
STATUTORY INSTRUMENTS

2023 No. 909

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

PART 6

**Inspections etc, regularisation, review of
decisions, appeals and section 30A procedures etc**

Regularisation of unauthorised building work

47.—(1) This regulation applies where it appears to the regulator that unauthorised building work has been carried out on or after 11th November 1985.

(2) Where this regulation applies, the owner (in this regulation referred to as “the applicant”) may make an application in writing to the regulator in relation to the unauthorised building work (“regularisation certificate application”).

(3) No regularisation certificate application may be made where unauthorised building work is a major change.

(4) The regularisation certificate application must be accompanied by—

- (a) a statement that the application is made in accordance with this regulation,
- (b) a description of the unauthorised building work,
- (c) a plan of the unauthorised building work,
- (d) where the application is made by someone on behalf of the owner, a statement signed by the owner confirming they agree to the application being made and that the information contained in the application is correct.

(5) Where the regulator receives a regularisation certificate application, it may require the applicant to take such steps as the regulator thinks appropriate for the regulator to ascertain whether additional building work may be required in order for the unauthorised building work to secure compliance with all applicable requirements of the building regulations.

(6) Where the regulator is satisfied that additional building work is required to secure that the unauthorised building work satisfies the applicable requirements (taking account of any dispensation or relaxation given in accordance with sections 8 and 9 of, and Schedule 2 to, the 1984 Act) then the regulator must reject the application and accordingly an application for building control approval must be made in relation to the additional building work.

(7) Where the regulator is satisfied, after taking all reasonable steps for that purpose that—

- (a) the applicable requirements of the building regulations have been satisfied (taking account of any work carried out and any dispensation or relaxation given in accordance with sections 8 and 9 of, and Schedule 2 to, the 1984 Act), and
- (b) no additional building work is required to secure that the unauthorised building work satisfies the applicable requirements (taking account of any such dispensation or relaxation),

the regulator may give a certificate to that effect (in this regulation referred to as “a regularisation certificate”).

(8) A regularisation certificate is evidence (but not conclusive evidence) that the applicable requirements of the building regulations specified in the certificate have been complied with in relation to the work specified in the certificate.

(9) Where a regularisation certificate is granted in relation to building work, Parts 2 to 5 of these Regulations cease to apply to that work.

(10) Subject to paragraph (12), where a regularisation certificate is granted the applicant must, no later than five days after the certificate has been received, give the building work information and a copy of the certificate to—

- (a) the accountable person who is responsible for the part of the building in relation to which the work described in the certificate relates, and
- (b) the responsible person, if any, for the part of the building in relation to which the work described in the certificate relates.

(11) For the purposes of paragraph (10) the “building work information” is—

- (a) where Part B of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the unauthorised building work, information relating to—
 - (i) the design and construction of the building and the services, fittings and equipment provided in or in connection with the building;
 - (ii) the design of the change of use and building work to implement it;
 - (iii) the composition of materials used,which will assist the responsible person to operate and maintain the building with reasonable safety;
- (b) where paragraph F1(1) of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the unauthorised building work, sufficient information about the building’s ventilation system and its maintenance requirements so that the ventilation system can be operated in such a manner as to provide adequate means of ventilation;
- (c) where paragraph L1 of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the unauthorised building work, sufficient information about the building, the fixed building services and their maintenance requirements so that the building can be operated in such a manner as to use no more fuel and power than is reasonable in the circumstances;
- (d) where paragraph L2 of Schedule 1 to the 2010 Regulations applies in relation to the unauthorised building work, sufficient information about the system for on-site electricity generation in respect of its operation and maintenance requirements so that the system may be operated and maintained in such a manner as to produce the maximum electricity that is reasonable in the circumstances and delivers this electricity to the optimal place for use;
- (e) where Part O of Schedule 1 to the 2010 Regulations applies in relation to the unauthorised building work, sufficient information about the provision made in accordance with Part O so that the systems in place further to Part O can be operated in such a manner as to protect against overheating.

(12) Paragraph (10) does not apply where the applicant is a domestic client.

(13) In this regulation—

“responsible person” has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005;

“unauthorised building work” means any building work in relation to a higher-risk building which is carried out without—

- (a) a building control approval under regulation 7 (building control approval applications for HRB work or stage of HRB work: decisions) or 15 (building control approval applications for work to existing HRB: decisions) being granted by the regulator;
- (b) where the building work is a major change, a building control approval under regulation 24 (change control applications: decisions);
- (c) where the building work is a notifiable change, a notification under regulation 18(3) (change control),

but work is not unauthorised building work to the extent that it consists only of scheme work or exempt work.