- 2.1.14 The report identifies the agencies most directly involved with the regulations that are the focus of the report and discusses the combining of enforcement effort and additional funding sources. **(Paragraphs 4.6-4.13)**
- 2.1.15 Proposed timescales are outlined for achieving the recommendations in Section 4 ensuring compatibility with recommendations in Section 3. **(Paragraph 4.14)**
- 2.1.16 The Regulations Review Working Group welcomes the new Planning Bill introduced in the current parliamentary session and urges that this report and recommendations be taken into full account before the new legislation is finally drafted and passes into statute law. There may be additional matters for debate, that would impinge on such a review, which the industry might wish to introduce. **(Paragraphs 5.1-5.2)**

#### **List of Recommendations in this Report:**

1. **That work be done urgently to reinforce synergies between the following sets of regulations that affect the delivery of buildings: Building Regulations, Fire Regulations, Water Regulations, and Construction (Design & Management) Regulations. (Paragraph 3.4)**
2. **That all legislation relating to buildings should be considered in context of whole life needs and the differing regulatory requirements pre and post practical completion. This should encompass ensuring compatibility and co-ordination with the Planning Bill currently before parliament and the geotechnical requirements of building sites which might be regulated through Planning and the Building Acts. (Paragraphs 3.11, 3.14 and 5.2)**
3. **That a comprehensive government review of current legislation affecting buildings be carried out with the support of industry and a compendium of existing legislation be produced. (Paragraph 3.15)**
4. **That the Regulatory Impact Assessment (RIA) should include assessment of whether government has the resources to adequately service the changes proposed and that some work be done to audit prior cases. (Paragraph 3.16)**
5. **That government departments sponsoring new legislation affecting buildings continue to be required to carry out initial consultation, into technical practicability of proposals, with other departments and industry before formulating the legislation and prior to full statutory public consultation. (Paragraph 3.17)**

6. That consolidation of legislation be in two stages – changes with minimal impact on existing legislation, and the need for new construction legislation. (Paragraph 3.18)
7. That government agencies involved in the regulation of buildings converge into a single agency. (Paragraph 3.20)
8. That combining of enforcement effort be considered, assisted by:
  - development of common guidelines for issue to users of regulations thereby promoting common understanding of the requirements of regulations;
  - joint government and industry promotion of greater familiarity with the legislation and consequent requirements within construction; and
  - the establishment of a single enforcement agency when the need for new legislation is considered.

(Paragraphs 4.7, 4.8 and 4.10 and 4.11)

It is the view of the Regulations Review Working Group that the work involved in taking forward the above recommendations should be:

- i) Establishment of a short-life (9-12 months) Interdepartmental Working Group supported by industry, with a remit to produce proposals for the harmonisation of legislation affecting the whole life of buildings. This should also include the introduction of closer interdepartmental working and elimination of delays when developing proposals for new regulations, by continuing requirements for an initial consultation phase for departments with industry involvement.
- ii) Establishment of a parallel short life (9-12 months) Pan-Construction Industry Working Group supported by government, to develop guidance on regulations for enforcers and industry professions, trades, product suppliers and manufacturers.
- iii) The work of these Groups will provide a greater understanding of legislation affecting buildings and its requirements and set the scene for any new legislation and the convergence of the various government and enforcement agencies involved (2-5 years).

### **Section 3. Combining Legislation**

- 3.1 The range and scope of legislation affecting the planning, design, construction, use and demolition of buildings is extremely diverse (see Appendix C for a list of legislation taken into account by this report). The construction industry strongly contends that the regulatory framework is fragmented. With emphasis now firmly on integrated teams/supply chains, it is essential to have a modern, integrated legislative framework for buildings that takes into account whole life needs.
- 3.2 The publication of the Government's paper *The Better Regulation Guide- and Regulatory Impact Assessment* and the Government's declared commitment to 'joined up' government reinforces the industry's call for a unified approach to construction related legislation.
- 3.3 Work is already underway to enhance the effectiveness of the individual legislation. It is strongly supported by the construction industry and this report is aware in particular of:
- the current ODPM *consultation document on the reform of fire safety legislation*;
  - the recent report from the Water Regulations Advisory Committee (WRAC) *Review of the enforcement of the Water Supply (Water Fittings) Regulations 1999*;
  - the work to rationalise the regime of Local Acts inspired by a joint Government and Royal Institution of Chartered Surveyors project *Rethinking Control of Buildings* and the related Building Regulations Advisory Committee (BRAC) Working Party's current discussions on the repeal of Local Acts;
  - the root and branch review of the Planning regime leading to the introduction of a new Bill now before Parliament;
  - the new EC Directive on Energy Performance of Buildings;
  - the District Surveyors Association's (DSA) recommendations for *Modernising Building Control*;
  - the recent revisions to the *Approved Code of Practice* to the CDM Regulations and the new HSE discussion document 'Revitalising health and safety in construction': and
  - the work to enable greater understanding of the guidance provided by the Disability Discrimination Act and Part M of the Building Regulations.

Every one of these items relates to regulations affecting buildings and there is some overlap. This report does not consider inconsistencies within any particular set of regulations, but instead focuses on the overall regulatory framework and how it might be improved. The Regulations Review Working Group noted that the new EC Directive on Energy Performance of Buildings could be problematic in implementation due to the effect on a range of existing UK legislation, responsibility for which lies in several Government Departments.

- 3.4 The industry understands that changes to primary legislation take time and sustained commitment. However, it is believed that much can be done quickly to improve the regulatory framework and thereby enhance performance and eliminate waste. This report contains example cases of waste and inefficiency caused by apparently conflicting or overlapping effects of the different regulatory requirements (see Appendix D). **For this reason it is our recommendation that work should be done urgently to identify and reinforce synergies and reduce the scope for overlap and incompatibilities between sets of regulations which include, but are not limited to, the following:**
- **Building Regulations**
  - **Fire Regulations**
  - **Water Regulations**
  - **Construction (Design & Management) Regulations**
- 3.5 Although we have not included the Planning System in this list we are aware of decisions taken at the Planning stage which create conflicts with various regulatory requirements in the later design and construction process for buildings. For this reason it is important that the current Planning Bill before parliament is suitably framed to ensure that such problems do not occur in future.
- 3.6 The harmonisation and combination of the existing building related regulations would not lessen the need for a full government review of legislation, its purposes and content, in the medium term. Any interim aggregation and final consolidation of the regulations should also recognise the actual and potential overlaps that can occur with Planning legislation, Health & Safety at Work requirements, and the Gas Regulations.
- 3.7 Current legislation covering the construction and operation of buildings has been enacted over decades for a variety of unrelated reasons. This has led to many overlapping and, frequently, conflicting requirements that create uncertainty, delay, and cost affecting efficiency and performance in the construction industry. The elimination of these problems would greatly assist the achievement of the objectives of Sir John Egan's Report *Rethinking Construction* and the continuing work of the Strategic Forum's *Accelerating Change* to radically improve the industry's effectiveness.
- 3.8 The Building Act (1984) deals principally with the construction phase. Parts of much other legislation can and do affect the Building Act requirements and after completion they and additional Acts are applicable, sometimes requiring amendment to pre completion regulatory agreements – particularly in terms of fire regulations.
- 3.9 The whole life, quality, use and cost of buildings are now considered to be important in government policy terms and to all sectors of the industry from funders and developers through to occupiers and facilities managers who, together, are seeking the benefits of sustainable construction. However, the legislative and regulatory requirements post completion are diffuse, complex overlapping and sometimes contradictory. Because of this and the multiple departmental sources of regulations there is both ignorance and misunderstanding of the requirements among many of the organisations and personnel responsible for the effective operation of buildings. In addition, to improve the whole life effectiveness of future and existing buildings, legislation and regulations will need to address the issues of sustainability, including demolition and recycling (which will become increasingly onerous).

- 3.10 In order to provide an integrated approach to the regulatory framework for buildings, on an efficient whole life basis, new construction legislation is proposed, which would encompass all the building related regulations from existing Acts. The new legislation would have a framework permitting the promulgation of relevant regulations without further primary legislation. The framework would cover the requirements from building conception to practical completion and certification and from then on through to demolition and recycling.
- 3.11 The framework for such new construction legislation would encompass the existing pre-completion Building Regulations, building related Water Regulations - Fire Regulations - Gas Regulations - CDM Regulations - Health and Safety Regulations, commissioning and sustainability requirements, with a defined and co-ordinated interface to the new Planning legislation. The Planning legislation and the framework should both take into account geotechnical and land stability requirements for building sites, which may require regulatory consideration in due course similar to those practised in other European countries. The legislation would similarly provide a post completion framework covering commissioning completion and certification, building related Fire Regulations, Workplace and Environmental Health requirements, Health & Safety requirements, sustainability, demolition and recycling and the use of Building Regulations where appropriate (eg material alterations and other situations where application is considered imperative). Sustainability, demolition and recycling would be the subject of future regulations as and when research and development enables the production of suitably robust regulations that can be generally applied.
- 3.12 Commissioning is included because it straddles pre practical completion and post completion requirements, as do, for example, the requirements of the Construction (Design & Management) Regulations. Together these requirements have a decisive effect on health & safety, energy efficiency and environmental comfort.
- 3.13 The elements of the framework all fit within the existing principle of limiting the regulations for buildings to those necessary for the purposes of health, safety and the efficient use of fuel and power. Sustainability, demolition and recycling all relate to the current and future health and safety of people associated with buildings and to our successors.
- 3.14 It is **recommended** that henceforth, all legislation relating to buildings be considered in the context of regulations covering the whole life of buildings. It is also necessary to understand that there may be contradictory regulatory requirements pre and post practical completion.
- 3.15 We **recommend** that existing legislation affecting buildings pre practical completion and post completion should be identified through a short but comprehensive review carried out by government with the full support of the construction industry. A compendium of existing legislation, highlighting synergies, can then be produced for use by those required to use it.
- 3.16 Some concerns have been expressed that the Regulatory Impact Assessment (RIA) can in some instances significantly underestimate costs (eg some changes to the Building Regulations - Part B and Part L). It is therefore important that, before further changes to the regulations are made, an investigation is undertaken to test the robustness of the RIA model as currently used. It is **recommended that the** RIA investigation should include assessment of whether the Government's template is

adequate for all contingencies. Some work should also be done to audit prior cases to test the adequacy of the RIA as previously applied.

- 3.17 Following on from the recommendation at 3.15 above, it is **recommended** that all future proposals for legislation that affects buildings should continue to be subject to an initial consultation process. This process should be organised by the sponsoring department with representatives of all other interested departments and invited participation by professional and trade bodies, product suppliers/manufacturers and appropriate consumer representative bodies. The early input on the practicalities of the proposals and fit with other legislation will avoid delays, potential future conflicts and unnecessary costs. This should not affect the later statutory consultations.
- 3.18 Consolidation of legislation should follow in the longer term so that all regulations affecting buildings can be coordinated/integrated to remove areas of uncertainty. It is **recommended** that the process be carried out in two stages addressing first those changes that can be made to regulations with minimal impact on legislation and second the need for new construction legislation – a new extended legislation.
- 3.19 Existing legislation provides scope for extending regulations (eg work on a potential Part P - covering electrical installation - of the Building Regulations) in accordance with the original intentions of the Building Act. The report recognises that regulations for buildings need to cover health and safety, energy conservation, and the particular needs of disabled people and the proposed framework for a new extended Building Act provides similar scope for long-term extensions to regulations.
- 3.20 With the embedding of ‘joined up’ thinking and the advent of consolidated/joined up legislation we strongly **recommend** the convergence of all government agencies involved in the regulation of buildings in one Department or Office. This was almost achieved in 2001 when DTLR briefly had responsibility for Building Regulations, Fire Regulations, Planning and Health and Safety.
- 3.21 In parallel with this harmonisation we believe that government and industry working together could achieve significant efficiency improvements in the short term by:
- Widening recognition that some regulation is necessary for the good of all and will not always offer a direct compensatory or indeed a quantifiable cost benefit – as called for by the Regulatory Impact Assessment. Emphasis has to be on ‘better regulation’ in the widest sense;
  - Ensuring that those required to use the regulations know enough about the legislation and the way that it impacts on the requirements of other regimes. This is an essential part of achieving a fully integrated team. Only in this way will the frustrations of clients and enforcers be minimised;
  - Providing users with an easy to access/use compendium of regulations identifying areas of overlap/potential overlap/conflict and offering strategies to minimise impact;
  - Combining where possible combine the departmental responsibilities for the development of regulations thereby maximising opportunities for enhanced efficiency; and

- Considering the extension of formal non-legislative standards (eg forms of Codes of Practice) that can be changed and developed more quickly and helpfully than legislation.

3.22 **It is our view that the urgent work to harmonise the four sets of regulations under a single framework (3.4 above), production of a compendium (3.15), and the initial consultation process (3.17) should begin immediately following the delivery of this report, with a view to completion in nine-twelve months. The work required to effect necessary changes to primary and/or secondary legislation (3.18) would take longer but grow naturally from the harmonisation process and should parallel any progress from the European Commission on buildings related Directives particularly the Energy Efficiency Directive.**

## **Section 4. Enforcement**

- 4.1 The DSA report *Modernising Building Control* proposes a strategy which includes the objective to *achieve a joined-up approach to health safety and welfare issues through co-ordinated regulatory systems during the design, construction and maintenance stages of the building cycle*. The Water Regulations Advisory Committee (WRAC) recommends that the interface between itself and BRAC be fully addressed so that the two sets of regulations remain complementary (*Review of the enforcement of the Water Supply (Water Fittings) Regulations 1999 - Paragraph 7.1.3*). The consultation *on the reform of Fire Safety Legislation* proposes that *so far as possible, general fire safety legislation should be reformed to create one simple fire safety regime applying to all workplaces and other non-domestic premises*. We strongly support all of these objectives as representing a common desire for ‘better regulation’ in the widest sense. Each of these initiatives and others referred to in Section 3 above, involve close co-operation between industry (professions and trades) and government (national and local).
- 4.2 All enforcement agencies suffer from a lack of resource. If ‘better regulation’ is to mean anything it must mean that those regulations that are necessary must be made effective through adequate enforcement. The extension of the Approved Inspectors’ activities into a wider regulatory framework should be considered. The current situation leads in some cases to elements of the regulations not being formally checked. To make matters worse, other elements are subject to a multiplicity of checks by different enforcement agencies leading to uncertainty, inefficiency and waste.
- 4.3 Additionally work has already been done to look at how closer working between enforcement agencies might be achieved. The Local Government Association (LGA) initiative in creating the Local Authority Co-ordinators of Regulatory Services (LACORS) responsible for ensuring synergy for all three of its enforcement arms – Local Authority Building Control, Environmental Health and Trading Standards is a good model.
- 4.4 Government attempts to extend the enforcement resource through a recent initiative for self-certification by competent persons may prove part of the answer to under-resourcing. The signs are that the advent of Approved Inspectors has led to more effective application of the Building Regulations and clients have benefited through the availability of choice. The CORGI model for gas installations is a well-established example of regulated self-certification by competent persons.
- 4.5 We firmly believe that, in the same way that combining legislation (Section 3 above) will lead to a more efficient construction industry and concomitant gains for the UK economy, combining enforcement effort will improve the effectiveness of the regulations in practice.
- 4.6 The enforcement authorities most directly involved with the regulations we focus on are:
- Planning Officers
  - Local Authority Building Control and Approved Inspectors
  - Fire Authorities
  - Water Authority Inspectors
  - HSE Inspectors – and their responsibility for Gas Regulation compliance
  - Environmental Health Inspectors

Other agencies may also be drawn into the pool of available enforcement resource (eg Planning departments and Trading Standards departments).

- 4.7 We **recommend** that common and transparent guidelines be developed for issue to enforcers, construction industry professions, trades product suppliers and manufacturers thereby promoting common understanding of the requirements of the regulations. In the interest of transparency guidelines should also be unambiguous and freely available to construction clients and end-users of buildings as appropriate.
- 4.8 We further **recommend** that government and industry work together to promote greater familiarity with legislation and consequent requirements within the construction industry. This does not preclude the production of a guidance manual but could mean provision of a net-based tool to highlight potential over-laps in existing legislation and (eg provide early warning for actions to avoid delays in approvals). Again transparency means that this information should also be made freely available to construction clients and end-users of buildings as appropriate.
- 4.9 Full involvement of the enforcement agencies alongside government and industry in the formal initial consultation phase for new regulations (see 3.17 above) should provide a mechanism for enhanced understanding and 'joined up' enforcement.
- 4.10 Once government and industry have had the opportunity to carry out the comprehensive review of existing legislation affecting buildings particularly pre practical completion, we **recommend** that a new Building Act include consideration of a single enforcement agency. Inspectors of the single enforcement agency could be drawn from the public or private sectors but will need to be fully conversant with the range of regulatory requirements and able to advise clients and their designers accordingly.
- 4.11 A public sector agency would need to encompass public sector monopoly enforcement and inspection functions (such as planning enforcement activities which are not subject to competition) as well as the competitive building control functions which can be carried out by Local Authorities or private sector Approved Inspectors. The co-existence of the two associated but widely differing forms of control - public monopoly and public/private competition - would need particular attention to ensure that the agency delivers an efficient system for the benefit of the community.
- 4.12 The focusing of enforcement responsibility on one agency will bring economies of scale and reduce confusion across the industry and its clients. An alternative to a public sector agency might be a private sector agency approved by the appropriate Secretary of State but it is envisaged that final legal enforcement responsibility would still rest with a government department (the Approved Inspector Regulations provide a model that might be considered). Whatever the outcome, such an agency would need to apply a standard knowledge base when qualifying any Inspector for specific functions and assure appropriate continuing professional development regimes.
- 4.13 To provide the resources available to any future enforcement authority all penalties and fines imposed for non-compliance with the regulations could be passed to the authority for this purpose. The precedent exists for camera generated speeding fines that are passed back to the police.

- 4.14 **Work on common guidelines for enforcers and the promotion of greater familiarity with the regulations within the industry should begin immediately, in parallel with the reviews identified in Section 3 above. The work should be completed within one year and, therefore, in time for full consideration of a single enforcement agency when work begins for remodelled primary legislation.**

## **Section 5. Planning**

- 5.1 The Working Group notes the conclusion of the ODPM root and branch review of the Planning regime and welcomes the new Planning Bill that has been introduced in the current session of Parliament.
- 5.2 The Working Group urges that this report and recommendations relating to the needs of the whole life of a building be taken into full account when the detailed requirements of the new Planning legislation are developed and implemented.

**REGULATIONS REVIEW WORKING GROUP**

**Terms of Reference**

- 1. Examine the regulations which directly affect the design and construction process for buildings, and recommend how they may be combined, in the short term, into a single integrated set of regulations (to operate under the current separate Statutory Acts);**
- 2. Consider how the separate enforcement authorities for the regulations can be co-ordinated, in the short term, to provide a more effective and efficient use of the limited available resources and make recommendations to achieve this aim;**
- 3. Take a longer term view of how the various Acts to which the regulations relate could be redrafted/consolidated into a single Act or other comprehensive regulations, with a single enforcement agency, and make recommendations as to how this may be achieved and identify an appropriate timescale;**
- 4. Consider how Planning Legislation should be modified to provide a more co-ordinated interface with the regulatory requirements that occur later in the design and construction process. Make recommendations to achieve this, commensurate with the aims and timescale of 3 above; and**
- 5. Submit progress reports and review/recommendations to Christopher Leslie MP, Parliamentary Under Secretary of State at the Office of the Deputy Prime Minister.**

Glossary of Terms

<b>BCB</b>	<b>Building Control Body</b>
<b>BCO</b>	<b>Building Control Officer</b>
<b>BRAC</b>	<b>Building Regulations Advisory Committee</b>
<b>BSI</b>	<b>British Standards Institute</b>
<b>CC</b>	<b>Construction Confederation</b>
<b>CCC</b>	<b>Construction Clients Confederation</b>
<b>CIC</b>	<b>Construction Industry Council</b>
<b>CDM</b>	<b>Construction (Design &amp; Management) Regulations 1994</b>
<b>CIOB</b>	<b>Chartered Institute of Building</b>
<b>CORGI</b>	<b>Council for Registered Gas Installers</b>
<b>CPA</b>	<b>Construction Products Association</b>
<b>CUB</b>	<b>Construction Umbrella Bodies</b>
<b>DSA</b>	<b>District Surveyors Association</b>
<b>DTLR</b>	<b>Department of Transport, London and the Regions</b>
<b>ECA</b>	<b>Electrical Contractors Association</b>
<b>FSAB</b>	<b>Fire Safety Advisory Board</b>
<b>HSE</b>	<b>Health and Safety Executive</b>
<b>IoP</b>	<b>Institute of Plumbing</b>
<b>LACORS</b>	<b>Local Authority Co-ordinators of Regulatory Services</b>
<b>LGA</b>	<b>Local Government Association</b>
<b>ODPM</b>	<b>Office of the Deputy Prime Minister</b>
<b>RIA</b>	<b>Regulatory Impact Assessment</b>

**RRWG**      **Regulations Review Working Group**

**TSI**        **Trading Standards Institute**

**WRAC**      **Water Regulations Advisory Committee**

**A List of Legislation affecting the whole life of Buildings**

**The Local Government, Planning and Land Act 1980**

**The Town and Country Planning Act 1990**

**Planning (Hazardous Substances) Act 1990**

**The Fire Precautions Act 1971**

**The Fire Precautions (Workplace) Regulations 1997**

**The Building Act 1984 + Regulations**

**The London Building Acts 1930 – 1982**

**Local Acts of Parliament**

**The Housing Act 1985**

**The Party Wall etc. Act 1996**

**The Construction Products Regulations**

**The Gas Safety (Installation and Use) Regulations 1998**

**The Disability Discrimination Act 1995**

**The Building (Local Authority Charges) Regulations 1998**

**The Highways Act 1980**

**Safety of Sports Grounds Act 1975**

**The Water Industry Act 1991**

**The Water Resources Act 1991**

**The Control of Pollution Act 1974**

**The Clean Air Acts 1956 and 1993**

**The Environmental Protection Act 1990**

**The Food and Environmental Protection Act 1985**

**The Pollution Prevention and Control Act 1999**

**The Wildlife and Countryside Act 1981**

**The Noise and Statutory Nuisance Act (c.40) 1993**

**The Noise Act 1996**

**The Countryside Rights of Way Act 2000**

**The Defective Premises Act 1972**

**The Latent Damage Act 1986**

**The Public Health Act 1936**

**The Health and Safety at Work etc Act 1974 + Regulations**

**The Workplace (Health, Safety and Welfare) Regulations 1992**

**The Construction (Design and Management) Regulations 1994**

**The Construction (Health, Safety and Welfare) Regulations 1996**

**Issues of Overlap**

**Case Study - 1**

Conflict

A multi-storey office block constructed in the late sixties was being refurbished floor by floor. The owner had arranged that each individual floor could be let individually. Both private sector and public sector building control bodies were controlling work within the building. Work under the Building Regulations was being supervised and approved by several Building Control Bodies (BCBs).

Section 20 of the London Building (Amendment) Act 1939 as amended by the Building (Inner London) Regulations 1985 and 1987 applied to the building – Section 20 is controlled by the Local Authority in whose area this building is situated. The client submitted a Section 20 application to the Local Authority and paid the relevant fee. Full details of the work being carried out were submitted to the Local Authority under the Section 20 procedures well in advance of completion of the fit out work.

In one particular case, 2 days before occupation by a tenant, and at a stage when the Approved Inspector had agreed that the work complied with the Building Regulations, the Local Authority under its Section 20 powers requested that non combustible skirting boards were removed and that the new beech office furniture that was being provided be treated with an intumescent varnish.

The client in desperation carried out this work, as he was keen to occupy the building on the due date.

In this instance there was a distinct conflict between the current Building Regulations and Section 20 of the London Building Act as the work fully complied with the Building Regulations.

## **Case Study - 2**

### Planning/Building Control

Building Regulations control sound absorption requirements within the fabric of a dwelling and between dwellings. They do not, however, control the external fabric of a building. The Building Regulations relating to energy, sound and other requirements can sometimes have an impact on each other.

The external façade of a building is controlled at the planning stage and sometimes features design considerations influenced by the Planning Authority. This can cause conflict where Environmental Health Officers comment on an acoustic design at the planning stage. Planning approval could be issued with conditions attached that necessitate changes to the details of the acoustic design.

However, at implementation of the work, the BCB, may find that this design does not comply with the Building Regulations.

Considerable confusion and conflict can occur, causing aggravation and cost implications to all concerned.

### **Case Study - 3**

#### Safety at Sports Grounds Act and Building Regulations

The general development of Stadia, particularly spectator stands can sometimes cause conflict over different forms of legislation that could be applied.

The Safety Certificate controlled under the Safety of Sports Grounds Act 1975 can sometimes be controlled by Environmental Health or Building Control Bodies (BCBs). This can cause conflict of requirements particularly where the Building Regulations apply and Building Regulation approval was required for that work within the Stadia. An instance of this problem occurred when the compartmentation requirements required under the Building Regulations and the means of escape requirements required under the Safety of Sports Grounds Act 1975 were in conflict and caused confusion.

## Case Study - 4

### Fire/Building Control

The standards administered by the Fire Authority under the Fire Protection Act 1972 and the Workplace Regulations 1997 often cause conflict with the Building Regulations.

This particularly occurs with buildings in use, where certain design considerations at the construction stage are implemented to comply with the Building Regulations. In some instances, the implications of the Building Regulation design may not be fully appreciated by Fire Prevention Officers who may visit the site after the building is occupied.

Two examples:

#### First Case:

A large multi-storey office and shopping centre development with several storeys of underground areas was constructed with 4m by 3m, four-hour fire resistant steel doors installed in compartment walls at basement level.

Two years after occupation by the client, an inspection was carried out by a Fire Prevention Officer from the local Fire Authority who informed the client's maintenance department that the doors were not required for means of escape purposes and, in fact, it would improve the situation if they were removed. The doors were removed.

Material alteration work was then carried out on the building. The BCB who controlled the original development carried out an inspection as part of the proposed alteration work. It was noticed that the doors had been removed.

As they affected the overall fire performance of the development this caused concern to the BCB and the client was informed that to maintain the original fire compartmentation, particularly at the underground level, they should be replaced. The cost of replacing the doors was £30,000.

#### Second Case:

A fast-food restaurant chain converted a three storey building in a conservation area within a large city. In order to achieve an open plan restaurant across the three floors the architects and client wanted an open staircase to run through the three storeys. The building was close to a footpath that separated the buildings. The relevant boundary was only 1 metre away.

To meet the requirements of Part B (Fire) of the Building Regulations, roller shutters were installed in each of the window openings activated by a fusible link, to alleviate fire spread to adjoining buildings in event of a fire.

The building received its full approval under the Building Regulations and was occupied.

Within two years of operation and after several changes of management it was noted that large displays had been incorporated into the window openings, completely negating the operation of the fire shutters.

This is a situation where some form of continuing control after completion of the conversion, perhaps by the BCB, would have alleviated this potential fire problem.

## **Case Study - 5**

A multi-storey specialist office development was erected and controlled by the Local Authority Building Control Department. The initial fire strategy was approved by a Fire Prevention Officer from the Fire Authority. The fit out of the development was controlled by an Approved Inspector and a problem arose over “refuge areas required for the safe evacuation of disabled people” as part of the means of escape procedures.

The initial fire strategy then came under review, the original Fire Prevention Officer had moved on, and the Fire Authority did not support the original strategy although this had been documented.

In order to gain approval from both the Approved Inspector and the Fire Authority the owner had to carry out additional works to enable the safe evacuation of disabled persons and provision of refuge areas.

## **Case Study - 6**

Environmental Health/Building Control

A warehouse was constructed on a business park and received full approval under the Building Regulations and a completion certificate was issued.

After six months of use, an inspection was carried out by the Local Authority's Environmental Health Department acting under Health and Safety Legislation administered as part of the department's delegated powers.

They requested that the fire resistance of various doors be upgraded to the Fire Authority's requirements, although the original fire doors complied fully with the Building Regulations.

This caused major confusion and additional cost to the owner in an endeavour to try to resolve the problem.

## **Case Study - 7**

### Local Acts

Nationally the application of various Local Acts administered by various Local Authorities can cause confusion and conflict. A building can be designed and constructed to meet all aspects of the Building Regulations, only to find that the design conflicts with Local Act provisions.

In some instances, where Local Acts were in place before reorganisation of Local Government in 1974, a situation can arise where one half of a Local Authority has a Local Act in position and the other half does not. This particular situation occurs in the London Borough of Newham where the East Ham Act operates in one half of the Borough but not in the other.

There is also considerable conflict and confusion occurring in regard to the construction of very large single storey warehouses on the motorway corridors. In some instances, Local Acts will require these buildings to be provided with sprinklers whereas the Building Regulation would not.

**Regulations Review Working Group**  
**Credits**

The Regulations Review Working Group (RRWG) was sponsored and hosted by the Construction Industry Council (CIC) with the full support of its sister Construction Umbrella Bodies (CUB) – Construction Clients Confederation (CCC), Construction Confederation (CC), Construction Products Association (CPA), with all memberships represented by experts.

The RRWG was Chaired by David Lush OBE, PPCIBSE who is also Chairman of the CIC Regulations Advisory Panel.

The CIC would like to thank officials from the Office of the Deputy Prime Minister (ODPM) and the Health and Safety Executive (HSE) who sat as observers and provided their guidance to the RRWG.

Additional specialist advice and support was provided by the CIC Regulations Advisory Panel with additional background advice from Oliver Palmer FRIBA.

The RRWG met on four occasions as follows:

- Monday, 9 September 2002 at CIC Offices in Store Street
- Friday, 11 October 2002 at CIC Offices in Store Street
- Monday, 11 November 2002 at CIC Offices in Store Street
- Thursday, 12 December 2002 at CPA Offices in Store Street

The preliminary final draft of the report was considered by the CIC Council at its meeting on Thursday, 12 December and approved subject to amendments that have been made for this final report.

During the course of December 2002, the CIC conducted a web-based consultation on the draft of this report contacting some 2,000 organisations and individuals through its e-mail information service. In addition members of the RRWG circulated the draft report for comment throughout their member organisations. CIC would like to thank all those who took time to comment and express support for the report. We will be in touch with you again to advise you of the Minister's response.

**RRWG Membership:**

**Chairman: David Lush OBE**

John Askew  
Stuart Burchell  
Patrick Carey  
Beryl Menzies  
Ron Gainsford  
Martin Hughes  
Cliff Jones  
Bob Keenan  
Geoff Marsh  
Tony Pollington  
David Smith  
John Tebbit  
Robert Upton  
Graham Watts

Observers: ODPM and HSE

**Julien Parrott: Secretary and CIC Consultant Project Manager and draft author.**

The direct participation of the members of RRWG represented input by organisations and bodies including:

ABE, BRAC, CC, CCC, CIC, CIBSE, CIOB, CPA, DSA, ECA, FSAB, IoP, LGA, NHS Estates, RIBA, RICS, RTPI, TSI, WRAC.