

BRIEFINGS

21 May 2007

Projects Briefings

Construction Update

News

Circular 02/07 on Energy Performance Issued by Government

The government has published Circular 02/07 containing The Energy Performance of Buildings (Certificates and inspections) (England and Wales) Regulations 2007. The circular, issued by the Department for Communities and Local Government, gives notice of changes to relevant legislation (namely the Building Regulations 2000 and the Building (Approved Inspectors) Regulations 2000) and announces forthcoming guidance on ways of complying with the new regulations. This will include:

- Guidance and criteria for accreditation schemes, technical guidance on methodologies, advice on boiler use, and guidance for enforcement agencies;
- General information on the Directive and its application and purpose in different sectors; and
- Public information leaflets.

The document may be accessed on the Communities and Local Government website at: www.communities.gov.uk

Work at Height Regulations Guidance

The Health and Safety Executive have provided guidance on the Work at Height Regulations (SI 2005/735). The document is written for employers, the self-employed and anyone who works at height. It outlines what one needs to do to comply with the Work at Height Regulations 2005, as amended by the Work at Height (Amendment) Regulations 2007, with the following listed particularly as the dutyholders' main responsibilities:

- all work at height is properly planned and organised;
- all work at height takes account of weather conditions
- health and safety;
- those involved in work at height are trained and competent;
- the place where work at height is done is safe;
- equipment for work at height is appropriately inspected;
- the risks from fragile surfaces are properly controlled; and
- the risks from falling objects are properly controlled.

Legislation

The Construction (Design and Management) Regulations 2007 (SI 2007/320)

The Regulations came into force on 6th April 2007 and revoke and replace the Construction (Design and Management) Regulations 1994 (SI 1994/3140) (Parts 2 and 3) and revoke and re-enact, with modifications, the Construction (Health, Safety and Welfare) Regulations 1996 (SI 1996/1592) (Part 4). They implement the requirements of Directive 92/57/EEC on the implementation of minimum health and safety requirements at temporary or mobile construction sites, except certain requirements which are implemented in the Work at Height Regulations 2005 (SI 2005/735). HM Customs & Revenue are responsible for the new Construction Industry Scheme. The changes will affect both sub-contractors and contractors in the construction industry.

The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (SI 2007/991)

The Regulations implement in England and Wales articles 7 (energy performance certificates), 9 (air-conditioning system inspections) and 10 of the Energy Performance of Buildings Directive EC 2002/91 (http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_001/l_00120030104en00650071.pdf), which lays down requirements for the production of energy performance certificates when buildings are constructed, sold or rented out, display of certificates in large public buildings, and regular inspections of air-conditioning systems.

Cases

Hart Investments v Fidler and another [2007] All ER (D) 519 (Mar)

- Queen's Bench Division (Technology and Construction Court), 30th March 2007.

An engineer employed by the owner of a property was under a contractual duty to avert any danger of which he was aware. A further duty in tort was evident, sufficient to enable the recovery of economic loss.

Bridge UK Com Limited v Abbey Pynford plc [2007] EWHC 728

- Queen's Bench Division (Technology and Construction Court), 4th April 2007.

This case considered damages for management time and loss of profit for breach of contract. Here damages were sought for the defective installation of a foundation for its printing press. The full text of the case may be accessed on the British and Irish Legal Information Institute website at: <http://www.bailii.org/ew/cases/EWHC/TCC/2007/728.html>.

Reinwood Ltd v L Brown & Sons Ltd [2007] BLR 10

- Queen's Bench Division (Technology and Construction Court), 9th November 2006.

This case concerned the JCT Form 'Private With Quantities' from 1998 and specifically whether the contractor had acted 'unreasonably' or 'vexatiously' in determining the contract.

Melville Dundas Ltd (in receivership) v George Wimpey UK Ltd and others [2007] UKHL 18

- House of Lords, 25th April 2007.

This was the first case of its kind under the Housing Grants, Construction and Regeneration Act 1996 to reach the House of Lords. The case examined whether JCT provisions which suspend a contractor's entitlement to payment in the event of insolvency are affected by the legislation. The case may be accessed on the website of British and Irish Legal Information Institute at: <http://www.bailii.org/cgi->

Projects team focuses on Regeneration

The Projects teams focus is on regeneration in which we have a keen interest – this builds on our invaluable experience gained in working on successful East Midlands’ remediation projects and at the same time, contributes to achieving regional targets.

If you have any queries in relation to this update or any other queries, please contact either:

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