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STATUTORY INSTRUMENTS

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**2004 No. 1465**

**BUILDING AND BUILDINGS,  
ENGLAND AND WALES**

**The Building (Amendment) Regulations 2004**

<i>Made</i>	- - - -	<i>28th May 2004</i>
<i>Laid before Parliament</i>		<i>8th June 2004</i>
<i>Coming into force</i>		
<i>Regulations 1 and 2(1), (2), (4) and (5)</i>		<i>1st July 2004</i>
<i>Remainder</i>		<i>1st December 2004</i>

The First Secretary of State, in exercise of the powers conferred upon him by section 1(1) of, and paragraphs 1, 2, 7, 8 and 10 of Schedule 1 to, the Building Act 1984<sup>(1)</sup> and of all other powers enabling him in that behalf, after consulting with the Building Regulations Advisory Committee and such other bodies as appear to him to be representative of the interests concerned in accordance with section 14(3) of that Act, hereby makes the following Regulations:

**Citation and commencement**

1.—(1) These Regulations may be cited as the Building (Amendment) Regulations 2004.

(2) This regulation, and regulation 2(1), (2), (4) and (5) shall come into force on 1st July 2004, and the remainder of these Regulations on 1st December 2004.

**Amendment of the Building Regulations 2000**

2.—(1) The Building Regulations 2000<sup>(2)</sup> (“the principal Regulations”) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), for the definition of “room for residential purposes” substitute—

““room for residential purposes” means a room, or a suite of rooms, which is not a dwelling-house or a flat and which is used by one or more persons to live and sleep and includes a room in a hostel, an hotel, a boarding house, a hall of residence or a residential home, whether or not the room is separated from or arranged in a cluster group with other rooms, but does not

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(1) 1984 c. 55.

(2) S.I.2000/2531. Relevant amending instruments are S.I.2001/3335, S.I.2002/440, S.I.2002/2871, and S.I.2003/2692.

include a room in a hospital, or other similar establishment, used for patient accommodation and, for the purposes of this definition, a “cluster” is a group of rooms for residential purposes which is—

- (a) separated from the rest of the building in which it is situated by a door which is designed to be locked; and
  - (b) not designed to be occupied by a single household;”.
- (3) In regulation 6 (requirements relating to material change of use) in paragraph (1)—
- (a) in sub-paragraph (a), after “B5 (access and facilities for the fire service)”, add “C2(c) (interstitial and surface condensation)”;
  - (b) in the same sub-paragraph, after “F1”, delete the words “and F2”;
  - (c) after sub-paragraph (c) insert—
    - “(cc) in the case of a material change of use described in regulation 5(a),(b),(c),(d), (g),(h),(i) or, where the material change provides new residential accommodation, (f), C1(2) resistance to contaminants);”.
  - (d) in sub-paragraph (d), for the words “C4 (resistance to weather and ground moisture)”, substitute “C2 (resistance to moisture)”.
- (4) In regulation 20A (sound insulation testing) at the beginning of paragraph (1) insert “Subject to paragraph (4) below,”,
- (5) After regulation 20A(3) insert—
- “(4) Where building work consists of the erection of a dwelling-house or a building containing flats, this regulation does not apply to any part of the building in relation to which the person carrying out the building work notifies the local authority, not later than the date on which he gives notice of commencement of the work under regulation 15(1), that, for the purpose of achieving compliance of the work with paragraph E1 of Schedule 1, he is using one or more design details approved by Robust Details Limited(3), provided that—
    - (a) the notification specifies —
      - (i) the part or parts of the building in respect of which he is using the design detail;
      - (ii) the design detail concerned; and
      - (iii) the unique number issued by Robust Details Limited in respect of the specified use of that design detail; and
    - (b) the building work carried out in respect of the part or parts of the building identified in the notification is in accordance with the design detail specified in the notification.”,
- (6) In Schedule 1, omit the whole paragraph in the second column in the entry for paragraph A3 (disproportionate collapse).
- (7) For Part C of that Schedule, substitute the Part set out in the Schedule to these Regulations.
- (8) In Part F of that Schedule, omit the whole of paragraph F2 (condensation in roofs).

### **Transitional provisions**

**3.—**(1) Subject to paragraph (2), where before 1st December 2004 building work is commenced in accordance with—

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(3) A company incorporated under the Companies Act 1985 (c. 6) with the registration number 04980223.

- (a) a building notice given to, or full plans deposited with, a local authority under regulation 12(2) of the principal Regulations and a notice given to the local authority under regulation 15(1) of the principal Regulations; or
- (b) an initial notice or an amendment notice given in accordance with section 47(1) or 51A(2)(4) respectively of the Building Act 1984 (“the Act”), the principal Regulations shall continue to apply to that building work as if the amendments made by regulation 2(3) and (6) to (8) had not been made.

(2) Where an initial notice given before 1st December 2004 is varied by an amendment notice given on or after that date, the principal Regulations shall continue to apply as if the amendments made by regulation 2(3) and (6) to (8) had not been made, to so much of the building work as could have been carried out under that initial notice if the amendment notice had not been given.

(3) Where before 1st December 2004 full plans of building work have been deposited with a local authority in accordance with regulation 12(2) of the principal Regulations and the local authority has, before that date—

- (a) given notice under section 16(6) of the Act that they have passed those plans without conditions; or
- (b) signified in writing to the person by whom or on whose behalf the plans were deposited that any condition subject to which they passed the plans has been fully met,

the principal Regulations shall continue to apply to that building work as if the amendments made by regulation 2(3) and (6) to (8) had not been made, whether or not the building work departs from those plans.

(4) Where plans of work are the subject of a plans certificate, or a plans certificate combined with an initial notice, given to the local authority before 1st December 2004 in accordance with section 50 of the Act, and accepted by the local authority either before, on or after that date, the principal Regulations shall continue to apply to that building work as if the amendments made by regulation 2(3) and (6) to (8) had not been made, whether or not the building work departs from those plans.

Signed by authority of the First Secretary of State

28th May 2004

*Phil Hope*  
Parliamentary Under Secretary of State,  
Office of the Deputy Prime Minister

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## SCHEDULE

Regulation 2(7)

PART C OF SCHEDULE 1 TO THE BUILDING REGULATIONS  
2000, AS SUBSTITUTED BY THESE REGULATIONS

<i>Requirement</i>	<i>Limits on application</i>
<b>PART C SITE PREPARATION AND RESISTANCE TO CONTAMINANTS AND MOISTURE</b>	
<b>Preparation of site and resistance to contaminants</b>	
<b>C1. —</b>	
<p>(1) The ground to be covered by the building shall be reasonably free from any material that might damage the building or affect its stability, including vegetable matter, topsoil and pre-existing foundations.</p> <p>(2) Reasonable precautions shall be taken to avoid danger to health and safety caused by contaminants on or in the ground covered, or to be covered by the building and any land associated with the building.</p> <p>(3) Adequate sub-soil drainage shall be provided, if it is needed to avoid—</p> <ul style="list-style-type: none"> <li>(a) the passage of ground moisture to the interior of the building;</li> <li>(b) damage to the building, including damage through the transport of water-borne contaminants to the foundations of the building.</li> </ul> <p>(4) For the purposes of this requirement, “contaminant” means any substance, which is or may become harmful to persons or buildings including substances, which are corrosive, explosive, flammable, radioactive or toxic.</p>	
<b>Resistance to moisture</b>	
<p><b>C2.</b> The walls, floors and roof of the building shall adequately protect the building and people who use the building from harmful effects caused by—</p> <ul style="list-style-type: none"> <li>(a) ground moisture;</li> <li>(b) precipitation including wind-driven spray;</li> <li>(c) interstitial and surface condensation; and</li> <li>(d) spillage of water from or associated with sanitary fittings or fixed appliances.</li> </ul>	

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Building Regulations 2000 (S.I.2000/2531), “the principal Regulations”. The main changes are:

- (a) regulation 2(2) amends the definition of “room for residential purposes” in regulation 2(1) of the principal Regulations to clarify the position, so that it is clear that where a room separated or arranged in a cluster of rooms (such as a group of study-bedrooms in a student accommodation block) is used by one or more persons to live and sleep in, each individual room is a “room for residential purposes” rather than the cluster collectively;
- (b) changes to the requirements for specified material changes of use (amendments to regulation 6) of the principal Regulations in regulation 2(3);
- (c) regulation 20A of the principal Regulations contains a requirement for sound insulation testing. That regulation comes into force, as regards new houses and buildings containing flats, on 1st July 2004( see S.I.2002/2871 amended by S.I.2003/3133). Regulation 2(4) and (5) of these Regulations, coming into force on the same day, introduce an alternative provision into the Regulations so that the requirement for testing does not apply where the person carrying out the building work notifies the local authority in accordance with the Regulations that he is using one or more of the design details approved by Robust Details Limited. The requirement for testing in regulation 20A(2) continues to apply to parts of the building to which paragraph E1 of Schedule 1 applies, which are not covered by the notification;
- (d) the limit on the application of requirement A3 (disproportionate collapse) in Part A of Schedule 1 (Structure) has been removed, so that the requirement that buildings shall be constructed so that, in the event of an accident, the building will not suffer collapse to an extent disproportionate to the cause now applies to buildings irrespective of the number of storeys (regulation 2(6));
- (e) amendments to the requirements of Part C (site preparation and resistance to contaminants and moisture) and F (ventilation), (regulation 2(8) and the Schedule) (the effect of the existing requirement F2 (condensation in roofs) is now contained in requirement C2 which includes interstitial and surface condensation);
- (f) regulation 3 contains transitional provisions.

The design details referred to in these regulations can be obtained from Robust Details Limited, P.O. Box 7289, Milton Keynes, MK14 6ZQ (Tel: 0870 240 8210; Fax: 0870 240 8203; Email: [administration@robustdetails.com](mailto:administration@robustdetails.com)).

The Secretary of State has approved, under section 6(1) of the Building Act 1984, new approved documents containing practical guidance with respect to the requirements contained in Part A (structure) and Part C (site preparation and resistance to contaminants and moisture) of Schedule 1 to the principal Regulations. “Approved Document A-Structure” (2004 Edition, ISBN 0-11-753909-0, £11.00) and “Approved Document C- Site preparation and resistance to contaminants and moisture” (2004 Edition, ISBN 0-11-753913-9, £11.00) will be published by The Stationery Office Limited.

The Secretary of State has also approved, under section 6(4) of the Building Act 1984, amendments to the approved document giving practical guidance with respect to Part E (resistance to the passage of sound) and regulation 20A (sound insulation testing) of the principal Regulations and

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regulation 12A (sound insulation testing) of the Building (Approved Inspector's etc.) Regulations 2000. "Amendments 2004 to Approved Document E (resistance to the passage of sound)"(ISBN 0-11-753915-5, £6.50) will be published by The Stationery Office Limited.

A Regulatory Impact Assessment has been prepared in relation to these Regulations. A copy may be obtained from Buildings Division, ODPM, Zone 18/B Portland House, Stag Place, London SW1E 5LP (Tel: 020 7944 5755; Fax 020 7944 5739; Email: [bregsa.br@odpm.gov.uk](mailto:bregsa.br@odpm.gov.uk)).