
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building Regulations 2010 (“the Building Regulations”), the Building (Local Authority Charges) Regulations 2010 (“the Charges Regulations”) and the Building (Approved Inspectors etc) Regulations 2010 (“the Approved Inspectors Regulations 2010”).

The amendments to the Building Regulations are set out in Part 1. Regulations 4 and 28 and Schedule 2 amend Part K (Protection from falling, collision and impact) to incorporate the previous Part N (Glazing) so that all requirements relating to protection from falling, collision and impact are set out in the same Part of Schedule 2.

Regulations 5, 6 and 32(a) amend the provisions in the Building Regulations concerning electrical installation work so that work requiring notification and the definition of a “special location” is set out in the body of the Building Regulations.

Regulation 9 amends regulation 16 of the Building Regulations by removing the requirement for automatic notification of the local authority at various stages of building work by the person carrying out that work. Instead the local authority may give the person a notice specifying the stages at which it requires to be notified. The local authority may also specify the timing of such notification, including a period during which the work concerned may not be covered up. Conditions are imposed on local authorities who give such notices: they may only do so if they intend to inspect the building work, and their intention to inspect the work must be based on an assessment of the risk of breach of the Regulations if the work is not inspected. The amendment to regulation 16(5) limits the applicability of this paragraph to buildings to which the Regulatory Reform (Fire Safety) Order 2005 applies (or will apply on completion of the relevant work).

Regulation 10 contains new provisions regarding the giving by the local authority of completion certificates, and regulation 11 adds a new regulation 17A which replaces and largely re-enacts, with minor amendments, the substance of regulation 17 with regard to buildings which are occupied before work is completed. The amendments to regulation 14 in regulation 7, to regulation 15 in regulation 8, to regulation 19 in regulation 12, to regulation 47 in regulation 25 and to regulation 48 in regulation 27 are consequential on this amendment.

Regulations 10(b) and 13(b) add to regulation 17 and to regulation 20 respectively a requirement for wording in specified certificates about the evidential value of those certificates.

Regulation 13 amends regulation 20 to provide that a certificate issued in accordance with regulation 20 of the Building Regulations, under a self-certification scheme, states that future payment liabilities apply to the property concerned under a green deal plan for repayment of the costs of energy efficiency improvement work on the property. The amendment also requires the local authority to store the relevant notices and certificates in a retrievable form.

Regulations 14 to 23 and regulations 25 to 27 transpose articles 2, 3, 6, 7, 9 and 11 of the European Parliament and Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (recast) (“the recast Directive”). Regulation 15 amends regulation 23 of the Building Regulations relating to the renovation or replacement of thermal element to fully implement the requirements of the recast Directive. Regulation 17 implements in part the requirements in the recast Directive for high-efficiency alternative systems and nearly zero-carbon buildings in respect of new buildings. Regulations 18 to 21 set out requirements for energy performance certificates in relation to the construction of a building; they transpose the recast Directive and also include provisions previously set out in the Energy Performance of Buildings (Certificates and Inspections)(England and Wales) Regulations 2007 (S.I. 2007/991). Regulation 22 applies the provisions in these Regulations transposing the recast Directive to buildings of

statutory undertakers, Crown buildings and building work proposed or undertaken by Crown authorities.

Regulation 24 amends regulation 43 of the Building Regulations to add a further body that may register a person to certificate compliance with pressure testing requirements.

Regulation 29(2) adds bodies to the list of bodies authorised under the self-certification scheme provided for by regulations 12 and 20 and Schedule 3 of the Building Regulations.

Part 2 contains an amendment to the Charges Regulations to insert a definition of “officer”.

Part 3 contains amendments to the Approved Inspectors Regulations 2010. Previously, the Approved Inspectors Regulations 2010 required inspectors approved by a body designated by the Secretary of State to submit a copy of the approval notice with certain of the forms of notice specified in Schedule 1 of the Approved Inspectors Regulations 2010. They were also required to include with certain of those notices a declaration signed by the insurer that a named scheme of insurance approved by the Secretary of State applied to the work described in the notice. Part 3 of these Regulations remove those requirements, and replace them with information on the relevant notices that copies of the approval notice and insurance declaration are on the public register kept by the designated body.

Regulation 35 adds a new regulation 5A to the Approved Inspectors Regulations 2010, requiring an approved inspector who gives an initial notice to a local authority to ensure that the approving designated body (or the Secretary of State if approval was by the Secretary of State) has a copy of the insurance declaration relating to the work in the notice.

Regulations 37 and 39 amend regulations 8 and 20 of the Approved Inspectors Regulations 2010 to ensure that the changes required under the recast Directive also apply when the building control function is undertaken by an approved inspector.

The designated body (or the Secretary of State where relevant) is required by regulation 7 of the Approved Inspectors Regulations 2010 to maintain a list of inspectors approved by that body, and regulation 36 of these Regulations adds to regulation 7 a requirement that the designated body (or Secretary of State) must keep the approval certificate and the insurance declaration referred to in new regulation 5A.

Regulation 38 adds a provision to regulation 16 clarifying that a final certificate given by an approved inspector is evidence but not conclusive evidence of the matters stated in it.

Regulation 40 removes from regulation 30 of the Approved Inspectors Regulations 2010 the requirement for a local authority to keep on its register of notices and certificates the name and address of the insurer who signed the insurance declaration in respect of the work to which a notice or certificate relates.

Regulation 41 makes consequential amendments to the relevant forms of notice specified in Schedule 1 and add where appropriate the statement that the notice or certificate is evidence but not conclusive evidence of compliance with the requirements specified in it. These are Form 1 (initial notice), Form 2 (amendment notice), Form 3 (plans certificate), Form 4 (combined notice and plans certificate) and Form 5 (final certificate). Form 12 (public body's final certificate) also has the statement added that it is evidence but not conclusive evidence of compliance with the requirements specified in it.

Regulations 42 and 43 make corresponding amendments to the grounds for rejection of a notice or certificate by the local authority in Schedules 2, 3 and 4 of the Approved Inspectors Regulations 2010.

Part 4 sets out the transitional provisions.

Schedule 1 sets out the commencement table.

Changes to legislation:

There are currently no known outstanding effects for the The Building Regulations &c. (Amendment) Regulations 2012.