

**2006 No. 652**

**BUILDING AND BUILDINGS, ENGLAND AND WALES**

**The Building and Approved Inspectors (Amendment)  
Regulations 2006**

*Made* - - - - - *9th March 2006*

*Laid before Parliament* *15th March 2006*

*Coming into force in accordance with regulation 1*

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The First Secretary of State is a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to measures relating to the energy performance of buildings.

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(a) S.I. 2004/3328.  
(b) 1972 c. 68.

In accordance with section 14(3) of the Building Act 1984(a) he has consulted the Building Regulations Advisory Committee and such other bodies as appeared to him to be representative of the interests concerned.

The First Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by sections 1(1), 2A, 3(1), 8(6), 35 and 47 of, and paragraphs 1, 2, 4, 4A, 7, 8 and 10 of Schedule 1 to, the Building Act 1984(b).

## PART 1

### Introductory

#### Citation and commencement

1.—(1) These Regulations may be cited as the Building and Approved Inspectors (Amendment) Regulations 2006.

(2) Subject to paragraph (3) and Part 5 (transitional provisions), these Regulations shall come into force on 6th April 2006.

(3) Regulation 10(b) (amendment of regulation 12(3) and (4) of the Building Regulations 2000) shall come into force immediately after paragraph 6 of Schedule 3 to the Regulatory Reform (Fire Safety) Order 2005(c) comes into force.

## PART 2

### Amendment of the Building Regulations 2000

#### Amendment of the Building Regulations 2000

2. The Building Regulations 2000(d) are amended in accordance with this Part.

#### Amendment of regulation 2 (interpretation)

3.—(1) In regulation 2(1)(e)—

(a) after the definition of “building work” insert—

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

(b) after the definition of “electrical installation” insert—

“ “energy efficiency requirements” means the requirements of regulations 4A, 17C and 17D and Part L of Schedule 1;”;

(c) after the definition of “final certificate” insert—

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

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(a) 1984 c. 55.

(b) 1985 c. 55; section 1(1) was amended by the Sustainable and Secure Buildings Act 2004 (c.22), section 1(1) and (2); section 2A was inserted by section 4(1) of that Act; section 47 was amended by section 8(2) of that Act and S.I. 1996/1905; paragraph 4A of Schedule 1 was inserted by section 8(1) of that Act; paragraph 7 of Schedule 1 was amended by section 3(1) and (5) of that Act, there are other amendments to that paragraph but none is relevant; paragraph 8 of Schedule 1 was amended by section 3(1) and (7) of that Act.

(c) S.I. 2005/1541; amended by S.I. 2006/484. *See* articles 1(3) and 53(1) of S.I. 2005/1541.

(d) S.I. 2000/2531.

(e) Amended by S.I. 2002/2871, 2004/1465, 2004/3210.

- (a) fixed internal or external lighting systems, but does not include emergency escape lighting or specialist process lighting; or
- (b) fixed systems for heating, hot water service, air conditioning or mechanical ventilation;”; and
- (d) after the definition of “public body’s notice” insert—
  - “ “renovation” in relation to a thermal element means the provision of a new layer in the thermal element or the replacement of an existing layer, but excludes decorative finishes, and “renovate” shall be construed accordingly;”.

(2) After paragraph (2) insert—

“(2A) In these Regulations “thermal element” means a wall, floor or roof (but does not include windows, doors, roof windows or roof-lights) which separates a thermally conditioned part of the building (“the conditioned space”) from—

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

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

(2B) Paragraph (2A)(b)(iii) only applies to a building which is not a dwelling, where the other part of the building is used for a purpose which is not similar or identical to the purpose for which the conditioned space is used.”.

#### **Amendment of regulation 3 (meaning of building work)**

4. In regulation 3(a)—

- (a) in paragraph (1)(b) omit “subject to paragraph (1A),”;
- (b) at the end of paragraph (1) add—
  - “(g) work required by regulation 4A (requirements relating to thermal elements);
  - (h) work required by regulation 4B (requirements relating to a change of energy status);
  - (i) work required by regulation 17D (consequential improvements to energy performance).”;
- (c) omit paragraph (1A)(b).

#### **Amendment of regulation 4 (requirements relating to building work)**

5. In regulation 4—

- (a) in paragraph (1) at the beginning insert “Subject to paragraph (1A),”;
  - (b) after paragraph (1) insert—
    - “(1A) Where—
      - (a) building work is of a kind described in regulation 3(1)(g), (h) or (i); and
      - (b) the carrying out of that work does not constitute a material alteration,
- that work need only comply with the applicable requirements of Part L of Schedule 1.”.

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(a) Relevant amending instruments are S.I. 2001/3335, S.I. 2004/3210.

(b) Paragraph (1A) was inserted by S.I. 2001/3335, and amended by S.I. 2004/3210.

**New regulations 4A (requirements relating to thermal elements) and 4B (requirements where exemption from energy efficiency requirements ceases)**

6. After regulation 4 (requirements relating to building work) insert—

**“Requirements relating to thermal elements**

**4A.**—(1) Where a person intends to renovate a thermal element, such work shall be carried out as is necessary to ensure that the whole thermal element complies with the requirements of paragraph L1(a)(i) of Schedule 1.

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

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

**4B.**—(1) Where there is a change to a building’s energy status, such work, if any, shall be carried out as is necessary to ensure that the building complies with the applicable requirements of Part L of Schedule 1.

(2) In this regulation “building” means the building as a whole or parts of it that have been designed or altered to be used separately.”

**Amendment of regulation 6 (requirements relating to material change of use)**

7. In regulation 6(1)(a)(a)—

- (a) for “L1 (conservation of fuel and power - dwellings)” substitute “L1 (conservation of fuel and power)”;
- (b) omit “L2 (conservation of fuel and power - buildings other than dwellings)”; and
- (c) in the last line omit “and P2”.

**Amendment of regulation 9 (exempt buildings and work)**

8.—(1) In regulation 9(b)—

- (a) in paragraph (1), for “paragraph (2)” substitute “paragraphs (2) and (3)”;
- (b) at the end add—

“(3) The energy efficiency requirements of these Regulations apply to—

- (a) the erection of any building of a kind falling within this paragraph;
- (b) the extension of any such building, other than an extension falling within class VII in Schedule 2; and
- (c) the carrying out of any work to or in connection with any such building or extension.

(4) A building falls within paragraph (3) if it—

- (a) is a roofed construction having walls;
- (b) uses energy to condition the indoor climate; and
- (c) does not fall within the categories listed in paragraph (5).

(5) The categories referred to in paragraph (4)(c) are—

- (a) buildings which are—
  - (i) listed in accordance with section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990(a);

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(a) Amended by S.I. 2001/3335; there are other amending instruments but none is relevant.

(b) Amended by S.I. 2004/3210.

- (ii) in a conservation area designated in accordance with section 69 of that Act; or
  - (iii) included in the schedule of monuments maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979<sup>(b)</sup>,  
where compliance with the energy efficiency requirements would unacceptably alter their character or appearance;
  - (b) buildings which are used primarily or solely as places of worship;
  - (c) temporary buildings with a planned time of use of two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand;
  - (d) stand-alone buildings other than dwellings with a total useful floor area of less than 50m<sup>2</sup>.
- (6) In this regulation—
- (a) “building” means the building as a whole or parts of it that have been designed or altered to be used separately; and
  - (b) the following terms have the same meaning as in European Parliament and Council Directive 2002/91/EC on the energy performance of buildings<sup>(c)</sup>—
    - (i) “industrial sites”;
    - (ii) “low energy demand”;
    - (iii) “non-residential agricultural buildings”;
    - (iv) “places of worship”;
    - (v) “stand-alone”;
    - (vi) “total useful floor area”;
    - (vii) “workshops”.

**Amendment of regulation 11 (power to dispense with or relax requirements)**

- 9.—(1) In regulation 11(1) at the beginning insert “Subject to paragraph (3),”.
- (2) At the end of regulation 11 add—
- “(3) Sub-sections (1) to (5) of section 8 of the Act (relaxation of building regulations) do not apply to—
- (a) regulation 17C; or
  - (b) in the case of existing buildings with a total useful floor area over 1,000m<sup>2</sup>, the energy efficiency requirements of these Regulations.”.

**Amendment of regulation 12 (giving of a building notice or deposit of plans)**

10. In regulation 12<sup>(d)</sup>—
- (a) for paragraph (2) substitute—
 

“(2) This regulation applies to a person who intends to—

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

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(a) 1990 c.9.

(b) 1979 c. 46; section 1 (3), (5), (6), (7) were amended, and section 1(6A), (7A), (8A) were inserted, by the National Heritage Act 1983 (c.47), section 33 and Schedule 4, paragraph 25.

(c) OJ No L 1, 4.1.2003, p65.

(d) Amended by S.I. 2005/1541; there are other amending instruments but none is relevant.

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

- (a) give to the local authority a building notice in accordance with regulation 13; or
  - (b) deposit full plans with the local authority in accordance with regulation 14.”;
- (b) for paragraphs (3) and (4) substitute—
- “(3) A person shall deposit full plans where he intends to carry out building work in relation to a building to which the Regulatory Reform (Fire Safety) Order 2005(a) applies, or will apply after the completion of the building work.
- (4) A person shall deposit full plans where he intends to carry out work which includes the erection of a building fronting on to a private street.”; and

(c) at the end add—

“(7) Where—

- (a) a person proposes to carry out work which consists of emergency repairs;
- (b) it is not practicable to comply with paragraph (2A) before commencing the work; and
- (c) paragraph (5) does not apply,

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

#### **Amendment of regulation 13 (particulars and plans where a building notice is given)**

11. In regulation 13(b)—

- (a) in paragraph (1)(b) after “proposed building work” insert “, renovation or replacement of a thermal element, change to the building’s energy status”;
- (b) in paragraph (5) after “building work” insert “, renovation or replacement of a thermal element, change to the building’s energy status”; and
- (c) at the beginning of paragraph (7)(b) insert “the change to the building’s energy status or”.

#### **Amendment of regulation 14 (full plans)**

12. In regulation 14(3)(a)(c) after “proposed building work” insert “, renovation or replacement of a thermal element, change to the building’s energy status”.

#### **Amendment of regulation 15 (notice of commencement and completion of certain stages of work)**

13. In regulation 15(d)—

- (a) in paragraph (1) for “paragraph (8)” substitute “paragraphs (8) and (9)”; and
  - (b) at the end add—
- “(9) Paragraph (1) does not apply where regulation 12(7) applies.”.

#### **Amendment of regulation 16A (provisions applicable to self certification schemes)**

14. In regulation 16A(4)(e) omit “which consists only of work on a low voltage or an extra-low voltage electrical installation”.

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(a) S.I. 2005/1541; amended by S.I. 2006/484, which makes provision for fire safety in non-domestic premises.  
(b) There are amendments not relevant to these Regulations.  
(c) There is an amendment not relevant to these Regulations.  
(d) Amended by S.I. 2002/440.  
(e) Substituted by S.I. 2004/3210.

## **New Part VA (energy performance of buildings)**

15. After Part V (notices and plans) insert the following Part—

### **“PART VA** **Energy Performance of Buildings**

#### **Methodology of calculation of the energy performance of buildings**

**17A.** The Secretary of State shall approve a methodology of calculation of the energy performance of buildings.

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

**17B.** The Secretary of State shall approve minimum energy performance requirements for new buildings, in the form of target CO<sub>2</sub> emission rates, which shall be based upon the methodology approved pursuant to regulation 17A.

#### **New buildings**

**17C.** Where a building is erected, it shall not exceed the target CO<sub>2</sub> emission rate for the building that has been approved pursuant to regulation 17B.

#### **Consequential improvements to energy performance**

**17D.**—(1) Paragraph (2) applies to an existing building with a total useful floor area over 1,000m<sup>2</sup> where the proposed building work consists of or includes—

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

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

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

#### **Interpretation**

**17E.** In this Part “building” means the building as a whole or parts of it that have been designed or altered to be used separately.”.

## **Amendment of regulation 20 (supervision of building work otherwise than by local authorities)**

16. In regulation 20(1)(a) for “and 20A” substitute “, 20A, 20B, 20C and 20D”.

## **New regulations 20B, 20C and 20D (pressure testing, commissioning and CO<sub>2</sub> emission rate calculations)**

17. After regulation 20A(b) (sound insulation testing) insert—

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(a) Amended by S.I. 2002/2871; there is another amending instrument but it is not relevant.  
(b) Inserted by 2002/2871; there are amending instruments but none is relevant.

### **“Pressure testing**

**20B.**—(1) This regulation applies to the erection of a building in relation to which paragraph L1(a)(i) of Schedule 1 imposes a requirement.

(2) Where this regulation applies, the person carrying out the work shall, for the purpose of ensuring compliance with regulation 17C and paragraph L1(a)(i) of Schedule 1—

- (a) ensure that—
  - (i) pressure testing is carried out in such circumstances as are approved by the Secretary of State; and
  - (ii) the testing is carried out in accordance with a procedure approved by the Secretary of State; and
- (b) subject to paragraph (5), give notice of the results of the testing to the local authority.

(3) The notice referred to in paragraph (2)(b) shall—

- (a) record the results and the data upon which they are based in a manner approved by the Secretary of State; and
- (b) be given to the local authority not later than seven days after the final test is carried out.

(4) A local authority is authorised to accept, as evidence that the requirements of paragraph (2)(a)(ii) have been satisfied, a certificate to that effect by a person who is registered by the British Institute of Non-destructive Testing<sup>(a)</sup> in respect of pressure testing for the air tightness of buildings.

(5) Where such a certificate contains the information required by paragraph (3)(a), paragraph (2)(b) does not apply.

### **Commissioning**

**20C.**—(1) This regulation applies to building work in relation to which paragraph L1(b) of Schedule 1 imposes a requirement, but does not apply where the work consists only of work described in Schedule 2B.

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

(3) The notice shall be given to the local authority—

- (a) not later than the date on which the notice required by regulation 15(4) is required to be given; or
- (b) where that regulation does not apply, not more than 30 days after completion of the work.

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

**20D.**—(1) Subject to paragraph (4), where regulation 17C applies the person carrying out the work shall give the local authority a notice which specifies—

- (a) the target CO<sub>2</sub> emission rate for the building; and
- (b) the calculated CO<sub>2</sub> emission rate for the building as constructed.

(2) The notice shall be given to the local authority not later than the date on which the notice required by regulation 20B is required to be given.

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(a) A company incorporated under the Companies Act 1985 (c.6) with registration number 00969051.

(3) A local authority is authorised to accept, as evidence that the requirements of regulation 17C would be satisfied if the building were constructed in accordance with an accompanying list of specifications, a certificate to that effect by a person who is registered by—

- (a) FAERO Limited(a); or
- (b) BRE Certification Limited(b),

in respect of the calculation of CO<sub>2</sub> emission rates of buildings.

(4) Where such a certificate is given to the local authority—

- (a) paragraph (1) does not apply; and
- (b) the person carrying out the work shall provide to the local authority not later than the date on which the notice required by regulation 20B is required to be given a notice which—
  - (i) states whether the building has been constructed in accordance with the list of specifications which accompanied the certificate; and
  - (ii) if it has not, lists any changes to the specifications to which the building has been constructed.”.

#### **Amendment of regulation 22 (contravention of certain regulations not to be an offence)**

18. In regulation 22, for “Regulation 17 is designated as a provision” substitute “Regulations 16, 17, 20A, 20B, 20C and 20D are designated as provisions”.

#### **Substitution of Part L (conservation of fuel and power)**

19. For Part L of Schedule 1(c) substitute—

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*“Requirement*

*Limit on application*”

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#### **PART L CONSERVATION OF FUEL AND POWER**

**L1** Reasonable provision shall be made for the conservation of fuel and power in buildings by—

- (a) limiting heat gains and losses—
    - (i) through thermal elements and other parts of the building fabric; and
    - (ii) from pipes, ducts and vessels used for space heating, space cooling and hot water services;
  - (b) providing and commissioning energy efficient fixed building services with effective controls; and
  - (c) providing to the owner sufficient information about the building, the fixed building services and their maintenance requirements so that the building can be operated in such a manner as to use no more fuel and
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(a) A company incorporated under the Companies Act 1985 with the registration number 05716745.  
(b) A company incorporated under the Companies Act 1985 with the registration number 03548352.  
(c) Substituted by S.I. 2001/3335.

power than is reasonable in the circumstances.”

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**Amendment of Part P (electrical safety)**

**20.** In Part P of Schedule 1(a)—

(a) for paragraph P1 substitute—

**“Design and installation**

P1 Reasonable provision shall be made in the design and installation of electrical installations in order to protect persons operating, maintaining or altering the installations from fire or injury.”;

(b) omit paragraph P2; and

(c) in the second column, in paragraph (a) after “in” insert “or attached to”.

**Substitution of Schedule 2A (self-certification schemes and exemptions from requirement to give building notice or deposit full plans)**

**21.** For Schedule 2A(b), substitute the Schedule as set out in the Schedule to these Regulations.

**Amendment of Schedule 2B (descriptions of work where no building notice or deposit of full plans required)**

**22.** In Schedule 2B(c)—

(a) in paragraph 1—

(i) for sub-paragraph (a) substitute—

“(a) replacing any fixed electrical equipment which does not include the provision of—

(i) any new fixed cabling; or

(ii) a consumer unit;” and

(ii) at the end add—

“(e) installing or upgrading main or supplementary equipotential bonding;

(f) in heating or cooling systems—

(i) replacing control devices that utilise existing fixed control wiring or pneumatic pipes;

(ii) replacing a distribution system output device;

(iii) providing a valve or a pump;

(iv) providing a damper or a fan;

(g) in hot water service systems, providing a valve or a pump;

(h) replacing an external door (where the door together with its frame has not more than 50% of its internal face area glazed);

(i) in existing buildings other than dwellings, providing fixed internal lighting where no more than 100m<sup>2</sup> of the floor area of the building is to be served by the lighting.”;

(b) in paragraph 2(c)—

(i) at the end of paragraph (i) add “or”; and

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(a) Inserted by S.I. 2004/3210.

(b) Inserted by S.I. 2002/440; amended by 2003/2692 and 2004/3210.

(c) Inserted by S.I. 2004/3210.

- (ii) omit paragraph (iii) and the word “or” immediately preceding it;
- (c) at the end of paragraph 3 add—
  - “(c) pre-fabricated equipment sets and associated flexible leads with integral plug and socket connections.”; and
- (d) in paragraph 4 in the definition of “special installation”, for “a garden” substitute “an outdoor”.

## PART 3

### Amendment of the Building (Approved Inspectors etc) Regulations 2000

#### **Amendment of the Approved Inspector Regulations**

23. The Building (Approved Inspectors etc) Regulations 2000(a) are amended in accordance with the provisions of this Part.

#### **Amendment of regulation 11 (functions of approved inspectors)**

24. In regulation 11(1)(b)—

- (a) in paragraph (a) for “regulations 4, 6 and 7” substitute “regulations 4, 4A, 4B, 6, 7, 17C and 17D”; and
- (b) in paragraph (c) for “regulations 12 and 12A” substitute “regulations 12, 12A, 12B, 12C and 12D”.

#### **New regulation 11A (provisions applicable to self-certification schemes for building work)**

25. After regulation 11(c) (functions of approved inspectors) insert—

##### **“Provisions applicable to self certification schemes for building work**

**11A.**—(1) This regulation applies to the extent that the building work consists only of work of a type described in column 1 of the Table in Schedule 2A to the Principal Regulations which is the subject of an initial notice, and the work is carried out by a person who is described in the corresponding entry in column 2 of that Table in respect of that type of work.

(2) Where this regulation applies, the approved inspector is authorised to accept, as evidence that the requirements of regulations 4 and 7 of the Principal Regulations have been satisfied, a certificate to that effect by the person carrying out the building work.

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

- (a) give to the occupier a copy of the certificate referred to in paragraph (2); and
- (b) give to the approved inspector—
  - (i) notice to that effect, or
  - (ii) the certificate referred to in paragraph (2).

(4) Paragraph (3) of this regulation does not apply where a person carries out the building work described in Schedule 2B to the Principal Regulations.”.

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(a) S.I. 2000/2532.

(b) Relevant amending instruments are S.I. 2001/3336, 2002/2872.

(c) There are amendments not relevant to these Regulations.

## **New regulations 12B, 12C and 12D (pressure testing, commissioning and CO<sub>2</sub> emission rate calculations)**

26. After regulation 12A(a) (sound insulation testing) insert—

### **“Pressure testing**

**12B.**—(1) This regulation applies to the erection of a building in relation to which paragraph L1(a)(i) of Schedule 1 to the Principal Regulations imposes a requirement, and which is the subject of an initial notice.

(2) Where this regulation applies, the person carrying out the work shall, for the purpose of ensuring compliance with regulation 17C of, and paragraph L1(a)(i) of Schedule 1 to, the Principal Regulations—

(a) ensure that—

- (i) pressure testing is carried out in such circumstances as are approved by the Secretary of State; and
- (ii) the testing is carried out in accordance with a procedure approved by the Secretary of State; and

(b) subject to paragraph (5), give notice of the results of the testing to the approved inspector who gave the initial notice.

(3) The notice referred to in paragraph (2)(b) shall—

- (a) record the results and the data upon which they are based in a manner approved by the Secretary of State; and
- (b) be given to the approved inspector not later than seven days after the final test is carried out.

(4) An approved inspector is authorised to accept, as evidence that the requirements of paragraph (2)(a)(ii) have been satisfied, a certificate to that effect by a person who is registered by the British Institute of Non-destructive Testing<sup>(b)</sup> in respect of pressure testing for the air tightness of buildings.

(5) Where such a certificate contains the information required by paragraph (3)(a), paragraph (2)(b) does not apply.

### **Commissioning**

**12C.**—(1) This regulation applies to building work in relation to which paragraph L1(b) of Schedule 1 to the Principal Regulations imposes a requirement, and which is the subject of an initial notice.

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

(3) The notice shall be given to the approved inspector not later than five days after completion of the work to which the initial notice relates.

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

**12D.**—(1) Subject to paragraph (4), where regulation 17C of the Principal Regulations applies to work which is the subject of an initial notice, the person carrying out the work shall give the approved inspector a notice which specifies—

- (a) the target CO<sub>2</sub> emission rate for the building; and

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(a) Inserted by S.I. 2002/2872, to which there are amendments not relevant to these Regulations.

(b) A company incorporated under the Companies Act 1985 (c.6) with registration number 00969051.

(b) the calculated CO<sub>2</sub> emission rate for the building as constructed.

(2) The notice shall be given to the approved inspector not later than the date on which the notice required by regulation 12B is required to be given.

(3) An approved inspector is authorised to accept, as evidence that the requirements of regulation 17C would be satisfied if the building were constructed in accordance with an accompanying list of specifications, a certificate to that effect by a person who is registered by—

(a) FAERO Limited<sup>(a)</sup>; or

(b) BRE Certification Limited<sup>(b)</sup>,

in respect of the calculation of CO<sub>2</sub> emission rates of buildings.

(4) Where such a certificate is given to the approved inspector—

(a) paragraph (1) does not apply; and

(b) the person carrying out the work shall provide to the approved inspector not later than the date on which the notice required by regulation 12B is required to be given a notice which—

(i) states whether the building has been constructed in accordance with the list of specifications which accompanied the certificate; and

(ii) if it has not, lists any changes to the specifications to which the building has been constructed.”.

#### **Amendment of regulation 31 (contravention of certain regulations not to be an offence)**

27. In regulation 31(c) for “12, 12A and 20” substitute “12, 12A, 12B, 12C and 20”.

## **PART 4**

### **Application to educational buildings and statutory undertakers**

#### **Application to education buildings and buildings of statutory undertakers**

28.—(1) The requirements of the Building Regulations 2000 specified in paragraph (2) shall apply to educational buildings and buildings of statutory undertakers (notwithstanding section 4(1) of the Building Act 1984<sup>(d)</sup>).

(2) Those requirements are—

(a) the requirements of regulation 17C; and

(b) in circumstances where such a building has a total useful floor area over 1000m<sup>2</sup> and undergoes a major renovation, the requirements of—

(i) regulation 4(1)(a) to the extent that it requires compliance with the requirements of Part L of Schedule 1; and

(ii) regulations 4A and 17D.

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

(a) fall within paragraph (a), (b) or (c) of section 4(1) of the Building Act 1984;

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(a) A company incorporated under the Companies Act 1985 with the registration number 05716745.

(b) A company incorporated under the Companies Act 1985 with the registration number 03548352.

(c) Amended by S.I. 2002/2872.

(d) Section 4(1)(a)(i)-(iv) were substituted by the Education Act 1996 (c.56), Schedule 37, paragraph 59; section 4(1)(a)(ii) was amended by the School Standards Framework Act 1998 (c.31), Schedule 31; section 4(1)(iii) and (iv) were repealed by the School Standards Framework Act 1998 (c.31), Schedule 31; section 4(1)(b) was amended by the Airports Act 1986 (c.31), Schedule 6; there are other amending Acts and instruments but these are not relevant to these Regulations.

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

(4) Terms used in this regulation have the same meaning as in European Parliament and Council Directive 2002/91/EC on the energy performance of buildings<sup>(a)</sup>.

## PART 5

### Transitional provisions

#### **Transitional provisions - interpretation and application**

**29.**—(1) In this Part—

“the Act” means the Building Act 1984;

“the Building Regulations” means the Building Regulations 2000;

“the Approved Inspectors Regulations” means the Building (Approved Inspectors etc) Regulations 2000;

(2) The following provisions of this Part shall not apply in relation to regulation 12 of the Building Regulations to the extent that it is amended by 10(b) of these Regulations.

#### **Transitional provisions - work already commenced**

**30.**—(1) Subject to paragraph (2), where before 6th April 2006 building work is commenced in accordance with—

- (a) a building notice given to, or full plans deposited with, a local authority under regulation 12(2) (giving of a building notice or deposit of plans) of the Building Regulations and a notice given to the local authority under regulation 15(1)(b) (notice of commencement and completion of certain stages of work) of the Building Regulations; or
- (b) an initial notice or an amendment notice given in accordance with section 47(1)(c) (giving and acceptance of initial notice) or 51A(2)(d) (variation of work to which initial notice related) of the Act,

the Building Regulations and the Approved Inspectors Regulations shall continue to apply to that building work as if these Regulations had not been made.

(2) Where before 6th April 2006 work is commenced in accordance with an initial notice, which is varied by an amendment notice given on or after that date, the Building Regulations and Approved Inspectors Regulations shall continue to apply as if these Regulations had not been made, to so much of the building work as could have been carried out under that initial notice if the amendment notice had not been given.

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(a) OJ No L 1, 4.1.2003, p65.

(b) Amended by S.I. 2002/440.

(c) Amended by section 8(2) of the Sustainable and Secure Buildings Act 2004 (c.22), and S.I. 1996/1905.

(d) Section 51A was inserted by S.I. 1996/1905.

(3) Where before 6th April 2006 building work to which regulation 12(5)(a) of the Building Regulations applies is commenced, the Building Regulations shall continue to apply to that building work as if these Regulations had not been made.

(4) Regulation 4A (requirements relating to thermal elements) of the Building Regulations shall not apply to the replacement or renovation of a thermal element where that work is commenced before 6th April 2006.

#### **Transitional provisions - work for which full plans not required**

**31.**—(1) Where before 6th April 2006—

(a) a contract is entered into for the provision of building work in respect of which regulation 12 (giving of a building notice or deposit of plans) of the Building Regulations does not require the deposit of full plans; and

(b) that work has not commenced,

the Building Regulations shall continue to apply to that work as if these Regulations, other than the amendments made by regulations 10(c), 13, 21 and 22, had not been made, provided that the work is commenced before 1st October 2006.

#### **Transitional provisions - full plans**

**32.**—(1) Subject to paragraph (3), paragraph (2) applies where before 6th April 2006—

(a) full plans of building work are deposited with a local authority in accordance with regulation 12(2) of the Building Regulations;

(b) the local authority—

(i) gives notice under section 16(6) (passing or rejection of plans) of the Act that they have passed those plans without conditions; or

(ii) signifies in writing to the person by whom or on whose behalf the plans were deposited that any condition subject to which they passed the plans has been fully met; and

(c) that work has not commenced.

(2) The Building Regulations shall continue to apply to that building work as if these Regulations, other than the amendments made by regulation 21, had not been made, whether or not the building work departs from those plans.

(3) Paragraph (2) does not apply where work is commenced on or after 1st April 2007.

#### **Transitional provisions - plans certificates**

**33.**—(1) Subject to paragraph (3), paragraph (2) applies where before 6th April 2006—

(a) plans of work are the subject of a plans certificate, or a plans certificate combined with an initial notice, given to a local authority in accordance with section 50(b) (plans certificates) of the Act, and accepted by the local authority either before, on or after that date; and

(b) that work has not commenced.

(2) The Building Regulations and the Approved Inspectors Regulations shall continue to apply to that building work as if these Regulations, other than the amendments made by regulations 21 and 25, had not been made, whether or not the building work departs from those plans.

(3) Paragraph (2) does not apply where the work is commenced on or after 1st April 2007.

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(a) Substituted by S.I. 2004/3210.

(b) Section 50(1) and (5) were substituted by S.I. 1996/1905.

**Transitional provisions - buildings previously exempt**

34.—(1) Paragraph (2) applies to building work in relation to—

- (a) buildings of a kind described in Schedule 2(a) (exempt buildings and work) to the Building Regulations to which, by virtue of the amendments made by regulation 8, the energy efficiency requirements of the Building Regulations apply; or
- (b) buildings to which regulation 28 applies.

(2) Where this paragraph applies, the amendments made by regulation 8 (exempt buildings and work) and so much of regulation 2 (amendment of the Building Regulations 2000) as relates to that regulation shall not apply where—

- (a) the building work is commenced before 6th April 2006; or
- (b) the contract for the provision of the work is entered into before that date and the work is commenced before 1st April 2007.

Signed by authority of the First Secretary of State

*Yvette Cooper*  
Minister of State

9th March 2006

Office of the Deputy Prime Minister

**SCHEDULE**

Regulation 21

**Schedule 2A to the Building Regulations 2000 substituted by these Regulations**

**“SCHEDULE 2A**

**Self-certification schemes and exemptions from requirement to give building notice or deposit full plans**

<i>Column 1</i>	<i>Column 2</i>
<i>Type of work</i>	<i>Person carrying out work</i>
<b>1.</b> Installation of a heat-producing gas appliance.	A person, or an employee of a person, who is a member of a class of persons approved in accordance with regulation 3 of the Gas Safety (Installation and Use) Regulations 1998 <b>(b)</b> .
<b>2.</b> Installation of heating or hot water service system connected to a heat-producing gas appliance, or associated controls.	A person registered by CORGI Services Limited <b>(c)</b> in respect of that type of work.
<b>3.</b> Installation of— (a) an oil-fired combustion appliance	An individual registered by Oil Firing Technical Association Limited <b>(d)</b> , NAPIT Certification Limited <b>(e)</b> or Building

(a) Amended by S.I. 2005/1082.

(b) S.I. 1998/2451.

(c) A company incorporated under the Companies Act 1985 with the registration number 03268198.

(d) A company incorporated under the Companies Act 1985 with the registration number 02739706.

(e) A company incorporated under the Companies Act 1985 with the registration number 05190452.

<p>which has a rated heat output of 100 kilowatts or less and which is installed in a building with no more than 3 storeys (excluding any basement) or in a dwelling;</p> <p>(b) oil storage tanks and the pipes connecting them to combustion appliances; or</p> <p>(c) heating and hot water service systems connected to an oil-fired combustion appliance.</p>	<p>Engineering Services Competence Accreditation Limited(a) in respect of that type of work.</p>
<p><b>4.</b> Installation of—</p> <p>(a) a solid fuel burning combustion appliance which has a rated heat output of 50 kilowatts or less which is installed in a building with no more than 3 storeys (excluding any basement); or</p> <p>(b) heating and hot water service systems connected to a solid fuel burning combustion appliance.</p>	<p>A person registered by HETAS Limited(b), NAPIT Certification Limited or Building Engineering Services Competence Accreditation Limited in respect of that type of work.</p>
<p><b>5.</b> Installation of a heating or hot water service system, or associated controls, in a dwelling.</p>	<p>A person registered by Building Engineering Services Competence Accreditation Limited in respect of that type of work.</p>
<p><b>6.</b> Installation of a heating, hot water service, mechanical ventilation or air conditioning system, or associated controls, in a building other than a dwelling.</p>	<p>A person registered by Building Engineering Services Competence Accreditation Limited in respect of that type of work.</p>
<p><b>7.</b> Installation of an air conditioning or ventilation system in an existing dwelling, which does not involve work on systems shared with other dwellings.</p>	<p>A person registered by CORGI Services Limited or NAPIT Certification Limited in respect of that type of work.</p>
<p><b>8.</b> Installation of a commercial kitchen ventilation system which does not involve work on systems shared with parts of the building occupied separately.</p>	<p>A person registered by CORGI Services Limited in respect of that type of work.</p>
<p><b>9.</b> Installation of a lighting system or electric heating system, or associated electrical controls.</p>	<p>A person registered by The Electrical Contractors Association Limited(c) in respect of that type of work.</p>
<p><b>10.</b> Installation of fixed low or extra-low voltage electrical installations.</p>	<p>A person registered by BRE Certification Limited(d), British Standards Institution(e), ELECSA Limited(f), NICEIC Group Limited(g) or NAPIT Certification Limited in respect of that type of work.</p>

(a) A company incorporated under the Companies Act 1985 with the registration number 03712932.

(b) A company incorporated under the Companies Act 1985 with the registration number 02117828.

(c) A company incorporated under the Companies Act 1985 with the registration number 00143669.

(d) A company incorporated under the Companies Act 1985 with the registration number 03548352

(e) Incorporated by Royal Charter.

(f) A company incorporated under the Companies Act 1985 with the registration number 05131470.

(g) A company incorporated under the Companies Act 1985 with the registration number 02513162.

<p><b>11.</b> Installation of fixed low or extra-low voltage electrical installations as a necessary adjunct to or arising out of other work being carried out by the registered person.</p>	<p>A person registered by CORGI Services Limited, ELECSA Limited, NAPIT Certification Limited, NICEIC Group Limited or Oil Firing Technical Association Limited in respect of that type of electrical work.</p>
<p><b>12.</b> Installation, as a replacement, of a window, rooflight, roof window or door (being a door which together with its frame has more than 50 per cent of its internal face area glazed) in an existing building.</p>	<p>A person registered under the Fenestration Self-Assessment Scheme by Fensa Ltd<sup>(a)</sup>, or by CERTASS Limited<sup>(b)</sup> or the British Standards Institution in respect of that type of work.</p>
<p><b>13.</b> Installation of a sanitary convenience, washing facility or bathroom in a dwelling, which does not involve work on shared or underground drainage.</p>	<p>A person registered by CORGI Services Limited or NAPIT Certification Limited in respect of that type of work.</p>
<p><b>14.</b>—(1) Subject to paragraph (2), any building work, other than the provision of a masonry chimney, which is necessary to ensure that any appliance, service or fitting which is installed and which is described in the preceding entries in column 1 above, complies with the applicable requirements contained in Schedule 1.</p> <p>(2) Paragraph (1) does not apply to—</p> <p>(a) building work which is necessary to ensure that a heat-producing gas appliance complies with the applicable requirements contained in Schedule 1 unless the appliance—</p> <p>(i) has a rated heat output of 100 kilowatts or less; and</p> <p>(ii) is installed in a building with no more than 3 storeys (excluding any basement), or in a dwelling; or</p> <p>(b) the provision of a masonry chimney.</p>	<p>The person who installs the appliance, service or fitting to which the building work relates and who is described in the corresponding entry in column 2 above.”</p>

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(a) A company incorporated under the Companies Act 1985 with the registration number 03058561.

(b) A company incorporated under the Companies Act 1985 with the registration number 04350234.

## EXPLANATORY NOTE

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

These Regulations implement articles 3 to 6 of the Energy Performance of Buildings Directive, OJ No L 1, 4.1.2004 (“the Directive”) by amending the Building Regulations 2000 and the Building (Approved Inspectors etc) Regulations 2000. They also make other amendments to those Regulations.

Part 2 of these Regulations amends the Building Regulations 2000. In particular:

- (1) Regulation 3 amends regulation 2 to insert definitions of terms used in the amendments.
- (2) Regulation 4 amends regulation 3 by adding 3 new categories of energy efficiency requirements to the definition of “building work”, and removes the distinction between dwellings and other buildings in the definition.
- (3) Regulation 5 amends regulation 4 so that the new energy efficiency requirements need only comply with the requirements of Part L (conservation of fuel and power) of Schedule 1 to the Regulations.
- (4) Regulation 6 inserts regulations 4A and 4B. Regulation 4A requires that persons carrying out renovation or replacement work on the fabric of a building must meet the requirements of Part L. Regulation 4B requires that where a building ceases to be exempt from the energy efficiency requirements, work be carried out so as to meet the requirements of Part L.
- (5) Regulation 8 amends regulation 9 so that work on any type of building must meet the requirements of Part L, unless the building falls within one of the new categories specified as exempt.
- (6) Regulation 9 amends regulation 11 to remove local authorities’ power to dispense or relax the requirements of the regulations in respect of the target CO<sub>2</sub> emission rate (regulation 17C) and, in the case of large buildings, the energy efficiency requirements of the Regulations.
- (7) Regulation 10(b) rectifies an error in the amendments made by paragraph 6(2)(b) of Schedule 3 to the Regulatory Reform (Fire Safety) Order 2005 (“the RRO”). Regulation 10(c) allows a person proposing to carry out specified types of emergency repairs to give a building notice after starting work, where it is impractical to do so beforehand.
- (8) Regulation 15 inserts Part VA (energy performance of buildings). This Part implements articles 3 to 6 of the Directive as follows.
  - (a) Regulation 17A implements Article 3, and requires the Secretary of State to approve a methodology for the calculation of the energy performance of buildings.
  - (b) Regulation 17B implements Article 4, and requires the Secretary of State to approve minimum energy performance requirements for new buildings in the form of target CO<sub>2</sub> emission rates.
  - (c) Regulation 17C implements Article 5 and requires that new buildings must not exceed the target CO<sub>2</sub> emission rate.
  - (d) Regulation 17D partially implements Article 6, so that where certain types of major works are proposed to existing buildings over 1000m<sup>2</sup> the building is to be upgraded, insofar as it is technically, functionally and economically feasible, to meet the requirements of Part L. Article 6 is otherwise implemented through the application of new regulations 4A, 4B and Part L to any building work in buildings over 1000m<sup>2</sup>.
- (9) Regulation 17 inserts regulations 20B, 20C and 20D.
  - (a) Regulation 20B requires that in approved circumstances pressure testing of new buildings be undertaken in accordance with an approved procedure and the results be given to the local authority. The regulation also enables local authorities to accept certificates from specified persons as evidence that the testing has been carried out in accordance with the approved procedure.

- (b) Regulation 20C requires that the person carrying out the work shall provide the local authority with a notice confirming that all fixed building services have been commissioned in accordance with an approved procedure.
  - (c) Regulation 20D requires the person carrying out the work to provide the local authority with a notice that specifies the target CO<sub>2</sub> emission rate for the building and the calculated emission rate for the building as constructed. The regulation also enables local authorities to accept certificates from specified persons as evidence that the requirements of regulation 17C will be met if the building is built in accordance with listed specifications.
- (10) Regulation 18 expands the list of regulations which are not subject to criminal penalties.
- (11) Regulation 19 substitutes a new Part L in Schedule 1.
- (12) Regulation 20 makes minor amendments to Part P (electrical safety) of Schedule 1.
- (13) Regulation 21 substitutes a new Schedule 2A, which provides exemptions from the requirement to give a building notice or to deposit full plans and types of work which may be self-certified. The previous Schedule 2A has been largely replicated, with some minor amendments and a number of new types of work added.
- (14) Regulation 22 amends Schedule 2B to provide additional types of minor work where no building notice or plans are required.

Part 3 of these Regulations amends the Building (Approved Inspectors etc.) Regulations. Specifically, regulation 25 mirrors regulation 16A of the Building Regulations 2000, and regulation 26 makes insertions to mirror the amendments dealing with pressure testing, commissioning and CO<sub>2</sub> emission rate calculations.

Part 4 of these Regulations (regulation 28) applies those regulations that implement the Directive to educational buildings and buildings of statutory undertakers.

Part 5 provides transitional provisions.

These Regulations also make consequential amendments to the Building Regulations 2000 and the Building (Approved Inspectors etc) Regulations 2000.

The Secretary of State has approved, under section 6(4) of the Building Act 1984, four new approved documents providing practical guidance with respect to the requirements of regulations 4A, 4B, 17C, 17D, 20B, 20C and 20D and Part L. Those Approved Documents also contain the details of:

- (a) the target CO<sub>2</sub> emission rates approved for the purposes of regulation 17B;
- (b) the circumstances in which pressure testing is required by regulation 20B, the procedure for carrying out such testing and manner of recording test results approved for the purposes of regulation 20B; and
- (c) the procedure for commissioning fixed building services approved for the purposes of regulation 20C.

The Secretary of State has also approved a new approved document containing practical guidance with respect to the requirements contained in Part P.

These Approved Documents will be published by The Stationery Office and will be available on the ODPM website at [www.odpm.gov.uk](http://www.odpm.gov.uk).

The Secretary of State has also approved, for the purposes of regulation 17A, a methodology of calculation of the energy performance of buildings, to be published in an ODPM Circular by The Stationery Office, and which will be available on the ODPM website.

A transposition note setting out how these Regulations implement the Directive, and a regulatory impact assessment in relation to the new requirements, have been prepared and placed in the libraries of both Houses of Parliament.

Copies of the transposition note and regulatory impact assessment may also be obtained from the ODPM website or from Buildings Division, ODPM (Tel: 020 7944 5755; Fax: 020 7944 5719; email: [enquiries.br@odpm.gsi.gov.uk](mailto:enquiries.br@odpm.gsi.gov.uk)).

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