
STATUTORY INSTRUMENTS

2023 No. 906

**The Building (Approved Inspectors etc. and
Review of Decisions) (England) Regulations 2023**

PART 3

Amendments of the Approved Inspectors Regulations

New regulations 16A to 16E etc

11.—(1) After regulation 16 insert—

“Form of rejection notice and form of notice under section 51C of the Act

16A.—(1) Where a local authority reject a relevant notice or certificate the form set out as form 5A in Schedule 1 must be used.

(2) When giving a notice under section 51C(2) of the Act (change of person intending to carry out work) the form set out as form 5B in Schedule 1 must be used.

(3) In this regulation “relevant notice or certificate” means an initial notice, amendment notice, plans certificate or a final certificate which is given to a local authority on or after 1st October 2023.

Notice before starting work and further notice when work is “commenced” etc.

16B.—(1) At least two days before the day on which building work starts, the person carrying out the work must give a notice to the approved inspector shown on the initial notice relating to the building work setting out their intention to start the work and the date that work is to start.

(2) Not more than five days after the day on which the work is to be regarded as commenced the person carrying out the work must give a notice to that effect to the approved inspector.

(3) If the approved inspector is not satisfied the work is to be regarded as commenced they must give the person carrying out the work a notice to that effect (“rejection notice”) within four weeks of the date the notice under paragraph (2) is given, and the rejection notice must give the reasons for rejection.

(4) Where a notice is given under paragraph (2) and the period referred to in paragraph (3) expires without a rejection notice being given, then the work is to be regarded as commenced.

(5) If the person carrying out the work accepts the rejection notice they may not give a further notice under paragraph (2) unless, having regard to the reasons given by the approved inspector, they are satisfied the work is to be regarded as commenced.

(6) A person who gave the notice under paragraph (2) may appeal to the First-tier Tribunal against the decision of the approved inspector to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the approved inspector gives the rejection notice.

(7) The First-tier Tribunal may allow an appeal under paragraph (6) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable;
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(8) The approved inspector may take such steps, including—

- (a) requiring information;
- (b) laying open of work for inspection,

as it thinks appropriate to check whether the work is to be regarded as commenced.

(9) For the purposes of paragraphs (2) to (8), the provisions of regulation 16C (lapse of initial notice: commencement of work) apply to determine whether work is to be regarded as commenced.

Lapse of initial notice: commencement of work

16C.—(1) For the purposes of section 53A(6) of the Act (lapse of initial notice) work is to be regarded as commenced in accordance with the following paragraphs.

(2) Where the work consists of the construction of a complex building, work is to be regarded as commenced in relation to that building or the first stage of building work for that building when the foundations supporting the building and the structure of the lowest floor level of that building (but not the other buildings or structures to be supported by those foundations) are completed.

(3) Where the work consists of—

- (a) the construction of a building and paragraph (2) does not apply, or
- (b) horizontal extension of a building,

work is to be regarded as commenced when the sub-surface structure of the building or the extension including all foundations, basement levels (if any) and the structure of ground floor level is completed.

(4) Where the work consists of any other building work then work is to be regarded as commenced when the initial work is completed.

(5) In this regulation—

“approved plans” means plans which were part of or accompanied the initial notice, or plans to which a plans certificate referred;

“complex building” means—

- (a) a building which is to be constructed on the same foundation plinth or podium as any other building or structure;
- (b) a building which has more than one storey below ground level;
- (c) a building where its proposed use is primarily as a public building where the public or a section of the public has access to the building (whether or not on payment) provided that the building has a capacity for 100 or more visitors;

“initial work” means the work set out in the initial notice which the client considers amounts to 15% of all the work described in the initial notice;

“public building” means—

- (a) a shop or shopping centre;
- (b) premises where food or drink are sold for consumption on the premises, including a nightclub, social club or dance hall;
- (c) a stadium, theatre, cinema, concert hall;
- (d) a sports ground;
- (e) an exhibition hall or conference centre;
- (f) a hospital or premises for the provision of health care.

Notification of dutyholders

16D.—(1) This paragraph applies where, in relation to any building work, the client appoints a principal contractor (or sole contractor) or a principal designer (or sole or lead designer).

(2) Subject to paragraph (3), where paragraph (1) applies the client must give a notice to the approved inspector shown on the initial notice relating to the building work which includes—

- (a) the name, address, telephone number and (if available) email address of the person appointed (PA) and the date of appointment;
- (b) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the person who held the role before PA (“outgoing dutyholder”) and the date their appointment ended;
- (c) where the notice is given by someone on behalf of the client, a statement signed by the client confirming they agree to the notice being made and that the information contained in the notice is correct.

(3) Where the client is a domestic client (DC), the following applies instead of paragraph (2)

- (a) an outgoing dutyholder must provide the information referred to in paragraph (2)(b) to the DC within 5 calendar days of the date their appointment ends;
- (b) DC must provide the information referred to under sub-paragraph (a) to PA on the date of appointment of PA or as soon as practicable after that date;
- (c) subject to paragraph (4), PA must give a notice to the approved inspector which includes—
 - (i) the name, address, telephone number and (if available) email address of PA and date of appointment;
 - (ii) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the outgoing dutyholder and the date their appointment ended;
 - (iii) a statement explaining the notice is given on behalf of a domestic client.

(4) Where the outgoing dutyholder has not received the information required under paragraph (3)(b) by the time the notice under paragraph (3)(c) is to be given and DC does not have the information, the statement given by PA under paragraph (3)(c)(iii) must also include an explanation to that effect.

(5) A notice required under paragraph (2) or (3)(c) must be given to the approved inspector within the period of 14 calendar days beginning with the date of the appointment.

Compliance declarations

16E. Where building work described in an initial notice is completed the client must give the approved inspector a notice which includes—

- (a) the name, address, telephone number and (if available) email address of the client;
- (b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- (c) a statement that the building work is complete;
- (d) a statement, signed by the client, confirming that to the best of the client's knowledge the work complies with all applicable requirements of the building regulations;
- (e) a statement given by each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work, signed by the person to which the declaration relates, which includes—
 - (i) the name, address, telephone number and (if available) email address of that person;
 - (ii) the dates of their appointment, and
 - (iii) confirmation—
 - (aa) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the Principal Regulations;
 - (bb) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the Principal Regulations.”.

(2) In Schedule 1 (forms) to the Approved Inspectors Regulations—

- (a) in form 1 (initial notice)—
 - (i) in paragraph 5, after sub-paragraph (d) insert—
 - “(e) a statement setting out—
 - (i) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16C (lapse of initial notice: commencement of work); and
 - (ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16C applies, details of the work which the client considers amounts to 15% of the proposed work.”;
- (b) in form 2 (amendment notice), in paragraph 4, after sub-paragraph (f) insert—
 - “(g) a statement setting out—
 - (i) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16C (lapse of initial notice: commencement of work); and
 - (ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16C applies, details of the work which the client considers amounts to 15% of the proposed work.”;
- (c) in form 4 (combined initial notice and plans certificate), in paragraph 5, after sub-paragraph (d) insert—
 - “(e) a statement setting out—

- (i) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16C (lapse of initial notice: commencement of work); and
 - (ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16C applies, details of the work which the client considers amounts to 15% of the proposed work.”;
- (d) in form 5 (final certificate), after paragraph 10 insert—
 - “**10A.** I have received a statement, from the client for the work described in this final certificate, which is in accordance with regulation 16E(d) of the Regulations.
 - 10B.** I have received a statement, from each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work described in this final certificate, which is in accordance with regulation 16E(e) of the Regulations.”.
- (3) In Schedule 2 (grounds for rejecting an initial notice etc) to the Approved Inspectors Regulations—
 - (a) in paragraph 4, after sub-paragraph (c) insert—
 - “(ca) a statement setting out the date when work will reach the point when it is to be regarded as commenced and, if applicable, the details of the work which the client considers amounts to 15% of the proposed work;”;
 - (b) after paragraph 11 insert—
 - “**11A.** Where a statement setting out the details of the work which the client considers amounts to 15% of all the work described in the notice has been provided, the local authority are not satisfied that the work described in the statement amounts to 15% of all the work described in the notice.”.