
STATUTORY INSTRUMENTS

2010 No. 2215

The Building (Approved Inspectors etc.) Regulations 2010

PART 3

Supervision of Work by Approved Inspectors

Functions of approved inspectors

8.—(1) Subject to paragraph (2), an approved inspector by whom an initial notice has been given shall, so long as the notice continues in force, take such steps (which may include the making of tests of building work and the taking of samples of material) as are reasonable to enable the approved inspector to be satisfied within the limits of professional skill and care that—

- (a) regulations 4 (requirements relating to building work), 6 (requirements relating to material change of use), 7 (materials and workmanship), 22 (requirements relating to a change to energy status), 23 (requirements relating to thermal elements), 26 (CO₂ emission rates for new buildings), 28 (consequential improvements to energy performance), 36 (water efficiency of new dwellings), 38 (Fire safety information), 39 (information about ventilation) and 40 (information about use of fuel and power) of the Principal Regulations are complied with, and
- (b) the requirements of regulation 20 of these Regulations (which applies regulations 20, 27, 29, 37, 41, 42, 43 and 44 of the Principal Regulations) are complied with.

(2) In a case where any requirement of Part L of Schedule 1 to the Principal Regulations is to be complied with by the insertion of insulating material into the cavity in a wall after that wall has been constructed, the approved inspector need not supervise the insertion of the insulating material but shall state in the final certificate whether or not at the date of that certificate the material has been inserted.

Independence of approved inspectors

9.—(1) Approved inspectors shall have no professional or financial interest in the work they supervise unless it is minor work.

(2) A person (“P”) shall be regarded as having a professional or financial interest in the work described in any notice or certificate given under these Regulations if—

- (a) P is or has been responsible for the design or construction of any of the work in any capacity, or
 - (b) P or any nominee of P’s is a member, officer or employee of a company or other body which has a professional or financial interest in the work, or
 - (c) P is a partner or is in the employment of a person who has a professional or financial interest in the work.
- (3) For the purposes of this regulation—
- (a) P shall be treated as having a professional or financial interest in the work even if P has that interest only as trustee for the benefit of some other person,

(b) in the case of married people or civil partners living together, the interest of one spouse or partner shall, if known to the other, be deemed to be also an interest of the other.

(4) For the purposes of this regulation—

- (a) involvement in the work as an approved inspector,
- (b) entitlement to any fee paid for P’s function as an approved inspector, and
- (c) potential liability to pay any sum if a claim is made under the insurance cover provided for the purposes of the Act,

shall not be regarded as constituting a professional or financial interest.

(5) For the purposes of this regulation “minor work” means—

- (a) the material alteration or extension of a dwelling-house which before the work is carried out has two storeys or fewer and which afterwards has no more than three storeys;
- (b) the provision, extension or material alteration of a controlled service or fitting in or in connection with any building; or
- (c) work consisting of the underpinning of a building;

and for the purposes of this paragraph a basement is not to be regarded as a storey.

Form, grounds and period for rejecting initial notice

10.—(1) The prescribed form of an initial notice(1)—

- (a) which is not combined with a plans certificate, shall be form 1 in Schedule 1; or
- (b) which is combined with a plans certificate, shall be form 4 in Schedule 1.

(2) An initial notice shall be accompanied by the plans and documents described in the relevant form prescribed by paragraph (1).

(3) The grounds on which a local authority shall reject an initial notice are those prescribed in Schedule 2.

(4) The period within which a local authority may give notice of rejection of an initial notice is five days beginning with the day on which the notice is given.

Form, grounds and period for rejecting amendment notice

11.—(1) The prescribed form of an amendment notice(2) shall be form 2 in Schedule 1.

(2) An amendment notice shall be accompanied by the plans and documents described in the form prescribed by paragraph (1).

(3) The grounds on which a local authority shall reject an amendment notice are those prescribed in paragraphs 1 to 11 of Schedule 2.

(4) The period within which a local authority may give notice of rejection of an amendment notice is five days beginning with the day on which the notice is given.

Approved inspector’s consultation with the fire and rescue authority

12.—(1) This regulation applies where an initial notice is to be given or has been given in relation to the erection, extension or material alteration of a relevant building or in relation to building work in connection with a relevant change of use of a building and Part B of Schedule 1 to the Principal Regulations imposes requirements in relation to the work.

(1) See section 47 of the Building Act 1984.

(2) See section 51A of the Building Act 1984.

(2) Where this regulation applies, the approved inspector shall consult the fire and rescue authority—

- (a) before or as soon as practicable after giving an initial notice in relation to the work;
- (b) before or as soon as practicable after giving a relevant amendment notice in relation to the work;
- (c) before giving a plans certificate (whether or not combined with an initial notice); and
- (d) before giving a final certificate.

(3) An approved inspector who is required by paragraph (2) to consult the fire and rescue authority shall give to the fire and rescue authority—

- (a) in a case where the approved inspector is consulting them in connection with an initial notice or an amendment notice, sufficient plans to show whether the work would, if carried out in accordance with those plans, comply with the applicable requirements of Part B of Schedule 1 to the Principal Regulations; and
- (b) in a case where the approved inspector is consulting them in connection with the giving of a plans certificate, a copy of the plans in relation to which the approved inspector intends to give the certificate.

(4) An approved inspector who is required by paragraph (2) to consult the fire and rescue authority—

- (a) shall have regard to any views they express; and
- (b) shall not give a plans certificate or a final certificate until 15 days have elapsed from the date on which the approved inspector consulted them, unless they have expressed their views to the approved inspector before the expiry of that period.

(5) Where a local enactment would, if plans were deposited in accordance with building regulations, require the local authority to consult the fire and rescue authority before or during the carrying out of any work, the approved inspector shall consult the fire and rescue authority in a manner similar to that required by the enactment.

(6) In this regulation—

- (a) a “relevant building” is a building or any part of it to which the Regulatory Reform (Fire Safety) Order 2005(3) applies, or will apply after the completion of building work;
- (b) a “relevant change of use” is a material change of use where, after the change of use takes place, the Regulatory Reform (Fire Safety) Order 2005 will apply, or continue to apply, to the building or any part of it;
- (c) a “relevant amendment notice” is an amendment notice where any of the work specified in the initial notice, as varied by the amendment notice, being work which could not have been carried out under the original notice (“additional work”), concerns the erection, extension or material alteration of a relevant building or is building work in connection with a relevant change of use of a building and Part B of Schedule 1 to the Principal Regulations imposes requirements in relation to the additional work.

Approved inspector’s consultation with the sewerage undertaker

13.—(1) This regulation applies where an initial notice or amendment notice is to be given or has been given in respect of work in relation to which paragraph H4 of Schedule 1 to the Principal Regulations imposes requirements.

(2) Where this regulation applies, the approved inspector shall consult the sewerage undertaker—

- (a) before or as soon as practicable after giving an initial notice in relation to the work;
 - (b) before or as soon as practicable after giving an amendment notice in relation to the work;
 - (c) before giving a plans certificate (whether or not combined with an initial notice); and
 - (d) before giving a final certificate.
- (3) An approved inspector who is required by paragraph (2) to consult the sewerage undertaker shall give to the sewerage undertaker—
- (a) in a case where the approved inspector is consulting them in connection with an initial notice or an amendment notice, sufficient plans to show whether the work would, if carried out in accordance with those plans, comply with the applicable requirements of paragraph H4 of Schedule 1 to the Principal Regulations; and
 - (b) in a case where the approved inspector is consulting them in connection with the giving of a plans certificate, a copy of the plans in relation to which the approved inspector intends to give the certificate.
- (4) An approved inspector who is required by paragraph (2) to consult the sewerage undertaker—
- (a) shall have regard to any views they express; and
 - (b) shall not give a plans certificate or a final certificate until 15 days have elapsed from the date on which the approved inspector consulted them, unless they have expressed their views to the approved inspector before the expiry of that period.

Form, grounds and period for rejecting plans certificate

- 14.**—(1) The prescribed form of a plans certificate⁽⁴⁾—
- (a) which is not combined with an initial notice, shall be form 3 in Schedule 1; or
 - (b) which is combined with an initial notice, shall be form 4 in Schedule 1.
- (2) The grounds on which a local authority shall reject a plans certificate which is not combined with an initial notice are those prescribed in Schedule 3.
- (3) The grounds on which a local authority shall reject a plans certificate combined with an initial notice are those prescribed in Schedule 2 and Schedule 3.
- (4) The period within which a local authority may give notice of rejection of a plans certificate (whether or not combined with an initial notice) is five days beginning on the day on which the certificate is given.

Effect of plans certificate

15. If an initial notice ceases to be in force as described in section 47(4)(b) of the Act (cancellation etc. of initial notice) and the conditions in section 53(2) of the Act (plans certificate given, accepted and not rescinded) are satisfied, the local authority may not—

- (a) give a notice under section 36(1) of the Act (removal or alteration of work which contravenes building regulations); or
- (b) institute proceedings under section 35 of the Act for a contravention of building regulations;

in relation to any work described in the certificate which has been carried out in accordance with the plans to which the certificate relates.

(4) See section 50 of the Building Act 1984.

Form, grounds and period for rejecting final certificate

16.—(1) The prescribed form of a final certificate⁽⁵⁾ shall be form 5 in Schedule 1 and the grounds on which a local authority shall reject a final certificate are those prescribed in Schedule 4.

(2) The period within which a local authority may give notice of rejection of a final certificate is ten days beginning with the day on which the certificate is given.

Events causing initial notice to cease to be in force

17.—(1) Where a final certificate given in respect of work described in an initial notice is rejected, the initial notice shall cease to be in force in relation to the work described in the final certificate on the expiry of a period of four weeks beginning with the date on which notice of rejection is given.

(2) Paragraph (3) applies where work described in an initial notice includes the erection, extension or material alteration of a building, and—

- (a) the building or, as the case may be, the extension or any part of the building which has been materially altered is occupied, and
- (b) no final certificate is given.

(3) The initial notice shall cease to be in force in relation to the building, extension or part of a building which is occupied—

- (a) if the building is a relevant building as defined by regulation 12(6)(a), except where it contains only flats and common parts for those flats, on the expiry of a period of four weeks beginning with the date of occupation; and
- (b) in any other case, on the expiry of a period of eight weeks beginning with the date of occupation.

(4) Where work described in an initial notice involves a material change of use of a building, and—

- (a) no final certificate is given, and
- (b) that change of use takes place,

the initial notice shall cease to be in force in relation to that change of use on the expiry of a period of eight weeks beginning with the date on which the change of use takes place.

(5) In any other case where no final certificate is given, an initial notice ceases to be in force on the expiry of a period of eight weeks beginning with the date on which the work described in the initial notice is substantially completed.

(6) An initial notice shall not cease to be in force by virtue of paragraphs (2) and (3) because part of a building or extension is occupied if a final certificate has been accepted in respect of that part.

(7) A local authority may extend any period referred to in this regulation either before or after its expiry.

Cancellation of initial notice

18.—(1) An approved inspector who is of the opinion that any of the work described in an initial notice which has been carried out contravenes any provision of building regulations may give notice in writing to the person carrying out the work specifying—

- (a) the requirement of building regulations which in the approved inspector's opinion has not been complied with, and
- (b) the location of the work which contravenes that requirement.

(5) See section 51 of the Building Act 1984.

(2) A notice of contravention given in accordance with paragraph (1) shall inform the person carrying out the work that if within the prescribed period that person has neither pulled down nor removed the work nor effected such alterations in it as may be necessary to make it comply with building regulations, the approved inspector will cancel the initial notice.

(3) The period within which the person carrying out the work is to remedy the contravention as described in paragraph (2) is three months beginning with the day on which the notice is given.

(4) Form 6 in Schedule 1 is the form of notice to be given by an approved inspector to cancel an initial notice in accordance with section 52(1) of the Act in circumstances referred to in section 52(2) of the Act; where notice of a contravention has been given under that subsection and no further initial notice relating to the work has been accepted, that notice shall specify the contravention.

(5) Form 7 in Schedule 1 is the form of notice to be given by a person carrying out or intending to carry out work to cancel an initial notice in accordance with section 52(3) of the Act.

(6) Form 8 in Schedule 1 is the form of notice to be given by the local authority to cancel an initial notice in accordance with section 52(5) of the Act.

Local authority powers in relation to partly completed work

19.—(1) This paragraph applies where—

- (a) any part of the work described in an initial notice has been carried out,
- (b) the initial notice has ceased to be in force, by reason of regulation 17 or has been cancelled by notice under section 52 of the Act, and
- (c) no other initial notice relating to that part of the work has been accepted.

(2) Where paragraph (1) applies, the owner shall—

- (a) on being given reasonable notice by the local authority, provide them with—
 - (i) sufficient plans of the work carried out, in respect of which no final certificate has been given, to show whether any part of that work would, if carried out in accordance with the plans, contravene any provision of the Principal Regulations, and
 - (ii) where a plans certificate was given and not rejected in respect of any such part of the work, a copy of the plans to which it relates; and
- (b) comply with any notice in writing from the local authority requiring the owner within a reasonable time to cut into, lay open or pull down so much of the work as prevents the local authority from ascertaining whether any work in relation to which there is no final certificate contravenes any requirement in the Principal Regulations.

(3) Where paragraph (1) applies and work in relation to a building has been begun but not completed, a person who intends to carry out further work in relation to the partly completed work shall give the local authority sufficient plans to show that the intended work will not contravene any requirement in the Principal Regulations, including such plans of any part of the work already carried out as may be necessary to show that the intended work can be carried out without contravening any such requirement.

(4) Plans given to a local authority in accordance with paragraph (3) are not to be regarded as plans deposited in accordance with building regulations.