

2001 No. 3336

BUILDING AND BUILDINGS, ENGLAND AND WALES

The Building (Approved Inspectors etc.) (Amendment) Regulations 2001

Made - - - - - *4th October 2001*

Laid before Parliament *11th October 2001*

Coming into force - - *1st April 2002*

The Secretary of State, in exercise of the powers conferred upon him by section 1(1), 47(2) and 47(5) of, and paragraphs 2, 3 and 7 of Schedule 1 to, the Building Act 1984(a), and of all other powers enabling him in that behalf, after consulting the Building Regulations Advisory Committee and such other bodies as appear to him to be representative of the interests concerned in accordance with section 14(3) of that Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Building (Approved Inspectors etc.) (Amendment) Regulations 2001 and shall come into force on 1st April 2002.

Amendments to the Regulations

2. The Building (Approved Inspectors etc.) Regulations 2000(b) (“the 2000 Regulations”) shall be amended as follows.

Interpretation

3. In regulation 2, in the definition of “controlled service or fitting” in paragraph (1), for “Part G, H or J” there shall be substituted “Part G, H, J or L”.

Functions of approved inspectors

4. In regulation 11—
- (a) in paragraph (1), before “as are reasonable”, there shall be inserted “(which may include the making of tests of building work and the taking of samples of material)”;
 - (b) in paragraph (1)(a), for “regulations 4 and 6”, there shall be substituted “regulations 4, 6 and 7”;
 - (c) paragraphs (1)(b) and (3) shall be omitted.

Consultation with sewerage undertaker—approved inspector

5. After regulation 13 (approved inspector’s consultation with the fire authority), there shall be inserted the following regulation—

(a) 1984 c. 55. Section 47 and 50 were amended by, and section 51A was inserted by, S.I. 1996/1905.
(b) S.I. 2000/2532.

“Approved inspector’s consultation with the sewerage undertaker

13A.—(1) This regulation applies where an initial notice or amendment notice is to be given or has been given in respect of work in relation to which paragraph H4 of Schedule 1 to the Principal Regulations imposes requirements.

(2) Where this regulation applies, the approved inspector shall consult the sewerage undertaker—

- (a) before or as soon as practicable after giving an initial notice in relation to the work;
- (b) before or as soon as practicable after giving an amendment notice in relation to the work;
- (c) before giving a plans certificate (whether or not combined with an initial notice); and
- (d) before giving a final certificate.

(3) Where an approved inspector is required by paragraph (2) to consult the sewerage undertaker, he shall give to the sewerage undertaker—

- (a) in a case where he is consulting them in connection with an initial notice or an amendment notice, sufficient plans to show whether the work would, if carried out in accordance with those plans, comply with the applicable requirements of paragraph H4 of Schedule 1 to the Principal Regulations; and
- (b) in a case where he is consulting them in connection with the giving of a plans certificate, a copy of the plans in relation to which he intends to give the certificate.

(4) Where an approved inspector is required by paragraph (2) to consult the sewerage undertaker—

- (a) he shall have regard to any views they express; and
- (b) he shall not give a plans certificate or a final certificate until 15 days have elapsed from the date on which he consulted them, unless they have expressed their views to him before the expiry of that period.”.

Consultation with sewerage undertaker—public bodies

6. After regulation 23 there shall be added the following regulation—

“Public body’s consultation with the sewerage undertaker

23A. Regulation 13A applies where a public body’s notice is given as it does where an initial notice is given; and for that purpose there shall be substituted for references in that regulation to an initial notice, a plans certificate and a final certificate respectively references to a public body’s notice, a public body’s plans certificate and a public body’s final certificate.”.

Forms

7. The amendments to Schedule 2 to the 2000 Regulations specified in the Schedule to these Regulations shall have effect.

Grounds for rejection of notices and certificates

8.—(1) In Schedule 3 (initial notice, amendment notice, or plans certificate combined with initial notice)

- (a) after paragraph 7, the following paragraph shall be inserted—

“Sewerage undertaker

7A. The approved inspector will be obliged by regulation 13A to consult the sewerage undertaker before giving a plans certificate or final certificate, and the notice does not contain an undertaking to do so.”;

- (b) for paragraph 9 there shall be substituted—

“Drain connection

9. In the case of the erection or extension of a building, the local authority consider that, in order to comply with the requirements of Part H of Schedule 1 to the Principal Regulations, a proposed drain or private sewer must discharge to an existing sewer, but the statement accompanying the notice does not describe such an arrangement.”;

(c) paragraph 10 shall be omitted.

(2) In Schedule 4 (plans certificate, or plans certificate combined with initial notice), after paragraph 7, the following paragraph shall be inserted—

“Sewerage undertaker

7A. The approved inspector was obliged by regulation 13A to consult the sewerage undertaker before giving the certificate, but the certificate does not contain a declaration that he has consulted them in accordance with that regulation.”.

(3) In Schedule 6 (public body’s notice, or combined public body’s notice and plans certificate)

(a) after paragraph 5, the following paragraph shall be inserted—

“Sewerage undertaker

5A. The public body will be obliged by regulation 23A to consult the sewerage undertaker before giving a public body’s plans certificate or a public body’s final certificate, and the notice does not contain an undertaking to do so.”.

(b) for paragraph 6 there shall be substituted—

“Drain connection

6. In the case of the erection or extension of a building, the local authority consider that, in order to comply with the requirements of Part H of Schedule 1 to the Principal Regulations, a proposed drain or private sewer must discharge to an existing sewer, but the statement accompanying the notice does not describe such an arrangement.”.

(c) paragraph 7 shall be omitted.

(4) The following paragraph shall be added in Schedule 7 (public body’s plans certificate, or combined public body’s notice and plans certificate), after paragraph 6 as new paragraph 7, and in Schedule 8 (public body’s final certificate), after paragraph 5 as new paragraph 6—

“Sewerage undertaker

The public body was obliged by regulation 23A to consult the sewerage undertaker before giving the certificate, but the certificate does not contain a declaration that they have been consulted in accordance with that regulation.”.

Transitional provisions

9.—(1) Subject to paragraph (2), where before 1st April 2002 building work has commenced in accordance with an initial notice, an amendment notice or a public body’s notice (a) given in accordance with section 47(1), 51A(2) or 54(1) respectively of the Act, the 2000 Regulations shall continue to apply to that building work as if these Regulations had not been made.

(2) Where an initial notice given before 1st April 2002 is varied by an amendment notice given on or after that date, the 2000 Regulations shall continue to apply, as if these Regulations had not been made, in relation to so much of the building work as could have been carried out under that initial notice if the amendment notice had not been given.

(3) Where plans of building work are the subject of a plans certificate, or a plans certificate combined with an initial notice, given to a local authority before 1st April 2002 in accordance with section 50 of the Act, and accepted by the local authority either before, on or after that date, the 2000 Regulations shall continue to apply to that building work as if these Regulations had not been made, whether or not the building work departs from those plans.

(4) Paragraphs (1) to (3) shall not apply to the amendments to the 2000 Regulations made by regulations 4 (a) and 4 (b) of these Regulations.

(a) As respects initial notices, amendment notices and public body’s notices see respectively, section 47, 51A and 54 of the Building Act 1984.

(5) In paragraphs (1) to (3), “building work” and “the Act” have the same meaning as in the 2000 Regulations.

Signed by authority of the Secretary of State for Transport, Local Government and the Regions.

Nick Raynsford
Minister of State

October 2001

Department for Transport, Local Government and the Regions.

SCHEDULE

Regulation 7

Amendments to forms in Schedule 2 to the 2000 Regulations

1. In Form 1 (initial notice)—
 - (1) paragraph 4(c) shall be amended as follows—
 - (a) after the words “location of the site and”, there shall be inserted the words “(where the work includes the construction of a new drain or private sewer)”;
 - (b) for paragraph (ii) there shall be substituted—

“(ii) if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer including the location of any septic tank and associated secondary treatment system, or any wastewater treatment system or any cesspool.”;
 - (c) paragraph (iii) shall be omitted.
 - (2) paragraph 4(d) shall be omitted.
 - (3) after paragraph 8, the following paragraphs shall be inserted—

“**8A.** The approved inspector [will][will not] (**10A**) be obliged to consult the sewerage undertaker by regulation 13A of the 2000 Regulations.

[8B.—I (7) undertake to consult the sewerage undertaker before giving a plans certificate in accordance with section 50 of the Act or a final certificate in accordance with section 51 of the Act in respect of any of the work described above.](**9**)”.
 - (4) after note 10, the following note shall be added—

“(**10A**) Delete whichever does not apply. If the inspector is obliged to consult the sewerage undertaker, the declaration in paragraph 8B must be made.”
2. In Form 2 (amendment notice)—
 - (1) paragraph 3(e) shall be amended as follows—
 - (a) after the words “location of the site and”, there shall be inserted the words “(where the work includes the construction of a new drain or private sewer)”;
 - (b) for paragraph (ii) there shall be substituted—

“(ii) if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer, including the location of any septic tank and associated secondary treatment system, or any wastewater treatment system or any cesspool.”;
 - (c) paragraph (iii) shall be omitted.
 - (2) paragraph 3(f) shall be omitted.
 - (3) after paragraph 8, the following paragraphs shall be inserted—

“**8A.** The approved inspector [will][will not] (**9A**) be obliged to consult the sewerage undertaker by regulation 13A of the 2000 Regulations.

[8B.—I (6) undertake to consult the sewerage undertaker before giving a plans certificate in accordance with section 50 of the Act or a final certificate in accordance with section 51 of the Act in respect of any of the work described above.](**8**)”.
 - (4) after note 9, the following note shall be added—

“(**9A**) Delete whichever does not apply. If the inspector is obliged to consult the sewerage undertaker, the declaration in paragraph 8B must be made.”
3. In Form 3 (plans certificate), after paragraph 7, the following paragraph shall be inserted—

“**[7A.** I have consulted the sewerage undertaker in accordance with regulation 13A.]

(**6**)”
4. In Form 4 (combined initial notice and plans certificate)—
 - (1) paragraph 4(c) shall be amended as follows—
 - (a) after the words “location of the site and”, there shall be inserted the words “(where the work includes the construction of a new drain or private sewer)”;

- (b) for paragraph (ii) there shall be substituted—
 - “(ii) if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer, including the location of any septic tank and associated secondary treatment system, or any wastewater treatment system or any cesspool.”;
 - (c) paragraph (iii) shall be omitted.
- (2) paragraph 4(d) shall be omitted.
- (3) after paragraph 10, the following paragraphs shall be inserted—
- “**10A.** The approved inspector [is][is not] (**10A**) obliged to consult the sewerage undertaker by regulation 13A of the 2000 Regulations.
- 10B.** I (**7**) have consulted the sewerage undertaker in accordance with regulation 13A.](**9**)
- 10C.** I (**7**) undertake to consult the sewerage undertaker before giving a final certificate in accordance with section 51 of the Act in respect of any of the work described above.](**9**)”
- (4) after note 10, the following note shall be inserted—
- “(b) Delete whichever does not apply. If the inspector is obliged to consult the sewerage undertaker, the declarations in paragraphs 10B and 10C must be made.”.
- 5.** In Form 9 (public body’s notice)—
- (1) paragraph 3(a) shall be amended as follows—
 - (a) after the words “location of the site and” there shall be inserted the words “(where the work includes the construction of a new drain or private sewer)”;
 - (b) for paragraph (ii) there shall be substituted—
 - “(ii) if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer, including the location of any septic tank and associated secondary treatment system, or any wastewater treatment system or any cesspool.”;
 - (c) paragraph (iii) shall be omitted.
 - (2) paragraph 3(b) shall be omitted.
 - (3) after paragraph 5, the following paragraphs shall be added—

“**6.** The public body [will][will not] (**5A**) be obliged to consult the sewerage undertaker by regulation 23A of the 2000 Regulations.

7.—(**3**) undertakes to consult the sewerage undertaker before giving a public body’s plans certificate in accordance with paragraph 2 of Schedule 4 to the Act or a public body’s final certificate in accordance with paragraph 3 of Schedule 4 to the Act in respect of any of the work described above.](**6**)”
 - (4) after note 5, the following note shall be inserted—

“(b) Delete whichever does not apply. If the public body is obliged to consult the sewerage undertaker, the declaration in paragraph 7 must be made.”.
- 6.** In Form 10 (public body’s plans certificate), after paragraph 4, the following paragraph shall be inserted—
- “**4A.** The sewerage undertaker has been consulted in accordance with regulation 23A.](**5**)”
- 7.** In Form 11 (combined public body’s notice and plans certificate)—
- (1) paragraph 3(a) shall be amended as follows—
 - (a) after the words “location of the site and” there shall be inserted the words “(where the work includes the construction of a new drain or private sewer)”;
 - (b) for paragraph (ii) there shall be substituted—
 - “(ii) if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer, including the location of any septic tank and associated secondary treatment system, or any wastewater treatment system or any cesspool.”;
 - (c) paragraph (iii) shall be omitted.
 - (2) paragraph 3(b) shall be omitted.
 - (3) after paragraph 6, the following paragraphs shall be inserted—

“**6A.** The sewerage undertaker has been consulted in accordance with regulation 23A of the 2000 Regulations.](**5**)

6B. The body undertakes to consult the sewerage undertaker before giving a final certificate in accordance with paragraph 3 of Schedule 4 to the Act in respect of any of the work described above.](**5**)”.
- 8.** In Form 12 (public body’s final certificate), after paragraph 5, the following paragraph shall be added—
- “**5A.** The sewerage undertaker has been consulted in accordance with regulation 23A.](**5**)”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Building (Approved Inspectors etc.) Regulations 2000 (S.I. 2000/2532). There are minor and drafting amendments in addition to the main amendments listed below.
2. The definition of “controlled service or fitting” in regulation 2(1) is extended to include services or fittings in relation to which Part L (conservation of fuel and power) imposes a requirement.
3. Amended wording is provided for regulation 11 (functions of approved inspectors) to clarify that the functions of approved inspectors may extend to the making of tests of building work and taking of samples of material, and that they include checking for compliance with regulation 7 (materials and workmanship) of the Principal Regulations.
4. A new regulation 13A is inserted, requiring the approved inspector to consult the sewerage undertaker in circumstances where building is carried out over a drain, sewer or disposal main, and paragraph H4 of Schedule 1 to the Principal Regulations imposes requirements. Consequential changes are made to Schedules 2 (Forms 1, 2, 3 and 4), 3 and 4.
5. A new regulation 23A is inserted, requiring a public body to consult with the sewerage undertaker in the same circumstances as specified in regulation 13A. Consequential changes are made to Schedules 2 (Forms 9, 10, 11 and 12), 6, 7 and 8.
6. Regulation 8 introduces into Schedules 3 and 6 a revised ground for rejecting notices, based on the requirements of Part H of Schedule 1 to the Principal Regulations, regarding drain connections. There are associated amendments to Forms 1, 2, 4, 9 and 11 in Schedule 2.
7. Regulation 9 sets out the transitional provisions.
8. A Regulatory Impact Assessment has been prepared in relation to these Regulations. A copy may be obtained from Building Regulations Division, DTLR, Zone 3/A1, Eland House, Bressenden Place, London, SW1E 5DU (Tel: 020 7944 5755; Fax: 020 7944 5739; Email: bregsa.br@dtlr.gov.uk).

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