

**EXPLANATORY MEMORANDUM TO THE  
BUILDING (AMENDMENT)(NO.3) REGULATIONS**

**2004 No. 3210**

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 The Building (Amendment) (No.3) Regulations 2004 revoke the Building Regulations (Amendment) (No.2) Regulations 2004 (“the No. 2 Regulations”). These Regulations incorporate in large part the same amendments as were contained in the No. 2 Regulations, with some alterations.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The No. 2 Regulations were to come into force on 1 January 2005. It has been necessary to vary the amendments made by the No. 2 Regulations. These Regulations therefore revoke the No.2 Regulations, but incorporate most of the amendments made by them, with the following alterations.

3.2 The major variation made by these Regulations is the addition of new schemes in Schedule 2A, which will enable persons carrying out certain types of electrical work to self-certify that the work complies with the Building Regulations 2000.

3.3 The No. 2 Regulations were made on 13 July 2004 in order to allow six months prior to their coming into effect. At the time the No. 2 Regulations were made, BRAC, which is responsible for recommending self-certification schemes to the Secretary of State, was not able to consider and recommend the schemes included in these Regulations in time for them to be included in the No. 2 Regulations. BRAC recommended the new schemes for approval on 10 November 2004.

3.4 The other variations made by these Regulations to the No. 2 Regulations are an amendment to the categories of buildings to which Part P (electrical safety) applies, and minor extensions of the categories of work in respect of which building notices are not required to be given to local authorities.

#### **4. Legislative Background**

4.1 Section 1 of the Building Act 1984 enables Building Regulations to be made with respect, amongst other matters, to the provision of services and fittings in or in connection with buildings for the purpose of securing the health, safety, welfare and convenience of building users and for other purposes not relevant to this Memorandum.

4.2 The No.2 Regulations 2004 provided for new requirements with respect to electrical safety to be inserted into the Building Regulations 2000. Those provisions were to come into force on 1 January 2005.

4.3 The Building (Amendment) (No.3) Regulations 2004 in large part repeat these amendments, but also make some minor alterations and additions to those amendments. These alterations and additions are:

- (a) extension of the categories of buildings to which the electrical safety provisions of the Building Regulations apply;
- (b) extension of the types of work for which no building notice need be given;
- (c) extension of the types of work for which self-certification is possible;
- (d) clarification that the self-certification provisions apply to eligible works whether they are part of other works or not;
- (e) insertion of a definition of “kitchen” to make clear it need not be a separate room.

#### **5. Extent**

5.1 This instrument applies to England and Wales.

#### **6. European Convention on Human Rights**

Not applicable

#### **7. Policy background**

7.1 The amendments contained in these Regulations have been the subject of public consultation and take account of the views of the Building Regulations Advisory Committee, appointed under section 14 of the Building Act.

7.2 In addition to the amendments made by the No. 2 Regulations, these Regulations list six further competent person self-certification schemes for electrical installation work covered by Part P of the Building Regulations (Electrical safety in dwellings). These schemes minimise for local authorities the burden of enforcement of Part P and at the same time encourage electrical installers to register with certification bodies, making it more likely that their work will be done in

compliance with building regulations. Persons registered with the schemes will not need to submit full plans or a building notice to the local authority, but instead will be able to self-certify compliance with all relevant requirements of the Building Regulations.

7.3 These Regulations also provide that a kitchen includes a part of a room, where that part is used for food preparation, as well as a discrete room; that building work on conservatories, porches and other extensions to buildings is to comply with Part P; and that there is no need to submit full plans or a building notice to a local authority in respect of telephone or extra low voltage wiring used for communication, signalling or similar purposes unless installed in a bathroom, sauna or swimming pool, which are areas of greater risk.

## **8. Impact**

A regulatory impact assessment was prepared in relation to the No. 2 Regulations. A copy of that assessment is attached. The impact on business, voluntary bodies or the public sector of the additional amendments made in these Regulations is negligible.

## **9. Contact**

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3 December 2004