



Housing and Building Control Act 1984

1984 CHAPTER 29

PART III

MISCELLANEOUS AMENDMENTS RELATING TO BUILDING WORK

Exemptions and relaxations for public bodies

52 Exemption of local authorities etc. from procedural requirements of building regulations.

- (1) Building regulations may exempt—
 - (a) a local authority,
 - (b) a county council, and
 - (c) any other body which acts under any enactment for public purposes and not for its own profit and is prescribed for the purpose of this section by building regulations,from compliance with any requirements of those regulations which are not substantive requirements.
- (2) A local authority, county council or other body which is exempted as mentioned in subsection (1) above is in subsection (3) below referred to as an “exempt body”.
- (3) Without prejudice to the obligation of an exempt body to comply with substantive requirements of building regulations, the function of enforcing building regulations which is conferred on local authorities by section 4(3) of the 1961 Act shall not be exercisable in relation to work carried out by an exempt body and, accordingly—
 - (a) nothing in subsections (1) to (4) of section 65 of the 1936 Act (powers to require removal or alteration of certain work) shall apply in relation to work so carried out; and
 - (b) a local authority may not institute proceedings under section 4(6) of the 1961 Act for any contravention of building regulations by an exempt body.

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- (4) In this section “substantive requirements of building regulations” has the meaning assigned to it by section 76(3) of the 1974 Act.

53 Power of certain public bodies to relax requirements of building regulations for their own works.

- (1) After subsection (2) of section 6 of the 1961 Act there shall be inserted the following subsections:—

“(2A) If—

- (a) building regulations so provide as regards any requirement contained in the regulations, and
 - (b) a public body considers that the operation of any such requirement would be unreasonable in relation to any particular work carried out or proposed to be carried out by or on behalf of the public body,
- the public body may give a direction dispensing with or relaxing that requirement.

(2B) In subsection (2A) above “public body” means—

- (a) a local authority;
- (b) a county council; and
- (c) any other body which is prescribed for the purposes of section 52 of the Housing and Building Control Act 1984.”

- (2) In subsection (1) of section 8 of the 1961 Act (opportunity for representations about proposals to relax building regulations) after the words “local authority”, in the first and second places where they occur, there shall be inserted the words “or other body”, for the words “application is” there shall be substituted the words “direction is proposed to be” and for the words “before publication of the notice” there shall be substituted the words “where the direction is proposed to be made on an application”.
- (3) In subsection (2) and (5) of that section after the words “local authority”, in each place where they occur, there shall be inserted the words “or other body” and in subsection (3) of that section for the words “application is” there shall be substituted the words “direction is proposed to be”.
- (4) In section 15(1)
- of the Fire Precautions Act 1971 (consultation with fire authority prior to exercise by local authority of powers under section 6 of the 1961 Act) after the words “local authority”, in the first place where they occur, there shall be inserted the words “or a public body, as defined in section 6(2B) of that Act, proposes to exercise the power conferred on it by section 6(2A) of that Act” and after the words “local authority”, in the second place where they occur, there shall be inserted the words “or other body”.

Approved documents giving practical guidance

54 Approval of documents for purposes of building regulations. .

- (1) For the purpose of providing practical guidance with respect to the requirements of any provision of building regulations, the Secretary of State or a body designated by him for the purposes of this section may—

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- (a) approve and issue any document (whether or not prepared by him or by the body concerned), or
- (b) approve any document issued or proposed to be issued otherwise than by him or by the body concerned,

if in the opinion of the Secretary of State or, as the case may be, the body concerned the document is suitable for that purpose.

- (2) References in this section and section 55 below to a document include references to any part of a document; and accordingly, in relation to a document of which part only is approved, any reference in the following provisions of this section or in section 55 below to the approved document is a reference only to the part of it which is approved.
- (3) An approval given under subsection (1) above shall take effect in accordance with a notice which is issued by the Secretary of State or, as the case may be, the body giving the approval and which—
 - (a) identifies the approved document in question;
 - (b) states the date on which the approval of it is to take effect; and
 - (c) specifies the provisions of building regulations for the purposes of which the document is approved.
- (4) The Secretary of State or, as the case may be, the body which gave the approval may—
 - (a) from time to time approve and issue a revision of the whole or any part of an approved document issued by him or it for the purposes of this section; and
 - (b) approve any revision or proposed revision of the whole or any part of any approved document;and subsection (3) above shall, with the necessary modifications, apply in relation to an approval which is given under this subsection to a revision as it applies in relation to an approval which is given under subsection (1a) above to a document.
- (5) The Secretary of State or, as the case may be, the body which gave the approval may withdraw his or its approval of a document under this section; and such a withdrawal of approval shall take effect in accordance with a notice which is issued by the Secretary of State or body concerned and which—
 - (a) identifies the approved document in question; and
 - (b) states the date on which the approval of it is to cease to have effect.
- (6) References in subsections (4) and (5) above and in section 55 below to an approved document are references to that document as it has effect for the time being, having regard to any revision of the whole or any part of it which has been approved under subsection (4) above.
- (7) Where a body ceases to be a body designated by the Secretary of State for the purposes of this section, subsections (4) and (5) above shall have effect as if any approval given by that body had been given by the Secretary of State.
- (8) The power to designate a body for the purposes of this section shall be exercisable by order made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

55 Compliance or noncompliance with approved documents.

- (1) A failure on the part of any person to comply with an approved document shall not of itself render him liable to any civil or criminal proceedings; but if, in any proceedings

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whether civil or criminal, it is alleged that any person has at any time contravened a provision of building regulations—

- (a) a failure to comply with a document which at that time was approved for the purposes of that provision may be relied upon as tending to establish liability; and
 - (b) proof of compliance with such a document may be relied on as tending to negative liability.
- (2) In any proceedings, whether civil or criminal,—
- (a) a document purporting to be a notice issued as mentioned in section 54(3) above shall be taken to be such a notice unless the contrary is proved; and
 - (b) a document which appears to the court to be the approved document to which such a notice refers shall be taken to be that approved document unless the contrary is proved.

Certification and reports

56 Certificates of compliance with building regulations.

- (1) In section 64 of the 1936 Act (passing or rejection of plans etc.) immediately before subsection (3) (appeals to magistrates' courts) there shall be inserted the following subsection—

“(2C) Where the deposited plans are accompanied by—

- (a) a certificate given by a person approved for the purposes of this subsection to the effect that the proposed work, if carried out in accordance with the deposited plans, will comply with such provisions of the regulations prescribed for the purposes of this subsection as may be specified in the certificate, and
- (b) such evidence as may be prescribed that an approved scheme applies, or the prescribed insurance cover has been or will be provided, in relation to the certificate,

the local authority may not except in prescribed circumstances reject the plans on the ground that they are defective with respect to any provisions of the regulations which are so specified or that they show that the proposed work would contravene any of those provisions.”

- (2) For subsection (3) of section 64 of the 1936 Act there shall be substituted the following subsection—

“(3) In any case where a question arises under this section between a local authority and a person who proposes to carry out any work—

- (a) whether plans of the proposed work are in conformity with building regulations; or
- (b) whether the local authority are prohibited from rejecting plans of the proposed work by virtue of subsection (2C) above,

that person may refer the question to the Secretary of State for his determination; and an application for a reference under this subsection shall be accompanied by such fee as may be prescribed by building regulations.”

- (3) After that subsection there shall be inserted the following subsection—

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- “(3A) Where deposited plans accompanied by such a certificate and such evidence as are mentioned in subsection (2C) above are passed by the local authority, or notice of the rejection of deposited plans so accompanied is not given within the prescribed period from the deposit of the plans, the authority may not institute proceedings under section 4(6) of the 1961 Act for any contravention of building regulations which—
- (a) arises out of the carrying out of the proposed work in accordance with the plans; and
 - (b) is a contravention of any of the provisions of the regulations specified in the certificate.”
- (4) Building regulations may make provision for the approval of persons for the purposes of subsection (2C) of section 64 of the 1936 Act—
- (a) by the Secretary of State; or
 - (b) by a body (corporate or unincorporated) which, in accordance with the regulations, is designated by the Secretary of State for the purpose;
- and any such approval may limit the description of work, or the provisions of the regulations, in relation to which the person concerned is so approved.
- (5) Any such designation as is referred to in paragraph (b) of subsection (4) above may limit the cases in which and the terms on which the body designated may approve a person and, in particular, may provide that any approval given by the body shall be limited as mentioned in that subsection.
- (6) There shall be paid on an application for any such approval as is referred to in subsection (4) above—
- (a) where the application is made to the Secretary of State, such fee as may be prescribed by building regulations;
 - (b) where the application is made to a body designated by him as mentioned in that subsection, such fee as that body may determine.
- (7) The Secretary of State may approve for the purposes of subsection (2C) of section 64 of the 1936 Act any scheme which appears to him to secure the provision of adequate insurance cover in relation to any certificate which is given under paragraph (a) of that subsection and is a certificate to which the scheme applies.
- (8) Building regulations may prescribe for the purposes of subsection (2C) of section 64 of the 1936 Act the insurance cover which is to be provided in relation to any certificate which is given under paragraph (a) of that subsection and is not a certificate to which an approved scheme applies and may, in particular, prescribe the form and content of policies of insurance.
- (9) Building regulations may—
- (a) contain provision prescribing the period for which, subject to any provision made by virtue of paragraph (b) or (c) below, any such approval as is referred to in subsection (4) above shall continue in force;
 - (b) contain provision precluding the giving of, or requiring the withdrawal of, any such approval as is referred to in that subsection in such circumstances as may be prescribed by the regulations;
 - (c) contain provision authorising the withdrawal of any such approval or designation as is so referred to;

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- (d) provide for the maintenance by the Secretary of State of a list of bodies who are for the time being designated by him as mentioned in subsection (4) above and for the maintenance by the Secretary of State and by each designated body of a list of persons for the time being approved by him or them as mentioned in that subsection;
 - (e) make provision for the supply to local authorities of copies of any list of approved persons maintained by virtue of paragraph (d) above and for such copy lists to be made available for inspection; and
 - (f) make provision for the supply, on payment of a prescribed fee, of a certified copy of any entry in a list maintained by virtue of paragraph (d) above or in a copy list held by a local authority by virtue of paragraph (e) above.
- (10) Unless the contrary is proved, in any proceedings (whether civil or criminal) a document which appears to the court to be a certified copy of an entry either in a list maintained as mentioned in subsection (9)(d) above or in a copy of such a list supplied as mentioned in subsection (9)(e) above—
- (a) shall be presumed to be a true copy of an entry in the current list so maintained; and
 - (b) shall be evidence of the matters stated therein.

57 Methods of challenging section 65 notices.

- (1) After section 65 of the 1936 Act there shall be inserted the sections set out in Schedule 9 to this Act.
- (2) Section 67 of the 1936 Act (joint applications to the Secretary of State for determination of certain questions relating to building regulations) shall cease to have effect except as respects applications referred to the Secretary of State before this subsection comes into force.

Miscellaneous

58 Charges by local authorities for performing functions relating to building regulations.

Building regulations may authorise local authorities, subject to and in accordance with the regulations, to fix by means of schemes and to recover such charges for or in connection with the performance of functions of theirs relating to building regulations as they may determine in accordance with principles prescribed by the regulations.

59 Amendments of enactments relating to building regulations.

- (1) In section 9(3) of the 1961 Act (consultation with Building Regulations Advisory Committee and other bodies before making building regulations) after the word “regulations”, in the first place where it occurs, there shall be inserted the words “containing substantive requirements as defined in section 76(3) of the Health and Safety at Work etc. Act 1974”.
- (2) The following provisions of the 1974 Act, namely—
 - (a) subsection (5) of section 61 (which provides for the repeal of section 71 of the 1936 Act but has not been brought into force); and

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(b) subsections (6) and (7) of section 63 (which make provision consequential on that repeal),
shall cease to have effect.

(3) In Schedule 6 to the 1974 Act (amendments of enactments relating to building regulations) paragraphs 1, 2, 5(a), 5(d), 6 and 7 (most of which are not yet in operation and none of which is yet fully in operation) shall be deemed not to have been enacted, and accordingly (and having regard to section 53(1) above)—

(a) subsection (4) of section 64 of the 1936 Act and section 6 of the 1961 Act shall have effect as set out in Schedule 10 to this Act, and

(b) section 65 of the 1936 Act and sections 7 and 8 of the 1961 Act shall continue to have effect (for all purposes) without regard to any provision of the said Schedule 6.

60 Amendments of enactments relating to sanitation and buildings.

(1) Part XII of the 1936 Act (enforcement and other general provisions) shall have effect as if so much of Part II of the 1961 Act (sanitation and buildings) as does not relate to building regulations were contained in Part II of the 1936 Act.

(2) In the following provisions, namely—

(a) so much of Part II of the 1936 Act (sanitation and buildings) as does not relate to building regulations;

(b) sections 137 and 138 of that Act (certain buildings to be supplied with water);
and

(c) so much of Part II of the 1961 Act as does not relate to building regulations, expressions which are defined by subsection (1) of section 82 of the 1974 Act shall have the meanings given by that subsection.

61 Repeal of the Building Control Act 1966.

(1) The Building Control Act 1966 (which regulates building and constructional work) shall cease to have effect.

(2) In consequence of subsection (1) above, the enactments mentioned in Part I of Schedule 12 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

62 Interpretation of Part III.

(1) In this Part of this Act—

“the 1936 Act” means the Public Health Act 1936;

“the 1961 Act” means the Public Health Act 1961;

“the 1974 Act” means the Health and Safety at Work etc, Act 1974;

“contravention”, in relation to any provision of building regulations, includes a failure to comply with that provision;

“local authority” has the meaning assigned to it by subsection (2)(a) of section 76 of the 1974 Act.

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- (2) Any reference in this Part of this Act to the carrying out of work includes a reference to the making of a material change of use, as defined by and for the purposes of building regulations.