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STATUTORY INSTRUMENTS

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**2010 No. 2214**

**The Building Regulations 2010**

**PART 1**

**General**

**Citation and commencement**

1. These Regulations may be cited as the Building Regulations 2010 and shall come into force on 1st October 2010.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Building Act 1984;

“amendment notice” means a notice given under section 51A of the Act(1);

“building” means any permanent or temporary building but not any other kind of structure or erection, and a reference to a building includes a reference to part of a building;

“building notice” means a notice given in accordance with regulations 12(2)(a) and 13;

“building work” has the meaning given in regulation 3(1);

“change to a building’s energy status” means any change which results in a building becoming a building to which the energy efficiency requirements of these Regulations apply, where previously it was not;

“controlled service or fitting” means a service or fitting in relation to which Part G, H, J, L or P of Schedule 1 imposes a requirement;

“day” means any period of 24 hours commencing at midnight and excludes any Saturday, Sunday, Bank holiday or public holiday;

“dwelling” includes a dwelling-house and a flat;

“dwelling-house” does not include a flat or a building containing a flat;

“electrical installation” means fixed electrical cables or fixed electrical equipment located on the consumer’s side of the electricity supply meter;

“energy efficiency requirements” means the requirements of regulations 23, 26, 28 and 29 and Part L of Schedule 1;

“extra-low voltage” means voltage not exceeding—

(a) in relation to alternating current, 50 volts between conductors and earth; or

(b) in relation to direct current, 120 volts between conductors;

“final certificate” means a certificate given under section 51 of the Act(2);

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(1) Section 51A was inserted by [S.I. 1996/1905](#).

(2) Section 51 was amended by [S.I. 1996/1905](#).

“fixed building services” means any part of, or any controls associated with—

- (a) fixed internal or external lighting systems, but does not include emergency escape lighting or specialist process lighting; or
- (b) fixed systems for heating, hot water, air conditioning or mechanical ventilation;

“flat” means separate and self-contained premises constructed or adapted for use for residential purposes and forming part of a building from some other part of which it is divided horizontally;

“floor area” means the aggregate area of every floor in a building or extension, calculated by reference to the finished internal faces of the walls enclosing the area, or if at any point there is no such wall, by reference to the outermost edge of the floor;

“full plans” means plans deposited with a local authority for the purposes of section 16 of the Act<sup>(3)</sup> in accordance with regulations 12(2)(b) and 14;

“height” means the height of the building measured from the mean level of the ground adjoining the outside of the external walls of the building to the level of half the vertical height of the roof of the building, or to the top of the walls or of the parapet, if any, whichever is the higher;

“independent access” means, in relation to a part of a building (including any extension to that building), a route of access to that part which does not require the user to pass through any other part of the building;

“initial notice” means a notice given under section 47 of the Act<sup>(4)</sup>;

“institution” means an institution (whether described as a hospital, home, school or other similar establishment) which is used as living accommodation for, or for the treatment, care or maintenance of persons—

- (a) suffering from disabilities due to illness or old age or other physical or mental incapacity, or
- (b) under the age of five years,

where such persons sleep on the premises;

“low voltage” means voltage not exceeding—

- (a) in relation to alternating current, 1000 volts between conductors or 600 volts between conductors and earth; or
- (b) in relation to direct current, 1500 volts between conductors or 900 volts between conductors and earth;

“material alteration” has the meaning given in regulation 3(2);

“material change of use” has the meaning given in regulation 5;

“microgeneration” means the use for the generation of electricity or the production of heat or cooling of any plant (which for this purpose includes any equipment, apparatus or appliance) which, in generating electricity or (as the case may be) producing heat or cooling, relies wholly or mainly on a source of energy or a technology mentioned in section 26(2) of the Climate Change and Sustainable Energy Act 2006<sup>(5)</sup>;

“public body’s final certificate” means a certificate given under paragraph 3 of Schedule 4 to the Act;

“public body’s notice” means a notice given under section 54 of the Act;

<sup>(3)</sup> Section 16 was amended by Part 13 of Schedule 1 to the Statute Law (Repeals) Act 1993 (c.50).

<sup>(4)</sup> Section 47 was amended by section 8 of the Sustainable and Secure Buildings Act 2004 and S.I. 1996/1905.

<sup>(5)</sup> 2006 c. 19; section 26(2) was amended by S.I. 2008/1767.

“renovation” in relation to a thermal element means the provision of a new layer in the thermal element or the replacement of an existing layer, but excludes decorative finishes, and “renovate” shall be construed accordingly;

“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, but does not include a room in a hospital, or other similar establishment, used for patient accommodation;

“shop” includes premises—

- (a) used for the sale to members of the public of food or drink for consumption on or off the premises,
- (b) used for retail sales by auction to members of the public,
- (c) used by members of the public as a barber or hairdresser, or for the hiring of any item, and
- (d) where members of the public may take goods for repair or other treatment;

“softened wholesome water” means water which would be regarded as wholesome for the purposes of regulations made under section 67 of the Water Industry Act 1991<sup>(6)</sup> (standards of wholesomeness) as they apply for the purposes of Part G of Schedule 1 in accordance with paragraph (5) but for the presence of sodium in excess of the level specified in those regulations if it is caused by a water softener or water softening process which reduces the concentrations of calcium and magnesium.

(2) In these Regulations “public building” means a building consisting of or containing—

- (a) a theatre, public library, hall or other place of public resort;
- (b) a school or other educational establishment not exempted from the operation of building regulations by virtue of section 4(1)(a) of the Act<sup>(7)</sup>; or
- (c) a place of public worship;

but a building is not to be treated as a place of public resort because it is, or it contains, a shop, storehouse or warehouse, or is a dwelling to which members of the public are occasionally admitted.

(3) In these Regulations “thermal element” means a wall, floor or roof (but does not include windows, doors, roof windows or roof-lights) which separates a thermally conditioned part of the building (“the conditioned space”) from—

- (a) the external environment (including the ground); or
- (b) in the case of floors and walls, another part of the building which is—
  - (i) unconditioned;
  - (ii) an extension falling within class 7 of Schedule 2; or
  - (iii) where this paragraph applies, conditioned to a different temperature,

and includes all parts of the element between the surface bounding the conditioned space and the external environment or other part of the building as the case may be.

(4) Paragraph (3)(b)(iii) only applies to a building which is not a dwelling, where the other part of the building is used for a purpose which is not similar or identical to the purpose for which the conditioned space is used.

(5) Section 67 of the Water Industry Act 1991 and such regulations as have been made under that section apply for the purposes of Part G of Schedule 1 as they apply for the purposes of Chapter 3 of Part 3 of that Act.

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<sup>(6)</sup> 1991 c. 56; regulations made under section 67 of that Act are S.I. 2000/3184, 2009/3101, 2010/66 and 2010/994.

<sup>(7)</sup> Section 4(1)(a) was amended by paragraph 59 of Schedule 37 to the Education Act 1996 (c.56), Schedule 31 to the School Standards and Framework Act 1998 (c.31) and paragraph 6 of Schedule 21 to the Education Act 2002 (c.32), and is prospectively repealed by section 5(a) of and the Schedule to the Sustainable and Secure Buildings Act 2004.

## PART 2

### Control of Building Work

#### **Meaning of building work**

- 3.—(1) In these Regulations “building work” means—
- (a) the erection or extension of a building;
  - (b) the provision or extension of a controlled service or fitting in or in connection with a building;
  - (c) the material alteration of a building, or a controlled service or fitting, as mentioned in paragraph (2);
  - (d) work required by regulation 6 (requirements relating to material change of use);
  - (e) the insertion of insulating material into the cavity wall of a building;
  - (f) work involving the underpinning of a building;
  - (g) work required by regulation 22 (requirements relating to a change of energy status);
  - (h) work required by regulation 23 (requirements relating to thermal elements);
  - (i) work required by regulation 28 (consequential improvements to energy performance).
- (2) An alteration is material for the purposes of these Regulations if the work, or any part of it, would at any stage result—
- (a) in a building or controlled service or fitting not complying with a relevant requirement where previously it did; or
  - (b) in a building or controlled service or fitting which before the work commenced did not comply with a relevant requirement, being more unsatisfactory in relation to such a requirement.
- (3) In paragraph (2) “relevant requirement” means any of the following applicable requirements of Schedule 1, namely—
- Part A (structure)
  - paragraph B1 (means of warning and escape)
  - paragraph B3 (internal fire spread—structure)
  - paragraph B4 (external fire spread)
  - paragraph B5 (access and facilities for the fire service)
  - Part M (access to and use of buildings).

#### **Requirements relating to building work**

- 4.—(1) Subject to paragraph (2) building work shall be carried out so that—
- (a) it complies with the applicable requirements contained in Schedule 1; and
  - (b) in complying with any such requirement there is no failure to comply with any other such requirement.
- (2) Where—
- (a) building work is of a kind described in regulation 3(1)(g), (h) or (i); and
  - (b) the carrying out of that work does not constitute a material alteration,
- that work need only comply with the applicable requirements of Part L of Schedule 1.

- (3) Building work shall be carried out so that, after it has been completed—
- (a) any building which is extended or to which a material alteration is made; or
  - (b) any building in, or in connection with, which a controlled service or fitting is provided, extended or materially altered; or
  - (c) any controlled service or fitting,

complies with the applicable requirements of Schedule 1 or, where it did not comply with any such requirement, is no more unsatisfactory in relation to that requirement than before the work was carried out.

### **Meaning of material change of use**

5. For the purposes of paragraph 8(1)(e) of Schedule 1 to the Act and for the purposes of these Regulations, there is a material change of use where there is a change in the purposes for which or the circumstances in which a building is used, so that after that change—

- (a) the building is used as a dwelling, where previously it was not;
- (b) the building contains a flat, where previously it did not;
- (c) the building is used as an hotel or a boarding house, where previously it was not;
- (d) the building is used as an institution, where previously it was not;
- (e) the building is used as a public building, where previously it was not;
- (f) the building is not a building described in classes 1 to 6 in Schedule 2, where previously it was;
- (g) the building, which contains at least one dwelling, contains a greater or lesser number of dwellings than it did previously;
- (h) the building contains a room for residential purposes, where previously it did not;
- (i) the building, which contains at least one room for residential purposes, contains a greater or lesser number of such rooms than it did previously; or
- (j) the building is used as a shop, where previously it was not.

### **Requirements relating to material change of use**

6.—(1) Where there is a material change of use of the whole of a building, such work, if any, shall be carried out as is necessary to ensure that the building complies with the applicable requirements of the following paragraphs of Schedule 1—

- (a) in all cases, B1 (means of warning and escape)
  - B2 (internal fire spread—linings)
  - B3 (internal fire spread—structure)
  - B4(2) (external fire spread—roofs)
  - B5 (access and facilities for the fire service)
  - C2(c) (interstitial and surface condensation)
  - F1 (ventilation)
  - G1 (cold water supply)
  - G3(1) to (3) (hot water supply and systems)
  - G4 (sanitary conveniences and washing facilities)
  - G5 (bathrooms)

- G6 (kitchens and food preparation areas)
  - G2 (bathrooms)
  - H1 (foul water drainage)
  - H6 (solid waste storage)
  - J1 to J4 (combustion appliances)
  - L1 (conservation of fuel and power)
  - P1 (electrical safety);
- (b) in the case of a material change of use described in regulation 5(c), (d), (e) or (f), A1 to A3 (structure);
  - (c) in the case of a building exceeding fifteen metres in height, B4(1) (external fire spread—walls);
  - (d) 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);
  - (e) in the case of a material change of use described in regulation 5(a), C2 (resistance to moisture);
  - (f) in the case of a material change of use described in regulation 5(a), (b), (c), (g), (h) or (i), E1 to E3 (resistance to the passage of sound);
  - (g) in the case of a material change of use described in regulation 5(e), where the public building consists of or contains a school, E4 (acoustic conditions in schools);
  - (h) in the case of a material change of use described in regulation 5(a) or (b), G2 (water efficiency) and G3(4) (hot water supply and systems: hot water supply to fixed baths);
  - (i) in the case of a material change of use described in regulation 5(c), (d), (e) or (j), M1 (access and use).
- (2) Where there is a material change of use of part only of a building, such work, if any, shall be carried out as is necessary to ensure that—
- (a) that part complies in all cases with any applicable requirements referred to in paragraph (1) (a);
  - (b) in a case in which sub-paragraphs (b), (e), (f), (g) or (h) of paragraph (1) apply, that part complies with the requirements referred to in the relevant sub-paragraph;
  - (c) in a case to which sub-paragraph (c) of paragraph (1) applies, the whole building complies with the requirement referred to in that sub-paragraph; and
  - (d) in a case to which sub-paragraph (i) of paragraph (1) applies—
    - (i) that part and any sanitary conveniences provided in or in connection with that part comply with the requirements referred to in that sub-paragraph; and
    - (ii) the building complies with requirement M1(a) of Schedule 1 to the extent that reasonable provision is made to provide either suitable independent access to that part or suitable access through the building to that part.

### **Materials and workmanship**

7. Building work shall be carried out—
- (a) with adequate and proper materials which—
    - (i) are appropriate for the circumstances in which they are used,
    - (ii) are adequately mixed or prepared, and

- (iii) are applied, used or fixed so as adequately to perform the functions for which they are designed; and
- (b) in a workmanlike manner.

### **Limitation on requirements**

**8.** Parts A to D, F to K, N and P (except for paragraphs G2, H2 and J7) of Schedule 1 shall not require anything to be done except for the purpose of securing reasonable standards of health and safety for persons in or about buildings (and any others who may be affected by buildings, or matters connected with buildings).

### **Exempt buildings and work**

**9.—**(1) Subject to paragraphs (2) and (3) and regulation 21(1), these Regulations do not apply to—

- (a) the erection of any building or extension of a kind described in Schedule 2; or
- (b) the carrying out of any work to or in connection with such a building or extension, if after the carrying out of that work it is still a building or extension of a kind described in that Schedule.

(2) The requirements of paragraphs G1 and G3(2) and (3) of Schedule 1 apply—

- (a) to any greenhouse which receives a cold or hot water supply from a source shared with or located inside a dwelling; and
- (b) to—
  - (i) any small detached building falling within class 6 in Schedule 2; and
  - (ii) any extension of a building falling within class 7 in Schedule 2,which in either case receives a cold or hot water supply from a source shared with or located inside any building other than a building or extension of a kind described in Schedule 2.

(3) The requirements of Part P of Schedule 1 apply to—

- (a) any greenhouse;
- (b) any small detached building falling within class 6 in Schedule 2; and
- (c) any extension of a building falling within class 7 in Schedule 2,

which in any case receives its electricity from a source shared with or located inside a dwelling.

### **Exemption of the Metropolitan Police Authority from procedural requirements**

**10.—**(1) The Metropolitan Police Authority is hereby prescribed for the purposes of section 5 of the Act (exemption of public bodies from the procedural requirements and enforcement of building regulations).

(2) The Metropolitan Police Authority is exempt from compliance with these Regulations, other than regulation 29, in so far as the requirements in these Regulations are not substantive requirements.

### **Power to dispense with or relax requirements**

**11.—**(1) Subject to paragraph (3), the power under section 8(1) of the Act to dispense with or relax any requirement contained in these Regulations shall be exercisable by the local authority.

(2) Any notification by the local authority to an applicant that they have refused the applicant's application to dispense with or relax any requirement of these Regulations shall inform the applicant of the effect of section 39(1) and (3) of the Act (appeal against refusal etc. to relax building regulations).

(3) Sub-sections (1) to (5) of section 8 of the Act (relaxation of building regulations) do not apply to—

- (a) regulation 26 or 29; or
- (b) in the case of existing buildings with a total useful floor area over 1,000m<sup>2</sup>, the energy efficiency requirements of these Regulations.

## PART 3

### Notices, Plans and Certificates

#### **Giving of a building notice or deposit of plans**

**12.**—(1) This regulation applies to a person who intends to—

- (a) carry out building work;
- (b) replace or renovate a thermal element in a building to which the energy efficiency requirements apply;
- (c) make a change to a building's energy status; or
- (d) make a material change of use.

(2) Subject to the following provisions of this regulation, a person to whom this regulation applies shall—

- (a) give to the local authority a building notice in accordance with regulation 13; or
- (b) deposit full plans with the local authority in accordance with regulation 14.

(3) A person intending to carry out building work in relation to a building to which the Regulatory Reform (Fire Safety) Order 2005<sup>(8)</sup> applies, or will apply after the completion of the building work, shall deposit full plans.

(4) A person intending to carry out building work which includes the erection of a building fronting onto a private street shall deposit full plans.

(5) A person intending to carry out building work in relation to which paragraph H4 of Schedule 1 imposes a requirement shall deposit full plans.

(6) A person intending to carry out building work is not required to give a building notice or deposit full plans where the work consists only of work—

- (a) described in column 1 of the Table in Schedule 3 if the work is to be carried out by a person described in the corresponding entry in column 2 of that Table; or
- (b) described in Schedule 4.

(7) Where regulation 19 of the Building (Approved Inspectors etc) Regulations 2010<sup>(9)</sup> (local authority powers in relation to partly completed work) applies, the owner shall comply with the requirements of that regulation instead of with this regulation.

(8) Where—

- (a) a person proposes to carry out building work which consists of emergency repairs;

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<sup>(8)</sup> S.I. 2005/1541.

<sup>(9)</sup> S.I. 2010/2215.



- (b) it is not practicable to comply with paragraph (2) before commencing the work; and
- (c) paragraph (6) does not apply,

the person shall give a building notice to the local authority as soon as reasonably practicable after commencement of the work.

(9) In this regulation—

- “fronting” has the meaning given in section 203(3) of the Highways Act 1980<sup>(10)</sup>; and
- “private street” has the meaning given in section 203(2) of the Highways Act 1980<sup>(11)</sup>.

### **Particulars and plans where a building notice is given**

**13.**—(1) A building notice shall state the name and address of the person intending to carry out the work and shall be signed by that person or on that person’s behalf, and shall contain or be accompanied by—

- (a) a statement that it is given for the purpose of regulation 12(2)(a);
- (b) a description of the proposed building work, renovation or replacement of a thermal element, change to the building’s energy status or material change of use; and
- (c) particulars of the location of the building to which the proposal relates and the use or intended use of that building.

(2) In the case of the erection or extension of a building, a building notice shall be accompanied by—

- (a) a plan to a scale of not less than 1:1250 showing—
  - (i) the size and position of the building, or the building as extended, and its relationship to adjoining boundaries;
  - (ii) the boundaries of the curtilage of the building, or the building as extended, and the size, position and use of every other building or proposed building within that curtilage;
  - (iii) the width and position of any street on or within the boundaries of the curtilage of the building or the building as extended;
- (b) a statement specifying the number of storeys (each basement level being counted as one storey), in the building to which the proposal relates; and
- (c) particulars of—
  - (i) the provision to be made for the drainage of the building or extension; and
  - (ii) the steps to be taken to comply with any local enactment which applies.

(3) Where a building notice has been given, a person carrying out building work, renovation or replacement of a thermal element, change to the building’s energy status or making a material change of use shall give the local authority, within such time as they specify, such plans as are, in the particular case, necessary for the discharge of their functions in relation to building regulations and are specified by them in writing.

(4) Neither a building notice nor plans which accompany it or are given under paragraph (3) are to be treated for the purposes of section 16 of the Act as having been deposited in accordance with building regulations.

(5) A building notice shall cease to have effect on the expiry of three years from the date on which that notice was given to the local authority, unless before the expiry of that period—

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<sup>(10)</sup> 1980 c. 66.

<sup>(11)</sup> Section 203(2) was amended by paragraph 45(11) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11) and Part 5 of Schedule 19 to the Planning and Compensation Act 1991 (c.34).

- (a) the building work to which the notice related was commenced; or
- (b) the change to the building's energy status or the material change of use described in the notice was made.

### **Full plans**

**14.**—(1) Full plans shall be accompanied by a statement that they are deposited for the purpose of regulation 12(2)(b).

- (a) (2) (a) Full plans shall be deposited in duplicate, of which the local authority may retain one copy; and
  - (b) where Part B of Schedule 1 (fire safety) imposes a requirement in relation to proposed building work, an additional two copies of any such plans as demonstrate compliance with that requirement shall be deposited, both of which may be retained by the local authority.
- (3) Full plans shall consist of—
- (a) a description of the proposed building work, renovation or replacement of a thermal element, change to the building's energy status or material change of use, and the plans, particulars and statements required by paragraphs (1) and (2) of regulation 13;
  - (b) where paragraph H4 of Schedule 1 imposes a requirement, particulars of the precautions to be taken in building over a drain, sewer or disposal main to comply with the requirements of that paragraph; and
  - (c) any other plans which are necessary to show that the work would comply with these Regulations.
- (4) Full plans shall be accompanied by a statement as to whether the building is a building in relation to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of the building work.
- (5) Full plans may be accompanied by a request from the person carrying out building work that on completion of the work the local authority should issue a completion certificate in accordance with regulation 17.
- (6) Paragraph (2)(b) shall not require the deposit of additional copies of plans where the proposed building work relates to the erection, extension or material alteration of a dwelling-house or flat.

### **Consultation with sewerage undertaker**

**15.**—(1) This regulation applies where full plans have been deposited with the local authority and paragraph H4 of Schedule 1 imposes requirements in relation to the building work which is the subject of those plans.

- (2) Where this regulation applies the local authority shall consult the sewerage undertaker—
  - (a) as soon as practicable after the plans have been deposited; and
  - (b) before issuing any completion certificate in relation to the building work in accordance with regulation 17 pursuant to a request under regulation 14(5).
- (3) Where a local authority are required by paragraph (2) to consult the sewerage undertaker they shall—
  - (a) give to the sewerage undertaker, in a case where the authority are consulting them following the deposit of full plans, sufficient plans to show whether the work would, if carried out in accordance with those plans, comply with the applicable requirements of paragraph H4 of Schedule 1;
  - (b) have regard to any views expressed by the sewerage undertaker; and

- (c) not pass plans or issue a completion certificate until 15 days have elapsed from the date on which they consulted the sewerage undertaker, unless the sewerage undertaker has expressed its views to them before the expiry of that period.

### **Notice of commencement and completion of certain stages of work**

**16.**—(1) Subject to paragraphs (8) and (9), a person who proposes to carry out building work shall not commence that work unless—

- (a) that person has given the local authority notice of intention to commence work; and
- (b) at least two days have elapsed since the end of the day on which the notice was given.

(2) Subject to paragraph (8), a person carrying out building work shall not—

- (a) cover up any excavation for a foundation, any foundation, any damp-proof course or any concrete or other material laid over a site; or
- (b) cover up in any way any drain or sewer to which these Regulations apply, unless that person has given the local authority notice of intention to commence that work, and at least one day has elapsed since the end of the day on which the notice was given.

(3) Subject to paragraph (8), a person who has laid, haunched or covered any drain or sewer in respect of which Part H of Schedule 1 (drainage and waste disposal) imposes a requirement shall give notice to that effect to the local authority not more than five days after the completion of the work.

(4) Subject to paragraph (8), a person carrying out building work shall, not more than five days after that work has been completed, give the local authority notice to that effect.

(5) Where a building is being erected, and that building (or any part of it) is to be occupied before completion, the person carrying out that work shall give the local authority at least five days notice before the building or any part of it is occupied.

(6) A person who fails to comply with paragraphs (1) to (3) shall comply within a reasonable time with any notice given by the local authority requiring that person to cut into, lay open or pull down so much of the work as prevents them from ascertaining whether these Regulations have been complied with.

(7) If the local authority have given notice specifying the manner in which any work contravenes the requirements in these Regulations, a person who has carried out any further work to secure compliance with these Regulations shall within a reasonable time after the completion of such further work give notice to the local authority of its completion.

(8) Paragraphs (1) to (4) apply only to a person who is required by regulation 12 to give a building notice or deposit full plans.

(9) Paragraph (1) does not apply where regulation 12(8) applies.

### **Completion certificates**

**17.**—(1) A local authority shall give a completion certificate in accordance with this regulation and as provided for in paragraph (2) where—

- (a) they receive a notice under regulation 16(4) or (5) that building work has been completed, or, that a building has been partly occupied before completion; and
- (b) they have either—
  - (i) been notified, in accordance with regulation 14(4), that the building is a building to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of the work; or
  - (ii) been requested, in accordance with regulation 14(5), to give a completion certificate.

(2) Where in relation to any building work or, as the case may be, to any part of a building which has been occupied before completion, a local authority have been able to ascertain, after taking all reasonable steps, that the relevant requirements specified in the certificate have been satisfied, they shall give a certificate to that effect.

(3) In this regulation “relevant requirements” mean—

- (a) in a case mentioned in paragraph (1)(b)(i), the applicable requirements of regulation 38 and Part B of Schedule 1 (fire safety); and
- (b) in a case mentioned in paragraph (1)(b)(ii), any applicable requirements of regulations 26 (target CO<sub>2</sub> emission rates for new buildings), 29 (energy performance certificates), 36 (water efficiency of new dwellings) and Schedule 1.

(4) A certificate given in accordance with this regulation shall be evidence (but not conclusive evidence) that the requirements specified in the certificate have been complied with.

### **Unauthorised building work**

**18.**—(1) This regulation applies where it appears to a local authority 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 apply in writing to the local authority for a regularisation certificate in accordance with this regulation, and shall send with the application—

- (a) a statement that the application is made in accordance with this regulation,
- (b) a description of the unauthorised work,
- (c) so far as is reasonably practicable, a plan of the unauthorised work, and
- (d) so far as is reasonably practicable, a plan showing any additional work required to be carried out to secure that the unauthorised work complies with the requirements relating to building work in the building regulations which were applicable to that work when it was carried out (in this regulation referred to as “the relevant requirements”).

(3) Where a local authority receive an application in accordance with this regulation, they may require the applicant to take such reasonable steps, including laying open the unauthorised work for inspection by the authority, making tests and taking samples, as the authority think appropriate to ascertain what work, if any, is required to secure that the relevant requirements are met.

(4) When the applicant has taken any such steps required by the local authority as are described in paragraph (3), and having had regard to any direction given in accordance with sections 8 and 9 of, and Schedule 2 to, the Act dispensing with or relaxing a requirement in building regulations which applies to the unauthorised work, the local authority shall notify the applicant—

- (a) of the work which in their opinion is required to comply with the relevant requirements or those requirements as dispensed with or relaxed, or
- (b) that they cannot determine what work is required to comply with the relevant requirements or those requirements as dispensed with or relaxed, or
- (c) that no work is required to secure compliance with the relevant requirements or those requirements as dispensed with or relaxed.

(5) Where the local authority have been able to satisfy themselves, after taking all reasonable steps for that purpose that—

- (a) the relevant requirements 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 Act), or

(b) no work is required to secure that the unauthorised work satisfies the relevant requirements (taking account of any such dispensation or relaxation),

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

(6) A regularisation certificate shall be evidence (but not conclusive evidence) that the relevant requirements specified in the certificate have been complied with.

(7) Where this regulation applies, regulations 12 and 14 shall not apply, and neither the supply of plans nor the taking of any other action in accordance with this regulation is to be treated for the purposes of section 16 of the Act as the deposit of plans in accordance with building regulations.

(8) In this regulation, “unauthorised building work” means building work other than work in relation to which an initial notice, an amendment notice or a public body’s notice has effect, which is done without—

- (a) a building notice being given to the local authority;
- (b) full plans of the work being deposited with the local authority; or
- (c) a notice of commencement of work being given, in accordance with regulation 16(1), where a building notice has been given or full plans have been deposited.

## PART 4

### Supervision of Building Work Otherwise than by Local Authorities

#### **Supervision of building work otherwise than by local authorities**

19.—(1) Regulations 12 (giving of a building notice or deposit of plans), 16 (notice of commencement and completion of certain stages of work), 17 (completion certificates), 20 (provisions applicable to self-certification schemes), 27 (CO<sub>2</sub> emission rate calculations), 29 (energy performance certificates), 37 (wholesome water consumption calculation), 41 (sound insulation testing), 42 (mechanical ventilation air flow rate testing), 43 (pressure testing), 44 (commissioning), 45 (testing of building work) and 46 (sampling of material) shall not apply in respect of any work specified in an initial notice, an amendment notice or a public body’s notice, which is in force.

(2) Regulations 45 and 46 shall not apply in respect of any work in relation to which a final certificate or a public body’s final certificate has been accepted by the local authority.

## PART 5

### Self-certification Schemes

#### **Provisions applicable to self-certification schemes**

20.—(1) This regulation applies to the extent that the building work consists only of work of a type described in column 1 of the Table in Schedule 3 and the work is carried out by a person who is described in the corresponding entry in column 2 of that Table in respect of that type of work.

(2) Where this regulation applies, the local authority are authorised to accept, as evidence that the requirements of regulations 4 and 7 have been satisfied, a certificate to that effect by the person carrying out the work.

(3) Where this regulation applies, the person carrying out the work shall, not more than 30 days after the completion of the work—

- (a) give to the occupier a copy of the certificate referred to in paragraph (2); and

- (b) give to the local authority—
  - (i) notice to that effect, or
  - (ii) the certificate referred to in paragraph (2).
- (4) Paragraph (3) of this regulation does not apply where a person carries out any building work described in Schedule 4.

## PART 6

### Energy Efficiency Requirements

#### Application of energy efficiency requirements

- 21.**—(1) The energy efficiency requirements apply to—
- (a) the erection of any building of a kind falling within this paragraph;
  - (b) the extension of any such building, other than an extension to which paragraph (4) applies; and
  - (c) the carrying out of any work to or in connection with any such building or extension.
- (2) A building falls within paragraph (1) if it—
- (a) is a roofed construction having walls;
  - (b) uses energy to condition the indoor climate; and
  - (c) does not fall within one or more of the categories listed in paragraph (3).
- (3) The categories referred to in paragraph (2)(c) are—
- (a) buildings which are—
    - (i) listed in accordance with section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>(12)</sup>;
    - (ii) in a conservation area designated in accordance with section 69 of that Act; or
    - (iii) included in the schedule of monuments maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979<sup>(13)</sup>,  
where compliance with the energy efficiency requirements would unacceptably alter their character or appearance;
  - (b) buildings which are used primarily or solely as places of worship;
  - (c) temporary buildings with a planned time of use of two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand;
  - (d) stand-alone buildings other than dwellings with a total useful floor area of less than 50m<sup>2</sup>.
- (4) This paragraph applies to any extension of a building falling within class 7 in Schedule 2 except a conservatory or porch—
- (a) where any wall, door or window separating the conservatory or porch from that building has been removed and not replaced with a wall, door or window; or
  - (b) into which the building's heating system has been extended.

<sup>(12)</sup> 1990 c.9.

<sup>(13)</sup> 1979 c.46; section 1 was amended by Schedule 4 to the National Heritage Act 1983 (c.47).

(5) In this regulation, the following terms have the same meaning as in European Parliament and Council Directive [2002/91/EC](#) of 16 December 2002 on the energy performance of buildings<sup>(14)</sup>—

- (i) “industrial sites”;
- (ii) “low energy demand”;
- (iii) “non-residential agricultural buildings”;
- (iv) “places of worship”;
- (v) “stand-alone”;
- (vi) “total useful floor area”;
- (vii) “workshops”.

#### **Requirements relating to a change to energy status**

**22.** Where there is a change to a building’s energy status, such work, if any, shall be carried out as is necessary to ensure that the building complies with the applicable requirements of Part L of Schedule 1.

#### **Requirements relating to thermal elements**

**23.**—(1) Where a person intends to renovate a thermal element, such work shall be carried out as is necessary to ensure that the whole thermal element complies with the requirements of paragraph L1(a)(i) of Schedule 1.

(2) Where a thermal element is replaced, the new thermal element shall comply with the requirements of paragraph L1(a)(i) of Schedule 1.

#### **Methodology of calculation and expression of energy performance**

**24.**—(1) The Secretary of State shall approve—

- (a) a methodology of calculation of the energy performance of buildings, including methods for calculating asset ratings and operational ratings of buildings; and
- (b) ways in which the energy performance of buildings, as calculated in accordance with the methodology, shall be expressed.

(2) In this regulation—

“asset rating” means a numerical indicator of the amount of energy estimated to meet the different needs associated with a standardised use of the building; and

“operational rating” means a numerical indicator of the amount of energy consumed during the occupation of a building over a period of time.

#### **Minimum energy performance requirements for new buildings**

**25.** The Secretary of State shall approve minimum energy performance requirements for new buildings, in the form of target CO<sub>2</sub> emission rates, which shall be based upon the methodology approved pursuant to regulation 24.

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<sup>(14)</sup> OJ No. L1, 4.1.2003, p.65, as amended by Regulation (EC) No. 1137/2008 of the European Parliament and of the Council (OJ No. L311, 21.11.2008, p.1).

**CO<sub>2</sub> emission rates for new buildings**

26. Where a building is erected, it shall not exceed the target CO<sub>2</sub> emission rate for the building that has been approved pursuant to regulation 25.

**CO<sub>2</sub> emission rate calculations**

27.—(1) This regulation applies where a building is erected and regulation 26 applies.

(2) Not later than the day before the work starts, the person carrying out the work shall give the local authority a notice which specifies—

- (a) the target CO<sub>2</sub> emission rate for the building,
- (b) the calculated CO<sub>2</sub> emission rate for the building as designed, and
- (c) a list of specifications to which the building is to be constructed.

(3) Not later than five days after the work has been completed, the person carrying out the work shall give the local authority—

- (a) a notice which specifies—
  - (i) the target CO<sub>2</sub> emission rate for the building,
  - (ii) the calculated CO<sub>2</sub> emission rate for the building as constructed, and
  - (iii) whether the building has been constructed in accordance with the list of specifications referred to in paragraph (2)(c), and if not a list of any changes to those specifications; or
- (b) a certificate of the sort referred to in paragraph (4) accompanied by the information referred to in sub-paragraph (a).

(4) A local authority are authorised to accept, as evidence that the requirements of regulation 26 have been satisfied, a certificate to that effect by an energy assessor who is accredited to produce such certificates for that category of building.

(5) In this regulation, “specifications” means specifications used for the calculation of the CO<sub>2</sub> emission rate.

**Consequential improvements to energy performance**

28.—(1) Paragraph (2) applies to an existing building with a total useful floor area over 1,000m<sup>2</sup> where the proposed building work consists of or includes—

- (a) an extension;
- (b) the initial provision of any fixed building services; or
- (c) an increase to the installed capacity of any fixed building services.

(2) Subject to paragraph (3), where this paragraph applies, such work, if any, shall be carried out as is necessary to ensure that the building complies with the requirements of Part L of Schedule 1.

(3) Nothing in paragraph (2) requires work to be carried out if it is not technically, functionally and economically feasible.

**Energy performance certificates**

29.—(1) This regulation applies where—



- (a) a building is erected(15); or
  - (b) a building is modified so that it has a greater or lesser number of parts designed or altered for separate use than it previously had, where the modification includes the provision or extension of any of the fixed services for heating, hot water, air conditioning or mechanical ventilation.
- (2) The person carrying out the work shall—
- (a) give an energy performance certificate for the building to the owner of the building; and
  - (b) give to the local authority notice to that effect, including the reference number under which the energy performance certificate has been registered in accordance with regulation 30(4).
- (3) The energy performance certificate and notice shall be given not later than five days after the work has been completed.
- (4) An energy performance certificate must—
- (a) express the asset rating of the building in a way approved by the Secretary of State under regulation 24;
  - (b) include a reference value such as a current legal standard or benchmark;
  - (c) be issued by an energy assessor who is accredited to produce energy performance certificates for that category of building; and
  - (d) include the following information—
    - (i) the reference number under which the certificate has been registered in accordance with regulation 30(4);
    - (ii) the address of the building, or in the case of a portable building the address of the owner;
    - (iii) an estimate of the total useful floor area of the building;
    - (iv) the name of the energy assessor who issued it;
    - (v) the name and address of the energy assessor’s employer, or, if self-employed, the name under which the assessor trades and the assessor’s address;
    - (vi) the date on which it was issued; and
    - (vii) the name of the approved accreditation scheme of which the energy assessor is a member.
- (5) The energy performance certificate must be accompanied by a recommendation report containing recommendations for the improvement of the energy performance of the building, issued by the energy assessor who issued the energy performance certificate.
- (6) Certification for apartments or units designed or altered for separate use in blocks may be based—
- (a) except in the case of a dwelling, on a common certification of the whole building for blocks with a common heating system; or
  - (b) on the assessment of another representative apartment or unit in the same block.
- (7) Where—
- (a) a block with a common heating system is divided into parts designed or altered for separate use; and
  - (b) one or more, but not all, of the parts are dwellings,

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(15) Regulation 9 of [S.I. 2007/991](#) contains a requirement to provide an energy performance certificate five days after the completion of construction work on certain buildings exempt from these Regulations.

certification for those parts which are not dwellings may be based on a common certification of all the parts which are not dwellings.

### **Energy assessors**

**30.**—(1) An energy assessor must be a member of an accreditation scheme approved by the Secretary of State.

(2) The terms of approval of any accreditation scheme may be limited in relation to the categories of building for which members may produce certificates.

(3) Before approving an accreditation scheme the Secretary of State must be satisfied that the scheme contains adequate provision—

- (a) for ensuring that members of the scheme carry out consistent and accurate energy assessments in an independent manner;
- (b) for ensuring that members of the scheme are fit and proper persons who are qualified (by their education, training and experience) to carry out energy assessments;
- (c) for requiring members of the scheme to prepare energy performance certificates and recommendation reports using a standard form for each type of document;
- (d) for ensuring the production and publication of a code as regards the conduct required of its members;
- (e) for indemnity arrangements in relation to owners and prospective or actual buyers or tenants;
- (f) for facilitating the resolution of complaints against members of the scheme;
- (g) for requiring energy performance certificates and recommendation reports produced by members of the scheme to be entered on the relevant register referred to in paragraph (4); and
- (h) for the keeping of a register of the members of the scheme.

(4) An energy assessor who issues an energy performance certificate and recommendation report must ensure they are entered onto the relevant register maintained by the Secretary of State in accordance with regulation 31 of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007<sup>(16)</sup> before giving them to the person who requested them.

### **Related party disclosures**

**31.** An energy assessor must include in an energy performance certificate a declaration of any personal or business relationship (other than in relation to producing the certificate) that the energy assessor has with—

- (a) the person who commissioned the certificate; and
- (b) any person who the energy assessor believes—
  - (i) has or may have a personal or business relationship with the person who commissioned the certificate; or
  - (ii) has or may have an interest in the building.

### **Duty of care**

**32.**—(1) Energy assessors must carry out energy assessments with reasonable care and skill.

(2) The duty imposed by paragraph (1) shall be enforceable by the following persons—

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<sup>(16)</sup> S.I. 2007/991, amended by S.I. 2008/2363.

- (a) the owner; and
- (b) any prospective or actual buyer or tenant of the building during the period of validity of the certificate.

(3) Any cause of action arising in relation to the duty imposed by paragraph (1) is deemed not to be an action founded on tort for the purposes of the Limitation Act 1980<sup>(17)</sup>.

### **Right to copy documents**

**33.** Any person may, for the purpose of complying with any duty imposed by these Regulations or the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007, copy or issue a copy of any document produced by an energy assessor.

### **Application of building regulations to educational buildings and buildings of statutory undertakers**

**34.**—(1) The requirements specified in paragraph (2) shall apply to educational buildings and buildings of statutory undertakers (notwithstanding section 4(1) of the Act<sup>(18)</sup>).

(2) Those requirements are—

- (a) the requirements of regulation 26; and
- (b) in circumstances where such a building has a total useful floor area over 1000m<sup>2</sup> and undergoes a major renovation, the requirements of—
  - (i) regulation 4(1)(a) to the extent that it requires compliance with the requirements of Part L of Schedule 1; and
  - (ii) regulations 23 and 28.

(3) In this regulation, “education buildings and buildings of statutory undertakers” means buildings which—

- (a) fall within paragraph (a), (b) or (c) of section 4(1) of the Act;
- (b) are roofed constructions having walls;
- (c) use energy to condition the indoor climate; and
- (d) do not fall within one or more of the following categories—
  - (i) buildings and monuments officially protected as part of a designated environment or because of their special architectural or historic merit, where compliance with the requirements would unacceptably alter their character or appearance;
  - (ii) buildings used as places of worship and for religious activities;
  - (iii) temporary buildings with a planned time of use of two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand;
  - (iv) stand-alone buildings with a total useful floor area of less than 50m<sup>2</sup>.

(4) Terms used in this regulation and in European Parliament and Council Directive [2002/91/EC](#) of 16 December 2002 on the energy performance of buildings have the same meaning in this regulation as in the Directive.

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<sup>(17)</sup> 1980 c.58.

<sup>(18)</sup> Section 4(1) was amended by Part 1 of Schedule 6 to the Airports Act 1986 (c.31), paragraph 59 of Schedule 37 to the Education Act 1996 (c.56), Schedule 31 to the School Standards and Framework Act 1998 (c.31), paragraph 6 of Schedule 21 to the Education Act 2002 (c.32) and Part 2 of the Schedule to S.I. 2001/4050, and is prospectively repealed by section 5(a) of and the Schedule to the Sustainable and Secure Buildings Act 2004 (c.22).

## **Interpretation of Part 6**

**35.**—(1) In this Part—

“building” means the building as a whole or parts of it that have been designed or altered to be used separately;

“energy assessor” means an individual who is a member of an accreditation scheme approved by the Secretary of State in accordance with regulation 30; and

“recommendation report” means the report required by regulation 29(5).

(2) In this Part a reference to “energy assessment” includes a reference to—

- (a) the preparation and issuing of energy performance certificates;
- (b) the preparation and issuing of recommendation reports; and
- (c) the carrying out of any inspections undertaken for the purposes of preparing energy performance certificates or recommendation reports.

## **PART 7**

### **Water Efficiency**

#### **Water efficiency of new dwellings**

**36.**—(1) The potential consumption of wholesome water by persons occupying a dwelling to which this regulation applies must not exceed 125 litres per person per day, calculated in accordance with the methodology set out in the document “The Water Efficiency Calculator for New Dwellings”, published in September 2009 by the Department for Communities and Local Government(19).

(2) This regulation applies to a dwelling which is—

- (a) erected; or
- (b) formed by a material change of use of a building within the meaning of regulation 5(a) or (b).

#### **Wholesome water consumption calculation**

**37.**—(1) Where regulation 36 applies, the person carrying out the work must give the local authority a notice which specifies the potential consumption of wholesome water per person per day calculated in accordance with the methodology referred to in that regulation in relation to the completed dwelling.

(2) The notice shall be given to the local authority not later than five days after the work has been completed.

## **PART 8**

### **Information to be Provided by the Person Carrying Out Work**

#### **Fire safety information**

**38.**—(1) This regulation applies where building work—

- (a) consists of or includes the erection or extension of a relevant building; or

(b) is carried out in connection with a relevant change of use of a building, and Part B of Schedule 1 imposes a requirement in relation to the work.

(2) The person carrying out the work shall give fire safety information to the responsible person not later than the date of completion of the work, or the date of occupation of the building or extension, whichever is the earlier.

(3) In this regulation—

- (a) “fire safety information” means information relating to the design and construction of the building or extension, and the services, fittings and equipment provided in or in connection with the building or extension which will assist the responsible person to operate and maintain the building or extension with reasonable safety;
- (b) a “relevant building” is a building to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of building work;
- (c) a “relevant change of use” is a material change of use where, after the change of use takes place, the Regulatory Reform (Fire Safety) Order 2005 will apply, or continue to apply, to the building; and
- (d) “responsible person” has the meaning given by article 3 of the Regulatory Reform (Fire Safety) Order 2005.

#### **Information about ventilation**

**39.**—(1) This regulation applies where paragraph F1(1) of Schedule 1 imposes a requirement in relation to building work.

(2) The person carrying out the work shall not later than five days after the work has been completed give sufficient information to the owner 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.

#### **Information about use of fuel and power**

**40.**—(1) This regulation applies where paragraph L1 of Schedule 1 imposes a requirement in relation to building work.

(2) The person carrying out the work shall not later than five days after the work has been completed provide to the owner 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.

## **PART 9**

### **Testing and Commissioning**

#### **Sound insulation testing**

**41.**—(1) Subject to paragraph (4) below, this regulation applies to—

- (a) building work in relation to which paragraph E1 of Schedule 1 imposes a requirement; and
- (b) work which is required to be carried out to a building to ensure that it complies with paragraph E1 of Schedule 1 by virtue of regulation 6(1)(f) or 6(2)(b).

(2) Where this regulation applies, the person carrying out the work shall, for the purpose of ensuring compliance with paragraph E1 of Schedule 1—

- (a) ensure that appropriate sound insulation testing is carried out in accordance with a procedure approved by the Secretary of State; and
  - (b) give a copy of the results of the testing referred to in sub-paragraph (a) to the local authority.
- (3) The results of the testing referred to in paragraph (2)(a) shall be—
- (a) recorded in a manner approved by the Secretary of State; and
  - (b) given to the local authority in accordance with paragraph (2)(b) not later than the date on which the notice required by regulation 16(4) is given.
- (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 notice of commencement of the work is given under regulation 16(1), that, for the purpose of achieving compliance of the work with paragraph E1 of Schedule 1, the person is using one or more design details approved by Robust Details Limited<sup>(20)</sup>, provided that—
- (a) the notification specifies—
    - (i) the part or parts of the building in respect of which the person 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.

#### **Mechanical ventilation air flow rate testing**

**42.**—(1) This regulation applies where paragraph F1(1) of Schedule 1 imposes a requirement in relation to the creation of a new dwelling by building work.

(2) The person carrying out the work shall, for the purpose of ensuring compliance with paragraph F1(1) of Schedule 1—

- (a) ensure that testing of the mechanical ventilation air flow rate is carried out in accordance with a procedure approved by the Secretary of State; and
  - (b) give notice of the results of the testing to the local authority.
- (3) The notice referred to in paragraph (2)(b) shall—
- (a) record the results and the data upon which they are based in a manner approved by the Secretary of State; and
  - (b) be given to the local authority not later than five days after the final test is carried out.

#### **Pressure testing**

**43.**—(1) This regulation applies to the erection of a building in relation to which paragraph L1(a)(i) of Schedule 1 imposes a requirement.

(2) Where this regulation applies, the person carrying out the work shall, for the purpose of ensuring compliance with regulation 26 and paragraph L1(a)(i) of Schedule 1—

- (a) ensure that—

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<sup>(20)</sup> A company formed and registered under the Companies Acts with the registration number 04980223.

- (i) pressure testing is carried out in such circumstances as are approved by the Secretary of State; and
  - (ii) the testing is carried out in accordance with a procedure approved by the Secretary of State; and
- (b) subject to paragraph (5), give notice of the results of the testing to the local authority.
- (3) The notice referred to in paragraph (2)(b) shall—
- (a) record the results and the data upon which they are based in a manner approved by the Secretary of State; and
  - (b) be given to the local authority not later than seven days after the final test is carried out.
- (4) A local authority are authorised to accept, as evidence that the requirements of paragraph (2)(a)(ii) have been satisfied, a certificate to that effect by a person who is registered by the British Institute of Non-destructive Testing<sup>(21)</sup> in respect of pressure testing for the air tightness of buildings.
- (5) Where such a certificate contains the information required by paragraph (3)(a), paragraph (2)(b) does not apply.

### **Commissioning**

**44.**—(1) This regulation applies to building work in relation to which paragraph F1(2) of Schedule 1 imposes a requirement, but does not apply to the provision or extension of any fixed system for mechanical ventilation or any associated controls where testing and adjustment is not possible.

(2) This regulation also applies to building work in relation to which paragraph L1(b) of Schedule 1 imposes a requirement, but does not apply to the provision or extension of any fixed building service where testing and adjustment is not possible or would not affect the energy efficiency of that fixed building service.

(3) Where this regulation applies the person carrying out the work shall, for the purpose of ensuring compliance with paragraph F1(2) or L1(b) of Schedule 1, give to the local authority a notice confirming that the fixed building services have been commissioned in accordance with a procedure approved by the Secretary of State.

- (4) The notice shall be given to the local authority—
- (a) not later than the date on which the notice required by regulation 16(4) is required to be given; or
  - (b) where that regulation does not apply, not more than 30 days after completion of the work.

## **PART 10**

### **Miscellaneous**

#### **Testing of building work**

**45.** The local authority may make such tests of any building work as may be necessary to establish whether it complies with regulation 7 or any of the applicable requirements contained in Schedule 1.

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(21) A charity registered under number 260666.

**Sampling of material**

46. The local authority may take such samples of the material to be used in the carrying out of building work as may be necessary to enable them to ascertain whether such materials comply with the provisions of these Regulations.

**Contravention of certain regulations not to be an offence**

47. Regulations 17, 27, 29, 37, 41, 42, 43 and 44 are designated as provisions to which section 35 of the Act (penalty for contravening building regulations) does not apply.

**Electronic service of documents**

48.—(1) Section 94A of the Act(22) (electronic service of documents) shall have effect as if the following documents were documents mentioned in subsection (7) of that section—

- (a) a building notice and any accompanying statement, description, particulars or plan under regulation 13;
- (b) full plans and any accompanying statement under regulation 14;
- (c) a notice under regulation 16;
- (d) a completion certificate under regulation 17;
- (e) an application for a regularisation certificate under regulation 18(2);
- (f) a regularisation certificate under regulation 18(5);
- (g) a certificate or notice under regulation 20;
- (h) a notice under regulation 27(2) or (3);
- (i) an energy performance certificate under regulation 29(2)(a);
- (j) a notice under regulation 29(2)(b);
- (k) a notice under regulation 37(1);
- (l) results of sound insulation testing under regulation 41(2)(b);
- (m) a notice under regulation 42(2)(b);
- (n) a notice of the results of pressure testing under regulation 43(2)(b);
- (o) a notice under regulation 44(3).

(2) Where full plans are deposited by means of an electronic communication in accordance with section 94A of the Act, regulation 14 shall apply as if—

- (a) sub-paragraph (a) of paragraph (2) were omitted;
- (b) in sub-paragraph (b) of that paragraph—
  - (i) the words “a copy” were substituted for the words “an additional two copies”;
  - (ii) the word “and” was substituted for the words “, both of which”;
- (c) in paragraph (6) the words “a copy” were substituted for the words “additional copies”.

**Transitional provisions: interpretation**

49. In regulations 50 to 53—

“the 2009 Regulations” means the Building (Amendment No. 2) Regulations 2009(23);

(22) Section 94A was inserted by S.I. 2008/2334.

(23) S.I. 2009/2397 amended by S.I. 2009/2465 and 2010/719.



“the 2010 Regulations” means the Building and Approved Inspectors (Amendment) Regulations 2010<sup>(24)</sup>.

**Transitional provisions: work already started before 1st October**

**50.**—(1) Subject to paragraph (2), where before 1st October 2010 building work is started in accordance with—

- (a) a building notice given to, or full plans deposited with, a local authority under regulation 12(2A) of the Building Regulations 2000<sup>(25)</sup> (giving of a building notice or deposit of plans) and a notice given to the local authority under regulation 15(1) of those Regulations<sup>(26)</sup> (notice of commencement and completion of certain stages of work);
- (b) an initial notice or an amendment notice given in accordance with section 47(1) (giving and acceptance of initial notice) or 51A(2) of the Act<sup>(27)</sup> (variation of work to which initial notice relates);
- (c) a public body’s notice given in accordance with section 54 (giving, acceptance and effect of public body’s notice) of the Act,

the Building Regulations 2000 as last amended by the 2009 Regulations shall continue to apply to that building work.

(2) Where before 1st October 2010 building work is started in accordance with an initial notice which is varied by an amendment notice given on or after that date, the Building Regulations 2000 as last amended by the 2009 Regulations shall continue to apply 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 October 2010 building work is started to which regulation 12(5)(a) or (b)<sup>(28)</sup> of the Building Regulations applies, the Building Regulations 2000 as last amended by the 2009 Regulations shall continue to apply to that building work.

**Transitional provisions: work for which notification is not required**

**51.** Where before 1st October 2010 a contract is entered into for the provision of building work to which regulation 12(5)(a) or (b) of the Building Regulations 2000 applies, the Building Regulations 2000 as last amended by the 2009 Regulations shall continue to apply to that work.

**Transitional provisions: notice given or plans deposited before 1st October 2010**

**52.**—(1) Subject to paragraph (2), the Building Regulations 2000 as last amended by the 2009 Regulations shall continue to apply in relation to building work where—

- (a) before 1st October 2010 a building notice, an initial notice, a plans certificate, an amendment notice or a public body’s notice has been given to, or full plans deposited with, a local authority; and
- (b) the work is carried out or is to be carried out in accordance with any such notice or plans, whether with or without any departure from such plans,

provided that the work is started before 1st October 2011.

(2) Where an initial notice given before 1st October 2010 is varied by an amendment notice given on or after that date, the Building Regulations 2000 as last amended by the 2009 Regulations

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<sup>(24)</sup> S.I. 2010/719.

<sup>(25)</sup> S.I. 2000/2531; regulation 12(2A) was inserted by S.I. 2006/652.

<sup>(26)</sup> Regulation 15(1) was amended by S.I. 2002/440 and 2006/652.

<sup>(27)</sup> Section 47(1) was amended by section 8 of the Sustainable and Secure Buildings Act 2004 (c.22) and S.I. 1996/1905. Section 51A(2) was inserted by S.I. 1996/1905.

<sup>(28)</sup> Regulation 12(5) was substituted by S.I. 2004/3210 and amended by S.I. 2008/671.

shall continue to apply 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, provided that the work is started before 1st October 2011.

### **Transitional and saving provisions: earlier Building Regulations**

**53.**—(1) If immediately before 1st October 2010 any of the transitional provisions listed in paragraph (2) applied in relation to building work, the Regulations specified in Schedule 5 shall continue to apply in relation to that building work in accordance with that provision as if these Regulations had not been made.

(2) The provisions are—

- regulation 4 of the Building (Amendment) Regulations 2001**(29)**;
- regulation 3 of the Building (Amendment) Regulations 2002**(30)**;
- regulations 3 and 4 of the Building (Amendment) (No. 2) Regulations 2002**(31)**;
- regulation 3 of the Building (Amendment) Regulations 2003**(32)**;
- regulation 3 of the Building (Amendment) Regulations 2004**(33)**;
- regulation 3 of the Building (Amendment) (No. 3) Regulations 2004**(34)**;
- regulations 29 to 34 of the Building and Approved Inspectors (Amendment) Regulations 2006**(35)** in so far as they relate to the Building Regulations 2000;
- regulation 4 of the Building and Approved Inspectors (Amendment) (No. 2) Regulations 2006**(36)** in so far as it relates to the Building Regulations 2000;
- regulation 4 of the Building and Approved Inspectors (Amendment) Regulations 2007**(37)** in so far as it relates to the Building Regulations 2000;
- regulations 4 to 8 of the Building and Approved Inspectors (Amendment) Regulations 2009**(38)** in so far as they relate to the Building Regulations 2000.

(3) Regulation 22A of the Building Regulations 2000**(39)** (time limit for prosecution for contravention of certain regulations) shall continue to have effect in relation to contraventions of building regulations committed before 22nd September 2008 as if the 2009 Regulations had not been made.

(4) If immediately before 1st October 2010 regulation 23 of the Building Regulations 2000 applied in relation to building work, the Regulations specified in Schedule 3 to those Regulations shall continue to apply in relation to that building work in accordance with that transitional provision as if these Regulations had not been made.

### **Revocations and consequential amendments**

**54.**—(1) The Regulations specified in the first column of the table in Schedule 5 are revoked to the extent specified in relation to each in the third column of that table.

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**(29)** [S.I. 2001/3335](#).

**(30)** [S.I. 2002/440](#).

**(31)** [S.I. 2002/2871](#) amended by [S.I. 2003/3133](#).

**(32)** [S.I. 2003/2692](#).

**(33)** [S.I. 2004/1465](#).

**(34)** [S.I. 2004/3210](#).

**(35)** [S.I. 2006/652](#).

**(36)** [S.I. 2006/3318](#).

**(37)** [S.I. 2007/3384](#).

**(38)** [S.I. 2009/1219](#) amended by [S.I. 2009/2465](#) and [2010/719](#).

**(39)** Regulation 22A was inserted by [S.I. 2008/671](#) and is revoked by [S.I. 2009/2397](#).

(2) Schedule 6, which contains consequential amendments to the Building (Local Authority Charges) Regulations 2010<sup>(40)</sup> and the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007<sup>(41)</sup>, has effect.

Signed by authority of the Secretary of State

*Andrew Stunell*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

6th September 2010

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<sup>(40)</sup> S.I. 2010/404.  
<sup>(41)</sup> S.I. 2007/991.