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IMPLICATIONS OF THE BUDGET MORATORIUM ON THE REVIEW OF BUILDING REGULATIONS

Summary

1. It is expected that the Budget will contain an announcement of a moratorium for the lifetime of this Parliament on changes to Building Regulations that impose a burden on business (with the exception of the energy efficiency provisions). This submission seeks your agreement to how we will therefore take forward those areas of work of a regulatory nature and your approval of lines to take post-Budget.

Timing

2. **Urgent** – Your agreement is required in advance of the Budget on Wednesday 23 March so that we are in a position to respond to likely enquiries about how the moratorium impacts on our future work programme.

Recommendation

3. That you agree to:
 - i) Continue with work and research on Changing Places, security (but with Home Office re-taking the lead) and radon to understand the problems better and inform consideration of possible non-regulatory options to address these issues.
 - ii) The lines to take for Press Office at Annex A.

Background

4. Your Ministerial Statement of 16 December set out the areas of work we will be taking forward in 2011 to develop detailed proposals on changes to the Building Regulations to come into force in 2013. Although largely deregulatory, the package contained potentially regulatory elements. In particular, the statement restated the Government's commitment to increase energy efficiency through Part L as a next step towards our commitment to zero carbon buildings. You also signalled your intention to consider whether there was a case for regulation to improve the

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provision of Changing Places toilets (facilities for people with multiple and profound disabilities) and for minimum security standards in homes. In addition we indicated that we would consider updating radon maps – potentially increasing the number of new homes that would have to incorporate radon protection measures.

5. Sarah Sturrock's submission of 8 March to the Secretary of State provided advice on the Budget proposal for a moratorium on new Building Regulations that impose additional burdens on the construction industry for the lifetime of this Parliament. It has now been agreed at that the moratorium would not apply to the planned Part L step in 2013 or for changes necessary to implement requirements arising from EU law.

Consideration

6. While the Department had not committed to necessarily regulating, the moratorium would rule out this option for 2013 for security, Changing Places and radon. We therefore need to decide what work continues, if any, on these issues.
7. In relation to **Changing Places**, we have already started work with key external partners to understand what the barriers are to greater voluntary provision and how that might be improved in the future. To support this, Ministers have previously agreed to research that would analyse the costs and benefits of Changing Places, for example, to provide evidence as to the buildings types best suited to such provision. The cost of that research (not yet let) is estimated at £90,000. There is a strong equalities driver behind Government consideration of this issue and we believe there is the scope for continued work to help improve provision even without regulation (although this would no longer need to be driven by having proposals ready for the end of the year and could proceed to a more appropriate timetable allowing other areas to take priority). On that basis, **are you content that the work and research on Changing Places continues?**
8. You also asked officials to consider the case for minimum **security in domestic properties**. We have made good progress in building positive and realistic dialogue with key partners such as the Association of Chief Police Officers (who have offered to undertake more detailed reporting on burglaries to improve the evidence base) and the Association of British Insurers (with whom we are in discussion on joint-funding for research).
9. We can build on this by continuing to challenge and influence broader thinking on non-regulatory options, but given that this department will not be pursuing a regulatory approach it is important that the Home Office are in the lead in taking forward their commitments in assessing and promoting voluntary initiatives. However, we are concerned that Home Office have pulled back on this area of work in expectation that DCLG will take the load. We therefore propose that in order to continue to support cross-government work to maintain the downward trend in burglary we complete proposed technical research into the effectiveness of domestic security standards, over a lengthened programme period (and subject to industry and Home Office demonstrating commitment to this area of work by contributing to the total estimated cost of around £80,000) and on the

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clear understanding that it will be for Home Office to make use of the findings in their broader policy work. **Do you agree with this approach?**

10. One further area where we had committed to undertake work is in relation to the updating of the **radon** emission maps referenced by Approved Document C. The maps referenced by the existing guidance highlight those geographical areas where radon protection measures need to be considered for new homes. These are no longer current and we've previously advised industry that best practice would be to consider the use of updated maps published in 2007. We had envisaged updating these references as part of the changes in 2013. However, unless housebuilders uniformly already comply with that updated advice, referencing revised maps might impose additional burdens on industry and therefore not be possible under the moratorium. We recommend that we continue work to understand the current situation better and see if any additional burdens would be imposed and, if necessary, work with industry to try and ensure appropriate radon measures are adopted on a voluntary basis. **Are you content with this approach?**

11. The moratorium potentially also impacts on the compliance workstream as some of the measures under consideration may have a regulatory cost. However, if the costs of a particular measure are small and part of a larger package which is has a net benefit, we may be able to take it forward, bearing in mind the need to find sufficient "outs" to offset the "in" for Part L. We will continue to work on gathering evidence and scoping options to improve compliance building on the Roundtable exercise and will provide advice to you in due course.

Media Handling

12. The lines to take for Press Office at Annex A reflect the recommendations above. **Are you content with the lines to take?**

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cc:

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LINES TO TAKE – THE BUILDING REGULATIONS BUDGET MORATORIUM

Q. What is the effect of the moratorium on the changes planned for the Building Regulations in 2013?

A. It will mean that, with the exception of the further improvements to the energy efficiency provisions in Part L and any changes necessary to comply with EU legislation, that the changes will not include measures which impose additional costs on the construction industry.

Q. Why are the energy efficiencies measures not caught by the moratorium?

A. The Government wants to be the greenest ever and the Carbon Plan published earlier this month set out our ambitions for new homes to be zero carbon from 2016 and new non-domestic buildings to be zero carbon from 2019. We believe there is an overwhelming case, therefore, to take a sensible step towards those goals in 2013 if it will help the construction industry to prepare for our longer term zero carbon goals. Indeed past consultation with industry has favoured such a stepped approach.

Q. So you will not be regulating for Changing Places and security?

A. We have never said we would definitely regulate. What we committed to do was consider whether regulation might be a more effective approach than voluntary and local interventions. Whilst the moratorium means the regulatory option no longer exists for 2013, much of our work will continue. For example, we will work closely with our external partners on these areas to understand the problems better and will be carrying out further research this year to support.

Q. Does that mean you will not be updating the references to radon guidance?

A. The Department already advises housebuilders that best practice would be to consider the use of updated radon emission maps published in 2007. We will continue work to understand the current situation better and see if any additional burdens would be imposed by referencing this updated guidance or, if necessary, work with industry to try and ensure appropriate radon measures are adopted on a voluntary basis.

Q. What European-related measures will not be caught by the moratorium?

A: There is European legislation coming into force in 2013 which will make it a requirement for most construction products (windows, insulation etc) to be labelled with the European CE marking. While this doesn't affect the Building Regulations directly, we'll be making some changes to the guidance to explain the change. We cannot put off or avoid this change because this is a European Regulation (rather than

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a Directive), so we don't have any option about when and how we implement it – it will simply become part of our law as a matter of course.

Q - You have said you want to take steps to improve compliance - will the moratorium prevent this?

A - We have been very clear since the start of our review that we wanted to both further improve compliance with the Building Regulations and reduce the burden of compliance. This remains our goal. Any package of measures proposed as a result of our review will therefore provide a net saving to businesses in accordance with the principles of one-in-one-out and our commitment to reduce the burdens on housebuilders.