
STATUTORY INSTRUMENTS

2023 No. 909

**The Building (Higher-Risk Buildings
Procedures) (England) Regulations 2023**

PART 2

Building control approval

CHAPTER 1

New HRBs

Building control approval for HRB work or stage of HRB work

3. Before any person starts HRB work or starts a stage of HRB work, the client in relation to that work (in this Chapter “the applicant”) must—

- (a) submit an application for building control approval in relation to the work to the regulator (a “building control approval application for HRB work” or, where the work is done in stages, a “building control approval application for a stage of HRB work”) in accordance with regulation 4 (building control approval applications for HRB work or stage of HRB work),
- (b) be granted building control approval for the work,
- (c) fulfil those requirements, if any, which in accordance with the building control approval must be fulfilled before the work or, as the case maybe, the stage of the work is started, and
- (d) notify the regulator of the date on which the work or the stage of the work is to start in accordance with regulation 9(2) (notice before starting on site and further notice when work is “commenced”).

Building control approval applications for HRB work or stage of HRB work

4.—(1) A building control approval application for HRB work must be made in writing, signed by the applicant, and must include—

- (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 application is made under this regulation;
- (d) where HRB work consists of work to an existing building, a description of the existing building including—
 - (i) details of its current use, including the current use of each storey;
 - (ii) its height as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023⁽¹⁾;

⁽¹⁾ S.I. 2023/275.

- (iii) the number of storeys it has as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
- (e) a description of the proposed HRB work, including—
 - (i) details of the intended use of the higher-risk building, including the intended use of each storey;
 - (ii) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
 - (iii) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
 - (iv) the number of flats, the number of residential rooms and the number of commercial units it is proposed the higher-risk building will contain;
 - (v) the provision to be made for the drainage of the higher-risk building;
 - (vi) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;
 - (vii) the steps to be taken to comply with any local enactment that applies;
 - (viii) a statement as to when it is proposed the work is to be regarded as commenced in accordance with regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations⁽²⁾.
- (2) A building control approval application for HRB work must be accompanied by—
 - (a) a plan to a scale of not less than 1:1250 showing—
 - (i) the size and position of the building and its relationship to adjoining boundaries;
 - (ii) the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage;
 - (iii) the width and position of any street on or within the boundaries of the curtilage of the building;
 - (b)
 - (i) such other plans as necessary to show that the HRB work would comply with all applicable requirements of the building regulations⁽³⁾;
 - (ii) a competence declaration;
 - (iii) a construction control plan;
 - (iv) a change control plan;
 - (v) a mandatory occurrence reporting plan;
 - (vi) a Building Regulations compliance statement;
 - (vii) a fire and emergency file;
 - (viii) where the applicant proposes occupation of part of the building before completion of the HRB work, a partial completion strategy;

(2) Regulation 46A was inserted into the 2010 Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023.

(3) See the definition in section 122 of the Building Act 1984.

- (c) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.
- (3) A building control approval application for a stage of HRB work must be made in writing, signed by the applicant, and must—
- (a) include the information required by paragraph (1);
 - (b) where the application relates to the first stage of the work—
 - (i) be accompanied by a statement (“staged work statement”) setting out a detailed description of the first stage and of the subsequent stages of the project (including an estimate of the time when each stage will start);
 - (ii) be accompanied by the documents referred to in paragraph (2) with the following modifications—
 - (aa) the plans referred to in paragraph (2)(b)(i) are such plans as necessary to show that the work for the first stage would comply with all applicable requirements of the building regulations and a summary of plans for the work beyond that stage;
 - (bb) the Building Regulations compliance statement referred to in paragraph (2)(b)(vi) must set out the design principles and building standards to be applied to the work for the first stage and a summary of the design principles and building standards to be applied beyond that stage;
 - (c) where the application relates to a stage after the first stage—
 - (i) be accompanied by a statement (“subsequent stages statement”) setting out a detailed description of the stage to which the application relates and of the other stages of the project (including an estimate of the time when each remaining stage will start);
 - (ii) be accompanied by the documents referred to in paragraph (2) with the following modifications—
 - (aa) the plans referred to in paragraph (2)(b)(i) are such plans as necessary to show that the work comprised in the stage to which the application relates would comply with all applicable requirements of the building regulations and a summary of plans for work beyond that stage;
 - (bb) the Building Regulations compliance statement referred to in paragraph (2)(b)(vi) must set out the design principles and building standards to be applied to the work comprised in the stage to which the application relates and a summary of the design principles and building standards to be applied beyond that stage.

Building control approval applications for HRB work or stage of HRB work: validity and time limit

- 5.—(1) Where the regulator receives a building control approval application for HRB work or a building control approval application for a stage of HRB work which is valid the regulator must—
- (a) notify the applicant to that effect, and
 - (b) determine it within 12 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.
- (2) Where the regulator receives a building control approval application for HRB work or a building control approval application for a stage of HRB work which is not valid the regulator must

notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(3) A building control approval application for HRB work or a building control approval application for a stage of HRB work is valid if it complies with regulation 4 (building control approval applications for HRB work or stage of HRB work).

Building control approval applications for HRB work or stage of HRB work: consultation

6.—(1) Subject to paragraph (5), before determining a building control approval application for HRB work or a building control approval application for a stage of HRB work the regulator must consult—

- (a) the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005(4)) for the proposed higher-risk building, and
- (b) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work, the sewerage undertaker for the proposed higher-risk building.

(2) Where the regulator is required to consult a person under this regulation the regulator—

- (a) must give the person sufficient plans to show whether the HRB work or the stage of HRB work would, if carried out in accordance with those plans, comply with—
 - (i) in the case of the enforcing authority, the applicable requirements of Part B (fire safety) of Schedule 1 to the 2010 Regulations, and
 - (ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the 2010 Regulations;
- (b) must not determine the application until the expiry of a period of 15 working days beginning with the date the consultation starts or such longer period as the regulator and the person consulted agree in writing.

(3) In relation to the consultation under paragraph (1)(a) the plans given must include the fire and emergency file.

(4) If all persons consulted express their views before the end of the period referred to in paragraph (2)(b) then the prohibition against determining the application ceases to apply on the day after the date on which their views are received by the regulator.

(5) The regulator is not required to consult under this regulation where it is satisfied following consideration of the application there are sufficient grounds to reject the application.

Building control approval applications for HRB work or stage of HRB work: decisions

7.—(1) The regulator must grant the building control approval sought in a building control approval application for HRB work or a building control approval application for a stage of HRB work unless the application or any document that accompanied the application—

- (a) does not comply with the requirements of regulation 4 (building control approval applications for HRB work or stage of HRB work) or any direction relating to the application or the document given by the regulator under regulation 59 (electronic submission and directions);
- (b) is not sufficiently detailed in any respect to allow the regulator to determine whether the HRB work or the stage of HRB work would contravene any applicable requirement of the building regulations;
- (c) shows the HRB work or the stage of HRB work would contravene any applicable requirement of the building regulations;

(4) [S.I. 2005/1541](#) to which there are amendments not relevant to this provision.

- (d) shows the strategies, policies or procedures in relation to the HRB work or the stage of HRB work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene, or would be likely to contravene, the requirements of—
 - (i) regulations 18 to 21 and 26 to 29 (changes to documents or persons);
 - (ii) regulations 31, 38 and 39 (golden thread etc);
 - (iii) regulations 32 to 37 (mandatory occurrence reporting);
 - (iv) Part 2A (dutyholders and competence) of the 2010 Regulations.
- (2) If one or more of the reasons in paragraph (1) applies, the regulator may—
 - (a) reject the building control approval application for HRB work or the building control approval application for a stage of HRB work, or
 - (b) with the written consent of the applicant, grant the building control approval sought in the application subject to one or more requirements.
- (3) The types of requirement that may be imposed under paragraph (2)(b) include—
 - (a) a requirement to provide a specified plan or document, or a revised version of a specified plan or document, within a specified period;
 - (b) a requirement that work does not proceed beyond a specified point until a specified plan or other document, or a revised version of a specified plan or other document, has been given to, and approved by, the regulator.
- (4) The regulator must notify the applicant of the outcome of the application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in regulation 5 (building control approval applications for HRB work or stage of HRB work: validity and time limit).
- (5) A notice that the application has been rejected must give the reasons for rejection.
- (6) A notice that the building control approval sought in the application has been granted subject to a requirement must specify the requirement imposed.
- (7) If requested by the applicant, the regulator must provide a paper copy of the notice of building control approval.
- (8) Where a building control approval application for HRB work or a building control approval application for a stage of HRB work is successful the effect is that from the date of the notice under paragraph (4)—
 - (a) building control approval for the HRB work or, as the case may be, building control approval for the stage of HRB work is granted;
 - (b) subject to paragraphs (9) and (10)—
 - (i) the description of the proposed HRB work or, as the case may be, the description of the proposed stage of HRB work,
 - (ii) the plans of the HRB work or, as the case may be, the plans of the stage of HRB work that accompanied the application, and
 - (iii) each of the other documents that accompanied the application,are approved.
- (9) Where building control approval has been granted subject to a requirement that a plan or document must be revised, the unrevised plan or document is not approved by paragraph (8)(b).
- (10) Where—
 - (a) building control approval has been granted subject to a requirement that any plan or document must be revised, and

(b) the plan or document is subsequently revised in accordance with the requirement, then that revised plan or document is approved from the date specified in the approval given by the regulator for the revision.

(11) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(a), the client must ensure that work does not start before the plan or document is provided.

(12) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(b)—

- (a) the requirement must set out the points specified in relation to the work and the plans or documents which must be approved for each point;
- (b) the client must ensure work to which the requirement relates does not proceed beyond the point specified in the requirement until the approval by the regulator in relation to that plan or document has been received.

(13) If requested by the client, the regulator must provide a paper copy of the approval referred to in paragraph (12)(b).

(14) Where the regulator decides not to approve a plan or document under paragraph (12) if requested the regulator must give the reasons for the decision.

Regulator’s power to require notifications etc for HRB work or stage of HRB work

8.—(1) The regulator may, by notice in writing, require a client—

- (a) to notify the regulator, within a specified period, when a specified point of the HRB work or a specified point of the stage of HRB work has been reached;
- (b) not to cover up specified work for a specified period.

(2) In this regulation “specified” means specified by the regulator in the notice referred to in paragraph (1).

Notice before starting on site and further notice when work is “commenced”

9.—(1) This regulation applies where building control approval for HRB work or building control approval for a stage of HRB work is granted under regulation 7 (building control approval applications for HRB work or stage of HRB work: decisions).

(2) At least five working days before the day on which the HRB work or the stage of HRB work starts, the client must give a notice to the regulator setting out their intention to start the work and the date that work is to start.

(3) Not more than five working days after the day on which the HRB work is to be regarded as commenced the client must give a notice to that effect to the regulator.

(4) If the regulator is not satisfied the work is to be regarded as commenced it must give the client a notice to that effect (“rejection notice”) within four weeks of the date the notice under paragraph (3) is given, and the rejection notice must give the reasons for rejection.

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

(6) If the client accepts the rejection notice they may not give a further notice under paragraph (3) unless, having regard to the reasons given by the regulator, they are satisfied the work is to be regarded as commenced.

(7) The client may appeal to the First-tier Tribunal against the decision of the regulator to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator gives the rejection notice.

(8) The First-tier Tribunal may allow an appeal under paragraph (7) 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 1984 Act or regulations made under that Act.

(9) Where a notice under paragraph (2) or (3) is given by someone on behalf of the client, the notice must include a statement signed by the client confirming they agree to the notice being given and that the information contained in it is correct.

(10) The regulator 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.

(11) For the purposes of paragraphs (3) to (10) the provisions of regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations apply to determine whether work is to be regarded as commenced.