
STATUTORY INSTRUMENTS

2023 No. 911

**The Building Regulations etc. (Amendment)
(England) Regulations 2023**

PART 2

Amendment of the Building Regulations 2010

Enforcement provisions

16.—(1) In regulation 47, for sub-paragraph (a) substitute—

- “(a) (i) regulation 14A (determination of applications for building control approval with full plans),
(ii) regulation 15A (consultation in relation fire safety),
(iii) regulation 16(3D) (notice as to commencement of work),
(iv) regulation 17 (completion certificates),
(v) regulation 17A (certificate for building occupied before work is completed),
(vi) regulation 18(6A) (appeal against refuse to grant certain certificates),
(vii) regulation 18E(8) and (12) (appeals under section 101A of the Act),
(viii) regulation 19C(2) (regulator’s notices: grounds for rejection),
(ix) regulation 19E (regulator’s notices: direction),
(x) regulation 20(6A) (provisions applicable to self-certification schemes),
(xi) regulation 20A(7A) (provisions applicable to third party certification schemes),
(xii) regulation 25A(3A) (consideration of high-efficiency alternative systems for new buildings),
(xiii) regulation 27(4A) (CO₂ emission rate calculations),
(xiv) regulation 27A(4A) (fabric energy efficiency rate calculations),
(xv) regulation 27C(4A) (target primary energy rate calculations for new buildings),
(xvi) regulation 37(3) (wholesome water consumption calculation),
(xvii) regulation 41(3A) (sound insulation testing),
(xviii) regulation 42(4) (mechanical ventilation air flow rate testing),
(xix) regulation 43(6) (pressure testing),
(xx) regulation 44(5) (commissioning),
(xxi) regulation 44ZA(4) (commissioning in respect of a system for on-site electricity generation),
(xxii) regulation 47B (compliance notices: contents),
(xxiii) regulation 47C (stop notices: contents),

- (xxiv) regulation 47D(3) (compliance and stop notices: notification),
- (xxv) regulation 47E(2) (compliance and stop notices: withdrawal), and¹.

(2) After regulation 47 (contravention of certain regulations not to be an offence) of the 2010 Regulations insert—

“Compliance notices: excluded provisions

47A. The following provisions of these Regulations are prescribed for the purposes of section 35B(7)(a) of the Act as provisions in relation to which a compliance notice⁽¹⁾ may not be given—

- (a) regulation 14A (determination of applications for building control approval with full plans),
- (b) regulation 15A (consultation in relation fire safety),
- (c) regulation 16(3D) (notice as to commencement of work),
- (d) regulation 17 (completion certificates),
- (e) regulation 17A (certificate for building occupied before work is completed),
- (f) regulation 18(6A) (appeal against refuse to grant certain certificates),
- (g) regulation 18E(8) and (12) (appeals under section 101A of the Act),
- (h) regulation 19C(2) (regulator’s notices: grounds for rejection),
- (i) regulation 19E (regulator’s notices: direction),
- (j) regulation 20(6A) (provisions applicable to self-certification schemes),
- (k) regulation 20A(7A) (provisions applicable to third party certification schemes),
- (l) regulation 25A(3A) (consideration of high-efficiency alternative systems for new buildings),
- (m) regulation 27(4A) (CO₂ emission rate calculations),
- (n) regulation 27A(4A) (fabric energy efficiency rate calculations),
- (o) regulation 27C(4A) (target primary energy rate calculations for new buildings),
- (p) regulation 37(3) (wholesome water consumption calculation),
- (q) regulation 41(3A) (sound insulation testing),
- (r) regulation 42(4) (mechanical ventilation air flow rate testing),
- (s) regulation 43(6) (pressure testing),
- (t) regulation 44(5) (commissioning),
- (u) regulation 44ZA(4) (commissioning in respect of a system for on-site electricity generation),
- (v) regulation 47B (compliance notices: contents),
- (w) regulation 47C (stop notices: contents),
- (x) regulation 47D(3) (compliance and stop notices: notification),
- (y) regulation 47E(2) (compliance and stop notices: withdrawal).

(1) See the definition of compliance notice in section 35B(2) of the Building Act 1984, inserted by section 38 of the Building Safety Act 2022.

Compliance notices: contents

47B.—(1) A compliance notice given by a building control authority must be in writing and state—

- (a) that it is a compliance notice under section 35B of the Act;
- (b) the date the notice is given;
- (c) the name or description of the recipient; and
- (d) the consequences of failing to comply with the notice.

(2) A compliance notice must additionally—

- (a) describe the issue to which the notice relates;
- (b) identify the provision of building regulations, or the requirement imposed by virtue of building regulations, to which the compliance notice relates;
- (c) provide details of the nature of the contravention or likely contravention;
- (d) state that the notice may be withdrawn by the building control authority;
- (e) state that the recipient may apply to the First-tier Tribunal under section 39A(3) of the Act for an extension of the specified period for doing anything set out in the notice and state that any application must be made within 21 relevant days of the date the notice is given;
- (f) state that the recipient may appeal to the First-tier Tribunal under section 39A(1) of the Act and state that any appeal must be made within 21 relevant days of the date the notice is given.

(3) A compliance notice must relate to no more than one contravention or likely contravention of building regulations or a requirement imposed by virtue of building regulations.

Stop notices: contents

47C.—(1) A stop notice given by a building control authority must be in writing and state—

- (a) that it is a stop notice under section 35C(1)(a), 35C(1)(b) or, as the case may be, 35C(1)(c) of the Act;
- (b) the date the notice is given and whether the notice applies immediately, or where it does not apply immediately, the date when it applies;
- (c) the name or description of the recipient; and
- (d) the consequences of failing to comply with the notice.

(2) A stop notice must additionally—

- (a) describe the issue to which the notice relates;
- (b) specify—
 - (i) in a case within section 35C(1)(a) of the Act, the provision of building regulations or requirement imposed by virtue of building regulations to which the stop notice relates;
 - (ii) in a case within section 35C(1)(b) of the Act, the compliance notice to which the stop notice relates;
 - (iii) in a case within section 35C(1)(c) of the Act, the provision of building regulations or requirement imposed by virtue of building regulations to which the stop notice relates;

- (c) provide details of the nature of the contravention (including, in a case within section 35C(1)(c) of the Act, the nature of the serious harm that is anticipated);
 - (d) state that the recipient may appeal to the First-tier Tribunal under section 39A(5) of the Act and state that any appeal must be made within 21 relevant days of the date the notice is given; and
 - (e) state that the recipient may apply to the First-tier Tribunal under section 39A(6) of the Act for a direction.
- (3) A stop notice must relate to—
- (a) in a case within section 35C(1)(a) of the Act, no more than one contravention of a prescribed provision of building regulations or requirement imposed by virtue of such a provision;
 - (b) in a case within section 35C(1)(b) of the Act, no more than one compliance notice;
 - (c) in a case within section 35C(1)(c) of the Act, no more than one contravention of a provision of building regulations or a requirement imposed by virtue of such a provision.

Compliance notices and stop notices: giving of notices and notification of others

47D.—(1) Paragraph (2) applies where a compliance notice under section 35B of the Act or a stop notice under section 35C(1) of the Act is to be given in relation to work on a site or premises and another form of service under section 94(1) of the Act is not appropriate.

(2) Where, after reasonable inquiries, the building control authority is satisfied that there is no one to whom a compliance notice or stop notice can be delivered, the notice, or a copy of it, may be affixed to a conspicuous part of the site or premises where the work to which the notice relates is carried out.

(3) Where a building control authority gives a compliance notice or stop notice, the authority must take reasonable steps to notify the following persons as to the giving of the notice—

- (a) the client, the principal contractor (or sole contractor) and the principal designer (or sole or lead designer) for the work to which the notice relates;
 - (b) where the regulator is the building control authority, the local authority for the area in which the building is situated or the proposed building is to be situated;
 - (c) where the notice relates to a contravention of Part B of Schedule 1 in relation to a building to which the Regulatory Reform (Fire Safety) Order 2005 applies or will apply after completion of the work, the enforcing authority (within the meaning of article 25 of that Order) for the building or the proposed building;
 - (d) where the client is—
 - (i) in relation to any work, a private registered provider of social housing,
 - (ii) in relation to work other than the erection of a new building, any other registered provider of social housing,
 the Regulator of Social Housing;
 - (e) where the client is a landlord in relation to any dwelling contained in the building, the local housing authority for the area in which the building is located; and
 - (f) where the notice relates to work to an existing higher-risk building, the accountable person who is responsible for the part of the building where the work is carried out.
- (4) In this regulation—

“accountable person” has the meaning in given in section 72 of the Building Safety Act 2022;

“the Regulator of Social Housing” is the body established under section 80A of the Housing and Regeneration Act 2008.

Compliance and stop notices: withdrawal

47E.—(1) A building control authority may withdraw a compliance notice or stop notice.

(2) Where a building control authority withdraws a compliance notice or stop notice it must as soon as reasonably practicable give the recipient a notice in writing to that effect.

Appeal to the First-tier Tribunal in relation to a compliance notice or stop notice

47F.—(1) An appeal to the First-tier Tribunal under section 39A(1) or (5) of the Act must be made by the relevant date.

(2) The First-tier Tribunal may allow an appeal referred to in paragraph (1) only if it is satisfied that the giving of the compliance notice or stop notice in question was wrong on one or more of the following grounds—

- (a) that the notice was given based on an error of fact;
- (b) that the giving of the notice was wrong in law;
- (c) that the giving of the notice was unreasonable;
- (d) that the notice was given without following the procedures set out in the Act or regulations made under that Act (except regulation 47D(3)).

(3) If the First-tier Tribunal allows an appeal referred to in paragraph (1) it may quash or vary the compliance notice or stop notice.

(4) In this regulation the “relevant date” is—

- (a) in the case of an appeal under section 39A(1), within 21 relevant days beginning with the date the compliance notice is given; and
- (b) in the case of an appeal under section 39A(5), within 21 relevant days beginning with the date the stop notice is given.

Application to the First-tier Tribunal in relation to extension of the specified period in a compliance notice

47G.—(1) An application to the First-tier Tribunal under section 39A(3) of the Act in relation to a compliance notice must be made within 21 relevant days beginning with the date the compliance notice is given.

(2) In deciding the question set out in an application under section 39A(3) of the Act the First-tier Tribunal must consider whether the recipient of the notice has demonstrated they are unable to comply within the specified period and it is reasonable to extend it.

Application to the First-tier Tribunal for a direction in relation to a stop notice

47H. In deciding the question set out in an application to the First-tier Tribunal under section 39A(6) of the Act in relation to a stop notice, the First-tier Tribunal must consider whether it is fair and proportionate, having regard to any representations made, to give the direction.”

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
