

**EXPLANATORY MEMORANDUM TO**  
**THE BUILDING (REGISTERED BUILDING CONTROL APPROVERS ETC.)**  
**(ENGLAND) REGULATIONS 2024**

**2024 No. 110**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

**2. Purpose of the instrument**

- 2.1 The purpose of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 (*the Regulations*) is to consolidate and replace the Building (Approved Inspectors etc.) Regulations 2010 (*AI Regulations*), following amendments made to the Building Act 1984 (*the 1984 Act*) by the Building Safety Act 2022 (*the 2022 Act*). This instrument is part of the overall reforms to the building control profession to improve standards and ensure uniformity in professional conduct and competence for all building control professionals.
- 2.2 The 2022 Act replaces the existing approved inspectors with registered building control approvers (*RBCAs*). This instrument is one of a package of statutory instruments that will make provision for the implementation of this new regime for registered building control approvers. It will ensure that the wording of the regulations is consistent with the 1984 Act (as amended by the 2022 Act) and sets out key procedural requirements for the implementation of the changes introduced, which are important for the consolidation of the new profession.
- 2.3 This instrument includes provisions on the independence and functions of RBCAs, as well as changes to notices and certificates, including the rejection of initial notices. It also amends existing forms to support the practical operation of changes introduced by the 2022 Act.
- 2.4 It sets out new provisions on the transfer of building projects to local authorities and introduces the new initial notices process, allowing for building projects to be transferred from one RBCA to another.
- 2.5 Furthermore, it introduces a provision to enable local authorities to have the ability to seek information from an RBCA where this has ceased to supervise a building project, including requiring all records of supervision related to the building work to be made available.
- 2.6 This instrument also prescribes the cases where the Building Safety Regulator (*the Regulator*) must notify each local authority in relation to RBCA disciplinary matters.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

#### **4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

#### **5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **6. Legislative Context**

- 6.1 Section 1 of the 1984 Act enables building regulations to be made for England and Wales for a number of purposes with respect to the design and construction of buildings, building work and the services, fittings and equipment provided in or in connection with buildings. These purposes include securing the health, safety, welfare and convenience of persons in and about buildings.
- 6.2 Part 2 of the 1984 Act currently allows for approved inspectors to supervise building work instead of local authorities, for which an initial notice has to be given and accepted.
- 6.3 The 2022 Act provides for the repeal of the existing approved inspectors regime and introduces RBCAs to whom the functions are transferred. These regulations set out practical provisions for the implementation of the new regime for RBCAs.
- 6.4 The 2022 Act also provides for the Regulator to be the only building control authority for higher-risk buildings in England and makes it unlawful to include such work in an initial notice or an amendment notice. A notice or certificate which includes such work will be invalid from the outset.
- 6.5 Section 50 of the 2022 Act covers situations where an initial notice must be cancelled because the RBCA's registration has been varied, suspended or removed. This includes a change in the type of building an RBCA can work on, or professional sanctions such as suspension or deregistration.
- 6.6 Section 51 of the 2022 Act provides for a new process to ensure that responsibility of building projects can be transferred from one RBCA to another. Section 52 amends sections 53 and 57 of the 1984 Act to allow for local authorities to have the ability to request and obtain information from an RBCA where it has ceased to supervise a building project.
- 6.7 This is one of a series of statutory instruments laid by the Department for Levelling Up, Housing and Communities which will facilitate the implementation of changes to the current building control system and deliver improvements across the entire built environment. The other instruments include the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 and the Building Regulations etc. (Amendment) (England) Regulations 2023.

## 7. Policy background

### *What is being done and why?*

- 7.1 The policy intent underlying this instrument is to implement a step-change within the building control profession and to strengthen the building sector by raising competence levels and accountability. These regulations, support this aim by consolidating and replacing the AI Regulations to implement the changes introduced through the 2022 Act and the practical operation of the new RBCA regime.
- 7.2 The 2022 Act makes amendments to the 1984 Act to set out the registration process for RBCAs and registered building inspectors (*RBI*s). The new registration system for RBCAs starts from 1 October 2023 and becomes mandatory from 6 April 2024, replacing the registration of approved inspectors under section 49 of the 1984 Act, currently operated on behalf of the Secretary of State by the Construction Industry Council Approved Inspectors Register (*CICAIR*). In April 2024 the *CICAIR* approval regime will cease to operate (allowing for a short period of transition) and under the new regime building control bodies will need to register with the Regulator as RBCAs.
- 7.3 As part of the drive to foster competence, transparency and accountability within the building control sector, the Regulations make amendments to the 1984 Act to establish the independence and functions of RBCAs. Specifically, this instrument sets out and defines the principle that, except for minor work, RBCAs must have no professional or financial interest in the work they supervise. In addition to this, the Regulations also set out the functions of RBCAs in relation to building work they are engaged for, for as long as the initial notice relating to that work continues to be in force.
- 7.4 To improve oversight and the ability for local authorities to ensure compliance, local authorities will be able to cancel initial notices in an increased number of circumstances. This instrument introduces new forms and amends existing ones to support the practical operation of changes to the regime.
- 7.5 The amendments to the 1984 Act by the 2022 Act also allow local authorities to cancel initial notices where the registration of an RBCA has varied, been suspended or removed altogether. The introduction of cancellation notices for when work falls outside the scope of registration of the RBCA in question will improve the practical operation of the new regime. This instrument sets out the forms to be used in relation to such cancellations. Invalidity notices are also provided for, so that developers and RBCAs are notified where any notices or certificates are invalid (i.e. it includes higher-risk building work or where all or part of the work to which it relates be outside the scope of the registration of the RBCA).
- 7.6 This instrument replicates provisions in the AI Regulations with regard to the reversion of projects to local authorities, setting out the powers of the local authority and duties of the building owner in such cases.
- 7.7 The amendments to the 1984 Act also provide for the process for new initial notices, allowing for the responsibility of building projects to be transferred from one RBCA to another. Regulations 24 to 27 of this instrument include provisions to support this new procedure. This new procedure will allow for greater flexibility and capacity in the building control system by enabling an incoming RBCA to take on unfinished work not subject to a final certificate, whilst also ensuring that it complies with all applicable building regulations. To allow for such a transfer to proceed a transfer certificate and

report is required, which the incoming RBCA must submit to the relevant local authority. Regulation 25 sets out what a transfer certificate must contain.

- 7.8 Regulation 22 sets out the procedure for reversion of work to a local authority. New section 53(4A) of the 1984 Act in the 2022 Act will enable local authorities to seek more information from the person shown in an initial notice as the RBCA in cases where the initial notice has ceased to be in force. The information can be sought even after the RBCA has ceased to supervise the work or ceased to trade. This introduces an explicit duty to provide information regarding the building work, as well as any other information that might be reasonably requested, to the local authority. Regulation 23 of this instrument provides that the information must be provided within 21 days of the local authority requesting it. The same information will need to be provided by the person shown in the initial notice as the RBCA to the person carrying out the work. Regulation 23 also provides the period within which this information must be provided.
- 7.9 Regulation 32 sets out the cases where the Regulator must notify each local authority in relation to RBCA disciplinary matters. The aim is to ensure local authorities have all the information they need to carry out their functions in relation to RBCAs.
- 7.10 Finally, the instrument also sets out transitional provisions. In particular they provide that where an approved inspector, who gave an initial notice before 6 April 2024, has become a suitably qualified RBCA in relation to the work described in that notice before that date then with effect from 6 April 2024 any initial notice given by that person in their capacity as an approved inspector before this date is treated as if it were given instead by that person in their capacity as an RBCA.
- 7.11 These transitional provisions also provide for the AI Regulations to continue to have effect until 1 October 2024 in relation to any building work for which an approved inspector gave an initial notice before 6 April 2024 but did not become a suitably qualified approver before 6 April 2024. Finally, the provisions state that those initial notices of such an approved inspector which are still in place will cease to be in force with effect from 1 October 2024. This means that those approved inspectors who have decided not to become RBCAs will need to ensure that work is completed before 1 October 2024 or for a RBCA to take on the supervision of the work or its reversion to the local authority. The same applies to those types of work which fall outside the scope of the approved inspector's registration as an RBCA. There are separate rules for RBCAs who continue to supervise pre-1 October 2023 higher-risk building work.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 This statutory instrument consolidates and replaces the AI Regulations.

## **10. Consultation outcome**

- 10.1 The Department conducted a public consultation on proposed changes to the building control profession and the building control process for approved inspectors (in future to be known as registered building control approvers) from 31 January 2023 until 14 March 2023. This consultation sought views on the proposals that have been included in this instrument.

- 10.2 There were 113 responses to the consultation and broad agreement with the policy as it has been proposed. We have used this data to inform our policy making for this statutory instrument. Where necessary, a decision has been made taking into consideration operational matters as well as feedback provided in response to the consultation.
- 10.3 We used this public engagement to garner views on the specific proposals set out in this instrument. As an example, we consulted on the cancellation of initial notices, where we received a favourable response.
- 10.4 A full consultation response has been prepared and published on the gov.uk website: [Government response to the consultation on changes to the building control profession and the building control process for approved inspectors \(in future to be known as registered building control approvers\) - GOV.UK \(www.gov.uk\)](#).
- 10.5 The Department has conducted further consultation through extensive stakeholder engagement with those who would be affected by the proposed changes, including the Regulator, local authorities, approved inspectors, trade bodies and representatives in the construction sector.

## **11. Guidance**

- 11.1 Guidance will be produced on relevant provisions included within this statutory instrument.

## **12. Impact**

- 12.1 A full impact assessment has been prepared for this instrument setting out the impact on business and the public sector and published alongside this Memorandum on the legislation.gov.uk website.
- 12.2 These Regulations will have an impact on approved inspectors and RBCAs because of the introduction of new provisions and processes, as well as the wider construction sector as RBCAs' clients.
- 12.3 They will also have an impact on local authorities as they introduce provisions related to notices and certificates, including the rejection of initial notices, and amending existing forms.
- 12.4 No wider impacts are expected to disproportionately affect those with protected characteristics, the environment, or businesses.

## **13. Regulating small business**

- 13.1 Small business will be equally subject to the requirements placed on all building control bodies, because of the need to ensure equal standards of competence and conduct.
- 13.2 Out of the 84 approved inspectors in 2021, approximately 83% of these businesses were considered micro (27) or small (43) and the majority of activities resulting from the new regime will fall to such businesses. This could impact the number of small and micro businesses continuing to operate as building control approvers in the market. However, any exemption for small or micro businesses would mean an unacceptable dilution of the competence necessary for a building control body to operate effectively.
- 13.3 Individuals working in small business, or as sole traders, may face comparatively higher implications in meeting the new requirements for RBCAs, particularly regarding familiarising themselves with procedural changes introduced by these regulations. This could impact the number of small and micro businesses (including sole traders)

continuing to operate as RBCAs in the market. However, any exemption for small or micro businesses (including sole traders) would mean an unacceptable dilution of the competence necessary for building inspectors and building control bodies to operate effectively.

- 13.4 The fees and charges schedule for the registration of registered building control approvers and building inspectors have been set out by the Regulator.
- 13.5 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to be clear about the requirements and take into consideration feedback from the industry.

#### **14. Monitoring & review**

- 14.1 The instrument does not include a statutory review clause and, in line with the requirements of section 31 of the Small Business, Enterprise and Employment Act 2015 the Minister of State (Minister for Housing, Planning and Building Safety), Lee Rowley MP, has made the following statement:

“The regulatory measures in this instrument are within the scope of the periodic review provided for in section 162 of the Building Safety Act 2022, and it would not be appropriate in the circumstances to make provision for a separate review in this instrument”.

#### **15. Contact**

- 15.1 Marta Musolino at the Department for Levelling Up, Housing and Communities [marta.musolino@levellingup.gov.uk](mailto:marta.musolino@levellingup.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Camilla Sheldon, Deputy Director for Regulatory Stewardship and Reform, at the Department for Levelling Up, Housing and Communities can confirm that this explanatory memorandum meets the required standard.
- 15.3 The Minister of State (Minister for Housing, Planning and Building Safety), Lee Rowley at the Department for Levelling Up, Housing and Communities can confirm that this explanatory memorandum meets the required standard.