
STATUTORY INSTRUMENTS

1996 No. 1905

DEREGULATION

The Deregulation (Building) (Initial Notices and Final Certificates) Order 1996

Made - - - - 22nd July 1996

Coming into force - - 14th October 1996

Whereas:

- (a) the Secretary of State is of the opinion that certain provisions of the Building Act 1984⁽¹⁾ and which are the subject of this Order impose burdens on approved inspectors in the conduct of their business and that by amending the provisions concerned it is possible to remove or reduce the burdens without removing any necessary protection;
- (b) he has consulted such organisations as appear to him to be representative of interests substantially affected by his proposals and such other persons as he considers appropriate;
- (c) it appears to the Secretary of State that it is appropriate, following that consultation to proceed with the making of this Order;
- (d) a document setting out the Secretary of State's proposals has been laid before Parliament as required by section 3 of the Deregulation and Contracting Out Act 1994⁽²⁾ and the period for Parliamentary consideration under section 4 of that Act has expired;
- (e) the Secretary of State has had regard to the representations made during that period;
- (f) a draft of this Order has been laid before Parliament with a statement giving details of those representations and the changes to the Secretary of State's proposals in the light of those representations; and
- (g) a draft of this Order has been approved by resolution of each House of Parliament.

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 1 of the Deregulation and Contracting Out Act 1994, hereby makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Deregulation (Building) (Initial Notices and Final Certificates) Order 1996 and shall come into force on 14th October 1996.

(2) This Order does not extend to Scotland or to Northern Ireland.

(1) 1984 c. 55.
(2) 1994 c. 40.

Amendment of Initial Notices

2. After section 51 of the Building Act 1984 (“the 1984 Act”) there shall be inserted—

“Variation of work to which initial notice relates.

51A.—(1) This section applies where it is proposed that the work to which an initial notice relates should be varied.

(2) If—

(a) a notice in the prescribed form (called an “amendment notice”)—

- (i) is given to the local authority by whom the initial notice was accepted, and
- (ii) is jointly given by the approved inspector who gave the initial notice and by the person shown in the amendment notice as the person intending to carry out the relevant work,

(b) the amendment notice is accompanied by such plans of the proposed variation as may be prescribed,

(c) the amendment notice is accompanied by such evidence as may be prescribed that—

- (i) a scheme approved for the purposes of section 47 above applies, or
- (ii) the insurance cover prescribed for those purposes has been, or will be provided, in relation to the relevant work, and

(d) the amendment notice—

- (i) is accepted by the local authority giving notice of acceptance within the prescribed period to each of the persons by whom the amendment notice was given, or
- (ii) is deemed to have been accepted by the local authority by virtue of subsection (5) below,

the work to which the initial notice relates shall be treated as varied as proposed in the amendment notice.

(3) A local authority to whom an amendment notice is given—

- (a) may not reject the notice except on prescribed grounds, and—
- (b) shall reject the notice if any of the prescribed grounds exists.

(4) Where the relevant work is of such a description that, if plans of it had been deposited with the local authority, the authority could, under any enactment, have imposed requirements as a condition of passing the plans, the local authority may impose the like requirements as a condition of accepting the amendment notice.

(5) Unless, within the prescribed period, the local authority to whom an amendment notice is given give notice of rejection, specifying the ground or grounds in question, to each of the persons by whom the notice was given, the authority is conclusively presumed to have accepted it and to have done so without imposing any such requirements as are referred to in subsection (4) above.

(6) Section 47(5) shall apply in relation to the form prescribed for an amendment notice as it applies in relation to the form prescribed for an initial notice.

(7) In this section, references to the relevant work are to the work to which the initial notice, as proposed to be varied, relates.

Effect of amendment notice

51B.—(1) For the purposes of the enactments specified in section 48(3) above—

- (a) the giving of an amendment notice accompanied by such plans as are referred to in section 51A(2)(b) above shall be treated as the deposit of plans,
- (b) the acceptance or rejection of an amendment notice shall be treated as the passing, or, as the case may be, the rejection of plans,
- (c) where an initial notice is varied by an amendment notice, the deposited plans shall be treated—
 - (i) as including the plans accompanying the amendment notice, and
 - (ii) as excluding such of the plans previously treated as the deposited plans as are superseded by the plans accompanying the amendment notice, and
- (d) where an initial notice has been varied by an amendment notice, the cancellation of the initial notice under section 52(5) below shall be treated as a declaration under section 32 above that the deposit of plans constituted by the giving of the amendment notice is of no effect.

(2) For the purposes of sections 9D and 13 of the Fire Precautions Act 1971 (exercise of fire authority's powers where provisions of building regulations as to means of escape apply), the acceptance by a local authority of an amendment notice relating to any work shall be treated as the deposit of plans of the work with the authority in accordance with building regulations.

Change of person intending to carry out work

51C.—(1) This section applies where it is proposed that the work to which an initial notice relates should be carried out by a different person.

(2) If—

- (a) the approved inspector who gave the initial notice, and
- (b) the person who now proposes to carry out the work to which the initial notice relates,

jointly give written notice of the proposal to the local authority by whom the initial notice was accepted, the initial notice shall be treated as showing as the person intending to carry out the work to which it relates the person mentioned in the notice under this section.”

Article 2: consequential amendments

3.—(1) The 1984 Act shall be amended as mentioned in paragraphs (2) to (10) below.

(2) In section 47 (giving and acceptance of initial notice)—

- (a) in subsection (1), for “specified in the notice” there shall be substituted “to which the notice relates”, and
- (b) in subsections (6) and (7), for “that is specified in an initial notice” there shall be substituted “to which an initial notice relates”.

(3) In section 48 (effect of initial notice), in subsection (1)—

- (a) for “specified in the notice” there shall be substituted “to which the notice relates”, and
- (b) in paragraphs (a) and (b), for “the work so specified” there shall be substituted “that work”.

(4) In section 50 (plans certificates)—

- (a) in subsection (1)(a), for “specified in an initial notice given by him” there shall be substituted “to which an initial notice given by him relates”, and
 - (b) in subsection (5)(a), for “specified in the initial notice concerned” there shall be substituted “to which the initial notice concerned relates”.
- (5) In section 51 (final certificates), in subsection (3)(a), for “specified in an initial notice” there shall be substituted “to which an initial notice relates”.
- (6) In section 52 (cancellation of initial notice)—
- (a) in subsection (1)(a), for “specified in the initial notice” there shall be substituted “to which the initial notice relates”, and—
 - (b) in subsection (3), for “specified in the notice” there shall be substituted “to which the notice relates”.
- (7) In section 53 (effect of initial notice ceasing to be in force)—
- (a) in subsection (3)(a), for “specified in the initial notice” there shall be substituted “to which the initial notice relates”,
 - (b) in subsection (6), for “specified in that notice” there shall be substituted “to which that notice relates”, and
 - (c) in subsection (7), for “that was specified in the original notice” there shall be substituted “to which the original notice related”.
- (8) In section 55(1)(a) (right of appeal to magistrates’ court where notice rejected) after “initial notice” there shall be inserted “, amendment notice”.
- (9) In section 56 (recording and furnishing of information)—
- (a) in subsection (1)—
 - (i) after “initial notices,” there shall be inserted “amendment notices, notices under section 51C above,” and
 - (ii) after “including information” there shall be inserted “(where applicable)”,
 - (b) in subsection (2)—
 - (i) after “an initial notice” there shall be inserted “or amendment notice”, and
 - (ii) “initial”, in the second place where it occurs, is hereby repealed, and
 - (c) in subsection (5)(a), for “specified in the notice” there shall be substituted “to which the notice relates”.
- (10) In section 58 (construction of Part II), in subsection (1), after “of this Act” there shall be inserted—
- “‘amendment notice’ has the meaning given by section 51A(2) above;”.
- (11) In section 5 of the Smoke Detectors Act 1991(3) (effect of initial notice), in subsection (1) (a) for “specified in the notice” there shall be substituted “to which the notice relates”.

Final Certificates

4. For subsection (1) of section 51 of the 1984 Act, there shall be substituted the following subsection—

“(1) Where an approved inspector is satisfied that any work to which an initial notice given by him relates has been completed, he shall give to the local authority by whom the initial notice was accepted such certificate with respect to the completion of the work and the discharge of his functions as may be prescribed (called a “final certificate”).”

Transitional provisions

5.—(1) Articles 2 and 3 above shall have effect in relation to initial notices which come into force on or after the day on which this Order comes into force.

(2) Subject to paragraph (3) below, Article 4 above shall have effect in relation to initial notices which came into force before, as well as in relation to those which come into force on or after, the day on which this Order comes into force.

(3) In relation to an initial notice which came into force before the day on which this Order comes into force, Article 4 above shall not have effect in relation to work to which the notice related immediately before that day.

(4) In this article, “initial notice” has the same meaning as in Part II of the 1984 Act.

Signed by authority of the Secretary of State

22nd July 1996

Robert Jones
Minister of State,
Department of the Environment

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

Part II of the Building Act 1984 (“The 1984 Act”) makes provision for private sector building control through Approved Inspectors. Part II provides for the giving of initial notices by an Approved Inspector which if accepted by the relevant local authority removes the work to which the notice relates from supervision by the authority. Such a notice may be cancelled or withdrawn but may not be amended.

This Order provides for the amendment of an initial notice by an amendment notice.

This Order also amends Part II of the principal Act by relieving an Approved Inspector from the burden of having to serve a copy of a final certificate under section 51 on the person by whom the work was carried out.