

**2023 No. 911**

**BUILDING AND BUILDINGS, ENGLAND**

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

<i>Made</i>	- - - -	<i>9th August 2023</i>
<i>Laid before Parliament</i>		<i>17th August 2023</i>
<i>Coming into force</i>		<i>1st October 2023</i>

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The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 5(1), 32(6), 34, 35(2), 35B(7), 35D, 91ZB(1), 91ZC(2), (3) and (6) and 101A of, and paragraphs 1A to 1D, 1F to 1I, 5A, 5B, 5C and 10 of Schedule 1 to, the Building Act 1984(a) and section 166(1) of the Building Safety Act 2022(b).

The Secretary of State has consulted the Building Regulations Advisory Committee for England and such other bodies as appear to be representative of the interests concerned in accordance with section 14(3) of the Building Act 1984(c).

## PART 1

### Introduction

#### **Citation, commencement, extent and interpretation**

**1.**—(1) These Regulations may be cited as the Building Regulations etc. (Amendment) (England) Regulations 2023.

(2) These Regulations come into force on 1st October 2023.

(3) These Regulations extend to England and Wales.

(4) In these Regulations “the 2010 Regulations” means the Building Regulations 2010(d).

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(a) 1984 c. 55. Section 1 was amended by section 1(1) of the Sustainable and Secure Buildings Act 2004 (c. 22). Section 32 was amended by section 36 of the Building Safety Act 2022 (c. 30) (“the 2022 Act”). Section 35 was amended by section 39 of the 2022 Act. Sections 35B, 35D and 39A were inserted by section 38 of the 2022 Act. Sections 91ZB and 91ZC were inserted by section 32 of the 2022 Act. Section 101A was inserted by paragraph 30 of Schedule 6 to the 2022 Act. Paragraphs 1A to 1I, 5A, 5B and 5C of Schedule 1 were inserted by sections 33 and 34 of the 2022 Act. Paragraph 10 of Schedule 1 was substituted by paragraph 83(8) of Schedule 5 to the 2022 Act.

(b) 2022 c. 30.

(c) Under the transitional provisions in regulation 5(1) of S.I. 2023/362 the requirement to consult under section 120B of the Building Act 1984 does not apply to proposals consulted on under section 14(3) of the Building Act 1984 before it was repealed by paragraph 17 of Schedule 5 to the Building Safety Act 2022.

(d) S.I. 2010/2214 as amended by S.I. 2012/3119, 2013/1959, 2014/110, 2015/767, 2016/285, 2016/1274, 2018/1230, 2021/1391, 2022/608 and 2023/520. There are other amending instruments, but none is relevant to this instrument.

## PART 2

### Amendment of the Building Regulations 2010

#### Amendment of the 2010 Regulations

2. The 2010 Regulations are amended in accordance with regulations 3 to 17.

#### Amendments to regulation 2

3. In regulation 2(1) (interpretation) of the 2010 Regulations—

(a) in the appropriate places insert—

““application for building control approval with full plans” means an application for building control approval<sup>(a)</sup> in accordance with regulations 12(2)(b) and 14;”

““application for a completion certificate” in relation to a higher-risk building work, has the same meaning as “completion certificate application” in regulation 2 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”

““business” means a trade, business or other undertaking (whether for profit or not);”

““client” means any person for whom a project is carried out;”

““construction phase” means the period beginning when any building work on a project starts and ending when that project is completed;”

““contractor” means any person (including a client, but not a domestic client) who, in the course of a business, carries out, manages or controls any building work;”

““design work” means design of any building work;”

““designer” means any person (including a client, contractor or other person referred to in Part 2A of these Regulations) who in the course of a business—

(a) carries out any design work, or

(b) arranges for, or instructs, any person under their control to do so;”

““domestic client” means a client for whom a project is being carried out which is not in the course or furtherance of a business of that client;”

““principal contractor” means the contractor appointed under regulation 11D (principal designer and principal contractor) to perform the duties of a principal contractor under these Regulations;”

““principal designer” means the designer appointed under regulation 11D (principal designer and principal contractor) to perform the duties of a principal designer under these Regulations;”

““project” means a project which includes or is intended to include any building work and includes all planning work, design work, management or other work involved in a project until the end of the construction phase;”

““recipient”, in relation to a compliance notice or a stop notice, means the person to whom the notice will be or has been given;”

““relevant authority” means—

(a) in cases where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), the regulator<sup>(b)</sup>;

(b) in any other case, the local authority for the area in which the building is situated or the proposed building is to be situated;”

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(a) Paragraph 1B of Schedule 1 to the Building Act 1984 (c. 55).

(b) See section 126 of the Building Act 1984 for the definition of “the regulator”.

““relevant day” means any day excluding Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;”

““sole contractor” means a person fulfilling the duties of the principal contractor by virtue of regulation 11D(6);”

““sole or lead designer” means a person fulfilling the duties of the principal designer by virtue of regulation 11D(7);”;

(b) for definition of “building” substitute—

““building”—

(a) in the application of any provision of these Regulations to the construction of a higher-risk building, has the meaning given in regulation 4 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(a);

(b) in any other case, 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;”;

(c) omit the definition of “full plans”.

## **Amendments after regulation 2**

4. After regulation 2 (interpretation) of the 2010 Regulations insert—

### **“Application**

**2A.** Subject to regulation 2B, these Regulations apply to all buildings in England including higher-risk buildings.

### **Disapplication of certain procedural requirements of the Building Regulations 2010 in relation to higher-risk building work**

**2B.** The following regulations do not apply to higher-risk building work—

- (a) regulation 12 (giving of a building notice or an application for building control approval);
- (b) regulation 13 (particulars and plans where a building notice is given);
- (c) regulation 14 (applications for building control approval with full plans);
- (d) regulations 14A (determination of applications for building control approval with full plans);
- (e) regulation 14B (appeal against a local authority’s rejection of an application for building control approval);
- (f) regulation 14C (appeal against the regulator’s rejection of an application for building control approval for work that is not higher-risk building work);
- (g) regulation 15 (consultation with sewerage undertaker);
- (h) regulation 15A (consultation in relation to fire safety);
- (i) regulation 16 (notices in relation to building work);
- (j) regulation 17 (completion certificates);
- (k) regulation 17A (certificate for building occupied before work is completed);
- (l) regulation 18 (unauthorised building work);
- (m) regulation 18A (appeal against local authority’s refusal to grant certain certificates);

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(a) S.I. 2023/275.

- (n) regulation 18B (appeal to regulator in relation to certain decisions);
- (o) regulation 19 (supervision of building work otherwise than by local authorities);
- (p) regulation 38 (fire safety information);
- (q) regulation 39 (information about ventilation);
- (r) regulation 40 (information about use of fuel and power);
- (s) regulation 40A (information about systems for on-site generation of electricity);
- (t) regulation 40B (information about overheating).”.

#### **Amendment to regulation 10 and transitional provision**

**5.**—(1) In regulation 10 (exemption of Mayor’s Office for Policing and Crime from procedural requirements) of the 2010 Regulations, for paragraph (2) substitute—

“(2) The Mayor’s Office for Policing and Crime is exempt from compliance with these Regulations in so far as the requirements in these Regulations are not substantive requirements in relation to building work that is not higher-risk building work.”.

(2) In relation to any building work to a higher-risk building of the Mayor’s Office for Policing and Crime, the amendments made by these Regulations do not apply to that building work where it started before 1st October 2023.

(3) In paragraph (2) “building work” has the same meaning as in the 2010 Regulations.

#### **Amendments relating to dutyholders and competence**

**6.**—(1) After regulation 11 (power to dispense with or relax requirements) of the 2010 Regulations insert the following new Part—

### **“PART 2A**

#### **Dutyholders and competence**

##### **CHAPTER 1**

##### **Client**

#### **Suitable arrangements to ensure compliance with requirements etc**

**11A.**—(1) A client must make suitable arrangements for planning, managing and monitoring a project (including allocation of sufficient time and other resources) so as to ensure compliance with all relevant requirements.

(2) Arrangements under paragraph (1) are suitable if—

- (a) they ensure that the design work is carried out so that the building work to which the design relates, if built, would be in compliance with all relevant requirements;
- (b) they ensure the building work is carried out in accordance with all relevant requirements;
- (c) they enable the designers and contractors to cooperate with each other to ensure compliance with all relevant requirements; and
- (d) they provide for periodic review of the building work (and the design work) included or to be included in the project so as to identify whether it is higher-risk building work<sup>(a)</sup>.

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(a) Higher-risk building work is defined in section 91ZA of the Building Act 1984 (c. 55) which was inserted into that Act by section 32 of the Building Safety Act 2022 (c. 30).

(3) A client must ensure that the arrangements under paragraph (1) are maintained and reviewed throughout the project.

(4) A client must provide building information as soon as is practicable to every designer and contractor on the project.

(5) A client must cooperate with any other person working on or in relation to a project to the extent necessary to enable any person with a duty or function under these Regulations to fulfil that duty or function.

(6) Where there is more than one client in relation to a project—

(a) the clients may agree in writing which of them is to be treated for the purposes of these Regulations as the client;

(b) except for the duties specified in sub-paragraph (c), only the person who agreed to be treated as the client under sub-paragraph (a) is subject to the duties owed by a client under these Regulations;

(c) the duties in the following provisions are owed by all clients—

(i) paragraph (4) to the extent that those duties relate to information in the possession of the client or which is reasonably obtainable by or on behalf of the client;

(ii) paragraph (5); and

(iii) regulation 11B (arrangements as to information: higher-risk building work).

#### **Arrangements as to information: higher-risk building work**

**11B.**—(1) A client must make suitable arrangements to ensure information is provided to the designers and contractors working on a project which includes any higher-risk building work to make them aware that the project includes higher-risk building work and the nature of the higher-risk building work.

(2) Paragraph (1) includes a duty to periodically review the building work (and the design work) included or to be included in the project so as to identify whether it is higher-risk building work and to ensure information is provided under paragraph (1) where the work becomes higher-risk building work.

#### **Domestic clients**

**11C.**—(1) Where the client is a domestic client the duties in regulations 11A(1) to (3) and 11E(2) to (5) must be carried out by—

(a) where there is only one contractor for a project, the contractor;

(b) where there is more than one contractor for a project—

(i) the principal contractor; or

(ii) the principal designer where the client and the principal designer agree in writing the principal designer is to fulfil those duties.

(2) If a domestic client fails to make the appointments required by regulation 11D (principal designer and principal contractor)—

(a) the designer in control of the design phase of the project is the principal designer;

(b) the contractor in control of the construction phase of the project is the principal contractor.

(3) Regulation 11D(5) does not apply to a domestic client.

## CHAPTER 2

### *Appointment of principal designer and principal contractor etc*

#### **Principal designer and principal contractor**

**11D.**—(1) Where there is more than one contractor, or it is reasonably foreseeable that more than one contractor will be working on a project, the client must appoint in writing—

- (a) a designer with control over the design work as the principal designer for the purposes of these Regulations, and
- (b) a contractor with control over the building work as the principal contractor for the purposes of these Regulations.

(2) A client is treated as complying with the requirement in paragraph (1) if, instead of appointing a person for the purposes of these Regulations, they certify, in writing, that the person who is the CDM principal designer, or, as the case may be, the CDM principal contractor, is treated as appointed as the principal designer or, as the case may be, the principal contractor, for the purposes of these Regulations.

(3) The appointments under this regulation must be made—

- (a) in relation to a project which includes higher-risk building work for which an application for building control approval must be submitted to the regulator, before that application is submitted;
- (b) in relation to any other project, before the construction phase begins.

(4) Where the appointment of a principal designer or the principal contractor ends before the end of the project, as soon as reasonably practicable the client must appoint a new principal designer or new principal contractor, as the case may be, under this regulation.

(5) Where the client fails to appoint a principal designer (or a replacement principal designer) or, as the case may be, a principal contractor (or a replacement principal contractor), the client must fulfil the duties of the principal designer or the principal contractor, as the case may be, under these Regulations until they appoint another person to that role.

(6) Where there is only one contractor working on a project that contractor is to be treated as appointed as the principal contractor and must fulfil the duties of the principal contractor set out in these Regulations.

(7) Where paragraph (6) applies and—

- (a) there is only one designer, or it is reasonably foreseeable that there will be only one designer working on a project, that designer must fulfil the duties of the principal designer set out in these Regulations; or
- (b) there is more than one designer or it is reasonably foreseeable that there will be more than one designer working on a project at any time—
  - (i) the designers must agree in writing which designer is to fulfil the duties of the principal designer set out in these Regulations (“the lead designer”);
  - (ii) the lead designer must give a copy of the agreement to the client.

(8) In relation to higher-risk building work, on appointing a principal designer, for each appointment the client must keep a record, in writing, of the steps it took under paragraph (2) to (4) of regulation 11E (considerations before a person carries out work).

(9) In relation to higher-risk building work, on appointing a principal contractor, for each appointment the client must keep a record, in writing, of the steps it took under paragraphs (2), (3) and (5) of regulation 11E (considerations before a person carries out work).

(10) In relation to higher-risk building work, on appointing any other person, the person making the appointment must give to the client (and the client must keep) a record, in writing, of the steps the person making the appointment took under regulation 11E(2) (considerations before a person carries out work).

## **Considerations before a person carries out work**

**11E.**—(1) This regulation applies where a person (P) is proposing to use any person (A) to carry out any building work or design work.

(2) Before permitting A to carry out any work—

- (a) P must take all reasonable steps to satisfy themselves that A—
  - (i) fulfils the requirements in regulation 11F(1) and (2) (competence: general requirement), or
  - (ii) is an individual who is in training to fulfil the requirements in regulation 11F(1) and (2) and arrangements have been put in place to supervise A, and
- (b) where the work relates to a higher-risk building, P must—
  - (i) ask A whether a serious sanction has occurred, in relation to them, within the 5 years ending on the date of the appointment; and
  - (ii) consider any information available to P relating to any misconduct of A (including any serious sanction).

(3) Before permitting A to undertake any work, P must additionally take all reasonable steps to satisfy themselves that A is able to fulfil the duties of regulation 11J (general duty to plan, manage and monitor).

(4) Where A is to be appointed as the principal designer, the client must take all reasonable steps to satisfy themselves that A fulfils the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11G(1) (competence: principal designer) in relation to the design work.

(5) Where A is to be appointed as the principal contractor, the client must take all reasonable steps to satisfy themselves that A fulfils the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11H(1) (competence: principal contractor) in relation to the building work.

(6) Any request to undertake any building work or any design work must not be accepted by A if A does not satisfy the requirements in regulation 11F(1) and (2) (competence: general requirement) at the time of the appointment (except where those requirements do not apply to A by virtue of regulation 11F(3)).

(7) A must not act—

- (a) as the principal designer in relation to any design work if A does not satisfy the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11G(1) (competence: principal designer) at the time of the appointment as the principal designer;
- (b) as the principal contractor in relation to any building work if A does not satisfy the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11H(1) (competence: principal contractor) at the time of the appointment as the principal contractor.

(8) In this regulation “serious sanction” means—

- (a) the issue to A of a compliance notice which referred to contravention or likely contravention of a requirement of Part A (structure) or Part B (fire safety) of Schedule 1;
- (b) the issue to A of a stop notice;
- (c) the conviction of A for any offence under—
  - (i) the Act;
  - (ii) the Health and Safety at Work etc. Act 1974;
  - (iii) the Building Safety Act 2022;
  - (iv) the Regulatory Reform (Fire Safety) Order 2005;



- (d) a report published by an inquiry under the Inquiries Act 2005 finds that A's action or inaction resulted in one or more deaths or was likely to have been a contravention of any requirement of—
  - (i) the Act;
  - (ii) Part A (structure) or Part B (fire safety) of Schedule 1;
  - (iii) the Health and Safety at Work etc. Act 1974;
  - (iv) the Building Safety Act 2022;
  - (v) the Regulatory Reform (Fire Safety) Order 2005.

## CHAPTER 3

### *Competence*

#### **Competence: general requirement**

**11F.**—(1) Any person carrying out any building work or any design work must have—

- (a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,
- (b) where the person is not an individual, the organisational capability,

to carry out—

- (i) the building work in accordance with all relevant requirements;
- (ii) the design work so that the building work to which the design relates, if built, would be in accordance with all relevant requirements.

(2) Any person carrying out any building work as a contractor or any design work as a designer must have—

- (a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,
- (b) where the person is not an individual, the organisational capability,

to fulfil the duties of a contractor or designer, as the case may be, under these Regulations in relation to the work.

(3) The requirements in paragraphs (1) and (2) do not apply to an individual (T) who is in training to fulfil those requirements.

(4) The person who asked T to carry out any building work or, as the case may be, any design work must ensure T is adequately supervised when carrying out the work.

(5) A person who is in training to fulfil the requirements of a principal contractor or a principal designer may not be appointed as a principal contractor or a principal designer.

#### **Competence: principal designer**

**11G.**—(1) A principal designer must have—

- (a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,
- (b) where the person is not an individual, the organisational capability,

to fulfil the duties of a principal designer under these Regulations in relation to the design work included in the project.

(2) Where the principal designer (D) is not an individual, D must designate an individual who has the task of managing its functions as the principal designer.

(3) Before making the designation under paragraph (2), D must take all reasonable steps to satisfy themselves that the individual to be designated has the skills, knowledge, experience and behaviours necessary to manage the function of principal designer on behalf of D in

such a way as to ensure D fulfils the duties of the principal designer under these Regulations in relation to the design work included in the project.

#### **Competence: principal contractor**

**11H.**—(1) A principal contractor must have—

- (a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,
- (b) where the person is not an individual, the organisational capability,

to fulfil the duties of a principal contractor under these Regulations in relation to the building work included in the project.

(2) Where the principal contractor (C) is not an individual, C must designate an individual under C's control who has the task of managing its functions as the principal contractor.

(3) Before making the designation under paragraph (2), C must take all reasonable steps to satisfy themselves that the individual to be designated has the skills, knowledge, experience and behaviours necessary to manage the function of principal contractor on behalf of C in such a way as to ensure C fulfils the duties of the principal contractor under these Regulations in relation to the building work included in the project.

#### **Ceasing to be competent: notification**

**11I.**—(1) Where at any time a person (A) ceases to satisfy the requirements in regulation 11F(1), 11F(2), 11G(1) or, as the case may be, 11H(1) in relation to any building work or any design work, A must—

- (a) in a case where A is the principal designer or the principal contractor, notify the client;
- (b) in a case where there is more than one contractor and A is a designer, notify the person who asked them to carry out the design work and the principal designer;
- (c) in a case where there is more than one contractor and A is a contractor, notify the person who asked them to carry out the building work and the principal contractor;
- (d) in any other case, notify the person who asked them to carry out the work.

(2) If at the time of the notification under paragraph (1)(b) there is no principal designer appointed, that paragraph has effect as if the reference to the principal designer were a reference to the client.

(3) If at the time of the notification under paragraph (1)(c) there is no principal contractor appointed, that paragraph has effect as if the reference to the principal contractor were a reference to the client.

### CHAPTER 4

#### *Duties of dutyholders*

#### **General duty**

**11J.**—(1) Any person carrying out any building work must ensure the work carried out by them (and by any workers under their control) is planned, managed and monitored so as to be in compliance with all relevant requirements.

(2) Any person carrying out any design work must take all reasonable steps to ensure the design work carried out by them (and by any workers under their control) is planned, managed and monitored so that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

(3) Any person carrying out any building work must cooperate with the client, designers and contractors (including the principal designer and principal contractor, if any) to the extent necessary to ensure that the work is in compliance with all relevant requirements.

(4) Any person carrying out any design work must cooperate with the client, designers and contractors (including the principal designer and principal contractor, if any) to the extent necessary to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

#### **Additional duties of designers**

**11K.**—(1) A designer must not start design work unless satisfied that the client is aware of the duties owed by the client for the building work to which the design relates under all relevant requirements.

(2) When carrying out design work the designer must take all reasonable steps to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

(3) In providing a design, a designer must take all reasonable steps to provide sufficient information about the design, construction and maintenance of the building to assist the client, other designers and contractors to comply with all relevant requirements.

(4) Where a designer is carrying out only part of the design of the building work which comprises a project, the designer must consider other design work which directly relates to that building work and report any concerns as to compliance with all relevant requirements to the principal designer.

(5) If requested to do so, a designer must provide advice to the principal designer or the client on whether any work, to which a design they are preparing or modifying relates, is higher-risk building work.

#### **Additional duties of contractors**

**11L.**—(1) A contractor must not start any building work unless satisfied that the client is aware of the duties owed by the client under all relevant requirements.

(2) A contractor must—

- (a) ensure the building work they carry out is in compliance with all relevant requirements; and
- (b) provide each worker under their control with appropriate supervision, instructions and information so as to ensure that the building work is in compliance with all relevant requirements.

(3) In relation to building work, a contractor must take all reasonable steps to provide sufficient information about the work to assist the client, other contractors and designers to comply with all relevant requirements.

(4) Where a contractor is carrying out only part of the building work which comprises a project, the contractor must consider other work which directly relates to that building work and report any concerns as to compliance with all relevant requirements to the principal contractor.

(5) If requested to do so, a contractor must provide advice to the principal contractor or the client on whether any work is higher-risk building work.

#### **Additional duties of a principal designer**

**11M.**—(1) The principal designer must—

- (a) plan, manage and monitor the design work during the design phase; and

- (b) coordinate matters relating to the design work comprised in the project so that all reasonable steps are taken to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.
- (2) The principal designer must take all reasonable steps to ensure that—
- (a) designers, and any other person involved in relation to design work, cooperate with the client, the principal designer, the principal contractor and each other;
  - (b) the design work of all designers is coordinated so that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements; and
  - (c) designers, and any other person involved in relation to design work, comply with the duties under these Regulations.
- (3) The principal designer must liaise with the principal contractor and share with the principal contractor any information relevant to—
- (a) the planning, management and monitoring of the building work, and
  - (b) the coordination of building work and design work for the purpose of ensuring compliance with all relevant requirements.
- (4) Where the principal contractor provides comments to the principal designer in relation to compliance with the relevant requirements, the principal designer must have regard to those comments.
- (5) The principal designer must—
- (a) if requested, assist the client in providing information to other designers and contractors;
  - (b) when the principal designer's appointment ends, no later than 28 days after the end of the appointment, give to the client a document explaining the arrangements it put in place to fulfil the duties under paragraphs (1) to (3).
- (6) Where a replacement principal designer is appointed, they must review the arrangements the previous principal designer put in place for fulfilling the duties under paragraphs (1) to (3) so that all reasonable steps are taken to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

#### **Additional duties of a principal contractor**

- 11N.**—(1) The principal contractor must—
- (a) plan, manage and monitor the building work during the construction phase, and
  - (b) coordinate matters relating to the building work comprised in the project to ensure the building work is in compliance with all relevant requirements.
- (2) The principal contractor must take all reasonable steps to ensure—
- (a) contractors and any other person involved in relation to the building work cooperate with the client, the principal designer, the principal contractor and each other (including any successor in a role);
  - (b) the building work of all contractors is coordinated so that the work is in compliance with all relevant requirements; and
  - (c) contractors and any other person involved in relation to building work comply with the duties under these Regulations.
- (3) The principal contractor must liaise with the principal designer and share with the principal designer any information relevant to—
- (a) the planning, management and monitoring of the design work, and

- (b) the coordination of building work and design work for the purpose of ensuring compliance with all relevant requirements.
- (4) Where the principal designer provides comments to the principal contractor in relation to compliance with the relevant requirements the principal contractor must have regard to those comments.
- (5) The principal contractor must—
  - (a) if requested, assist the client in providing information to other designers and contractors;
  - (b) when the principal contractor's appointment ends, no later than 28 days after the end of the appointment, give to the client a document explaining the arrangements it put in place to fulfil the duties under paragraphs (1) to (3).
- (6) Where a replacement principal contractor is appointed it must review the arrangements the previous principal contractor put in place for fulfilling the duties under paragraphs (1) to (3) to ensure that the building work is in compliance with all relevant requirements.

### **Notification of change of dutyholder**

**110.**—(1) This paragraph applies where, in relation to any building work, at any time after an application for building control approval is made or a building notice is given the client for a project changes.

(2) Where paragraph (1) applies the new client must give a notice to the relevant authority which includes—

- (a) the location of the building work;
- (b) the name, address, telephone number and (if available) email address of the new client and the date of they became the client;
- (c) the name, address, telephone number and (if available) email address of the previous client and the date they ceased to be the client;
- (d) where the notice is given by someone on behalf of the new client, a statement signed by the new client confirming they agree to the notice being made and that the information contained in the notice is correct.

(3) This paragraph applies where, in relation to any building work, at any time after an application for building control approval is made or a building notice is given the client appoints a principal contractor (or sole contractor) or a principal designer (or sole or lead designer).

(4) Subject to paragraph (5), where paragraph (3) applies the client must give a notice to the relevant authority which includes—

- (a) the location of the building work;
- (b) the name, address, telephone number and (if available) email address of the person appointed (PA) and the date of appointment;
- (c) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the person who held the role before PA (“outgoing dutyholder”) and the date their appointment ended;
- (d) where the notice is given by someone on behalf of the client, a statement signed by the client confirming they agree to the notice being given and that the information contained in the notice is correct.

(5) Where the client is a domestic client (DC), the following applies instead of paragraph (4)—

- (a) an outgoing dutyholder must provide the information referred to in paragraph (4)(c) to the DC within 5 calendar days of the date their appointment ends;

- (b) DC must provide the information referred to under paragraph (4)(c) to PA on the date of appointment of PA or as soon as practicable after that date;
- (c) subject to paragraph (6), PA must give a notice to the relevant authority which includes—
  - (i) the location of the building work;
  - (ii) the name, address, telephone number and (if available) email address of PA and the date of appointment;
  - (iii) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the outgoing dutyholder and the date their appointment ended;
  - (iv) a statement explaining the notice is given on behalf of a domestic client.

(6) Where PA has not received the information required to be provided under paragraph (5)(b) by the time the notice under paragraph (5)(c) is to be given, the statement given by PA under paragraph (5)(c)(iv) must also include an explanation to that effect.

(7) A notice required under paragraph (2), (4) or (5)(c) must be given to the relevant authority within the period of 14 calendar days beginning with the date of the appointment or, as the case may be, the date when the person became the client.

(8) This regulation does not apply to higher-risk building work.

## CHAPTER 5

### General

#### **Minor work**

**11P.** A client is not required to comply with this Part where the building work or design work consists only of work described in Schedule 4.

#### **Interpretation of this Part**

**11Q.**—(1) In this Part—

“the CDM Regulations” means the Construction (Design and Management) Regulations 2015(a);

“building information” means information in the client’s possession or which is reasonably obtainable by or on behalf of the client, which is relevant to the building work or the design work, including information about—

- (a) the work;
- (b) planning and management of the project;
- (c) issues relating to compliance with any relevant requirement and how they were addressed;

“CDM principal contractor” means a contractor appointed as principal contractor under the CDM Regulations;

“CDM principal designer” means a designer appointed as principal designer under the CDM Regulations;

“design” includes drawings, design details, specifications and bills of quantities (including specification of articles or substances) relating to a building, and calculations prepared for the purpose of a design;

“design phase” means any period during which design work is carried out for a project and may continue during the construction phase;

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(a) S.I. 2015/51.

“relevant requirements” means, to the extent relevant to the building work or design work in question, the requirements of regulations 4, 6, 7, 8, 22, 23, 25B, 26, 26A, 28, 36, 41(2)(a), 42(2)(a), 43(2)(a), 44A, 44ZA, 44ZC and 44D to 44I and Schedule 1.

(2) References in this Part to an appointment under regulation 11D (principal designer and principal contractor) includes an appointment which is certified under regulation 11D(2).

(3) For the purposes of this Part, “organisational capability” means appropriate management policies, procedures, systems and resources to ensure—

- (a) individuals under the control of the organisation who are carrying out any building work or any design work comply with—
  - (i) regulation 11F(1) and (2) (competence: general requirement),
  - (ii) in case of the principal designer, regulations 11F(1) and (2) and 11G(1);
  - (iii) in case of the principal contractor, regulations 11F(1) and (2) and 11H(1);
- (b) individuals under the control of the organisation who are in training to develop the necessary skills, knowledge, experience and behaviours are appropriately supervised.

(4) For the purposes of this Part the necessary behaviours include—

- (a) compliance with relevant requirements, including refusing to carry out—
  - (i) any building work which is not in compliance with any relevant requirement;
  - (ii) any design work if the building work to which the design relates cannot be carried out in compliance with all relevant requirements;
- (b) cooperation with other persons in relation to the work;
- (c) refusing to carry out work which is beyond their skills, knowledge or experience, and asking for the assistance of other persons where necessary.”.

(2) In regulation 16 of the 2010 Regulations—

- (a) in paragraph (4) for “notice to that effect” substitute “a notice which complies with paragraph (4A)”;
- (b) after paragraph (4) insert—

“(4A) The notice under paragraph (4) must include—

- (a) the name, address, telephone number and (if available) email address of the client;
- (b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- (c) a statement that the building work is complete;
- (d) a statement, signed by the client, confirming that to the best of the client’s knowledge the work complies with all applicable requirements of the building regulations;
- (e) a statement given by each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work, signed by the person to which the declaration relates, which includes—
  - (i) the name, address, telephone number and (if available) email address of that person;
  - (ii) the dates of their appointment, and
  - (iii) confirmation—
    - (aa) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of these Regulations;

- (bb) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of these Regulations.”;
- (c) in paragraph (5) for “at least 5 days notice” substitute after “a notice which complies with paragraph (5A) at least 5 days”;
- (d) after paragraph (5) insert—
  - “(5A) The notice under paragraph (5) must include—
    - (a) the name, address, telephone number and (if available) email address of the client;
    - (b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
    - (c) the date when the building or any part of it is to be occupied;
    - (d) a statement, signed by the client, confirming that to the best of the client’s knowledge, regardless of the completion of the current building work, regulation 38 and Part B of Schedule 1 are currently complied with in relation to those parts of the building which are to be occupied before completion of the work;
    - (e) a statement given by each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work, signed by the person to which the declaration relates, which includes—
      - (i) the name, address, telephone number and (if available) email address of that person;
      - (ii) the dates of their appointment, and
      - (iii) confirmation—
        - (aa) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of these Regulations;
        - (bb) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of these Regulations.”.
- (3) For regulation 17(2) (completion certificates) of the 2010 Regulations substitute—
  - “(2) The specified period referred to in paragraph (1) is eight weeks starting from the date that notice is received by the relevant authority in accordance with regulation 16(4).”.

**Amendments: deposit of plans and building control authorities etc**

- 7.—(1) In regulation 11 (power to dispense with or relax regulations) of the 2010 Regulations, in paragraph (2), for “local authority” substitute “building control authority”.
- (2) In regulation 12 (giving a building notice etc) of the 2010 Regulations—
  - (a) in the heading for “deposit of plans” substitute “an application for building control approval”;
  - (b) in paragraph (2)—
    - (i) in sub-paragraph (a), for “local authority” substitute “relevant authority”;
    - (ii) in sub-paragraph (b), for “deposit full plans with the local authority” substitute “give an application for building control approval with full plans to the relevant authority”;
  - (c) in paragraphs (3), (4) and (5) for “deposit full plans” substitute “give an application for building control approval with full plans”;
  - (d) in paragraphs (6) and (6A) for “deposit full plans” substitute “an application for building control approval with full plans”;
  - (e) in paragraph (8) for “local authority” substitute “relevant authority”.



(3) In regulation 13 (particulars and plans where a building notice is given) of the 2010 Regulations—

- (a) in paragraphs (1A), (3) and (5) for “local authority” substitute “relevant authority”;
- (b) in paragraph (4) for “for the purposes of section 16 of the Act as having been deposited” substitute “as an application for building control approval with full plans”.

(4) In regulation 15 (consultation with sewerage undertaker) of the 2010 Regulations—

- (a) in paragraph (1) for “full plans have been deposited with the local authority” substitute “an application for building control approval with full plans has been given to the relevant authority”;
- (b) in paragraph (2)—
  - (i) for “local authority” substitute “relevant authority”;
  - (ii) for “the plans have been deposited” substitute “the application for building control approval with full plans has been given”;
- (c) in paragraph (3)—
  - (i) for “local authority” substitute “relevant authority”;
  - (ii) for “the deposit of full plans” substitute “the giving of an application for building control approval with full plans”;
  - (iii) for “pass plans” substitute “grant the application for building control approval”.

(5) In regulation 16 (notices) of the 2010 Regulations—

- (a) in paragraphs (1), (2), (3), (3A), (3B), (4), (5), (6) and (7) for “local authority”, in each place it occurs, substitute “relevant authority”;
- (b) in paragraph (8) for “deposit full plans” substitute “an application for building control approval with full plans”.

(6) In regulation 17 (completion certificates) of the 2010 Regulations—

- (a) in paragraphs (1) and (2) for “local authority” substitute “relevant authority”;
- (b) after paragraph (5) insert—

“(6) Where the relevant authority is the regulator, it must send a copy of each certificate it gives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(7) In regulation 17A (certificate for building occupied before work is completed) of the 2010 Regulations<sup>(a)</sup>—

- (a) in paragraphs (1) and (2), for “local authority” substitute “relevant authority”;
- (b) after paragraph (4) insert—

“(5) Where the relevant authority is the regulator, it must send a copy of each certificate it gives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(8) In regulation 18 (unauthorised building work) of the 2010 Regulations—

- (a) in paragraphs (1), (2), (3), (4) and (5) for “local authority”, in each place it occurs, substitute “relevant authority”;
- (b) after paragraph (6) insert—

“(6A) Where the relevant authority is the regulator, it must send a copy of each certificate it gives under this regulation in relation to a building to the local authority for the area in which the building is situated.”;
- (c) in paragraph (7) for “for the purposes of section 16 of the Act as the deposit of plans” substitute “as an application for building control approval with full plans”;

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(a) Regulation 17A was inserted by S.I. 2012/3119.

(d) for paragraph (8) substitute—

“(8) In this regulation “unauthorised building work”—

- (a) where the relevant authority is the local authority, means building work, other than work in relation to which an initial notice, an amendment notice, a public body’s notice or a regulator’s notice has effect, which is done without—
  - (i) a building notice being given to the local authority;
  - (ii) an application for building control approval with full plans of the work being given to the local authority; or
  - (iii) a notice of intention to start work being given to the local authority, in accordance with regulation 16(1), where a building notice has been given or an application for building control approval with full plans of the work has been given;
- (b) where the relevant authority is the regulator, means building work which is work in relation to which a regulator’s notice has effect but which is done without—
  - (i) a building notice being given to the regulator;
  - (ii) an application for building control approval with full plans of the work being given to the regulator; or
  - (iii) a notice of intention to start work being given to the regulator, in accordance with regulation 16(1), where a building notice has been given or an application for building control approval with full plans of the work has been given.”.

(9) In regulation 20 (provisions applicable to self-certification schemes) of the 2010 Regulations—

- (a) in paragraphs (2), (3), (3A) and (3B), for “local authority”, in each place it occurs, substitute “building control authority”;
- (b) after paragraph (6) insert—

“(6A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(10) In regulation 20A (provisions applicable to third party certification schemes) of the 2010 Regulations(a)—

- (a) in paragraphs (2), (4) and (5), for “local authority”, in each place it occurs, substitute “building control authority”;
- (b) after paragraph (7) insert—

“(7A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(11) In regulation 25A (consideration of high-efficiency alternative systems for new buildings) of the 2010 Regulations(b)—

- (a) for paragraph (2) substitute—

“(2) The person carrying out the work must—

- (a) where the new building is a higher-risk building, ensure the application for building control approval in relation to the work is accompanied by a notice which states that the analysis referred to in paragraph (1) has been undertaken, is

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(a) Regulation 20A was inserted by S.I. 2018/558.  
(b) Regulation 25A was inserted by S.I. 2012/3119.

- documented, and the documentation is available to the regulator for verification purposes;
- (b) in any other case, not later than the beginning of the day before the day on which the work starts, give the building control authority a notice which states that the analysis referred to in paragraph (1) has been undertaken, is documented, and the documentation is available to the authority for verification purposes; and
  - (c) ensure that a copy of the analysis is available for inspection at all reasonable times on request by an officer of the building control authority.”;
- (b) in paragraph (3), for “local authority” substitute “building control authority”;
  - (c) after paragraph (3) insert—
    - “(3A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.
- (12) In regulation 27 (CO<sub>2</sub> emission rate calculations) of the 2010 Regulations—
- (a) for paragraphs (2) and (3) substitute—
    - “(2) The person carrying out the work must—
      - (a) where the new building is a higher-risk building, ensure the application for building control approval in relation to the work is accompanied by a notice which specifies—
        - (i) the target CO<sub>2</sub> emission rate for the building, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,
        - (ii) the CO<sub>2</sub> emission rate for the building as designed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and
        - (iii) a list of specifications to which the building is to be constructed;
      - (b) in any other case, not later than the day before the work starts, give the building control authority a notice which specifies the matters set out in paragraphs (i) to (iii) of sub-paragraph (a).
    - (3) The person carrying out the work must—
      - (a) where the new building is a higher-risk building, ensure the application for a completion certificate in relation to the work is accompanied by—
        - (i) a notice which specifies—
          - (aa) the target CO<sub>2</sub> emission rate for the building, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,
          - (bb) the CO<sub>2</sub> emission rate for the building as constructed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and
          - (cc) whether the building has been constructed in accordance with the list of specifications referred to in paragraph (2), and, if not, a list of any changes to those specifications; or
        - (ii) a certificate of the sort referred to in paragraph (4) accompanied by the information referred to in sub-paragraphs (aa) to (cc) of paragraph (i);
      - (b) in any other case, not later than five days after the work has been completed, give the building control authority a notice which specifies the matters mentioned in sub-paragraphs (aa) to (cc) of sub-paragraph (a)(i) or a certificate of the sort mentioned in sub-paragraph (a)(ii).”;
  - (b) in paragraph (4) for “local authority” substitute “building control authority”;
  - (c) after paragraph (4) insert—

“(4A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(13) In regulation 27A (fabric energy efficiency rate calculations) of the 2010 Regulations<sup>(a)</sup>—

(a) for paragraphs (2) and (3) substitute—

“(2) The person carrying out the work must—

(a) where the dwelling is within a higher-risk building, ensure the application for building control approval in relation to the work is accompanied by a notice which specifies—

(i) the target fabric energy efficiency rate for the dwelling, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,

(ii) the fabric energy efficiency rate for the dwelling as designed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and

(iii) a list of specifications to which the dwelling is to be constructed;

(b) in any other case, not later than the day before the work starts, give the building control authority a notice which specifies the matters set out in paragraphs (i) to (iii) of sub-paragraph (a).

(3) The person carrying out the work must—

(a) where the dwelling is within a higher-risk building, ensure the application for a completion certificate in relation to the work is accompanied by—

(i) a notice which specifies—

(aa) the target fabric energy efficiency rate for the dwelling, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,

(bb) the fabric energy efficiency rate for the dwelling as constructed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and

(cc) whether the dwelling has been constructed in accordance with the list of specifications referred to in paragraph (2), and, if not, a list of any changes to those specifications; or

(ii) a certificate of the sort referred to in paragraph (4) accompanied by the information referred to in sub-paragraphs (aa) to (cc) of paragraph (i);

(b) in any other case, not later than five days after the work has been completed, give the building control authority a notice which specifies the matters mentioned in sub-paragraphs (aa) to (cc) of sub-paragraph (a)(i) or a certificate of the sort mentioned in sub-paragraph (a)(ii).”;

(b) in paragraph (4), for “local authority” substitute “building control authority”;

(c) after paragraph (4) insert—

“(4A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(14) In regulation 27C (target primary energy rate calculations for new buildings) of the 2010 Regulations—

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<sup>(a)</sup> Regulation 27A was inserted by S.I. 2013/1959 and amended by S.I. 2016/285.

- (a) for paragraphs (2) and (3) substitute—
    - “(2) The person carrying out the work must—
      - (a) where the new building is a higher-risk building, ensure the application for building control approval in relation to the work is accompanied by a notice which specifies—
        - (i) the target primary energy rate for the building, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,
        - (ii) the calculated target primary energy rate for the building as designed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and
        - (iii) a list of specifications to which the building is to be constructed;
      - (b) in any other case, not later than the day before the work starts, give the building control authority a notice which specifies the matters set out in paragraphs (i) to (iii) of sub-paragraph (a).
    - (3) The person carrying out the work must—
      - (a) where the new building is a higher-risk building, ensure the application for a completion certificate in relation to the work is accompanied by—
        - (i) a notice which specifies—
          - (aa) the target primary energy rate for the building, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,
          - (bb) the calculated target primary energy rate for the building as constructed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and
          - (cc) whether the building has been constructed in accordance with the list of specifications referred to in paragraph (2), and, if not, a list of any changes to those specifications; or
        - (ii) a certificate of the sort referred to in paragraph (4) accompanied by the information referred to in sub-paragraphs (aa) to (cc) of paragraph (i);
      - (b) in any other case, not later than five days after the work has been completed, give the building control authority a notice which specifies the matters mentioned in sub-paragraphs (aa) to (cc) of sub-paragraph (a)(i) or a certificate of the sort mentioned in sub-paragraph (a)(ii).”;
  - (b) in paragraph (4), for “local authority” substitute “building control authority”;
  - (c) after paragraph (4) insert—
 

“(4A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.
- (15) In regulation 37 (wholesome water consumption calculation) of the 2010 Regulations—
  - (a) in paragraph (1) for “local authority” substitute “building control authority”;
  - (b) for paragraph (2) substitute—
    - “(2) The person carrying out the work must—
      - (a) where the dwelling is within a higher-risk building, ensure the notice accompanies the application for a completion certificate in relation to the work;
      - (b) in any other case, give the notice to the building control authority not later than five days after the work has been completed.
    - (3) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each

notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(16) In regulation 41 (sound insulation testing) of the 2010 Regulations—

(a) in paragraph (2)(b) for “local authority” substitute “building control authority”;

(b) for paragraph (3)(b) substitute—

“(b) given—

(i) in the case where the building work is higher-risk building work, to the regulator with the application for a completion certificate in relation to the work;

(ii) in any other case, to the building control authority not later than the date on which the notice required by regulation 16(4) is given.”;

(c) after paragraph (3) insert—

“(3A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each results of testing it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”;

(d) in paragraph (4), for the opening words substitute—

“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 building control authority—

(i) in the case of building work which is higher-risk building work, not later than the date on which the application for building control approval for the work is submitted,

(ii) in any other case, not later than the date on which notice of intention to start work is given under regulation 16(1),

that, for the purposes 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>(a)</sup>, provided that—”.

(17) In regulation 42 (mechanical ventilation air flow rate testing) of the 2010 Regulations—

(a) in paragraphs (2) and (3), for “local authority” substitute “building control authority”;

(b) after paragraph (3) insert—

“(4) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(18) In regulation 43 (pressure testing) of the 2010 Regulations—

(a) in paragraphs (2), (3) and (4), for “local authority” substitute “building control authority”;

(b) after paragraph (5) insert—

“(6) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(19) In regulation 44 (commissioning) of the 2010 Regulations—

(a) in paragraph (3) for “local authority” substitute “building control authority”;

(b) for paragraph (4) substitute—

“(4) The notice must be given—

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(a) A company limited by guarantee, registered in England and Wales with company registration number 04980223.

- (a) in the case where the building work is higher-risk building work for which an application for a completion certificate is required, to the regulator with the application;
- (b) in any other case, to the building control authority—
  - (i) not later than the date on which the notice required by regulation 16(4) is required to be given; or
  - (ii) where that regulation does not apply, not more than 30 days after completion of the work.

(5) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(20) In regulation 44ZA (commissioning in respect of a system for on-site electricity generation) of the 2010 Regulations—

- (a) in paragraph (2), for “local authority” substitute “building control authority”;
- (b) for paragraph (3) substitute—

“(3) The notice must be given—

- (a) in the case where the building work is higher-risk building work for which an application for a completion certificate is required, to the regulator with the application;
- (b) in any other case, to the building control authority—
  - (i) not later than the date on which the notice required by regulation 16(4) is required to be given; or
  - (ii) where that regulation does not apply, not more than 30 days after completion of the work.

(4) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.”.

(21) In Schedule 1 to the 2010 Regulations, in paragraph RA1(3) for “full plans relating to building work to which this paragraph applies are deposited” substitute “an application for building control approval with full plans relating to building work to which this paragraph applies is given”.

(22) In the headings of Schedules 3 and 3A to the 2010 Regulations for “deposit full plans” substitute “an application for building control approval with full plans”.

(23) In Schedule 4 to the 2010 Regulations—

- (a) in the heading for “deposit full plans” substitute “an application for building control approval with full plans”;
- (b) in paragraph 1(g)(ii) for “to deposit full plans” substitute “an application for building control approval with full plans”;
- (c) in paragraph 1(l) for “to deposit full plans” substitute “an application for building control approval with full plans”.

#### **Amendments: applications for building control**

8. For regulation 14 of the 2010 Regulations substitute—

##### **“Applications for building control approval with full plans**

14.—(1) An application for building control approval with full plans must be made in writing, signed by the person making the application (“the applicant”), and must include—

- (a) the name, address, telephone number and (if available) email address of the applicant;
  - (b) where the applicant is not the client, the name, address, telephone number and (if available) email address of the client;
  - (c) where known at the date of the application, the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
  - (d) a statement—
    - (i) that the application is an application for building control approval with full plans given under regulation 12(2)(b);
    - (ii) as to whether the building is a building to which the Regulatory Reform (Fire Safety) Order 2005 applies or will apply after completion of the building work;
  - (e) where the work consists of work to an existing building, a description of the existing building including—
    - (i) details of the current use of the building, including the current use of each storey;
    - (ii) the height of the building;
    - (iii) the number of storeys in the building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
  - (f) a description of the proposed work, including—
    - (i) details of the intended use of the building, including the intended use of each storey;
    - (ii) the height of the building after the proposed work;
    - (iii) the number of storeys in the building after the proposed work as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
    - (iv) the provision to be made for the drainage of the building;
    - (v) where paragraph H4 of Schedule 1 imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;
    - (vi) the steps to be taken to comply with any local enactment that applies; and
    - (vii) a statement setting out—
      - (aa) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 46A (lapse of building control approval: commencement of work); and
      - (bb) where the work does not consist of work to which paragraph (2) or (3) of regulation 46A applies, details of the work which the client considers amounts to 15% of the proposed work.
- (2) An application for building control approval with full plans must be accompanied by—
- (a) (i) two copies of the full plans, or
  - (ii) where Part B of Schedule 1 (fire safety) imposes a requirement in relation to proposed building work, four copies of the full plans;
  - (b) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.
- (3) Plans are only full plans if they 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;
- (b) the plans, particulars and statements required by paragraphs (1), (1A) and (2) of regulation 13;
- (c) 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
- (d) any other plans which are necessary to show that the work would comply with these Regulations.

(4) Paragraph (2)(a)(ii) does not apply where the proposed building work relates only to the erection, extension or material alteration of a dwelling-house or flat.

### **Determination of applications for building control approval with full plans**

**14A.**—(1) Subject to paragraph (5), where an application for building control approval with full plans is made in accordance with regulations 12(2)(b) and 14, the relevant authority must grant the application for building control approval unless the application (including the plans or other documents which accompany it)—

- (a) does not comply with the requirements of regulation 14 (applications for building control approval with full plans);
- (b) is not sufficiently detailed in any respect to allow the relevant authority to determine whether the proposed work would contravene any applicable requirement of the building regulations;
- (c) shows that—
  - (i) the proposed work would contravene any applicable requirement of these Regulations; or
  - (ii) in a case where details are provided under regulation 14(1)(f)(vii), the work set out in the details would not in the relevant authority's opinion amount to 15% of the work.

(2) If the application for building control approval with full plans (or any plans or other documents which accompany it) is defective or shows that the proposed work would contravene any requirement of these Regulations, the relevant authority may—

- (a) reject the application; or
- (b) subject to paragraph (4), grant the application for building control approval subject to either or both of the requirements set out in paragraph (3).

(3) The requirements mentioned in paragraph (2) are—

- (a) that such modifications as the relevant authority may specify must be made in the full plans, and
- (b) that such further plans as the authority may specify must be provided before work to which those plans relate starts.

(4) A relevant authority may only grant an application for building control approval with full plans subject to a requirement in paragraph (3) if the person making the application (“the applicant”)—

- (a) has requested in writing the authority does so, or
- (b) has consented in writing to the authority doing so.

(5) The duty in paragraph (1) is subject to any provision in sections 19 to 25 of the Act which expressly requires or authorises the authority to reject an application for building control approval.

(6) The relevant authority must notify the applicant of the outcome of the application within five weeks beginning with the date the application is received by the relevant

authority, or within such longer period as at any time the authority and the applicant agree in writing.

(7) A failure by the relevant authority to notify the applicant in accordance with paragraph (6) is not to be treated as a grant of the application or a rejection of the application.

(8) A notice that the application under paragraph (1) is rejected must give the reasons for the rejection.

(9) A notice that the application is granted subject to a requirement must specify the requirement imposed.

(10) Where the application for building control approval with full plans is successful the effect is that the building control approval is granted.

### **Appeal against a local authority's rejection of an application for building control approval**

**14B.**—(1) A person (“the appellant”) who has made an application for building control approval with full plans to a local authority may appeal to the regulator against the decision of the local authority to reject the application provided the appeal is made within 21 relevant days beginning with the day after the day on which the local authority notifies the person under regulation 14A(6) (determination of applications for building control approval with full plans).

(2) The regulator may allow an appeal under paragraph (1) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable; or
- (d) that the decision was made without following the procedures set out in the Act or regulations made under the Act.

(3) If the regulator allows an appeal it may quash or vary the decision.

(4) A person aggrieved with the decision of the regulator on an appeal under this regulation may appeal that decision to the First-tier Tribunal within 21 relevant days beginning with the day after the day on which the regulator notifies the person of its decision.

(5) The First-tier Tribunal may allow an appeal referred to in paragraph (4) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable; or
- (d) that the decision was made without following the procedures set out in the Act or regulations made under the Act.

(6) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

### **Appeal against the regulator's rejection of an application for building control approval for work that is not higher-risk building work**

**14C.**—(1) In relation to work for which the regulator is the building control authority pursuant to a regulator's notice, a person (“the appellant”) who has made an application for building control approval with full plans to the regulator may appeal to the First-tier Tribunal against the decision of the regulator to reject the application provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator

notifies the person under regulation 14A(6) (determination of applications for building control approval with full plans).

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

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable;
- (d) that the decision was made without following the procedures set out in the Act or regulations made under the Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.”.

### **Amendments: consultation on applications for building control**

9. After regulation 15 of the 2010 Regulations insert—

#### **“Consultation in relation to fire safety**

**15A.**—(1) This regulation applies where it is proposed—

- (a) to erect, extend or make any structural alteration to a building to which the Regulatory Reform (Fire Safety) Order 2005 applies or will apply after completion of the work, or
- (b) to change the use of a building to which the Regulatory Reform (Fire Safety) Order 2005 applies or will apply after the change of use,

and, in connection with that proposal, an application for building control approval with full plans is given to a relevant authority.

(2) Subject to paragraph (3), where this regulation applies the relevant authority must consult the enforcing authority before determining the application for building control approval with full plans given to the relevant authority.

(3) The duty to consult imposed by paragraph (2) does not apply where the relevant authority is the enforcing authority.

(4) In this regulation “enforcing authority” has the same meaning as in article 25 of the Regulatory Reform (Fire Safety) Order 2005.”.

### **Other appeals**

10. After regulation 18 (unauthorised building work) of the 2010 Regulations insert—

#### **“Appeal against refusal to grant certain certificates**

**18A.**—(1) A person (“the appellant”) who has—

- (a) notified a local authority under regulation 16(4) and the authority has refused to give a certificate under regulation 17 (completion certificates);
- (b) notified a local authority under regulation 16(5) and the authority has refused to give a certificate under regulation 17A (certificate for building occupied before work is completed); or
- (c) applied to a local authority under regulation 18(2) (unauthorised building work) for a certificate and the authority has refused to give the certificate,

may appeal to the regulator against the decision of the local authority to refuse to provide the certificate provided the appeal is made within 21 relevant days beginning with the day after the day on which the local authority notifies the appellant of the refusal.

(2) The regulator may allow an appeal under paragraph (1) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable; or
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(3) If the regulator allows an appeal it may quash or vary the decision.

(4) An appellant aggrieved with the decision of the regulator on an appeal under this regulation may appeal that decision to the First-tier Tribunal within 21 relevant days beginning with the day after the day on which the regulator notifies the appellant of its decision.

(5) The First-tier Tribunal may allow an appeal referred to in paragraph (4) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable; or
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(6) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

#### **Appeal in relation to sections 20(5) or 39 of the Act**

**18B.**—(1) An appeal to the regulator under section 20(5) of the Act must be made within 21 relevant days beginning with the day after the day on which the local authority notifies the person of its decision.

(2) Where a person who is aggrieved with the decision of the regulator given on an appeal under section 20(5) or 39 of the Act wishes to appeal that decision by virtue of section 43A(3) of the Act they may appeal to the First-tier Tribunal provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies them of its decision.

(3) The First-tier Tribunal may allow an appeal referred to in paragraph (2) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable; or
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(4) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

#### **Appeal to the First-tier Tribunal in relation to certain decisions**

**18C.**—(1) Where, in relation to work which is not higher-risk building work, a person (“the appellant”) has—

- (a) notified the regulator under regulation 16(4) and the regulator has refused to give a certificate under regulation 17 (completion certificates);

- (b) notified the regulator under regulation 16(5) and the regulator has refused to give a certificate under regulation 17A (certificate for building occupied before work is completed); or
- (c) applied to the regulator under regulation 18(2) (unauthorised building work) for a certificate and the regulator has refused to give the certificate,

they may appeal to the First-tier Tribunal against the decision of the regulator provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies the appellant of the refusal.

(2) An appeal to the First-tier Tribunal under section 19(4), 20(5), 21(4), 22(4) or 39 of the Act must be made within 21 relevant days beginning with the day after the day on which the building control authority notifies the person of its decision.

(3) The First-tier Tribunal may allow an appeal referred to in paragraph (1) or (2) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable; or
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(4) If the First-tier Tribunal allows an appeal referred to in paragraph (1) or (2) it may quash or vary the decision.

#### **Application to the First-tier Tribunal in relation to certain decisions**

**18D.**—(1) At least five days before making an application to the First-tier Tribunal under section 21(3) or (6), 24(2), 25(2) or (5), 33(6) or 36(3) of the Act the person proposing to make an application (“the applicant”) must notify the building control authority of their intention to make the application.

(2) An application to the First-tier Tribunal under section 21(3) or (6), 24(2), 25(2) or (5), 33(6) or 36(3) of the Act must be made within 21 relevant days beginning with the day after the day on which the applicant notifies the building control authority under paragraph (1).

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

#### **Appeals under section 101A of the Act**

**18E.**—(1) A person aggrieved with the refusal of a local authority to consider an application for building control approval, an initial notice or an amendment notice on the grounds that all or part of the work to which the application or notice relates is higher-risk building work may appeal to the Secretary of State provided the appeal is made within 28 relevant days beginning with the day after the day on which the local authority refuses to consider the application.

(2) An appeal to the Secretary of State under section 101A of the Act must be made in writing, signed by the person who made the original application or one of the persons who gave the original initial notice or amendment notice (in this regulation “the appellant”) and must include the following information—

- (a) the name, address, telephone number and (if available) email address of the appellant;
- (b) a statement explaining why the appellant considers the work proposed in the original application or notice does not include higher-risk building work;
- (c) where the appellant is an approved inspector, a statement confirming the client agrees to the appeal being made.

(3) In addition to the information provided for in paragraph (2) the appeal must be accompanied by—

- (a) a copy of the original application or notice given to the local authority (including all documentation that accompanied the application or notice);
- (b) all the information provided to the local authority in relation to the application or notice;
- (c) all the correspondence with the local authority in relation to that application or notice;
- (d) a copy of the notice sent to the regulator under paragraph (4).

(4) At least two working days before submitting an appeal under section 101A(2) of the Act the appellant must give notice to the regulator of their intention to do so.

(5) Where the appellant submits an appeal under section 101A of the Act through electronic facilities provided by the Secretary of State for that purpose, they are taken to have consented to the use of electronic communications for all purposes relating to the appeal that are capable of being carried out electronically.

(6) The deemed consent in paragraph (5) may be revoked by the appellant giving the Secretary of State two weeks' notice in writing specifying that the notice is given under this regulation.

(7) An appeal under section 101A of the Act is to be determined by consideration of written representations.

(8) The Secretary of State must give the local authority which refused to consider the original application or notice the opportunity to make written representations in relation to the appeal.

(9) The Secretary of State may give any other person an opportunity to make written representations in relation to the appeal.

(10) The Secretary of State may, by notice in writing, require the local authority in question to provide specified information, or provide copies of specified documents, by the date specified in the notice (that date must be no fewer than 7 days after the date the notice is given).

(11) Before determining the appeal the Secretary of State may—

- (a) hold any meeting with the appellant, the local authority or any other person,
- (b) undertake any site visit,

as the Secretary of State considers appropriate.

(12) The Secretary of State must determine the appeal within 8 weeks of the date on which the appeal is received and the decision in relation to the appeal must be given in writing to the appellant.

(13) For the purposes of section 101A(6) of the Act, an appeal to the High Court under section 101A(6) of the Act may be made within 28 relevant days beginning with the day after the day on which the Secretary of State gives the decision to the appellant under paragraph (12).

(14) The Secretary of State may appoint a person to determine the appeal instead of the Secretary of State.

(15) At any time before a person appointed under this regulation has determined the appeal the Secretary of State may—

- (a) revoke that person's appointment;
- (b) appoint another person to determine the appeal instead.

(16) A person appointed under paragraph (14) has the same powers and duties in relation to determination of an appeal under section 101A of the Act as the Secretary of State and, in particular, where the appeal is determined by a person appointed under this regulation their decision is to be treated as the decision of the Secretary of State.”

## **Regulator's notices**

**11.** After regulation 19 (supervision of building work otherwise than by local authorities) of the 2010 Regulations insert—

### **“Regulator’s notices: description of work and connection**

**19A.** For the purposes of section 91ZB(1) of the Act, a regulator’s notice may be given in relation to any building work (which is not higher-risk building work) where—

- (a) the client for the building work is proposing to undertake higher-risk building work on the same site;
- (b) the regulator’s notice includes all the building work to be carried out on the site which is not higher-risk building work; and
- (c) the client has appointed the same principal contractor for the building work and the higher-risk building work.

### **Regulator’s notices: content of notices**

**19B.** A regulator’s notice must be in writing and must include—

- (a) the name, address, telephone number and (if available) email address of the client for the project to which the notice relates;
- (b) a statement that the notice is a regulator’s notice under section 91ZB of the Act;
- (c) the location of the proposed building work to which the regulator’s notice is to apply;
- (d) a description of the proposed building work to which the regulator’s notice is to apply, including a statement explaining how that work is connected to higher-risk work and the location on the site of that higher-risk building work;
- (e) a statement giving the date it is proposed the building work will start and how long it is proposed to take to complete;
- (f) 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;
- (g) a declaration, signed by the client and signed by an employee of the regulator who is authorised to do so, confirming—
  - (i) the client and the regulator consent to the giving of the notice;
  - (ii) the proposed building work to which the notice relates includes no higher-risk building work;
  - (iii) the proposed building work falls within the requirements of regulation 19A (regulator’s notices: description of work and connection);
  - (iv) they understand the proposed building work is to be subject to the procedural requirements of these Regulations.

### **Regulator’s notices: grounds for rejection**

**19C.—(1)** The following grounds are prescribed for the purposes of section 91ZC(2) of the Act—

- (a) the conditions in regulation 19A (regulator’s notices: description of work and connection) are not satisfied in relation to the work specified in the notice;
- (b) the work specified in the notice is not within the area of the local authority;
- (c) that an application for building control approval, an initial notice or a public body’s notice has been given in relation to the work (or any part of it);
- (d) the notice does not comply with the requirements of regulation 19B (regulator’s notices: content of notices).

(2) For the purposes of section 91ZC(3) of the Act a notice of rejection must be given within five days of the day on which the regulator’s notice is given.

**Regulator’s notices: appeals**

**19D.**—(1) An appeal to the First-tier Tribunal under section 91ZC(4) of the Act must be made within 21 relevant days beginning with the day after the day on which the local authority notifies the person under section 91ZC(3) of the Act.

(2) The First-tier Tribunal may allow an appeal under section 91ZC(4) of the Act only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable; or
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

(4) The power of the First-tier Tribunal to award costs does not apply in relation to an appeal under this regulation.

**Regulator’s notices: direction**

**19E.**—(1) In relation to work which is the subject of a regulator’s notice, the regulator may make a direction as to the way in which any of the following documents are given (which may include specifying cases where they must be given electronically via a website address provided for that purpose by the regulator)—

- (a) a building notice under regulation 13 (particulars and plans where a building notice is given);
- (b) an application under regulation 14 (applications for building control approval with full plans);
- (c) any notice under regulation 16 (notices in relation to building work);
- (d) an application under regulation 18 (unauthorised building work);
- (e) any documents that are required to accompany any notice or application referred to in sub-paragraph (a) to (d);
- (f) a notice under regulation 25A(2), 27(2) or (3), 27A(2) or (3), 27C(2) or (3), 37(1), 38(2B) or (2G), 41(4), 42(2), 43(2), 44(3) and 44ZA(2);
- (g) a copy of results under regulation 41(2).

(2) A direction must specify the date on which it comes into effect, which must not be earlier than seven days after it is published.

(3) Where the regulator has made and published a direction in accordance with this regulation, an application (or any document that accompanied the application) of the type mentioned in the direction must, from the date specified in the direction, be given in accordance with the direction.



(4) The regulator may, by a further direction, amend or revoke a direction made under this regulation.

### **Regulator’s notices: local land charges**

**19F.** The functions of local authorities under the Local Land Charges Act 1975, as they relate to building work for which the regulator is the building control authority by reason of a regulator’s notice under section 91ZB of the Building Act 1984, are prescribed for the purposes of paragraph (b) of the definition of “relevant function” in paragraph 2(5) of Schedule 3 to the Building Safety Act 2022.”.

### **Amendments to regulations 20 and 20A of the 2010 Regulations**

**12.—**(1) In regulation 20 (provisions applicable to self-certification schemes) of the 2010 Regulations, after paragraph (1) insert—

“(1A) Where this regulation applies and the building work in question relates to a higher-risk building, the client must make the person carrying out the work aware that the building is a higher-risk building.”.

(2) In regulation 20A (provisions applicable to third party certification schemes) of the 2010 Regulations, after paragraph (1) insert—

“(1A) Where this regulation applies and the building work in question relates to a higher-risk building, the client must make the person carrying out the work aware that the building is a higher-risk building.”.

### **Amendments to relating to fire safety information**

**13.—**(1) In regulation 38 (fire safety information) of the 2010 Regulations, for paragraph (2) substitute—

“(2) The person carrying out the work must give fire safety information to the responsible person no later than—

- (a) where the building, proposed building or extension to which the building work relates is not occupied during the building work, the date of completion of the work or the date of occupation of the building or the extension, whichever is the earlier;
- (b) in any other case, the date of completion of the work.

(2A) The responsible person must give the person carrying out the work a notice acknowledging receipt of the fire safety information and confirming the information provided is sufficient to enable them to understand, operate and maintain the building (and the fire safety systems in it) after the building work in question.

(2B) Subject to paragraph (2D), the person carrying out the work must give a notice to the relevant authority—

- (a) confirming that they have given the fire safety information to the responsible person pursuant to paragraph (2), and
- (b) stating that they have received the notice from the responsible person pursuant to paragraph (2A) or where they have not received the notice, stating the steps taken to obtain the notice from the responsible person and the dates they were taken.

(2C) The notification under paragraph (2B) must be given no later than—

- (a) where regulation 20 (provisions applicable to self-certification schemes) applies to the work, 30 days after the date referred to in paragraph (2),
- (b) in any other case, five days after the date referred to in paragraph (2).

(2D) Paragraphs (2B) and (2C) do not apply where regulation 20A (provisions applicable to third party certification schemes) applies to the work and instead paragraphs (2E) to (2G) apply.

(2E) Where this paragraph applies, the person carrying out the work must notify the third party certifier appointed under regulation 12(6)(c)—

- (a) confirming that they have given the fire safety information to the responsible person pursuant to paragraph (2), and
- (b) stating that they have received the notice from the responsible person pursuant to paragraph (2A) or where they have not received the notice, stating the steps taken to obtain the notice from the responsible person and the dates they were taken.

(2F) The notification under paragraph (2E) must be given no later than seven days after the date referred to in paragraph (2).

(2G) Within 30 days of receiving the notification under paragraph (2E) the third party certifier appointed under regulation 12(6)(c) must notify the relevant authority confirming receipt of the notification under paragraph (2E).”.

(2) In regulation 17 (completion certificates), in paragraph (1) for “it, a building complies with the relevant provisions” substitute “a building, the relevant provisions have been complied with in relation to the building”.

(3) In regulation 17A (certificate for building occupied before work is completed), in subparagraph (1)(c) for “those parts of the building which are to be occupied before completion of the work currently comply with regulation 38 and Part B of Schedule 1” substitute “regulation 38 and Part B of Schedule 1 are currently complied with in relation to those parts of the building which are to be occupied before completion of the work”.

#### **Amendments relating to commencement of section 33 of the Building Act 1984**

**14.**—(1) In regulation 19 of the 2010 Regulations—

- (a) in paragraph (1), omit “, 45 (testing of building work) and 46 (sampling material)”;
- (b) omit paragraph (2).

(2) Omit regulations 45 and 46 of the 2010 Regulations.

#### **Starting on site and commencement of work**

**15.**—(1) In regulation 16 of the 2010 Regulations—

- (a) for the heading substitute “Notices in relation to building work”;
- (b) in paragraph (1)—
  - (i) for “commence that work” substitute “start that work”;
  - (ii) for “commence work” substitute “start work”;
- (c) in paragraph (3) for “commence building work” substitute “start work”;
- (d) after paragraph (3B) insert—

“(3C) Not more than five days after the day on which work is to be regarded as commenced the person carrying out the work must give a notice to that effect to the relevant authority.

(3D) The relevant authority may take such steps, including—

- (a) requiring information;
- (b) laying open of work for inspection,

as the authority thinks appropriate to check whether the work is to be regarded as commenced.

(3E) If the relevant authority are not satisfied the work is to be regarded as commenced they must give the person carrying out the work a notice to that effect (“rejection notice”) within four weeks of the date the notice under paragraph (3C) is given, and the rejection notice must give the reasons for rejection.

(3F) Where a notice is given under paragraph (3C) and the period referred to in paragraph (3E) expires without a rejection notice being given, then the work is to be regarded as commenced.

(3G) If the person carrying out the work accepts the rejection notice they may not give a further notice under paragraph (3C) unless, having regard to the reasons given by the relevant authority, they are satisfied the work is to be regarded as commenced.

(3H) A person who gave the notice under paragraph (3C) may appeal to the First-tier Tribunal against the decision of the relevant authority to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the relevant authority gives the rejection notice.

(3I) The First-tier Tribunal may allow an appeal under paragraph (3H) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable; or
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(3J) For the purposes of paragraphs (3C) to (3I) the provisions of regulation 46A (lapse of building control approval: commencement of work) apply to determine whether work is to be regarded as commenced.”.

(2) After regulation 46 of the 2010 Regulations insert—

**“Lapse of building control approval: commencement of work**

**46A.**—(1) For the purposes of section 32(6) of the Act (lapse of building control approval) work is to be regarded as commenced in accordance with the following paragraphs.

(2) Where the work consists of the construction of a complex building, work is to be regarded as commenced in relation to that building or the first stage of building work for that building when the foundations supporting the building and the structure of the lowest floor level of that building (but not the other buildings or structures to be supported by those foundations) are completed.

(3) Where the work consists of—

- (a) the construction of a building and paragraph (2) does not apply; or
- (b) horizontal extension of a building,

work is to be regarded as commenced when the sub-surface structure of the building or the extension including all foundations, any basement level (if any) and the structure of ground floor level is completed.

(4) Where the work consists of any other building work then work is to be regarded as commenced, where a statement under—

- (a) regulation 14(1)(f)(vii), or
- (b) regulation 12(1)(e)(viii) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023,

sets out details of the work which the client considers amounts to 15% of the proposed work, when the work detailed in the statement is completed.

(5) In this regulation—

“approved plans” means plans which were part of or accompanied the application for building control approval with full plans of the building work and which was granted building control approval, or plans approved under a requirement imposed on such an approval;

“complex building” means—

- (a) a building which is to be constructed on the same foundation plinth or podium as any other building or structure;
- (b) a building which has more than one storey below ground level;
- (c) a building where its proposed use is primarily as a public building where the public or a section of the public has access to the building (whether or not on payment) provided that the building has a capacity for 100 or more visitors;

“public building” means—

- (a) a shop or shopping centre,
- (b) premises where food or drink are sold for consumption on the premises, including a nightclub, social club or dance hall;
- (c) a stadium, theatre, cinema, concert hall;
- (d) a sports ground;
- (e) an exhibition hall or conference centre;
- (f) a hospital or premises for the provision of health care.”.

### **Enforcement provisions**

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

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

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

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

**“Compliance notices: excluded provisions**

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

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

**Compliance notices: contents**

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

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

- (a) that it is a compliance notice under section 35B of the Act;
  - (b) the date the notice is given;
  - (c) the name or description of the recipient; and
  - (d) the consequences of failing to comply with the notice.
- (2) A compliance notice must additionally—
- (a) describe the issue to which the notice relates;
  - (b) identify the provision of building regulations, or the requirement imposed by virtue of building regulations, to which the compliance notice relates;
  - (c) provide details of the nature of the contravention or likely contravention;
  - (d) state that the notice may be withdrawn by the building control authority;
  - (e) state that the recipient may apply to the First-tier Tribunal under section 39A(3) of the Act for an extension of the specified period for doing anything set out in the notice and state that any application must be made within 21 relevant days of the date the notice is given;
  - (f) state that the recipient may appeal to the First-tier Tribunal under section 39A(1) of the Act and state that any appeal must be made within 21 relevant days of the date the notice is given.
- (3) A compliance notice must relate to no more than one contravention or likely contravention of building regulations or a requirement imposed by virtue of building regulations.

**Stop notices: contents**

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

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

(2) A stop notice must additionally—

- (a) describe the issue to which the notice relates;
- (b) specify—
  - (i) in a case within section 35C(1)(a) of the Act, the provision of building regulations or requirement imposed by virtue of building regulations to which the stop notice relates;
  - (ii) in a case within section 35C(1)(b) of the Act, the compliance notice to which the stop notice relates;
  - (iii) in a case within section 35C(1)(c) of the Act, the provision of building regulations or requirement imposed by virtue of building regulations to which the stop notice relates;
- (c) provide details of the nature of the contravention (including, in a case within section 35C(1)(c) of the Act, the nature of the serious harm that is anticipated);
- (d) state that the recipient may appeal to the First-tier Tribunal under section 39A(5) of the Act and state that any appeal must be made within 21 relevant days of the date the notice is given; and
- (e) state that the recipient may apply to the First-tier Tribunal under section 39A(6) of the Act for a direction.

- (3) A stop notice must relate to—
- (a) in a case within section 35C(1)(a) of the Act, no more than one contravention of a prescribed provision of building regulations or requirement imposed by virtue of such a provision;
  - (b) in a case within section 35C(1)(b) of the Act, no more than one compliance notice;
  - (c) in a case within section 35C(1)(c) of the Act, no more than one contravention of a provision of building regulations or a requirement imposed by virtue of such a provision.

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

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

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

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

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

(4) In this regulation—

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

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

#### **Compliance and stop notices: withdrawal**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Other miscellaneous amendments to the 2010 Regulations**

**17.**—(1) In regulation 5 of the 2010 Regulations omit “the purposes of paragraph 8(1)(e) of Schedule 1 to the Act and for”.

(2) Regulation 48 of the 2010 Regulations is omitted.

## **PART 3**

### **Amendment of other secondary legislation**

#### **Amendments to the Building (Local Authority Charges) Regulations 2010**

**18.**—(1) The Building (Local Authority Charges) Regulations 2010(a) are amended as follows.

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(a) S.I. 2010/404 as amended by S.I. 2010/2215.



- (2) In regulation 5(1) (principles of charging scheme)—
- (a) in sub-paragraph (a), at the beginning, insert “in relation to Wales,”;
  - (b) after sub-paragraph (a) insert—
    - “(aa) in relation to England—
      - (i) the passing or rejection of plans which have been deposited with the local authority, in accordance with section 16 of the Act, before 1st October 2023, or
      - (ii) the granting or rejection of an application for building control approval in relation to proposed building work in England made to the local authority in accordance with the Principal Regulations,
    - (“a plan charge”);”;
  - (c) in sub-paragraph (b), at the beginning, insert “in relation to Wales,”;
  - (d) after sub-paragraph (b) insert—
    - “(ba) in relation to England, the inspection of building work for which—
      - (i) plans have been deposited with the local authority, in accordance with section 16 of the Act, before 1st October 2023, or
      - (ii) an application for building control approval has been granted in accordance with the Principal Regulations,
    - (“an inspection charge”);”.
- (3) In regulation 7(5) (principles of charging scheme: calculating charges) after sub-paragraph (j) insert—
- “(ja) whether an application or building notice in relation to building work is in respect of building work which is substantially the same as building work in respect of which an application for building control approval has been granted or building works inspected by the same local authority;”.
- (4) In regulation 8 (principles of charging scheme as to payment)—
- (a) in paragraph (1)—
    - (i) in sub-paragraph (a) after “deposited with” insert “, or an application for building control approval for the building work is made to,”;
    - (ii) in sub-paragraph (d)—
      - (aa) for “first deposited with” substitute “first given to”;
      - (bb) for “have been deposited with” substitute “have been given to”;
      - (cc) for “are or have been deposited” substitute “are or have been given”;
  - (b) in paragraph (2)—
    - (i) after “are deposited” insert “or an application for building control approval which is made”; and
    - (ii) after “of the Act” insert “or is not validly made for the purposes of the Principal Regulations”;
  - (c) in paragraph (3) after “plans of building work are deposited” insert “, an application for building control approval is made”.
- (5) In regulation 11 (refunds and supplementary charges)—
- (a) in paragraph (1) after “the Act” insert “or do not give notice of the granting or rejection of an application for building control approval within the period required under the Principal Regulations”;
  - (b) in paragraph (2)—
    - (i) after “the plans were deposited” insert “or an application for building control approval was made”;

- (ii) after “in order to comply with section 16 of the Act” insert “or the Principal Regulations”;
  - (c) in paragraph (6) after “plans which are deposited with a local authority under section 16 of the Act” insert “or an application for building control approval which is made to a local authority under the Principal Regulations”.
- (6) Omit regulation 14 (fees for determination of questions by the Secretary of State).

**Amendments to the Energy Performance of Buildings (England and Wales) Regulations 2012**

**19.**—(1) The Energy Performance of Buildings (England and Wales) Regulations 2012(a) are amended as follows.

- (2) In regulation 32(1) (disclosure by keeper of register) after sub-paragraph (a) insert—
  - “(aa) to the building safety regulator for the purposes of its duty under section 91 of the Building Act 1984;”.

**Amendments to the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023**

**20.**—(1) The Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023(b) are amended as follows.

- (2) In regulation 1 (interpretation)—
  - (a) for the definition of “building certificate” substitute—
    - ““building certificate” means a completion certificate or, as the case may be, a final certificate in relation to a building;”;
  - (b) for the definition of “building control body” substitute—
    - ““building control body” means—
      - (a) where the certificate is a completion certificate, the building control authority for the building;
      - (b) where the certificate is a final certificate, the approved inspector who gave the initial notice to which the final certificate relates;”;
  - (c) in the definition of “completion certificate” after sub-paragraph (a) insert—
    - “(aa) a certificate issued in accordance with regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;
    - (ab) where paragraph 5, 10 or 11 of Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 applies in relation to a building, a transfer and completion certificate provided for by virtue of modifications set out in paragraph 5(9), 10(4), or, as the case may be, 11(4) of Schedule 3 to those Regulations;”.

**Amendments to the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023**

**21.**—(1) The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023(c) are amended as follows.

- (2) In regulation 34 (exception to building control prohibition: emergency repair work)—
  - (a) in paragraph (2)(b) for “local authority” substitute “relevant authority”;

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(a) S.I. 2012/3118.  
 (b) S.I. 2023/315.  
 (c) S.I. 2023/753.

- (b) after paragraph (2) insert—
  - “(3) In this regulation “relevant authority” has the meaning given in regulation 2 of the Building Regulations 2010.”.
- (3) In regulation 35 (exception to building control prohibition: work to occupied buildings)—
  - (a) in paragraph (1) after sub-paragraph (a) insert—
    - “(aa) giving an application for building control approval to a building control authority;”;
  - (b) after paragraph (2) insert—
    - “(2A) Where an application for building control approval has been given pursuant to paragraph (1), a building control authority is not prohibited from granting a building control approval to the applicable person.”;
  - (c) in paragraph (5) for “local authority” substitute “relevant authority”;
  - (d) in paragraph (7), in the appropriate places insert—
    - ““building control authority” has the meaning given in regulation 2 of the Building Regulations 2010;”;
    - ““relevant authority” has the meaning given in regulation 2 of the Building Regulations 2010;”.
- (4) In regulation 36 (exception to building control prohibitions: purchasers)—
  - (a) in paragraph (1)(a) for “local authority” substitute “relevant authority”;
  - (b) after paragraph (6) insert—
    - “(7) In this regulation “relevant authority” has the meaning given in regulation 2 of the Building Regulations 2010.”.
- (5) In regulation 37 (exception to building control prohibitions and modification of the Building Regulations 2010: regularisation)—
  - (a) in paragraph (1) for “local authority” substitute “relevant authority”;
  - (b) after paragraph (2) insert—
    - “(2A) In this regulation “relevant authority” has the meaning given in regulation 2 of the Building Regulations 2010.”.

## PART 4

### Transitional, supplementary and saving provisions

#### **Transitional and saving provisions**

- 22.**—(1) The amendments made to the 2010 Regulations by the provisions listed in paragraph (2) do not apply to—
- (a) building work which started before the regime start date;
  - (b) building work in relation to which—
    - (i) plans were deposited with a local authority pursuant to section 16 of the Act before the regime start date; or
    - (ii) a building notice has been given to a local authority before the regime start date, but this sub-paragraph does not apply to building work if on or after the regime start date the plans which were deposited are rejected by the local authority.
- (2) The provisions referred to in paragraph (1) are—
- (a) regulation 4 (amendments after regulation 2);
  - (b) regulation 6 (new Part - dutyholders and competence);

- (c) regulation 7 (amendments: deposit of plans and building control authorities etc) and the omission of the definition of “full plans” in regulation 3(c);
  - (d) regulation 8 (amendments: applications for building control);
  - (e) regulation 9 (amendments: consultation on applications for building control);
  - (f) regulation 11 (regulator’s notices);
  - (g) regulation 12 (amendments to regulations 20 and 20A of the 2010 Regulations);
  - (h) regulation 13 (amendments to regulation 38 of the 2010 Regulations);
  - (i) regulation 15 (starting on site and commencement of work).
- (3) The disapplication in paragraph (1) of—
- (a) regulation 6 (new Part - dutyholders and competence);
  - (b) regulation 13 (amendments to regulation 38 of the 2010 Regulations);
  - (c) the amendments to regulation 16 of the 2010 Regulations in regulation 15 (starting on site and commencement of work),

ceases on 6th April 2024 where the building work has not started by that date.

### **Transitional and saving provisions: appeals**

**23.** In relation to any appeal, or any application to a magistrates’ court, under Part 1 of the Act which was made before the regime start date, the 2010 Regulations apply without the amendments made by regulation 10 (other appeals).

### **Transitional, supplementary and saving provisions: HRBs**

**24.** Except to the extent provided for in Schedule 3 (transitional, supplementary and saving provisions) to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, regulations 22 and 23 do not apply to higher-risk buildings.

### **Interpretation of this Part**

**25.** For the purposes of this Part—

“the Act” means the Building Act 1984;

“building notice” and “building work” have the meanings given in the 2010 Regulations;

“regime start date” means 1st October 2023.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

9th August 2023

*Lee Rowley*  
Parliamentary Under Secretary of State  
Department for Levelling Up, Housing and Communities

### **EXPLANATORY NOTE**

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

This instrument is part of a set of Regulations which implement Part 3 of the Building Safety Act 2022.

Section 91ZA of the Building Act 1984, which is to have effect from 1st October 2023, provides for the regulator to be the building control authority in relation to any higher-risk building in England and any proposed higher-risk building.

Part 2 of these Regulations makes a number of amendments to the Building Regulations 2010 (S.I. 2010/2214). Regulation 3 inserts a number of new definitions.

Regulation 4 provides that most of the procedural requirements in the Building Regulations 2010 do not apply in relation to higher-risk buildings. (Instead the procedures set out in the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 apply).

Regulation 5 amends the exemption from requirements other than substantive requirements for the Mayor's Office for Policing and Crime.

Regulation 6 inserts a new Part 2A into the Building Regulations 2010. This new Part sets out the arrangements a client in relation to a project must make, including the appointment in most cases of a principal contractor and a principal designer, and provisions as to the duties and competence of persons working on a project. Regulation 6 also provides that the client must notify the relevant authority where the principal contractor or principal designer in relation to the work changes, and that after completion of the work the client must send a notice to the authority which includes compliance statements as to the work.

Regulation 7 changes a number of references to deposit of plans to applications for building control approval, and a number of references to local authorities to building control authority (which term includes the regulator).

Regulation 8 inserts new provisions, equivalent to those which were in section 16 of the Building Act 1984, in relation to applications for building control approval, and regulation 9 inserts new provision, equivalent to article 45 of the Regulatory Reform (Fire Safety) Order 2005, in relation to consultation on applications.

Regulation 10 makes provision in relation to the procedure for appeals under the Building Act 1984 – Part 3 of the Building Safety Act 2022 provided for a number of new rights of appeal, and moved most appeals from the Secretary of State to the regulator and from the magistrates' court to the First-tier Tribunal.

Regulation 11 makes provision under section 91ZB of the Building Act 1984 in relation to regulator's notices.

Regulation 12 amends regulations 20 and 20A of the Building Regulations 2010 to provide that the client for the project ensures the person carrying out work in relation to a higher-risk building is aware the building is a higher-risk building.

Regulation 13 amends regulation 38 of the Building Regulations 2010 to provide that the responsible person must acknowledge receipt of the fire safety information provided pursuant to regulation 38, and the notice to the building control authority as to handover of fire safety information confirms the information was received by the responsible person.

Regulation 14 omits regulations 45 and 46 of the Building Regulations 2010, this is linked to the commencement of section 33 of the Building Act 1984.

Regulation 15 amends the existing notice of intention to commence works in regulation 16 of the Building Regulations 2010 to become a notice of starting work, and inserts a new requirement to give a notice where work is regarded as commenced and it also sets out the definition of what is to be regarded as commencement of work for the purposes of lapse of building control approval is provided.

Regulation 16 updates the list of provisions whose breach cannot result in prosecution to include a number of the new duties inserted by this instrument, and equivalent provision is made for exclusion from compliance notices. Provision is also made for stop notices and the content of compliance notices, and procedures in relation to them.

Regulation 17 includes the omission of regulation 48 of the Building Regulations 2010 which is consequential on an amendment to section 94 of the Building Act 1984 by the Building Safety Act 2022.

Regulations 18 to 21 make a number of consequential amendments to secondary legislation to replace, for example, a number of references to deposited plans. The regulations amended are: the Building (Local Authority Charges) Regulations 2010 (S.I. 2010/404), the Energy Performance of

Buildings (England and Wales) Regulations 2012 (S.I. 2012/3118), the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 (S.I. 2023/275) and the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023 (S.I. 2023/753).

Regulations 22 to 25 make transitional and saving provisions. The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 also makes transitional and saving provisions in relation to higher-risk buildings.

A full impact assessment of the effect that this instrument will have on the costs to business is published with an Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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