



# Building Act 1984

## 1984 CHAPTER 55

### PART I

#### BUILDING REGULATIONS

##### Modifications etc. (not altering text)

- C1** Pt. I (ss. 1-46) excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), [Sch. 14 para. 8](#)
- C2** Pt. I (ss. 1-46) restricted by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 31(1), 45, [Sch. 7 Pt. VI para. 2](#)
- C3** Pt. I (ss. 1-46) modified (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 60(2), [Sch. 8 para. 18\(1\)](#)
- C4** Pt. I (ss. 1-46) modified (17.7.1992) by [S.I. 1992/1732](#), [art. 4\(1\)](#)
- C5** Pt. I (ss. 1-46) excluded (18. 12. 1996) by [1996 c. 61, s. 38](#), [Sch. 10 para.7P](#)  
Pt. I (ss. 1-46) excluded (26.3.2001) by [S.I. 2001/1149](#), [art. 4\(5\)](#) (subject to [art. 1\(3\)](#))

#### *Power to make building regulations*

### **1 Power to make building regulations.**

- (1) The Secretary of State may, for any of the purposes of—
- (a) securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings,
  - <sup>[F1]</sup>(b) furthering the conservation of fuel and power,
  - (c) preventing waste, undue consumption, misuse or contamination of water,
  - (d) furthering the protection or enhancement of the environment,
  - (e) facilitating sustainable development, or
  - (f) furthering the prevention or detection of crime,

make regulations with respect to the <sup>[F2]</sup>matters mentioned in subsection (1A) below].

<sup>[F3]</sup>(1A) Those matters are—

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- (a) the design and construction of buildings;
  - (b) the demolition of buildings;
  - (c) services, fittings and equipment provided in or in connection with buildings.]
- (2) Regulations made under subsection (1) above are known as building regulations.
- (3) Schedule 1 to this Act has effect with respect to the matters as to which building regulations may provide.
- (4) The power to make building regulations is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F1** S. 1(1)(b)-(f) substituted for (1)(b)(c) (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#) , **ss. 1(1)** , 11(4)
- F2** Words in s. 1(1) substituted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#) , **ss. 1(2)** , 11(4)
- F3** S. 1(1A) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#) , **ss. 1(3)** , 11(4)

#### [<sup>F4</sup>1A Buildings of special historical or architectural interest

- (1) In making building regulations the Secretary of State shall have regard, in particular, to the desirability of preserving the character of protected buildings that are of special historical or architectural interest.
- (2) In this section “ protected buildings ” means—
- (a) listed buildings within the meaning of the Planning (Listed Buildings and Conservation Areas) Act 1990 (see section 1(5) of that Act); and
  - (b) buildings situated in areas designated as conservation areas under section 69 of that Act.]

#### Textual Amendments

- F4** S. 1A inserted (1.2.2006) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#) , **ss. 2** , 11(3); [S.I. 2006/224](#) , art. 2(a)

## 2 Continuing requirements.

- (1) Building regulations may impose on owners and occupiers of buildings to which building regulations are applicable such continuing requirements as the Secretary of State considers appropriate for securing, with respect to any provision of building regulations designated in the regulations as a provision to which those requirements relate, that the purposes of that provision are not frustrated; but a continuing requirement imposed by virtue of this subsection does not apply in relation to a building unless a provision of building regulations so designated as one to which the requirement relates applies to that building.
- (2) Building regulations may impose on owners and occupiers of buildings of a prescribed class (whenever erected, and whether or not any building regulations were applicable to them at the time of their erection) continuing requirements with respect to all or any of the following matters—

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- (a) the conditions subject to which any services, fittings or equipment provided in or in connection with a building of that class may be used,
  - (b) the inspection and maintenance of any services, fittings or equipment so provided,
  - (c) the making of reports to a prescribed authority on the condition of any services, fittings or equipment so provided,
- and so much of paragraph 8 of Schedule 1 to this Act as restricts the application of building regulations does not apply to regulations made by virtue of this subsection.
- (3) If a person contravenes a continuing requirement imposed by virtue of this section, the local authority, without prejudice to their right to take proceedings for a fine in respect of the contravention, may—
- (a) execute any work or take any other action required to remedy the contravention, and
  - (b) recover from that person the expenses reasonably incurred by them in so doing.
- (4) Where a local authority have power under subsection (3) above to execute any work or take any other action, they may, instead of exercising that power, by notice require the owner or the occupier of the building to which the contravention referred to in that subsection relates to execute that work or take that action.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (4) above, subject to the modification that references in those sections to the execution of works are references to the execution of works or the taking of other action, and references to works shall be construed accordingly.
- (6) Sections 8, 9, 10 and 39 below have effect in relation to continuing requirements imposed by virtue of this section subject to the modification that a direction under the said sections 8 and 9 below shall, if it so provides, cease to have effect at the end of such period as may be specified in the direction.

#### **[<sup>F5</sup>2A Continuing requirements in relation to fuel, power and emissions**

- (1) Building regulations may impose, on owners and occupiers of buildings, continuing requirements that fall within subsection (2) below.
- (2) A continuing requirement falls within this subsection if—
- (a) it requires the inspection and testing of a building—
    - (i) as respects the use of fuel and power in or in connection with the building; or
    - (ii) as respects its contribution to or effect on emissions (whether or not from the building) of smoke, gases, vapours or fumes;
  - (b) it requires the inspection and testing of any service, fitting or equipment provided in or in connection with a building—
    - (i) as respects the use of fuel and power in or in connection with the service, fitting or equipment; or
    - (ii) as respects its contribution to or effect on emissions (whether or not from it or the building) of smoke, gases, vapours or fumes;
  - (c) it requires the implementation, in relation to a building, or any service, fitting or equipment provided in or in connection with a building, of—
    - (i) measures for the purpose mentioned in section 1(1)(b) above; or

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- (ii) measures (otherwise than for that purpose) that are calculated to secure, or to contribute to, the prevention or reduction of emissions (whether or not from the building in question or a thing provided in or in connection with it) of smoke, gases, vapours or fumes;
  - (d) it requires the keeping of records in relation to matters within paragraph (a), (b) or (c); or
  - (e) it requires the making of reports in relation to any of those matters to a prescribed authority.
- (3) Those requirements may be imposed in the case of buildings, or in the case of services, fittings and equipment provided in or in connection with buildings, irrespective of both—
- (a) when the buildings were erected; and
  - (b) whether building regulations were applicable to them at the time of their erection.
- (4) Subsections (3) to (6) of section 2 above apply in relation to continuing requirements imposed by virtue of this section as they apply in relation to continuing requirements imposed by virtue of that section.
- (5) Paragraph 8(2) of Schedule 1 to this Act does not impose any restriction on the building regulations that may be made by virtue of this section.]

#### **Textual Amendments**

**F5** S. 2A inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), ss. **4(1)**, **11(4)**

### *Exemption from building regulations*

#### **3 Exemption of particular classes of buildings etc.**

- (1) Building regulations may exempt a prescribed class of buildings, services, fittings or equipment from all or any of the provisions of building regulations.
- (2) The Secretary of State may by direction exempt from all or any of the provisions of building regulations—
- (a) a particular building, or
  - (b) buildings of a particular class at a particular location,
- either unconditionally or subject to compliance with any conditions specified in the direction.
- (3) A person who contravenes a condition specified in a direction given under subsection (2) above, or permits such a condition to be contravened, is liable on summary conviction to a fine not exceeding level 5 on the standard scale, and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.

#### **4 Exemption of educational buildings and buildings of statutory undertakers.**

- (1) Nothing in this Part of this Act with respect to building regulations, and nothing in any building regulations, applies in relation to—

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- (a) a building required for the purposes of a school or other educational establishment erected or to be erected according to
  - [<sup>F6</sup>(i) plans that have been approved by the Secretary of State,
  - [<sup>F7</sup>(ii) particulars submitted and approved under regulations made under section 544 of the Education Act 1996,]
  - <sup>F8</sup>(iii) . . . . .
  - <sup>F9</sup>(iv) . . . . .]
- (b) a building belonging to statutory undertakers, the United Kingdom Atomic Energy Authority . . . <sup>F10</sup> or the Civil Aviation Authority and held or used by them for the purposes of their undertaking, unless it is—
  - (i) a house, . . . <sup>F11</sup> or
  - (ii) a building used as offices or showrooms, and not forming part of a railway station or in the case of . . . <sup>F12</sup> the Civil Aviation Authority not being on an aerodrome owned by the Authority . . . <sup>F12</sup>.

[<sup>F13</sup>or

- (c) a building belonging to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) and held or used by the person for the purpose of carrying out activities authorised by the licence, unless it is—
  - (i) a house, or
  - (ii) a building used as offices or showrooms.]

- (2) The words “the United Kingdom Atomic Energy Authority,” in subsection (1)(b) above (together with paragraph 4 of Schedule 6 to this Act) cease to have effect upon the coming into force of the repeal of section 5(5) of the <sup>M1</sup>Atomic Energy Authority Act 1954 contained in Schedule 7 to this Act.

#### Textual Amendments

- F6** S.4(1)(a)(i)-(iv) substituted (1.11.1996) by 1996 c. 56, s. 582(1), **Sch. 37 Pt. 1 para. 59** (with s. 1(4), **Sch. 39 paras. 30, 39**)
- F7** S. 4(1)(a)(ii) substituted (6.11.2006 for E., 2.1.2008 for W.) by **Education Act 2002 (c. 32)**, s. 216(4), **Sch. 21 para. 6** (with ss. 210(8), 214(4)); S.I. 2006/2895, art. 2; S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**
- F8** S. 4(1)(a)(iii) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1** (with art. 17)
- F9** S. 4(1)(a)(iv) repealed (1.4.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**
- F10** Words repealed by **Airports Act 1986 (c. 31, SIF 9)**, s. 83(5), **Sch. 6 Pt. I**
- F11** Words repealed by **Airports Act 1986 (c. 31, SIF 9)**, s. 83(5), **Sch. 6 Pt. I**
- F12** Words repealed by **Airports Act 1986 (c. 31, SIF 9)**, s. 83(5), **Sch. 6 Pt. I**
- F13** S. 4(1)(c) and word “or” immediately preceding it inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 7(a)**

#### Modifications etc. (not altering text)

- C6** S. 4 excluded by **Channel Tunnel Act 1987 (c. 53, SIF 102)**, ss. 31(2), **Sch. 7 Pt. VI para. 2**
- C7** S. 4(1) excluded (1.10.2010) by **The Building Regulations 2010 (S.I. 2010/2214)**, regs. 1, **34(1)** (with reg. 9)
- C8** S. 4(1)(b) applied with modifications by **Airports Act 1986 (c. 31, SIF 9)**, s. 58, **Sch. 2 para. 6(a)**

#### Marginal Citations

- M1** 1954 c. 32.

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## **5 Exemption of public bodies from procedural requirements of building regulations.**

- (1) Building regulations may exempt—
  - (a) a local authority,
  - (b) a county council, or
  - (c) any other body that acts under an enactment for public purposes and not for its own profit and is prescribed for the purposes of this section,
 from compliance with any requirements of those regulations that are not substantive requirements.
- (2) A local authority, county council or other body that is exempted as mentioned in subsection (1) above is in subsection (3) below referred to as an “exempt body”.
- (3) Without prejudice to the obligation of an exempt body to comply with substantive requirements of building regulations, the function of enforcing building regulations that is conferred on local authorities by section 91(2) below is not exercisable in relation to work carried out by an exempt body, and accordingly—
  - (a) nothing in section 36(1) to (5) below applies in relation to work so carried out, and
  - (b) a local authority may not institute proceedings under section 35 below for a contravention of building regulations by an exempt body.
- (4) In subsection (3) above, the reference to the carrying out of work includes a reference to the making of a material change of use as defined by and for the purposes of building regulations.

### *Approved documents*

## **6 Approval of documents for purposes of building regulations.**

- (1) For the purpose of providing practical guidance with respect to the requirements of any provision of building regulations, the Secretary of State or a body designated by him for the purposes of this section may—
  - (a) approve and issue any document (whether or not prepared by him or by the body concerned), or
  - (b) approve any document issued or proposed to be issued otherwise than by him or by the body concerned,
 if in the opinion of the Secretary of State or, as the case may be, the body concerned the document is suitable for that purpose.
- (2) References in this section and section 7 below to a document include references to a part of a document; and accordingly, in relation to a document of which part only is approved, a reference in the following provisions of this section or in section 7 below to the approved document is a reference only to the part of it that is approved.
- (3) An approval given under subsection (1) above takes effect in accordance with a notice that is issued by the Secretary of State or, as the case may be, the body giving the approval and that—
  - (a) identifies the approved document in question,
  - (b) states the date on which the approval of it is to take effect, and

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- (c) specifies the provisions of building regulations for the purposes of which the document is approved.
- (4) The Secretary of State or, as the case may be, the body that gave the approval may—
  - (a) from time to time approve and issue a revision of the whole or any part of an approved document issued by him or it for the purposes of this section, and
  - (b) approve any revision or proposed revision of the whole or any part of an approved document,and subsection (3) above, with the necessary modifications, applies in relation to an approval that is given under this subsection to a revision as it applies in relation to an approval that is given under subsection (1) above to a document.
- (5) The Secretary of State or, as the case may be, the body that gave the approval may withdraw his or its approval of a document under this section; and such a withdrawal of approval takes effect in accordance with a notice that is issued by the Secretary of State or body concerned and that—
  - (a) identifies the approved document in question, and
  - (b) states the date on which the approval of it is to cease to have effect.
- (6) References in subsections (4) and (5) above and in section 7 below to an approved document are references to that document as it has effect for the time being, regard being had to any revision of the whole or any part of it that has been approved under subsection (4) above.
- (7) Where a body ceases to be a body designated by the Secretary of State for the purposes of this section, subsections (4) and (5) above have effect as if any approval given by that body had been given by the Secretary of State.
- (8) The power to designate a body for the purposes of this section is exercisable by order made by statutory instrument, which is subject to annulment in pursuance of a resolution of either House of Parliament.

## **7 Compliance or non-compliance with approved documents.**

- (1) A failure on the part of a person to comply with an approved document does not of itself render him liable to any civil or criminal proceedings; but if, in any proceedings whether civil or criminal, it is alleged that a person has at any time contravened a provision of building regulations—
  - (a) a failure to comply with a document that at that time was approved for the purposes of that provision may be relied upon as tending to establish liability, and
  - (b) proof of compliance with such a document may be relied on as tending to negative liability.
- (2) In any proceedings, whether civil or criminal—
  - (a) a document purporting to be a notice issued as mentioned in section 6(3) above shall be taken to be such a notice unless the contrary is proved, and
  - (b) a document that appears to the court to be the approved document to which such a notice refers shall be taken to be that approved document unless the contrary is proved.

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### *Relaxation of building regulations*

#### **8 Relaxation of building regulations.**

- (1) Subject to this section, the Secretary of State, if on an application for a direction under this section he considers that the operation of a requirement in building regulations would be unreasonable in relation to the particular case to which the application relates, may after consultation with the local authority, give a direction dispensing with or relaxing that requirement.
- (2) If building regulations so provide as regards a requirement contained in the regulations, the power to dispense with or relax that requirement under subsection (1) above is exercisable by the local authority (instead of by the Secretary of State after consultation with the local authority).
- (3) Building regulations made by virtue of subsection (2) above may except applications of any description.
- (4) If—
  - (a) building regulations so provide as regards any requirement contained in the regulations, and
  - (b) a public body considers that the operation of any such requirement would be unreasonable in relation to any particular work carried out or proposed to be carried out by or on behalf of the public body,
 the public body may give a direction dispensing with or relaxing that requirement.
- (5) In subsection (4) above, “public body” means—
  - (a) a local authority.
  - (b) a county council, or
  - (c) any other body that is prescribed for the purposes of section 5 above.
- (6) Building regulations may provide as regards a requirement contained in the regulations that subsections (1) to (5) above do not apply.

#### **Modifications etc. (not altering text)**

- C9** S. 8(1) modified (1.6.1992) by [S.I. 1991/2768](#), [reg. 10\(1\)](#)  
 S. 8(1) modified (1.1.2001) by [S.I. 2000/2531](#), [reg. 11\(1\)](#)
- C10** S. 8(1)-(5) excluded by [S.I. 2000/2531](#), [reg. 11\(3\)](#) (as added (6.4.2006) by [Building and Approved Inspectors \(Amendment\) Regulations 2006](#) ([S.I. 2006/652](#)), [regs. 1\(2\)](#), [9\(2\)](#))
- C11** S. 8(1)-(5) excluded (1.10.2010) by [The Building Regulations 2010](#) ([S.I. 2010/2214](#)), [regs. 1](#), [11\(3\)](#) (with [reg. 9](#))

#### **9 Application for relaxation.**

- (1) An application under section 8(1) or (2) above shall be in such form and shall contain such particulars as may be prescribed.
- (2) The application shall be made to the local authority, and, except where the power of giving the direction is exercisable by the local authority, the local authority shall at once transmit the application to the Secretary of State and give notice to the applicant that it has been so transmitted.



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- (3) An application by a local authority in connection with a building or proposed building in the area of that authority shall be made to the Secretary of State, except where the power of giving the direction is exercisable by that authority.
- (4) Schedule 2 to this Act has effect as regards as application for a direction that will affect the application of building regulations to work that has been carried out before the making of the application.

## **10 Advertisement of proposal for relaxation of building regulations.**

- (1) Not less than 21 days before giving a direction under section 8(1), (2) or (4) above in respect of any particular work, the Secretary of State, the local authority or the public body, as the case may be shall publish in a local newspaper circulating in the area where the site of the work is situated a notice—
  - (a) indicating the situation and nature of the work and the requirement to be dispensed with or relaxed, and
  - (b) stating that representations with regard to the effect that the direction may have on public health or safety may be made by a date specified in the notice, being a date not less than 21 days from the date of the notice.

and, where the direction is proposed to be made on an application, the Secretary of State or the local authority may, as a condition of entertaining the application, require the applicant to pay or undertake to pay the cost of publication.

- (2) No notice need be published under the subsection (1) above where in appears to the Secretary of State, the local authority or the public body, as the case may be, that any effect that the direction may have on public health or safety will be limited to premises adjoining the site of the work, but in that case he, they or it shall give such a notice to the owner and occupier of those premises.
- (3) No notice need be published or given under subsection (1) or (2) above where the work affects only an internal part of a building.
- (4) The Secretary of State may, instead of himself publishing or giving a notice under subsection (1) or (2) above, require the local authority to give or publish the notice.
- (5) Before giving the direction, the Secretary of State, the local authority or the public body shall consider any representation duly made in pursuance of a notice published or given under subsection (1) or (2) above.
- (6) If, after a local authority have received representations under this section, they refuse the application to which the representations relate and an appeal is brought against their refusal the local authority shall transmit to the Secretary of State copies of those representations.

## **11 Type relaxation of building regulations.**

- (1) If the Secretary of State considers that the operation of a requirement of building regulations would be unreasonable in relation to a particular type of building matter, he may, either on an application made to him or of his own accord, give a direction dispensing with or relaxing that requirement generally in relation to that type of building matter, either—
  - (a) unconditionally, or

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- (b) subject to compliance with any conditions specified in the direction, being conditions with respect to matters directly connected with the dispensation or relaxation.
- (2) A direction under subsection (1) above—
  - (a) if it so provides, ceases to have effect at the end of such period as may be specified in the direction,
  - (b) may be varied or revoked by a subsequent direction of the Secretary of State.
- (3) Building regulations may require a person making an application under subsection (1) above to pay the Secretary of State the prescribed fee, and—
  - (a) without prejudice to paragraph 10 of Schedule 1 to this Act, regulations made by virtue of this subsection may prescribe different fees for different cases, and
  - (b) the Secretary of State may in a particular case remit the whole or part of a fee payable by virtue of this subsection.
- (4) Before giving a direction under subsection (1) above, the Secretary of State shall consult such bodies as appear to him to be representative of the interests concerned.
- (5) Where the Secretary of State gives a direction under subsection (1) above, he shall publish notice of that fact in such manner as he thinks fit.
- (6) A person who contravenes a condition specified in a direction given under subsection (1) above, or permits such a condition to be contravened, is liable on summary conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.
- (7) If at any time a direction under subsection (1) above dispensing with or relaxing a requirement of building regulations ceases to have effect by virtue of subsection (2) (a) above, or is varied or revoked under subsection (2)(b) above, that fact does not affect the continued operation of the direction (with any conditions specified in it) in a case in which before that time—
  - (a) plans of the proposed work were, in accordance with building regulations, deposited with a local authority<sup>F14</sup>...
  - <sup>F14</sup>(b) .....
- (8) In this section, “building matter” means any building or other matter whatsoever to which building regulations are in any circumstances applicable.

#### **Textual Amendments**

**F14** S. 11(7)(b) and word preceding it repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 13](#)

*Type approval of building matter*

## **12 Power of Secretary of State to approve type of building matter.**

- (1) This section has effect with a view to enabling the Secretary of State, either on an application made to him or of his own accord, to approve a particular type of building

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matter as complying, either generally or in a class of case, with particular requirements of building regulations.

- (2) An application for the approval under subsection (1) above of a type of building matter shall comply with any requirements of building regulations as to the form of such applications and the particulars to be included in them.
- (3) Where under subsection (1) above the Secretary of State approves a type of building matter as complying with particular requirements of building regulations either generally or in a class of case, he may issue a certificate to that effect specifying—
  - (a) the type of building matter to which the certificate relates,
  - (b) the requirements of building regulations to which the certificate relates, and
  - (c) where applicable, the class or classes of case to which the certificate applies.
- (4) A certificate under subsection (3) above, if it so provides, ceases to have effect at the end of such period as may be specified in the certificate.
- (5) If, while a certificate under subsection (3) above is in force, it is found, in a particular case involving building matter of the type to which the certificate relates, that—
  - (a) the building matter in question is of that type, and
  - (b) the case is one to which the certificate applies,that building matter shall in that particular case be deemed to comply with the requirements of building regulations to which the certificate relates.
- (6) The Secretary of State may vary a certificate under subsection (3) above, either on an application made to him or of his own accord; but, in the case of a certificate issued on an application made by a person Under subsection (1) above, the Secretary of State, except where he varies it on the application of that person, shall before varying it give that person reasonable notice that he proposes to do so.
- (7) Building regulations may require a person making an application under subsection (1) or (6) above to pay the Secretary of State the prescribed fee, and—
  - (a) without prejudice to paragraph 10 of Schedule 1 to this Act, regulations made by virtue of this subsection may prescribe different fees for different cases, and
  - (b) the Secretary of State may in a particular case remit the whole or part of a fee payable by virtue of this subsection.
- (8) The Secretary of State may revoke a certificate issued under subsection (3) above, but, before doing so in the case of a certificate issued on an application under subsection (1) above, he shall give the person on whose application the certificate was issued reasonable notice that he proposes to do so.
- (9) Where the Secretary of State issues a certificate under subsection (3) above or varies or revokes a certificate so issued, he shall publish notice of that fact in such manner as he thinks fit
- (10) If at any time a certificate under subsection (3) above ceases to have effect by virtue of subsection (4) above, or is varied or revoked under subsection (6) or (8) above, that fact does not affect the continued operation of subsection (5) above by virtue of that certificate in a case in which before that time—
  - (a) plans of the proposed work were, in accordance with building regulations, deposited with a local authority,<sup>F15</sup>...
  - <sup>F15</sup>(b) .....

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(11) For the purposes of subsection (3) above, or of any variation of a certificate under subsection (6) above, a class of case may be framed in any way that the Secretary of State thinks fit.

(12) In this section, " building matter " has the same meaning as in section 11 above.

**Textual Amendments**

**F15** S. 12(10)(b) and word repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), Sch. 1 Pt. 13](#)

**Commencement Information**

**I1** S. 12 in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

**13 Delegation of power to approve.**

(1) The Secretary of State may by building regulations delegate to a person or body, to such extent and subject to such conditions as the Secretary of State may think fit, the powers of approval conferred on him by section 12 above.

(2) So far as those powers are for the time being so delegated to a person or body, section 12 above, except subsection (7) as far as the end of paragraph (a), and any building regulations made by virtue of subsection (7) shall (subject to any prescribed conditions) have effect in relation to that person or body with the substitution of references to that person or body for references to the Secretary of State.

**Commencement Information**

**I2** S. 13 in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

*Consultation*

**14 Consultation with Building Regulations Advisory Committee and other bodies.**

(1) The Secretary of State for the time being charged with the exercise of the power to make building regulations and the Secretary of State for Wales acting jointly shall appoint a committee, to be known as the Building Regulations Advisory Committee, for the purpose of advising the Secretary of State on the exercise of his power to make building regulations, and on other subjects connected with building regulations.

(2) The Secretary of State may pay such expenses incurred by members of the Building Regulations Advisory Committee as he may, with the approval of the Treasury, determine.

(3) Before making any building regulations containing substantive requirements, the Secretary of State shall consult the Building Regulations Advisory Committee and such other bodies as appear to him to be representative of the interests concerned.

<sup>F16</sup>(4) Before making any building regulations containing provision of the kind authorised by paragraph 11(1)(c) of Schedule 1 to this Act, the Secretary of State shall consult—  
 (a) the Building Regulations Advisory Committee,

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- (b) such persons or bodies as appear to him to be representative of local authorities, and
- (c) such other bodies as appear to him to be representative of the interests concerned.]

#### Textual Amendments

**F16** S. 14(4) inserted (3.11.1994) by 1994 c. 40, s. 32(2)

### 15 Consultation with fire authority.

- (1) Where, in the case of a requirement as to—
  - (a) structural fire precautions,
  - (b) the provision of means of escape from buildings in case of fire, or
  - (c) the provision of means for securing that such means of escape can be safely and effectively used at all material times,

contained in building regulations, the power to dispense with or relax that requirement conferred by section 8(1) above is by virtue of section 8(2) above exercisable by a local authority, or a public body proposes to exercise the power conferred on it by section 8(4) above, the local authority or public body, if they are not the [<sup>F17</sup>fire and rescue authority], shall before exercising the power in relation to any premises or proposed premises consult the [<sup>F17</sup>fire and rescue authority].

- (2) In subsection (1) above, “public body” has the meaning given by section 8(5) above.

#### Textual Amendments

**F17** Words in s. 15(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, Sch. 1 para. 57(2)(3)(a); [S.I. 2004/2304](#), art. 2; [S.I. 2004/2917](#), art. 2

### *Passing of plans*

### 16 Passing or rejection of plans.

- (1) Where plans of any proposed work are, in accordance with building regulations, deposited with a local authority, it is the duty of the local authority, subject to any other section of this Act that expressly requires or authorises them in certain cases to reject plans, to pass the plans unless—
  - (a) they are defective, or
  - (b) they show that the proposed work would contravene any of the building regulations.
- (2) If the plans—
  - (a) are defective, or
  - (b) show that the proposed work would contravene any of the building regulations,the local authority may—
  - (i) reject the plans, or

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- (ii) subject to subsection (4) below, pass them subject to either or both of the conditions set out in subsection (3) below.
- (3) The conditions mentioned in subsection (2) above are—
  - (a) that such modifications as the local authority may specify shall be made in the deposited plans, and
  - (b) that such further plans as they may specify shall be deposited.
- (4) A local authority may only pass plans subject to a condition such as is specified in subsection (3) above if the person by whom or on whose behalf they were deposited—
  - (a) has requested them to do so, or
  - (b) has consented to their doing so.
- (5) A request or consent under subsection (4) above shall be in writing.
- (6) The authority shall within the relevant period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether they have been passed or rejected.
- (7) A notice that plans have been rejected shall specify the defects on account of which, or the regulation or section of this Act for non-conformity with which, or under the authority of which, they have been rejected.
- (8) A notice that plans have been passed shall—
  - (a) specify any condition subject to which they have been passed, and
  - (b) state that the passing of the plans operates as an approval of them only for the purposes of the requirements of—
    - (i) the building regulations, and
    - (ii) any section of this Act (other than this section) that expressly requires or authorises the local authority in certain cases to reject plans.
- (9) Where the deposited plans are accompanied by—
  - (a) a certificate given by a person approved for the purposes of this subsection to the effect that the proposed work, if carried out in accordance with the deposited plans, will comply with such provisions of the regulations prescribed for the purposes of this subsection as may be specified in the certificate, and
  - (b) such evidence as may be prescribed that an approved scheme applies, or the prescribed insurance cover has been or will be provided, in relation to the certificate,the local authority may not, except in prescribed circumstances, reject the plans on the ground that—
  - (i) they are defective with respect to any provisions of the building regulations that are so specified, or
  - (ii) they show that the proposed work would contravene any of those provisions.
- (10) In any case where a question arises under this section between a local authority and a person who proposes to carry out any work—
  - (a) whether plans of the proposed work are in conformity with building regulations, or
  - (b) whether the local authority are prohibited from rejecting plans of the proposed work by virtue of subsection (9) above,

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that person may refer the question to the Secretary of State for his determination; and an application for a reference under this subsection shall be accompanied by such fee as may be prescribed.

(11) Where—

- (a) deposited plans accompanied by such a certificate and such evidence as are mentioned in subsection (9) above are passed by the local authority, or
- (b) notice of the rejection of deposited plans so accompanied is not given within the relevant period from the deposit of the plans,

the authority may not institute proceedings under section 35 below for a contravention of building regulations that—

- (i) arises out of the carrying out of the proposed work in accordance with the plans, and
- (ii) is a contravention of any of the provisions of the regulations specified in the certificate.

(12) For the purposes of this Part of this Act, “the relevant period”, in relation to the passing or rejection of plans, means five weeks or such extended period (expiring not later than two months from the deposit of the plans) as may before the expiration of the five weeks be agreed in writing between the person depositing the plans and the local authority.

<sup>F18</sup>(13) . . . . .

**Textual Amendments**

**F18** S. 16(13) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group 1.

**Modifications etc. (not altering text)**

**C12** S. 16 excluded (21.7.1994) by 1994 c.xv, s. **58(9)**

**C13** S. 16 excluded (1.10.2010) by **The Building Regulations 2010 (S.I. 2010/2214)**, regs. 1, **13(4)** (with reg. 9)

**C14** S. 16 excluded (1.10.2010) by **The Building Regulations 2010 (S.I. 2010/2214)**, regs. 1, **18(7)** (with reg. 9)

**C15** S. 16(6)-(8) applied (with modifications) (21.7.1994) by 1994 c. xv, s. **58(10)**

**C16** S. 16(6)-(8) amended by **Midland Metro Act 1989 (c.xv)**, s. **45(10)**; and s. 16(6)-(8) extended (27.7.1993) by 1993 c. xv, s. **55(10)**

**17 Approval of persons to give certificates etc.**

(1) Building regulations may make provision for the approval of persons for the purposes of section 16(9) above—

- (a) by the Secretary of State, or
- (b) by a body (corporate or unincorporated) that, in accordance with the regulations is designated by the Secretary of State for the purpose,

and any such approval may limit the description of work, or the provisions of the regulations, in relation to which the person concerned is so approved.

(2) Any such designation as is referred to in paragraph (b) of subsection (1) above may limit the cases in which and the terms on which the body designated may approve a

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person and, in particular, may provide that any approval given by the body shall be limited as mentioned in that subsection.

(3) There shall be paid on an application for any such approval as is referred to in subsection (1) above—

- (a) where the application is made to the Secretary of State, such fee as may be prescribed,
- (b) where the application is made to a body designated by him as mentioned in that subsection, such fee as that body may determine.

(4) The Secretary of State may approve for the purposes of section 16(9)

above any scheme that appears to him to secure the provision of adequate insurance cover in relation to any certificate that is given under paragraph (a) of that subsection and is a certificate to which the scheme applies.

(5) Building regulations may prescribe, for the purposes of section 16(9)

above the insurance cover that is to be provided in relation to any certificate that is given under paragraph (a) of that subsection and is not a certificate to which an approved scheme applies and may, in particular, prescribe the form and content of policies of insurance.

(6) Building regulations may—

- (a) contain provision prescribing the period for which, subject to any provision made by virtue of paragraph (b) or (c) below, any such approval as is referred to in subsection (1) above continues in force,
- (b) contain provision precluding the giving of, or requiring the withdrawal of, any such approval as is referred to in subsection (1) above in such circumstances as may be prescribed,
- (c) contain provision authorising the withdrawal of any such approval or designation as is referred to in subsection (1) above,
- (d) provide for the maintenance by the Secretary of State of a list of bodies that are for the time being designated by him as mentioned in subsection (1) above and for the maintenance by the Secretary of State and by each designated body of a list of persons for the being time approved by him or them as mentioned in that subsection,
- (e) make provision for the supply to local authorities of copies of any list of approved persons maintained by virtue of paragraph (d) above and for such copy lists to be made available for inspection, and
- (f) make provision for the supply, on payment of a prescribed fee, of a certified copy of any entry in a list maintained by virtue of paragraph (d) above or in a copy list held by a local authority by virtue of paragraph (e) above.

(7) Unless the contrary is proved, in any proceedings (whether civil or criminal) a document that appears to the court to be a certified copy of an entry either in a list maintained as mentioned in subsection (6)(d) above or in a copy of such a list supplied as mentioned in subsection (6)(e) above—

- (a) is presumed to be a true copy if an entry in the current list is maintained, and
- (b) is evidence of the matters stated in it.



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### Textual Amendments

**F19** S. 18 repealed (1.4.2002) by S.I. 2001/3335, reg. 3(1) (with reg. 4)

## 19 Use of short-lived materials.

- (1) Where plans of a building are, in accordance with building regulations, deposited with a local authority, and the plans show that it is proposed to construct a building of materials to which this section applies, or to place or assemble on the site a building constructed of such materials, the authority may, notwithstanding that the plans conform with the regulations—
  - (a) reject the plans, or
  - (b) in passing the plans—
    - (i) fix a period on the expiration of which the building must be removed, and
    - (ii) impose with respect to the use of the building such reasonable conditions, if any, as having regard to the nature of the materials used in its construction they deem appropriate,but no condition shall be imposed that conflicts with any condition imposed on the grant of planning permission for that building under Part III of [<sup>F20</sup>the Town and Country Planning Act 1990].
- (2) If a building in respect of which plans ought under the building regulations to have been deposited, but have not been deposited, appears to the authority to be constructed of such materials as aforesaid, the authority, without prejudice to their right to take proceedings in respect of any contravention of the regulations, may—
  - (a) fix a period on the expiration of which the building must be removed, and
  - (b) if they think fit, impose such conditions with respect to the use of the building as might have been imposed under subsection (1) above upon the passing of plans for the building.and where they fix such a period they shall forthwith give notice thereof, and of any conditions imposed, to the owner of the building.
- (3) A local authority may from time to time extend any period fixed, or vary any conditions imposed, under this section; but, unless an application in that behalf is made to them by the owner of the building in question, they shall not exercise their power of varying conditions except when granting an extension, or further extension, of the period fixed with respect to the building.
- (4) A person aggrieved by the action of a local authority under this section in rejecting plans, or in fixing or refusing to extend any period, or in imposing or refusing to vary any conditions, may appeal to a magistrates' court.
- (5) The owner of a building in respect of which a period has been fixed under this section shall, on the expiration of that period, or, as the case may be, of that period as extended, remove the building, and, if he fails to do so—
  - (a) the local authority shall remove it and may recover from him the expenses reasonably incurred by them in so doing, and
  - (b) without prejudice to the right of the authority to exercise that power, he is liable on summary conviction to a fine not exceeding level 1 on the standard

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scale and to a further fine not exceeding £5 for each day during which the building is allowed to remain after he is convicted.

- (6) A person who uses a building in contravention of a condition imposed under this section, or who permits a building to be so used, is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £5 for each day on which the offence continues after he is convicted.
- (7) Building regulations may provide that this section applies to any materials specified in the regulations as being materials that are, in the absence of special care, liable to rapid deterioration, or are otherwise unsuitable for use in the construction of permanent buildings.
- (8) This section applies in relation to an extension of an existing building as it applies in relation to a new building.
- (9) This section ceases to have effect upon the coming into force of section 20 below (which supersedes it).

#### Textual Amendments

**F20** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 67\(1\)](#)

PROSPECTIVE

## 20 Use of materials unsuitable for permanent building.

- (1) <sup>F21</sup>Where plans of any proposed work are, in accordance with building regulations, deposited with a local authority, and the plans show<sup>F21</sup>Where an application for building control approval in respect of any proposed work is made to a building control authority, and it appears] that the proposed work would include or consist of work to which this section applies, the authority may, notwithstanding that the <sup>F22</sup>plans conform<sup>F22</sup>application conforms] with the regulations—
  - (a) reject <sup>F23</sup>the plans<sup>F23</sup>the application], or
  - (b) in <sup>F24</sup>passing the plans<sup>F24</sup>granting the application] —
    - (i) fix a period on the expiration of which the work to which this section applies or the relevant building (as the authority may in <sup>F24</sup>passing the plans<sup>F24</sup>granting the application] direct) must be removed, and
    - (ii) if they think fit, impose with respect to the use of the relevant building or with respect to the work to which this section applies such reasonable conditions, if any, as they consider appropriate,

but no condition as to the use of the relevant building shall be imposed that conflicts with any condition imposed or having effect as if imposed under <sup>F25</sup>Part III or Part VIII of the Town and Country Planning Act 1990 or under the Planning (Listed Buildings and Conservation Areas) Act 1990 or the Planning (Hazardous Substances) Act 1990].
- (2) If, in the case of any work in respect of which <sup>F26</sup>plans ought by virtue of building regulations to have been deposited with a local authority but have not been so deposited<sup>F26</sup>an application for building control approval ought to have been made but was not made], the work appears to the authority to include or consist of work to which

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this section applies, the authority, without prejudice to their right to take proceedings in respect of any contravention of the regulations, may—

- (a) fix a period on the expiration of which the work to which this section applies or the relevant building (as the authority may in fixing the period direct) must be removed, and
- (b) if they think fit, impose any conditions that might have been imposed under subsection (1) above in <sup>F27</sup>passing plans<sup>F27</sup> granting the application] for the first-mentioned work,

and where they fix such a period they shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.

- (3) If, in the case of any work appearing to the <sup>F28</sup>building control authority] to fall within subsection (9)(b) below, <sup>F29</sup>plans of the work were not required by building regulations to be deposited with the authority, and were not so deposited<sup>F29</sup>an application for building control approval was not required by building regulations to be made and was not made], the authority may at any time within 12 months from the date of completion of the work—

- (a) fix a period on the expiration of which the work must be removed, and
- (b) if they think fit, impose any conditions that, <sup>F30</sup>if plans of the work had been required to be, and had been, so deposited, might have been imposed under subsection (1) above in passing the plans,<sup>F30</sup>if an application for building control approval in respect of the work had been required to be made and had been made, might have been imposed under subsection (1) in granting the application,]

and where they fix such a period they shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.

- (4) A <sup>F28</sup>building control authority] may from time to time extend any period fixed, or vary any conditions imposed, under this section, but, unless an application in that behalf is made to them by the owner of the relevant building, they shall not exercise their power of varying conditions so imposed except when granting an extension or further extension of the period fixed with respect to the work or building, as the case may be.

- (5) A person aggrieved by the action of a <sup>F28</sup>building control authority] under this section—

- (a) in rejecting <sup>F31</sup>plans<sup>F31</sup>an application],
- (b) in fixing or refusing to extend any period, or
- (c) in imposing or refusing to vary any conditions,

may appeal <sup>F32</sup>....

<sup>F33</sup>(5A) The appeal is to be made to—

- (a) the regulator, in the case of action by a local authority for an area in England;
- (b) the tribunal, in the case of action by the regulator;
- (c) the Welsh Ministers, in the case of action by a local authority for an area in Wales.]

- (6) Where a period has been fixed under this section with respect to any work to which this section applies or with respect to the relevant building—

- (a) the owner of that building shall on the expiration of that period, or, as the case may be, of that period as extended, remove the work or building with respect to which the period was fixed, and

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- (b) if he fails to do so, the [<sup>F28</sup>building control authority] may remove that work or building, as the case may be, and may recover from him the expenses reasonably incurred by them in doing so.
- (7) A person who—
- (a) contravenes a condition imposed under this section or permits such a condition to be contravened, or
  - (b) contravenes subsection (6) above,
- is liable on summary conviction to a fine <sup>F34</sup>... and to a further fine not exceeding [<sup>F35</sup>level 1 on the standard scale] for each day on which the offence continues or, as the case may be, on which the work or building is allowed to remain after he is convicted; but this subsection does not prejudice a local authority’s rights under subsection (6) above.
- (8) In this section, “the relevant building” means, in any particular case, the building mentioned in paragraph (a) or, as the case may be, paragraph (b) of subsection (9) below.
- (9) This section applies to—
- (a) any work consisting of a part of a building, being a part in the construction of which there is used any material or component of a type that, in relation to a part of that description, is prescribed for the purposes of this paragraph under subsection (10) below, and
  - (b) any work provided in or in connection with a building, being work consisting of a service, fitting or item of equipment of a type so prescribed for the purposes of this paragraph.
- (10) The [<sup>F36</sup>appropriate national authority] may by building regulations—
- (a) prescribe a type of material or component for the purposes of subsection (9) (a) above if in [<sup>F37</sup>its] opinion materials or components of that type are likely to be unsuitable for use in the construction of a particular part of a permanent building in the absence of conditions with respect to the use of the building or with respect to any material or component of that type used in the construction of a part of that description,
  - (b) prescribe a type of service, fitting or equipment for the purposes of subsection (9)(b) above if in [<sup>F37</sup>its] opinion services, fittings or equipment of that type are likely to be unsuitable for provision in or in connection with a permanent building in the absence of conditions with respect to the use of the building or with respect to a service, fitting or equipment of that type so provided.
- (11) Upon section 19 above ceasing to have effect—
- (a) any building regulations made, period fixed, condition imposed or other thing done by virtue of the said section 19 shall be deemed to have been made, fixed, imposed or done by virtue of this section, and
  - (b) anything begun under the said section 19 may be continued under this Act as if begun under this section, but any appeal under section 19(4) that is pending at the time when the said section 19 ceases to have effect, and any proceedings arising out of such an appeal, shall proceed as if that section were still in force.

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### Textual Amendments

- F21** Words in s. 20(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(3\)\(a\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F22** Words in s. 20(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(3\)\(b\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F23** Words in s. 20(1)(a) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(3\)\(c\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F24** Words in s. 20(1)(b) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(3\)\(d\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F25** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 67\(2\)](#)
- F26** Words in s. 20(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(4\)\(a\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F27** Words in s. 20(2)(b) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(4\)\(b\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F28** Words in s. 20 substituted in part (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(2\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 4)
- F29** Words in s. 20(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(5\)\(a\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F30** Words in s. 20(3)(b) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(5\)\(b\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F31** Words in s. 20(5)(a) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(6\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F32** Words in s. 20(5) omitted (1.10.2023 except in relation to W., 6.4.2024 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 3\(2\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6); S.I. 2024/207, reg. 2(d)(xii) (with regs. 3, 4, 8-12)
- F33** S. 20(5A) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 3\(3\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F34** Words in s. 20(7) omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(7\)\(a\)](#); S.I. 2023/993, reg. 2(n)(x)
- F35** Words in s. 20(7) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(7\)\(b\)](#); S.I. 2023/993, reg. 2(n)(x)
- F36** Words in s. 20(10) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(8\)\(a\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 23; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 15
- F37** Word in s. 20(10) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(8\)\(b\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 23; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 15

## 21 Provision of drainage.

<sup>F38</sup>(1) .....

<sup>F38</sup>(2) .....

- (3) Any question arising under subsection [<sup>F39</sup>(4) below] between a local authority and the person by whom, or on whose behalf, plans are deposited as to [<sup>F40</sup>whether a proposed drain shall be required to connect with a sewer] may on the application of that person be determined by a magistrates' court.

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- (4) [<sup>F41</sup>Where plans of a building or of an extension of a building are, in accordance with building regulations, deposited with a local authority, the local authority, or on appeal a magistrates' court, may require a proposed drain to connect with a sewer where]—
- (a) that sewer is within one hundred feet of the site of the building or, in the case of an extension, the site either of the extension or of the original building, and is at a level that makes it reasonably practicable to construct a drain to communicate with it, and, if it is not a public sewer, is a sewer that the person constructing the drain is entitled to use, and
  - (b) the intervening land is land through which that person is entitled to construct a drain.
- (5) Notwithstanding paragraph (a) of subsection (4) above, a drain may be required to be made to connect with a sewer that is not within the distance mentioned in that paragraph, but is otherwise such a sewer as is therein mentioned, if the authority undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, the drain as may be attributable to the fact that the distance of the sewer exceeds the distance so mentioned.
- (6) If any question arises as to the amount of a payment to be made to a person under subsection (5) above, that question may on his application be determined by a magistrates' court, or he may require it to be referred to arbitration.

#### Textual Amendments

- F38** S. 21(1)(2) repealed (1.4.2002) by [S.I. 2001/3335](#), [reg. 3\(1\)](#) (with [reg. 4](#))
- F39** Words in s. 21(3) substituted (1.4.2002) by [S.I. 2001/3335](#), [reg. 3\(2\)\(a\)](#) (with [reg. 4](#))
- F40** S. 21(3)(a)(b) substituted for words (1.4.2002) by [S.I. 2001/3335](#), [reg. 3\(2\)\(b\)](#) (with [reg. 4](#))
- F41** Words in s. 21(4) substituted (1.4.2002) by [S.I. 2001/3335](#), [reg. 3\(3\)](#) (with [reg. 4](#))

#### Modifications etc. (not altering text)

- C17** Ss. 21, 22, 23 extended by [S.I. 1987/798](#), [regs. 2\(1\), 4](#)

## 22 Drainage of buildings in combination.

- (1) Where—
- (a) a local authority might under section 21 above require each of two or more buildings to be drained separately into an existing sewer, but
  - (b) it appears to the authority that those buildings may be drained more economically or advantageously in combination,
- the authority may, when the drains of the buildings are first laid, require that the buildings be drained in combination into the existing sewer by means of a private sewer to be constructed either by the owners of the buildings in such manner as the authority may direct or, if the authority so elect, by the authority on behalf of the owners.
- (2) A local authority shall not, except by agreement with the owners concerned, exercise the power conferred by subsection (1) above in respect of any building for whose drainage plans have been previously passed by them.
- (3) A local authority who make such a requirement as aforesaid shall fix—

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- (a) the proportions in which the expenses of constructing, and of maintaining and repairing, the private sewer are to be borne by the owners concerned, or
  - (b) in a case in which the distance of the existing sewer from the site of any of the buildings in question is or exceeds one hundred feet, the proportions in which those expenses are to be borne by the owners concerned and the local authority,
- and shall forthwith give notice of their decision to each owner affected.
- (4) An owner aggrieved by the decision of a local authority under subsection (3) above may appeal to a magistrates' court.
- (5) Subject to any such appeal—
- (a) any expenses reasonably incurred in constructing, or in maintaining or repairing, the private sewer shall be borne in the proportions so fixed, and
  - (b) those expenses, or, as the case may be, contributions to them, may be recovered accordingly by the persons, whether the local authority or the owners, by whom they were incurred in the first instance.
- (6) A sewer constructed by a local authority under this section is not deemed a public sewer by reason of the fact that the expenses of its construction are in the first instance defrayed by the authority, or that some part of those expenses is borne by them.

**Modifications etc. (not altering text)**

C18 Ss. 21, 22, 23 extended by [S.I. 1987/798, regs. 2\(1\), 4](#)

**23 Provision of facilities for refuse.**

<sup>F42</sup>(1) . . . . .

<sup>F42</sup>(2) . . . . .

- (3) It is unlawful for any person except with the consent of the local authority to close or obstruct the means of access by which refuse or faecal matter is removed from a building, and the local authority in giving their consent may impose such conditions as they think fit with respect to the improvement of an alternative means of access or the substitution of other means of access.
- (4) A person who contravenes subsection (3) above is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Textual Amendments**

F42 S. 23(1)(2) repealed by [S.I. 1985/1065, reg. 18](#)

**Modifications etc. (not altering text)**

C19 Ss. 21, 22, 23 extended by [S.I. 1987/798, regs. 2\(1\), 4](#)

**24 Provision of exits etc.**

- (1) Where—

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- (a) plans of a building or of an extension of a building are, in accordance with building regulations, deposited with a local authority, and
- (b) the building or, as the case may be, the building as extended will be a building to which this section applies,

the authority shall reject the plans unless they show that the building, or, as the case may be, the building as extended, will be provided with such means of ingress and egress and passages or gangways as the authority, after consultation with the [<sup>F43</sup>fire and rescue authority], deem satisfactory, regard being had to the purposes for which the building is intended to be, or is, used and the number of persons likely to resort to it at any one time.

- (2) Any question arising under subsection (1) above between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the means of ingress or egress or passages or gangways already existing, or proposed to be provided, ought to be accepted by the authority as satisfactory may on the application of that person be determined by a magistrates' court.
- (3) Where building regulations imposing requirements as to the provision of means of escape in case of fire are applicable to a proposed building or proposed extension of a building, or would be so applicable but for a direction under section 8 above dispensing with such requirements—
  - (a) this section, and
  - (b) any provision of a local Act that has effect in place of this section, does not apply in relation to the proposed building or extension.
- (4) Subject to subsection (3) above, this section applies to—
  - (a) a theatre, and a hall or other building that is used as a place of public resort,
  - (b) a restaurant, shop, store or warehouse to which members of the public are admitted and in which more than twenty persons are employed,
  - [<sup>F44</sup>(c) premises in respect of which a club premises certificate has effect under the Licensing Act 2003,]
  - (d) a school not exempted from the operation of building regulations, and
  - (e) a church, chapel or other place of public worship

but not—

- (i) a private house to which members of the public are admitted occasionally or exceptionally,
- (ii) a building that was used as a church, chapel or other place of public worship immediately before the date on which section 36 of the <sup>M2</sup>Public Health Acts Amendment Act 1890, or a corresponding provision in a local Act, came into operation in the district or rating district, or
- (iii) a building that was so used immediately before the 1st October 1937 (the date of commencement of the <sup>M3</sup>Public Health Act 1936) in a district or rating district where neither the said section 36 nor such a corresponding provision ever came into operation.

#### Textual Amendments

**F43** Words in s. 24(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 57\(2\)\(3\)\(b\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art 2



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**F44** S. 24(4)(c) substituted (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), **Sch. 6 para. 91** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)

**Modifications etc. (not altering text)**

**C20** S. 24 excluded by Fire Safety and Safety of Places of Sport Act 1987 (c. 27, SIF 45A), **ss. 26(1), 33(1)** (d)

**Marginal Citations**

**M2** 1890 c. 59.

**M3** 1936 c. 49.

## 25 Provision of water supply.

- (1) Where plans of a house are, in accordance with building regulations, deposited with a local authority, the authority shall reject the plans unless a proposal is put before them that appears to them to be satisfactory for providing the occupants of the house with a supply of wholesome water sufficient for their domestic purposes—
  - (a) by connecting the house to a supply of water in pipes provided by . . . <sup>F45</sup> water undertakers,
  - (b) if in all the circumstances it is not reasonable to require the house to be connected as aforesaid, by otherwise taking water into the house by means of a pipe, or
  - (c) if in all the circumstances neither of the preceding alternatives can reasonably be required, by providing a supply of water within a reasonable distance of the house,and the authority are satisfied that the proposal can and will be carried into effect.
- (2) Any question arising under subsection (1) above between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the local authority ought to pass the plans may on the application of that person be determined by a magistrates' court.
- (3) If, after any such plans as aforesaid have been passed, it appears to the local authority that the proposal for providing a supply of water—
  - (a) has not been carried into effect, or
  - (b) has not resulted in a supply of wholesome water sufficient for the domestic purposes of the occupants,the authority shall give notice to the owner of the house prohibiting him from occupying it, or permitting it to be occupied, until the authority, being satisfied that such a supply has been provided, have granted him a certificate to that effect.
- (4) Until a certificate is granted under subsection (3) above, the owner shall not occupy the house or permit it to be occupied.
- (5) A person aggrieved by the refusal of the authority to grant such a certificate may apply to a magistrates' court for an order authorising the occupation of the house, and, if the court is of opinion that a certificate ought to have been granted, the court may make an order authorising the occupation of the house, and such an order shall have the like effect as a certificate of the local authority.

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(6) A person who contravenes subsection (4) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £2 for each day on which the offence continues after he is convicted.

[<sup>F46</sup>(7) [<sup>F47</sup>Section 67 of the Water Industry Act 1991] (standards of wholesomeness of water) and any regulations made under that section shall apply for the purposes of subsection (1) above as they apply for the purposes of [<sup>F48</sup>Chapter III of Part III] of that Act.]

**Textual Amendments**  
**F45** Word repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. 1**  
**F46** S. 25(7) inserted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**  
**F47** Words in s. 25(7) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(3)(a)**  
**F48** Words in s. 25(7) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(3)(b)**.

**26–29** ..... <sup>F49</sup>

**Textual Amendments**  
**F49** Ss. 26–29 repealed by S.I. 1985/1065, **reg. 18**

*Determination of questions*

**30** ..... <sup>F50</sup>

**Textual Amendments**  
**F50** S. 30 repealed by S.I. 1985/1603, **art. 3**

*Proposed departure from plans*

**31 Proposed departure from plans.**

(1) Where plans of any proposed work have been passed under section 16 above by a local authority, the person by or on whose behalf the plans were in accordance with building regulations deposited with the authority may, and in such cases as may be prescribed shall, for the purpose of obtaining the approval of the authority to any proposed departure or deviation from the plans as passed, deposit plans of the departure or deviation.

(2) Section 16 above applies in relation to plans deposited under subsection (1) above as it applies in relation to the plans originally deposited.

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### Commencement Information

**I3** S. 31 in force at 1.12.1984 for specified purposes, see s. 134(1)(a)

### *Lapse of deposit of plans*

## **32 Lapse of deposit of plans.**

- (1) Where plans of any proposed work have, in accordance with building regulations, been deposited with a local authority, and—
- (a) the plans have been passed by the authority, or
  - (b) notice of rejection of the plans has not been given within the relevant period from their deposit,

and the work to which the plans relate has not been commenced within three years from the deposit of the plans, the local authority may, at any time before the work is commenced, by notice to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the land to which the plans relate, declare that the deposit of the plans is of no effect.

- (2) Where a notice has been given under subsection (1) above, this Act and the building regulations shall, as respects the proposed work, have effect as if no plans had been deposited.

VALID FROM 01/10/2023

### *Tests for conformity with building regulations*

## **33 Tests for conformity with building regulations.**

- (1) The following subsection has effect for the purpose of enabling a local authority to ascertain, as regards any work or proposed work to which building regulations for the enforcement of which they are responsible are applicable, whether any provision of building regulations is or would be contravened by, or by anything done or proposed to be done in connected with, that work.
- (2) The local authority have power for that purpose—
- (a) to require a person by whom or on whose behalf the work was, is being or is proposed to be done to carry out such reasonable tests of or in connection with the work as may be specified in the requirement, or
  - (b) themselves to carry out any reasonable tests of or in connection with the work, and to take any samples necessary to enable them to carry out such a test.
- (3) Without prejudice to the generality of subsection (2) above, the matters with respect to which tests may be required or carried out under that subsection include—
- (a) tests of the soil or subsoil of the site of a building,
  - (b) tests of any material, component or combination of components that has been, is being or is proposed to be used in the construction of a building,

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and tests of any service, fitting or equipment that has been, is being or is proposed to be provided in or in connection with a building.

(4) A local authority have power, for the purpose of ascertaining whether there is or has been, in the case of a building, a contravention of a continuing requirement that applies in relation to that building—

- (a) to require the owner or occupier of the building to carry out such reasonable tests as may be specified in the requirement under this paragraph, or
- (b) themselves to carry out any tests that they have power to require under paragraph (a) above, and to take any samples necessary to enable them to carry out such a test;

and in this subsection “continuing requirement” means a continuing requirement imposed by building regulations made by virtue of section 2(1) or (2) [<sup>F51</sup>or 2A] above.

(5) The expense of carrying out any tests that a person is required to carry out under this section shall be met by that person, except that the local authority, on an application made to them, may, if they think it reasonable to do so, direct that the expense of carrying out any such tests, or such part of that expense as may be specified in the direction, shall be met by the local authority.

(6) Any question arising under this section between a local authority and a person as to the reasonableness of—

- (a) a test specified in a requirement imposed on him by the authority under this section,
- (b) a refusal by the authority to give a direction under subsection (5) above on an application made by him, or
- (c) a direction under that subsection given on such an application,

may on the application of that person be determined by a magistrates’ court; and in a case falling within paragraph (b) or (c) above the court may order the expense to which the application relates to be met by the local authority to such extent as the court thinks just.

#### **Textual Amendments**

**F51** Words in s. 33(4) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), **ss. 4(2), 11(4)**

### *Classification of buildings*

#### **34 Classification of buildings.**

For the purposes of building regulations and of a direction given or instrument made with reference to building regulations, buildings may be classified by reference to size, description, design, purpose, location or any other characteristic whatsoever.

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### Breach of building regulations

#### 35 Penalty for contravening building regulations.

If a person contravenes any provision contained in building regulations, other than a provision designated in the regulations as one to which this section does not apply, he is liable on summary conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £50 for each day on which the default continues after he is convicted.

#### Modifications etc. (not altering text)

**C21** S. 35 excluded (1.4.2010) by [The Building \(Local Authority Charges\) Regulations 2010 \(S.I. 2010/404\)](#), regs. 1, **13**

#### [<sup>F52</sup>35A Time limit for prosecution for contravention of <sup>F53</sup>... building regulations

(1) Despite anything in section 127(1) of the Magistrates' Courts Act 1980 (c. 43), an information relating to [<sup>F54</sup>an offence under section 35 above] may be tried by a magistrates' court if it is laid at any time—

- (a) within the period of two years beginning with the day on which the offence was committed, and
- (b) within the period of six months beginning with the relevant date.

<sup>F55</sup>(2) .....

<sup>F56</sup>(3) .....

(4) In subsection (1)(b) above, “ the relevant date ” means the date on which evidence sufficient to justify the proceedings comes to the knowledge of the person commencing the proceedings.

(5) In the case of proceedings commenced by a local authority—

- (a) evidence is to be regarded for the purposes of subsection (4) above as sufficient to justify the proceedings if in the opinion of the proper officer or an authorised officer it is sufficient to justify the proceedings, and
- (b) a certificate of the proper officer or, as the case may be, that authorised officer as to the date on which evidence which, in his opinion, was sufficient to justify the proceedings came to the knowledge of the person commencing the proceedings is to be conclusive evidence of that fact.

<sup>F57</sup>(6) ..... ]

#### Textual Amendments

- F52** S. 35A inserted (21.8.2006) by [Climate Change and Sustainable Energy Act 2006 \(c. 19\)](#), ss. **13(1)**, **28(1)**
- F53** Word in s. 35A repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. **317(2)(5)**, **325(1)**, **Sch. 16**; S.I. 2008/2358, art. 4(a)
- F54** Words in s. 35A(1) substituted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. **317(3)(5)**, **325(1)**; S.I. 2008/2358, art. 4(a)

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- F55** S. 35A(2) repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 317(4)(5), 325(1), [Sch. 16](#); S.I. 2008/2358, art. 4(a)
- F56** S. 35A(3) repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 317(4)(5), 325(1), [Sch. 16](#); S.I. 2008/2358, art. 4(a)
- F57** S. 35A(6) repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 317(4)(5), 325(1), [Sch. 16](#); S.I. 2008/2358, art. 4(a)

### **36 Removal or alteration of offending work.**

- (1) If any work to which building regulations are applicable contravenes any of those regulations, the local authority, without prejudice to their right to take proceedings for a fine in respect of the contravention, may by notice require the owner—
  - (a) to pull down or remove the work, or
  - (b) if he so elects, to effect such alterations in it as may be necessary to make it comply with the regulations.
  
- (2) If, in a case where the local authority are, by any section of this Part of this Act other than section 16, expressly required or authorised to reject plans, any work to which building regulations are applicable is executed—
  - (a) without plans having been deposited,
  - (b) notwithstanding the rejection of the plans, or
  - (c) otherwise than in accordance with any requirements subject to which the authority passed the plans,

the authority may by notice to the owner—

  - (i) require him to pull down or remove the work, or
  - (ii) require him either to pull down or remove the work or, if he so elects, to comply with any other requirements specified in the notice, being requirements that they might have made under the section in question as a condition of passing plans.
  
- (3) If a person to whom a notice has been given under subsection (1) or (2) above fails to comply with the notice before the expiration of 28 days, or such longer period as a magistrates' court may on his application allow, the local authority may—
  - (a) pull down or remove the work in question, or
  - (b) effect such alterations in it as they deem necessary,

and may recover from him the expenses reasonably incurred by them in doing so.
  
- (4) A notice under subsection (1) or (2) above (called a “section 36 notice”) shall not be given after the expiration of 12 months from the date of the completion of the work in question.
  
- (5) A section 36 notice shall not be given, in a case where plans were deposited and the work was shown on them, on the ground that the work contravenes any building regulations or, as the case may be, does not comply with the authority's requirements under any section of this Act other than section 16, if—
  - (a) the plans were passed by the authority, or
  - (b) notice of their rejection was not given within the relevant period from their deposit,

and if the work has been executed in accordance with the plans and of any requirement made by the local authority as a condition of passing the plans.

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- (6) This section does not affect the right of a local authority, the Attorney General or any other person to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any regulation or any provision of this Act; but if—
- (a) the work is one in respect of which plans were deposited,
  - (b) the plans were passed by the local authority, or notice of their rejection was not given within the relevant period from their deposit, and
  - (c) the work has been executed in accordance with the plans,
- the court on granting an injunction has power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall in accordance with rules of court cause the local authority, if not a party to the proceedings, to be joined as a party to them.

**Modifications etc. (not altering text)**

**C22** S. 36(2)–(6) amended by [Midland Metro Act 1989 \(c. xv\), s. 45\(10\)](#)s. 36(2)–(6) extended (27.7.1993) by [1993 c. xv, s. 55\(10\)](#).S. 36(2)–(6) applied with modifications (21.7.1994) by [1994 c. XV, s. 58\(10\)](#)

**37 Obtaining of report where section 36 notice given.**

- (1) In a case where—
- (a) a person to whom a section 36 notice has been given gives to the local authority by whom the notice was given notice of his intention to obtain from a suitably qualified person a written report concerning work to which the section 36 notice relates, and
  - (b) such a report is obtained and submitted to the local authority and, as a result of their consideration of it, the local authority withdraw the section 36 notice,
- the local authority may pay to the person to whom the section 36 notice was given such amount as appears to them to represent the expenses reasonably incurred by him in consequence of their having given him that notice including, in particular, his expenses in obtaining the report.
- (2) Subject to subsection (3) below, if a person to whom a section 36 notice has been given gives notice under subsection (1)(a) above, then, so far as regards the matters to which the section 36 notice relates, the reference to 28 days in section 36(3) above shall be construed as a reference to 70 days.
- (3) Notice under subsection (1)(a) above shall be given before the expiry of the period of 28 days referred to in section 36(3) above, or, as the case may be, within such longer period as a court allows under section 36(3); and, where such a longer period has been so allowed before notice is given under subsection (1)(a) above, subsection (2) above does not apply.

**38 Civil liability.**

- (1) Subject to this section—
- (a) breach of a duty imposed by building regulations, so far as it causes damage, is actionable, except in so far as the regulations provide otherwise, and
  - (b) as regards such a duty, building regulations may provide for a prescribed defence to be available in an action for breach of that duty brought by virtue of this subsection.

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- (2) Subsection (1) above, and any defence provided for in regulations made by virtue of it, do not apply in the case of a breach of such a duty in connection with a building erected before the date on which that subsection comes into force unless the regulations imposing the duty apply to or in connection with the building by virtue of section 2(2) [F58 or 2A] above or paragraph 8 of Schedule 1 to this Act.
- (3) This section does not affect the extent (if any) to which breach of—
- (a) a duty imposed by or arising in connection with this Part of this Act or any other enactment relating to building regulations, or
  - (b) a duty imposed by building regulations in a case to which subsection (1) above does not apply,
- is actionable, or prejudice a right of action that exists apart from the enactments relating to building regulations.
- (4) In this section, “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).

#### **Textual Amendments**

**F58** Words in s. 38(2) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), **ss. 4(3), 11(4)**

#### **Commencement Information**

**I4** S. 38 in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

### *Appeals in certain cases*

#### **39 Appeal against refusal etc. to relax building regulations.**

- (1) If a local authority refuse an application to dispense with or relax a requirement in building regulations that they have power to dispense with or relax, the applicant may by notice in writing appeal to the Secretary of State within one month from the date on which the local authority notify the applicant of their refusal.
- (2) If, within—
- (a) a period of two months beginning with the date of an application, or
  - (b) such extended period as may at any time be agreed in writing between the applicant and the local authority,
- the local authority do not notify the applicant of their decision on the application, subsection (1) above applies in relation to the application as if the local authority had refused the application and notified the applicant of their decision at the end of the said period.
- (3) The notice of appeal shall set out the grounds of appeal, and a copy of the notice of appeal shall be sent to the local authority.
- (4) The local authority, on receiving a copy of the notice of appeal, shall at once transmit to the Secretary of State a copy of the application and a copy of all the documents furnished by the applicant for the purposes of his application.



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- (5) The local authority shall at the same time give to the Secretary of State in writing any representations that they desire to make as regards the appeal, and shall send a copy to the appellant.
- (6) If the Secretary of State allows the appeal, he shall give such directions for dispensing with or relaxing building regulations as may be appropriate.

#### **40 Appeal against section 36 notice.**

- (1) A person aggrieved by the giving of a section 36 notice may appeal to a magistrates' court<sup>F59</sup> ....
- (2) Subject to subsection (3) below, on an appeal under this section the court shall—
  - (a) if it determines that the local authority were entitled to give the notice, confirm the notice, and
  - (b) in any other case, give the local authority a direction to withdraw the notice.
- (3) If, in a case where the appeal is against a notice under section 36(2) above, the court is satisfied that—
  - (a) the local authority were entitled to give the notice, but
  - (b) in all the circumstances of the case the purpose for which was enacted the section of this Act by virtue of which the notice was given has been substantially achieved,the court may give a direction under subsection (2)(b) above.
- (4) An appeal under this section shall be brought—
  - (a) within 28 days of the giving of the section 36 notice, or
  - (b) in a case where the person to whom the section 36 notice was given gives notice under section 37(1)(a) above, within 70 days of the giving of the section 36 notice.
- (5) Where an appeal is brought under this section—
  - (a) the section 36 notice is of no effect pending the final determination or withdrawal of the appeal, and
  - (b) section 36(3) above has effect in relation to that notice as if after the words “28 days” there were inserted the words “(beginning, in a case where an appeal is brought under section 40 below, on the date when the appeal is finally determined or, as the case may be, withdrawn)”.
- (6) If, on an appeal under this section, there is produced to the court a report that has been submitted to the local authority under section 37(1) above, the court, in making an order as to costs, may treat the expenses incurred in obtaining the report as expenses incurred for the purposes of the appeal.

#### **Textual Amendments**

**F59** Words in s. 40(1) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), Sch. 8 para. 279, [Sch. 10](#); [S.I. 2005/910](#), art. 3(y)

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#### **41 Appeal to Crown Court.**

- (1) Where a person—
- (a) is aggrieved by an order, determination or other decision of a magistrates' court under this Part of this Act, or under Part IV of this Act as it applies in relation to this Part, and
  - (b) is not by any other enactment authorised to appeal to the Crown Court.
- he may appeal to the Crown Court.
- (2) Subsection (1) above does not confer a right of appeal in a case in which each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by a magistrates' court.

#### **42 Appeal and statement of case to High Court in certain cases.**

- (1) Where the Secretary of State gives a decision in proceedings—
- (a) on an appeal under section 20 or 39 above,
  - (b) on a reference under section 16 above or 50 below, or
  - (c) on an application for a direction under section 8 above where the power of giving the direction is not exercisable by the local authority,
- the relevant person or the local authority or, as the case may be, the approved inspector may appeal to the High Court against the decision on a point of law.
- (2) In subsection (1) above, “the relevant person” means—
- (a) as regards an appeal under the said section 20 or 39, the appellant,
  - (b) as regards a reference under the said section 16 or 50, the person on whose application the reference was made,
  - (c) as regards such an application as is mentioned in subsection (1)(c) above, the applicant.
- (3) At any stage of the proceedings on such an appeal, reference or application as is mentioned in subsection (1) above—
- (a) the Secretary of State may state a question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court, and
  - (b) a decision of the High Court on a case so stated is deemed to be a judgment of the court within the meaning of section 16 of the <sup>M4</sup>[F60]Senior Courts Act 1981] (appeals from the High Court to the Court of Appeal).
- (4) In relation to proceedings in the High Court or the Court of Appeal brought by virtue of this section, the power to make rules of court includes power to make rules—
- (a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Secretary of State, and
  - (b) providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.
- (5) No appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.

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- (6) In this section, “decision” includes a direction, and references to the giving of a decision shall be construed accordingly.
- (7) Until such day as the Secretary of State may by order appoint, subsections (1) and (2) above have effect as if—
- (a) in subsection (1)(b), for “section 16 above or 50 below” there were substituted “section 30 above”,
  - (b) in subsection (1), the words “or, as the case may be, the approved inspector” were omitted, and
  - (c) in subsection (2)(b), for “section 16 or 50” there were substituted “section 30” and the words “(jointly with the local authority)” were inserted after  
“application”.

#### Textual Amendments

**F60** Words in s. 42(3)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

#### Commencement Information

**I5** S. 42(4)-(6) in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

#### Marginal Citations

**M4** [1981 c. 54.](#)

### 43 Procedure on appeal to Secretary of State on certain matters.

- (1) On an appeal to the Secretary of State under section 20 or 39 above, the Secretary of State may at his discretion afford to the appellant and the local authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (2) On determining such an appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination.
- (3) Without prejudice to paragraph 10(c) of Schedule 1 to this Act, building regulations may, in connection with such an appeal, include such supplementary provisions with respect to procedure as the Secretary of State thinks fit.

PROSPECTIVE

*Application of building regulations to Crown etc.*

### 44 Application to Crown.

- (1) Except in so far as buildings regulations provide otherwise, the substantive requirements of building regulations—
- (a) apply in relation to work carried out or proposed to be carried out by or on behalf of a Crown authority (whether or not in relation to a Crown building)

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- as they would apply if the person by or on behalf of whom the work was or is to be carried out were not a Crown authority, and
- (b) so far as they consist of continuing requirements, apply to Crown authorities (whether or not in relation to Crown buildings) as they apply to persons who are not Crown authorities.
- (2) In so far as building regulations so provide as regards any of the substantive requirements of building regulations, those requirements—
- (a) apply in relation to work carried out or proposed to be carried out as mentioned in subsection (1)(a) above in inner London, and
- (b) so far as they consist of continuing requirements, apply to Crown authorities there as mentioned in subsection (1)(b) above,
- even if those requirements do not apply there in the case of work carried out or proposed to be carried out otherwise than by or on behalf of a Crown authority or, in the case of continuing requirements, do not apply there to persons other than Crown authorities.
- (3) Except in so far as building regulations provide otherwise, building regulations and the enactments relating to building regulations—
- (a) apply in relation to work carried out or proposed to be carried out in relation to a Crown building otherwise than by or on behalf of a Crown authority, and, in the case of section 2 above and building regulations made by virtue of it, apply in relation to a Crown building to persons other than Crown authorities, as they would apply if the building were not a Crown building, and
- (b) apply in relation to work carried out or proposed to be carried out by or on behalf of a government department acting for a person other than a Crown authority as they would apply if the work had been or were to be carried out by that person.
- (4) Section 38 above and any building regulations made by virtue of subsection (1) of that section apply in relation to duties imposed by building regulations in their application in accordance with subsections (1) to (3) above.
- (5) Where—
- (a) work is carried out or proposed to be carried out by or on behalf of a Crown authority, or
- (b) a Crown authority is or (apart from any dispensation or relaxation) will be subject to continuing requirements,
- that authority may exercise the like powers of dispensing with or relaxing the substantive requirements of building regulations or, as the case may be, the continuing requirements in question as are conferred on the Secretary of State and local authorities by virtue of section 8 above (other than a power that by virtue of paragraph 6 of Schedule 1 to this Act is exercisable otherwise than by a local authority), subject to—
- (i) the like requirements as to consultation (if any) as apply by virtue of paragraph 3 of Schedule 1 to this Act in the case of a local authority (but not the requirements of the said section 8 as to consultation with the local authority), and
- (ii) the like requirements as in the case of the Secretary of State apply by virtue of section 10 above,
- and no application is necessary for the exercise of any such powers by virtue of this subsection.

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- (6) In relation to continuing requirements, references in subsection (5) above to section 8 above are references to it as modified by section 2(6) above.
- (7) For the purposes of subsection (5) above, work carried out or proposed to be carried out by or on behalf of a government department acting for another Crown authority shall be treated as carried out or proposed to be carried out by or on behalf of that department (and not by or on behalf of the other Crown authority).
- (8) In this section—
- “continuing requirement” means a continuing requirement of building regulations imposed by virtue of section 2(1) or (2)(a) or (b) above;
- “Crown authority” means the Crown Estate Commissioners, a Minister of the Crown, a government department, any other person or body whose functions are performed on behalf of the crown (not being a person or body whose functions are performed on behalf of Her Majesty in her private capacity), or a person acting in right of the Duchy of Lancaster or the Duchy of Cornwall;
- “Crown building” means a building in which there is a Crown interest or a Duchy interest;
- “Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;
- “Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall.
- (9) If any question arises under this section as to which Crown authority is entitled to exercise any such powers as are mentioned in subsection (5) above, that question shall be referred to the Treasury, whose decision is final.
- (10) This section, with any necessary modifications, applies in relation to the making of a material change in the use of a building within the meaning of building regulations made for the purposes of paragraph 8(1)(e) of Schedule 1 to this Act as it applies in relation to the carrying out of work.

**Modifications etc. (not altering text)**

C23 S. 44 extended (17.7.1992) by S.I. 1992/1732, art. 4(1)(a)

**45 Application to United Kingdom Atomic Energy Authority.**

- (1) The provisions of section 44(1) and (4) to (10) above apply in relation to the United Kingdom Atomic Energy Authority (in this section referred to as “the Authority”) as if—
- (a) the Authority were a Crown authority,
- (b) a building belonging to or occupied by the Authority were a Crown building, and
- (c) the references in subsection (1) to not being a Crown authority were references to being neither a Crown authority nor the Authority,
- but the said provisions do not by virtue of this subsection apply in relation to dwelling-houses or offices belonging to or occupied by the Authority.

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- (2) Subject to the said provisions as applied by subsection (1) above, building regulations and the enactments relating to building regulations do not apply in relation to buildings belonging to or occupied by the Authority, except dwelling-houses and offices.

### *Inner London*

#### **46 Inner London.**

In its application to inner London, this Part of this Act has effect subject to Part I of Schedule 3 to this act.

**Status:**

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