
WELSH STATUTORY INSTRUMENTS

2019 No. 1499 (W. 275)

BUILDING AND BUILDINGS, WALES

The Building (Amendment) (Wales) Regulations 2019

<i>Made</i>	- - - -	<i>11 December 2019</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>13 December 2019</i>
<i>Coming into force</i>	- -	<i>13 January 2020</i>

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 1 and 34 of, and paragraphs 7, 8 and 10 of Schedule 1 to, the Building Act 1984⁽¹⁾, now exercisable by them⁽²⁾, having consulted the Building Regulations Advisory Committee for Wales and such other bodies as appear to them to be representative of the interests concerned in accordance with section 14(7) of the Building Act 1984⁽³⁾, make the following Regulations.

Title, application, commencement and interpretation

- 1.—(1) The title of these Regulations is the Building (Amendment) (Wales) Regulations 2019.
(2) These Regulations apply in relation to Wales, except as provided for in paragraph (3).
(3) Regulation 2(7) of these Regulations does not apply in relation to excepted energy buildings in Wales.
(4) These Regulations come into force on 13 January 2020.
(5) In these Regulations “the 2010 Regulations” means the Building Regulations 2010⁽⁴⁾.

Amendments to the 2010 Regulations

- 2.—(1) The 2010 Regulations are amended as follows.
(2) In regulation 2 (interpretation) after paragraph (5) insert—

(1) 1984 c. 55. Section 1 was amended by section 1 of the Sustainable and Secure Buildings Act 2004 (c. 22) (“the 2004 Act”). Paragraph 7 of Schedule 1 was amended by section 3 of the 2004 Act and by section 11 of the Climate Change and Sustainable Energy Act 2006 (c. 19); and paragraph 8 of Schedule 1 was amended by section 3 of the 2004 Act and section 40 of the Flood and Water Management Act 2010 (c. 29). J

(2) The functions conferred on the Secretary of State by sections 1 and 34 of, and paragraphs 7, 8 and 10 of Schedule 1 to, the Building Act 1984 were, insofar as exercisable in relation to Wales, transferred to the Welsh Ministers by the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I. 2009/3019) (“the 2009 Order”) and in relation to excepted energy buildings in Wales by section 54 of the Wales Act 2017 (c. 4).

(3) Section 14(7) was added by the 2009 Order.

(4) S.I. 2010/2214; regulation 37A was inserted by S.I. 2013/2730 (W. 264) and by S.I. 2018/558 (W. 97) in relation to excepted energy buildings in Wales.

“(6) In these Regulations—

- (a) any reference to an “external wall” of a building includes a reference to—
 - (i) anything located within any space forming part of the wall;
 - (ii) any decoration or other finish applied to any external (but not internal) surface forming part of the wall;
 - (iii) any windows and doors in the wall; and
 - (iv) any part of a roof pitched at an angle of more than 70 degrees to the horizontal if that part of the roof adjoins a space within the building to which persons have access, but not access only for the purpose of carrying out repairs or maintenance; and
- (b) “specified attachment” means—
 - (i) a balcony attached to an external wall; or
 - (ii) a solar panel attached to an external wall.”

(3) In regulation 4(2) (requirements relating to building work) after “Schedule 1” insert “(in addition to the requirements of regulation 7)”.

(4) In regulation 5 (meaning of material change of use)—

- (a) after paragraph (i) omit “or”; and
- (b) after paragraph (j) insert—
 - “; or
 - (k) the building is a building described in regulation 7(4)(a), where previously it was not”.

(5) In regulation 6 (requirements relating to material change of use) after paragraph (2) insert—

“(3) Subject to paragraph (4), where there is a material change of use described in regulation 5(k), such work, if any, must be carried out as is necessary to ensure that any external wall, or specified attachment, of the building only contains materials of a minimum European Classification A2-s1, d0 or A1, classified in accordance with BS EN 13501-1:2018 entitled “Fire classification of construction products and building elements. Classification using test data from reaction to fire tests” (ISBN 978 0 580 95726 0) published by the British Standards Institution on 14th January 2019.

(4) Paragraph (3) does not apply to the items listed in regulation 7(3).”

(6) Regulation 7 (materials and workmanship) is amended as follows—

- (a) regulation 7 is renumbered as paragraph (1) of that regulation.
- (b) after regulation 7(1) (as renumbered) insert—
 - “(2) Subject to paragraph (3), building work must be carried out so that materials which become part of an external wall, or specified attachment, of a relevant building are of a minimum European Classification A2-s1, d0 or A1, classified in accordance with BS EN 13501-1:2018 entitled “Fire classification of construction products and building elements. Classification using test data from reaction to fire tests” (ISBN 978 0 580 95726 0) published by the British Standards Institution on 14th January 2019.
 - (3) Paragraph (2) does not apply to—
 - (a) cavity trays when used between two leaves of masonry;
 - (b) any part of a roof (other than any part of a roof which falls within paragraph (iv) of regulation 2(6)) if that part is connected to an external wall;
 - (c) door frames and doors;

- (d) electrical installations;
 - (e) insulation and water proofing materials used below ground level;
 - (f) intumescent and fire stopping materials where the inclusion of the materials is necessary to meet the requirements of Part B of Schedule 1;
 - (g) membranes;
 - (h) seals, gaskets, fixings, sealants and backer rods;
 - (i) thermal break materials where the inclusion of the materials is necessary to meet the thermal bridging requirements of Part L of Schedule 1; or
 - (j) window frames and glass.
- (4) In this regulation—
- (a) a “relevant building” means a building with a storey (not including roof-top plant areas or any storey consisting exclusively of plant rooms) at least 18 metres above ground level and which—
 - (i) contains one or more dwellings;
 - (ii) contains an institution; or
 - (iii) contains a room for residential purposes (excluding any room in a hostel, hotel or boarding house);
 - (b) “above ground level” in relation to a storey means above ground level when measured from the lowest ground level adjoining the outside of a building to the top of the floor surface of the storey.”
- (7) In regulation 37A (provision of automatic fire suppression systems), in paragraph (1)(a)—
- (a) after “care homes” insert “, which”;
 - (b) after “2016”, for “are” substitute “is”.

Transitional provision

3.—(1) The amendments made by regulation 2 do not apply in any case where a building notice or an initial notice has been given to, or full plans deposited with, a local authority before the day these Regulations come into force and either the building work to which it relates—

- (a) has started before that day; or
- (b) is started within 8 weeks beginning with that day.

(2) In this regulation, “building notice”, “initial notice” and “full plans” have the meanings given in the 2010 Regulations.

11 December 2019

Julie James
Minister for Housing and Local Government,
one of the Welsh Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building Regulations 2010 (“the 2010 Regulations”).

Regulation 2(2) inserts definitions for “external wall” and “specified attachment” in regulation 2 (interpretation).

Regulation 2(3) amends regulation 4(2) (requirements relating to building work) to clarify its application to the requirements of regulation 7 (as amended).

Regulation 2(4) and (5) amends regulation 5 (meaning of material change of use) and 6 (requirements relating to material change of use) respectively to provide for the introduction of a new requirement for the materials contained in the external wall or specified attachment of a building which, following a change of use, is used as a building described in the new regulation 7(4). Such materials must achieve European Classification A2-s1, d0 or A1.

Regulation 2(6) amends regulation 7 to provide that, subject to the exempted items in new regulation 7(3), only materials which achieve European Classification A2-s1, d0 or A1 may become part of an external wall or specified attachment of a “relevant building”. New regulation 7(4) provides the definition for “relevant building”.

Regulation 2(7) makes amendments to regulation 37A to correct minor errors.

Regulation 3 makes transitional provisions so that the amendments made by regulation 2 will not apply where a building notice or initial notice has been given to, or full plans deposited with, a local authority before 13 January 2020 and the building work has already started or starts within 8 weeks of that date.

The Regulations were notified in draft (Notification No. 2019/0384/UK on 30 July 2019) to the European Commission in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council (OJ No L 241, 17.9.2015, p. 1), which lays down a procedure for the provision of information in the field of technical standards and regulation.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and on the website at www.gov.wales.

Copies of the British Standard referred to in these Regulations will be made available for inspection free of charge by contacting the Building Regulations Policy Team at Welsh Government at the address above.