

2012 No. 3119

BUILDING AND BUILDINGS, ENGLAND AND WALES

The Building Regulations &c. (Amendment) Regulations 2012

Made - - - - *17th December 2012*

Laid before Parliament *19th December 2012*

Coming into force in accordance with regulation 1

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the environment.

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

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 1, 2A, 16(9) and (10), 17(1) and (6), 34, 47(1) to (5), 49(5), 50(1), (4) and (6), 51(1) and (2), 51A(2), (3) and (6) and 56(1) and (2) of and paragraphs 1, 2, 4, 4A, 6, 7, 8, 9 and 10 of Schedule 1 to the Building Act 1984:

Citation, extent, application, and commencement

1.—(1) These Regulations may be cited as The Building Regulations &c. (Amendment) Regulations 2012.

(2) These Regulations extend to England and Wales.

(3) Subject to paragraph (4), these Regulations do not apply in relation to any building in Wales, other than an excepted energy building.

(4) Regulations 14, 15, 16, 17, 18, 19, 22 and 23 apply in relation to—

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- (a) S.I. 2008/301. This instrument, which came into force on 15 March 2008, revoked the previous designation of the Secretary of State in relation to the energy performance of buildings in S.I. 2004/3328.
- (b) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) of and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
- (c) 1984 c.55. Amendments relevant to these Regulations include section 4, which was repealed by section 5 of the Sustainable and Secure Buildings Act 2004 (c.22), but section 5 of that Act has not yet been commenced. Section 4(1)(a)(i) to (iv) of the Building Act 1984 was substituted by paragraph 59 of Schedule 37 to the Education Act 1996 (c.56); subsection (1)(a)(ii) was substituted by paragraph 6 of Schedule 21 to the Education Act 2002 (c.32); subsection (1)(a)(iii) and (iv) was repealed by Schedule 31 to the School Standards and Framework Act 1998 (c.31); subsection (1)(b) was amended by Schedule 6 to the Airports Act 1986 (c.31); subsection (1)(b)(ii) was amended by S.I. 2011/2491; and subsection (1)(c) was amended by S.I. 2001/4050. There are other amendments to section 4 which are not relevant to these Regulations.
- (d) Existing members of the Building Regulations Advisory Committee as at 31 December 2011 were transferred on that date to the Building Regulations Advisory Committee for England pursuant to article 9 of the Welsh Ministers (Transfer of Functions)(No.2) Order 2009 (S.I. 2009/3019).

- (a) educational buildings and buildings of statutory undertakers(a) in Wales;
- (b) Crown buildings(b) in Wales; and
- (c) building work carried out or proposed to be carried out by Crown authorities(c) in Wales.

(5) Each provision of these Regulations mentioned in the second column of the Table in Schedule 1 shall come into force on the date mentioned in the first column of that Table, for the purpose mentioned in the third column.

(6) In this regulation—

“excepted energy building” has the same meaning as in the Schedule to the Welsh Ministers (Transfer of Functions)(Order No.2) Order 2009(d);

“Crown authority” means the Crown Estate Commissioners, a Minister of the Crown, a government department, any other person or body whose functions are performed on behalf of the Crown (not being a person or body whose functions are performed on behalf of Her Majesty in her private capacity), or a person acting in right of the Duchy of Lancaster or the Duchy of Cornwall;

“Crown building” means a building in which there is a Crown interest or Duchy interest;

“Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;

“Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall; and

“educational buildings and buildings of statutory undertakers” means buildings that fall within section 4(1)(a), (b) or (c) of the Building Act 1984.

PART 1

The Building Regulations 2010

Amendment of the Building Regulations 2010

2. The Building Regulations 2010(e) (“the 2010 Regulations”) are amended as set out in regulations 3 to 32.

Interpretation

3. In regulation 2(1)(f)—

(a) in the definition of “energy efficiency requirements”, after “23”, insert “25A, 25B”;

(b) after the definition of “energy efficiency requirements” insert—

““energy performance certificate” means a certificate which complies with the requirements of regulation 29 of these Regulations;”

(a) In exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (c.68), these regulations transpose the provisions of the European Parliament and the Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (recast)(2010/31/EU OJ No L 153,18.06.2010, p.0013) in relation to educational buildings, buildings of statutory undertakers and Crown buildings in England and Wales.

(b) Regulation 23 of these Regulations inserts a definition of the term “Crown building” into regulation 35(1) of the Building Regulations 2010.

(c) Regulation 23 of these Regulations inserts a definition of the term “Crown authority” into regulation 35(1) of the Building Regulations 2010.

(d) S.I. 2009/3019. The Welsh Ministers (Transfer of Functions)(No.2) Order transferred functions under the Building Act 1984 exercised by the Secretary of State, so far as the functions related to Wales, to the Welsh Ministers, subject to articles 3 and 4 of that Order. Article 3(a) provides that functions, so far as exercisable in relation to an excepted energy building (as defined in the Schedule to that Order) are not transferred.

(e) S.I. 2010/2214 as amended by S.I. 2011/1515 and S.I. 2012/718.

(f) Amended by S.I. 2011/1515 and S.I. 2012/718. The amendments are not relevant to these Regulations.

- (c) for the definition of “fixed building services” substitute—
 - ““fixed building services” means any part of, or any controls associated with—
 - (a) fixed internal or external lighting systems (but not including emergency escape lighting or specialist process lighting);
 - (b) fixed systems for heating, hot water, air conditioning or mechanical ventilation; or
 - (c) any combination of systems of the kinds referred to in paragraph (a) or (b);”.

Limitation on requirements

- 4. In regulation 8, omit “N”.

Exempt buildings and work

- 5. In regulation 9(3)(a), after “greenhouse” insert “used for domestic purposes”.

Giving of building notice or deposit of plans

- 6. In regulation 12—
 - (a) after paragraph (6) insert—
 - “(6A) A person intending to carry out building work in relation to which Part P of Schedule 1 imposes a requirement is required to give a building notice or deposit full plans where the work consists of—
 - (a) the installation of a new circuit;
 - (b) the replacement of a consumer unit; or
 - (c) any addition or alteration to existing circuits in a special location.”; and
 - (b) in paragraph (9)—
 - (i) after the definition of “fronting”, omit “and”; and
 - (ii) after the definition of “private street”, omit “.” and insert—
 - “; and
 - “special location” means—
 - (a) within a room containing a bath or shower, the space surrounding a bath tap or shower head, where the space extends—
 - (i) vertically from the finished floor level to—
 - (aa) a height of 2.25 metres; or
 - (bb) the position of the shower head where it is attached to a wall or ceiling at a point higher than 2.25 metres from that level; and
 - (ii) horizontally—
 - (aa) where there is a bath tub or shower tray, from the edge of the bath tub or shower tray to a distance of 0.6 metres; or
 - (bb) where there is no bath tub or shower tray, from the centre point of the shower head where it is attached to the wall or ceiling to a distance of 1.2 metres; or
 - (b) a room containing a swimming pool or sauna heater.”.

Full Plans

- 7. In regulation 14, omit paragraph (5).

Consultation with sewerage undertaker

8. In regulation 15(2)(b), for “pursuant to a request under regulation 14(5)” substitute “or 17A”.

Notice of commencement and completion of certain stages of work

9. Regulation 16 is amended as follows—

(a) omit paragraphs (2) and (3), and substitute—

“(2) Subject to paragraph (8), a person carrying out building work must notify the local authority as required by the authority in accordance with paragraph (3).

(3) Subject to the conditions in paragraphs (3A) and (3B), where a local authority receives notice of intention to commence building work under paragraph (1) they may give the person carrying out the work a notice in writing which—

- (a) requires that person to notify the authority that a specified stage of the work (other than a stage specified in paragraphs (4) and (5)) has been reached; and
- (b) may specify one or more periods of time, applying to each such required notification, which may be either or both of the following—
 - (i) a period before or after the work has been carried out within which the notification must be made; and
 - (ii) a period during which the work concerned must not be covered up.

(3A) A local authority may only specify a stage of the building work in accordance with paragraph (3)(a) if at the time they do so they intend to carry out an inspection of that stage.

(3B) For the purposes of paragraph (3A) the local authority’s intention to carry out an inspection of a stage of building work must be based on their assessment of the risk of breach of these Regulations if they do not inspect the work..”;

- (b) in paragraph (5), after the words “where a building is being erected”, add “to which the Regulatory Reform (Fire Safety) Order 2005(a) applies, or will apply after the completion of the work”; and
- (c) in paragraph (6), for “to (3)” substitute “or (2)”.

Completion certificates

10. Regulation 17 is amended as follows—

(a) for paragraphs (1) to (3) substitute—

“(1) A local authority shall within the specified period give a completion certificate in all cases (including a case where a certificate has already been given under regulation 17A) where they are satisfied, after taking all reasonable steps, that, following completion of building work carried out on it, a building complies with the relevant provisions.

(2) The specified period referred to in paragraph (1) is eight weeks starting from the date on which the person carrying out the building work notifies the local authority that the work has been completed.

(2A) The relevant provisions referred to in paragraph (1) are any applicable requirements of the following provisions—

- (a) regulation 25A (high energy alternative systems for new buildings),
- (b) regulation 26 (target CO² emission rates for new buildings),
- (c) regulation 29 (energy performance certificates),
- (d) regulation 36 (water efficiency of new dwellings),

(a) S.I 2005/1541.

- (e) regulation 38 (fire safety information), and
 - (f) Schedule 1.”; and
- (b) after paragraph (4), insert—
- “(5) .The certificate must include a statement describing its evidentiary effect, in terms substantially the same as paragraph(4).”

11. After the end of regulation 17, insert—

“Certificate for building occupied before work is completed

17A.—(1) A local authority shall within the specified period give a completion certificate in respect of part or all of a building where building work is being carried out and where all of the following circumstances apply—

- (a) part or all of the building is to be occupied before the work is completed;
- (b) the building is subject to the Regulatory Reform (Fire Safety) Order 2005; and
- (c) the authority is satisfied, after taking all reasonable steps, that, regardless of completion of the current building work, 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.

(2) The specified period referred to in paragraph (1) is four weeks starting from the date that notice is received by the local authority in accordance with regulation 16(5).

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

(4) The certificate must include a statement describing its evidentiary effect, in terms substantially the same as paragraph (3)”.

Supervision of building work otherwise than by local authorities

12. In regulation 19(1), after “17 (completion certificates)” insert “17A (Certificate for building occupied before work in complete)”.

Provisions applicable to self-certification schemes

13. Regulation 20 is amended as follows—

- (a) after the end of paragraph (3)(b)(ii) insert—

“(3A) A local authority shall store in a retrievable form copies of the notices and certificates given to it in accordance with paragraph (3)(b).

(3B) If the whole or part of the work was paid for using a green deal plan, the person carrying out the work must, include—

- (a) in the certificate referred to in paragraph (2); and
- (b) in the notice given to the local authority referred to in paragraph (3)(b)(i),

a statement to that effect.

(3C) Such a statement that relates to a part of the work must specify which part was paid for using the green deal plan.

(3D) In this regulation, “green deal plan” has the meaning given in section 1 of the Energy Act 2011.(a)”

- (b) after the end of paragraph (4) insert—

(a) 2011 c.16.

“(5) A certificate given in accordance with this regulation shall be evidence (but not conclusive evidence) that the requirements specified in the certificate have been complied with, and the certificate shall contain this wording.

(6) The certificate must include a statement describing its evidentiary effect, in terms substantially the same as paragraph (5).”.

Application of energy efficiency requirements

14. In regulation 21(5) for “European Parliament and Council Directive 2002/91/EC of 16 December 2002 on the energy performance of buildings” substitute “European Parliament and Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (recast)”.

Requirements relating to thermal elements

15. For regulation 23 (and the heading before it) substitute—

“Requirements for the renovation or replacement of thermal elements

23.—(1) Where the renovation of an individual thermal element—

- (a) constitutes a major renovation; or
- (b) amounts to the renovation of more than 50% of the element’s surface area;

the renovation must be carried out so as to ensure that the whole of the element complies with paragraph L1(a)(i) of Schedule 1, in so far as that is technically, functionally and economically feasible.

(2) Where the whole or any part of an individual thermal element is proposed to be replaced and the replacement—

- (a) constitutes a major renovation; or
- (b) (in the case of part replacement) amounts to the replacement of more than 50% of the thermal element’s surface area;

the whole of the thermal element must be replaced so as to ensure that it complies with paragraph L1(a)(i) of Schedule 1, in so far as that is technically, functionally and economically feasible.”.

Minimum energy performance requirements for new buildings

16. In regulation 25 for “based upon” substitute “set in accordance with”.

Consideration of high-efficiency alternative systems for new buildings (new regulation 25A) and nearly zero-energy requirements for new buildings (new regulation 25B)

17. After regulation 25 ((minimum energy performance requirements for new buildings), insert—

“Consideration of high-efficiency alternative systems for new buildings

25A.—(1) Before construction of a new building starts, the person who is to carry out the work must analyse and take into account the technical, environmental and economic feasibility of using high-efficiency alternative systems (such as the following systems) in the construction, if available—

- (a) decentralised energy supply systems based on energy from renewable sources;
- (b) cogeneration;
- (c) district or block heating or cooling, particularly where it is based entirely or partially on energy from renewable sources; and

- (d) heat pumps.
- (2) The person carrying out the work must—
 - (a) not later than the beginning of the day before the day on which the work starts, give the local authority a notice which states that the analysis referred to in paragraph (1)—
 - (i) has been undertaken;
 - (ii) is documented; and
 - (iii) the documentation is available to the authority for verification purposes; and
 - (b) ensure that a copy of the analysis is available for inspection at all reasonable times upon request by an officer of the local authority.
- (3) An authorised officer of the local authority may require production of the documentation in order to verify that this regulation has been complied with.
- (4) The analysis referred to in paragraph (1)—
 - (a) may be carried out for individual buildings or for groups of similar buildings or for common typologies of buildings in the same area; and
 - (b) in so far as it relates to collective heating and cooling systems, may be carried out for all buildings connected to the system in the same area.
- (5) In this regulation—
 - (a) “cogeneration” means simultaneous generation in one process of thermal energy and one or both of the following—
 - (i) electrical energy;
 - (ii) mechanical energy;
 - (b) “district or block heating or cooling” means the distribution of thermal energy in the form of steam, hot water or chilled liquids, from a central source of production through a network of multiple buildings or sites, for the use of space or process heating or cooling;
 - (c) “energy from renewable sources” means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases; and
 - (d) “heat pump” means a machine, a device or installation that transfers heat from natural surroundings such as air, water or ground to buildings or industrial applications by reversing the natural flow of heat such that it flows from a lower to a higher temperature. (For reversible heat pumps, it may also move heat from the building to the natural surroundings.)

Nearly zero-energy requirements for new buildings

25B. Where a building is erected, it must be a nearly zero-energy building.”.

Energy performance certificates

- 18.** In regulation 29(a)—
 - (a) in paragraph 4(c), for “that category of building”, substitute “the category of building to which the certificate relates”;
 - (b) at the end of paragraph (4)(c)—
 - (i) omit “and”; and

(a) Amended by S.I. 2012/809. The amendments are not relevant to these Regulations.

- (ii) insert—
 - “(cc) include a recommendation report^(a) unless there is no reasonable potential for energy performance improvements (in terms of the applicable energy efficiency requirements);
 - (cd) be valid in accordance with paragraph (9); and”;
- (c) for paragraph (4)(d)(i), substitute—
 - “the reference number under which the set of data from which the certificate may be produced has been entered onto the register in accordance with regulation 30(4);”;
- (d) omit paragraph (5); and
- (e) after paragraph (7) insert—
 - “(8) Certification for a building which consists of a single dwelling may be based on the assessment of another representative building of similar design and size with a similar actual energy performance quality, provided such correspondence is guaranteed by the energy assessor issuing the energy performance certificate.
 - (9) An energy performance certificate is only valid if—
 - (a) it was entered on the register no more than 10 years before the date on which it is made available; and
 - (b) no other energy performance certificate for the building has since been entered on the register.
 - (10) An energy performance certificate must not contain any information or data (except for the address of the building) from which a living individual (other than the energy assessor or his employer) can be identified.”.

Recommendation reports (new regulation 29A)

19. After regulation 29 (energy performance certificates) insert—

“Recommendation reports

29A.—(1) In these Regulations a “recommendation report” means recommendations made by an energy assessor for the cost-effective improvement of the energy performance of a building.

(2) A recommendation report must include—

- (a) recommended cost-effective measures that could be carried out in connection with a major renovation of the building envelope or fixed building services;
- (b) recommended cost-effective measures for individual building elements that could be carried out without the necessity for a major renovation of the building envelope or fixed building services;
- (c) an indication as to how the owner or tenant can obtain more detailed information about improving the energy efficiency of the building, including more detailed information about the cost-effectiveness of the recommendations; and
- (d) information on the steps to be taken to implement the recommendations.

(3) Any cost-effective measure which the energy assessor recommends must be technically feasible for the building to which the recommendation report relates.

(4) In this regulation “building element” means a controlled service or fitting or a thermal element of the building envelope.”.

(a) “Recommendation report” is defined in regulation 29A.

Energy assessors

20. In regulation 30—

(a) for paragraph (3)(g), substitute—

“for requiring the sets of data from which may be produced energy performance certificates and recommendation reports prepared by members of the scheme to be entered onto the relevant register referred to in paragraph (4);” and

(b) in paragraph (4)(a) for “regulation 31 of the Energy Performance of Buildings (Certificates and Inspections)(England and Wales) Regulations 2007(b)” substitute “regulation 27 of the Energy Performance of Buildings (England and Wales) Regulations 2012(c)”.

Right to copy documents

21. In regulation 33 for “the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007” substitute “the Energy Performance of Buildings (England and Wales) Regulations 2012”.

Application of building regulations to educational buildings, buildings of statutory undertakers and Crown buildings

22. For regulation 34 (and the preceding heading), substitute—

“Application of building regulations to educational buildings, buildings of statutory undertakers and Crown buildings

34.—(1) Regulations 23(1)(a), 25A, 25B, 26, 29 (apart from regulation 29(10)), 29A apply (in so far as applicable by virtue of regulation 21) to—

- (a) educational buildings and buildings of statutory undertakers (notwithstanding section 4(1) of the Act);
- (b) Crown buildings; and
- (c) building work carried out or proposed to be carried out by Crown authorities.

(2) In this regulation, a reference to “educational buildings and buildings of statutory undertakers” means buildings which fall within paragraphs (a), (b) or (c) of section 4(1) of the Act.”.

Interpretation of Part 6

23. In regulation 35(1)—

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

““building envelope” in relation to a building means the walls, floor, roof, windows, doors, roof windows and roof-lights;

“Crown authority” means the Crown Estate Commissioners, a Minister of the Crown, a government department, any other person or body whose functions are performed on behalf of the Crown (not being a person whose functions are performed on behalf of Her Majesty in her private capacity), or a person acting in right of the Duchy of Lancaster or the Duchy of Cornwall;

(a) Amended by S.I. 2012/809.

(b) S.I. 2007/991. Those Regulations were amended by S.I. 2007/1669, S.I. 2007/3302, S.I. 2008/647, S.I. 2008/2363, S.I. 2009/1900, S.I. 2010/2214 and S.I. 2011/2452 and consolidated by the Energy Performance of Buildings (England and Wales) Regulations 2012 (which comes into force on the same day as some of these regulations) (S.I. 2012/3118).

(c) S.I. 2012/ 3118.

“Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a Government Department, or held in trust for Her Majesty for the purposes of a government department;

“Crown building” means a building in which there is a Crown interest or a Duchy interest;

“Duchy interest” means an interest belonging to her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall;”(a);

(b) after the definition of “energy assessor”—

(i) omit “and”; and

(ii) insert—

““major renovation” means the renovation of a building where more than 25% of the surface area of the building envelope undergoes renovation; and

“nearly zero-energy building” means a building that has a very high energy performance, as determined in accordance with a methodology approved under regulation 24, where the nearly zero or very low amount of energy required should be covered to a very significant extent by energy from renewable sources, including energy from renewable sources produced on-site or nearby.”; and

(c) omit the definition of “recommendation report”.

Pressure testing

24. In regulation 43(4), after “British Institute of Non-destructive Testing” insert “or the Air Tightness and Testing and Measurement Association”(b).

Contravention of certain regulations not to be an offence

25. For regulation 47 substitute—

“47. The following regulations are designated as provisions to which section 35 of the Act (penalty for contravening building regulations) does not apply—

(a) regulations 17, 17A, 25A, 27, 29, 37, 41, 42, 43 and 44; and

(b) regulations 23, 25B and 26, in so far as these Regulations apply to Crown buildings or to building work carried out or proposed to be carried out by Crown authorities.”.

Electronic service of documents

26. In regulation 48(1)—

(a) in sub-paragraph (d) after “regulation 17” insert “or regulation 17A”;

(b) after sub-paragraph (g) insert—

“(ga) a notice under regulation 25A;”.

Schedule 1 to the 2010 Regulations - Requirements

27. In Schedule 1 to the 2010 Regulations—

(a) for Part K (protection from falling, collision and impact), substitute Part K set out in Schedule 2 to these Regulations; and

(b) omit Part N (Glazing-safety in relation to impact, opening and cleaning).

(a) This and the preceding three definitions are derived from section 44 of the Buildings Act 1984, which is yet to be appointed.

(b) A company formed and registered under the Companies Act (defined in section 2 of the Companies Act 2006 (c.46) with the registration number 7885199.

Schedule 2 to the 2010 Regulations – Exempt buildings and works

28. In Class 7, for “Part N” substitute “Part K4, K5.1, K5.2, K5.3, and K5.4”.

Schedule 3 to the 2010 Regulations – Self-certification schemes

29.—(1) In column 1 of Schedule 3—

- (a) in paragraphs 1, 3 and 4, add “(This paragraph does not apply to the provision of a masonry chimney.)”;
- (b) in paragraph 10, after “electrical controls” insert “in buildings other than dwellings”;
- (c) in paragraph 11, after “installations” insert “in dwellings”; and
- (d) in paragraph 12, after “installations” insert “in dwellings”.

(2) In column 2 of Schedule 3—

- (a) for “Ascertiva Group Limited” or “ECA Certification Limited” (whichever occurring), substitute “Certsure LLP^(a) (in respect of work carried out in England and excepted energy buildings in Wales)”, provided that, where the substitution results in a duplicate reference in the same paragraph of the table, the second reference is to be omitted;
- (b) in paragraph 3—
 - (i) after “Benchmark Certification Limited^(b)” omit “(other than in respect of work carried out in England and or in relation to excepted energy buildings in Wales);
 - (ii) for “or” substitute “,”; and
 - (iii) before “in respect of that type of work” insert “or Stroma Certification Limited^(c) (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
- (c) in paragraph 5, after Benchmark Certification Limited omit “(other than in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
- (d) in paragraph 8—
 - (i) for “or” substitute “,”; and
 - (ii) before “in respect of that type of work” insert “ECA Certification Limited^(d), NAPIT Registration Limited^(e) (in respect of work carried out in England and excepted energy buildings in Wales) or Stroma Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales).”;
- (e) in paragraph 9—
 - (i) after “Building Engineering Competence Assessment Limited (in respect of work carried out in England and excepted energy buildings in Wales)”, insert “ECA Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
 - (ii) for “or” where it first occurs, substitute “,”; and
 - (iii) before “in respect of that type of work”, insert “or Stroma Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
- (f) in paragraph 10, after “Ascertiva Group Limited” insert “Benchmark Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;

(a) A limited liability partnership formed and registered under the Limited Liabilities Act 2000 (c.12) with the registration number OC379918.

(b) A company formed and registered under the Companies Act with the registration number 07144771.

(c) A company formed and registered under the Companies Act with the registration number 06429016.

(d) A company formed and registered under the Companies Act with the registration number 02117828.

(e) A company formed and registered under the Companies Act with the registration number 05190452.

- (g) in paragraph 13—
 - (i) after “BM Trada Certification Limited” insert “Benchmark Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
 - (ii) after “CERTASS Limited” insert “NAPIT Registration Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
 - (iii) for “or” where it occurs a second time, substitute “,”; and
 - (iv) after “Network VEKA Limited” insert “ or Stroma Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”
- (h) in paragraph 14—
 - (i) after “Building Engineering Services Competence Assessment Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”, insert “, ECA Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales), HETAS Limited^(a) (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
 - (ii) for “or” where it occurs a second time, substitute “,”; and
 - (iii) after “NAPIT registration Limited” insert “or Stroma Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
- (i) in paragraph 15, after “Building Engineering Services Competence Assessment Limited (in respect of work carried out in England and excepted energy buildings in Wales)”, insert “ECA Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales), HETAS Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
- (j) in paragraph 16—
 - (i) after “Building Engineering Services Competence Assessment Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”, insert “ECA Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales), HETAS Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
 - (ii) for “or” where it occurs a second time, substitute “,”; and
 - (iii) after “NAPIT registration Limited” insert “or Stroma Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
- (k) in paragraph 18, after “Cavity Insulation Guarantee Agency Limited” insert “Ascertiva Group Limited^(b) (in respect of work carried out in England or in relation to excepted energy buildings in Wales), Benchmark Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales), NAPIT Registration Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales) or Stroma Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”;
- (l) in paragraph 19, after “registered by” insert “NAPIT Registration Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales) or”;
- (m) in paragraph 21, after “BM Trada Certification Limited” insert “CERTASS Limited^(c) (in respect of work carried out in England or in relation to excepted energy buildings in Wales), Stroma Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)”.

(a) A company formed and registered under the Companies Act with the registration number 02117828.

(b) A company formed and registered under the Companies Act with the registration number 02513162.

(c) A company formed and registered under the Companies Act with the registration number 04350234.

30. Omit paragraph 20 of Schedule 3.

31. After paragraph 21 of Schedule 3, add the following paragraphs—

“22. Installation of insulating material to the internal walls of a building.

In respect of work carried out in England or in relation to excepted energy buildings in Wales, a person registered by Ascertiva Group Limited, Benchmark Certification Limited, CERTASS Limited, NAPIT Registration Limited or Stroma Certification Limited in respect of that type of work.

23. Installation of insulating material to the external walls of a building, not including insulation of demountable-clad buildings.

In respect of work carried out in England or in relation to excepted energy buildings in Wales, a person registered by Ascertiva Group Limited, Benchmark Certification Limited, CERTASS Limited, NAPIT Registration Limited or Stroma Certification Limited in respect of that type of work.

24. Installation of insulation material to both external and internal walls of a building (“hybrid insulation”), not including insulation of demountable-clad buildings.

In respect of work carried out in England or in relation to excepted energy buildings in Wales, a person registered by Ascertiva Group Limited, Benchmark Certification Limited or NAPIT Registration Limited in respect of that type of work.”.

Schedule 4 to the 2010 Regulations – Descriptions of work where no building notice or deposit of full plans required

32. In Schedule 4—

(a) omit—

(i) paragraph 1(a) to (e);

(ii) paragraph 2;

(iii) paragraph 3; and

(iv) the definitions of “kitchen”, “special installation” and “special location” in paragraph 4; and

(b) after paragraph 3 insert—

“(3A) Installation of thermal insulation to suspended timber floors where the work—

(a) consists of the installation of such insulation only; and

(b) the work is not carried out in order to comply with any requirements of these Regulations.”.

PART 2

The Building (Local Authority Charges) Regulations 2010

Amendment of the Building (Local Authority Charges) Regulations 2010

33. After the definition of “chargeable function” in regulation 2 of the Building (Local Authority Charges) Regulations 2010(a), insert—

““officer”(b) includes a person contracted by the local authority or a person employed by such a contractor, to perform a chargeable function or provide chargeable advice but does not include a consultant of the kind referred to in regulation 7(3);”.

PART 3

The Building (Approved Inspectors etc.) Regulations 2010(c)

Amendment of the Building (Approved Inspectors etc.) Regulations 2010

34. The Building (Approved Inspectors etc.) Regulations 2010 (“the Approved Inspectors Regulations 2010”) are amended as set out in regulations 35 to 44.

Approved inspector’s insurance (new regulation 5A)

35. After the end of regulation 5, insert—

“Approved inspector’s insurance

5A.—(1) Subject to paragraph (2), an approved inspector who gives a notice or certificate specified in paragraph (2) to a local authority must ensure that, before or on the date of the notice or certificate, the person who approved that inspector (the Secretary of State or a body designated under regulation 3 as the case may be) is in possession of a declaration of insurance in respect of the work to which the notice or certificate relates.

(2) Paragraph (1) applies to a notice or certificate given on or after 6th April 2013 which is—

- (a) an initial notice;
- (b) an amendment notice;
- (c) a plans certificate;
- (d) a combined initial notice and plans certificate; or
- (e) a final certificate.

(3) In this regulation a “declaration of insurance” means a declaration of insurance signed by the insurer that a named scheme of insurance approved by the Secretary of State applies to the approved inspector in relation to the building work to which the notice or certificate relates.”

Lists of approvals and designations

36. Regulation 7 is amended as follows—

- (a) in paragraph (1)—

(a) S.I. 2010/404 as amended by S.I. 2010/2214. Amendments relevant to these regulations are at regulation 54(2) of and paragraph 1(a) of Schedule 6 to S.I. 2010/2214.
(b) This term is defined in section 126 (interpretation) of the Building Act 1984 as including servant.
(c) S.I. 2010/2215.

- (i) omit “maintain”;
- (ii) at the beginning of sub-paragraph (a) insert “maintain”;
- (iii) at the end of sub-paragraph (a) omit “and”;
- (iv) at the beginning of sub-paragraph (b) insert “maintain”;
- (v) after “Secretary of State” in sub-paragraph (b), insert—
 - “, and
 - (c) in respect of each approved inspector listed, keep a copy of—
 - (i) the approval certificate, and
 - (ii) the declaration of insurance referred to in regulation 5A;”; and
- (b) in paragraph (3), at the end of sub-paragraph (a)—
 - (i) omit “and”; and
 - (ii) insert—
 - “(aa) in respect of each approved inspector listed, keep a copy of—
 - (i) the approval certificate, and
 - (ii) the declaration of insurance referred to in regulation 5A; and”.

Functions of approved inspectors

- 37. In regulation 8(1)—
 - (a) in sub-paragraph (a), after “23 (requirements relating to thermal elements),” insert “25A (consideration of high-efficiency alternative systems for new buildings),”; and
 - (b) in sub-paragraph (b), after “regulations 20,” insert “25A,”.

Form, grounds and period for rejecting final certificate

- 38. In regulation 16, after the end of paragraph (2) insert—
 - “(3) A final certificate given by an approved inspector to a local authority in accordance with these Regulations shall be evidence (but not conclusive evidence) that the requirements specified in the certificate have been complied with.”.

Application of regulations 20, 27, 29, 37, 41, 42, 43 and 44 of the 2010 Regulations

- 39. For regulation 20(1) and the preceding heading, substitute—

“Application of regulations, 20, 25A, 27, 29, 37, 41, 42, 43 and 44 of the Principal Regulations

20.—(1) Regulations 20 (provisions applicable to self-certification schemes), 25A (consideration of high-efficiency alternative systems for new buildings), 27 (CO² emission rate calculations), 29 (energy performance certificates), 37 (wholesome water consumption calculation), 41 (sound insulation testing), 42 (mechanical ventilation air flow rate testing), 43 (pressure testing) and 44 (commissioning) of the Principal Regulations apply in relation to building work which is the subject of an initial notice as if references to the local authority were references to the approved inspector.”.

Register of notices and certificates

- 40. In regulation 30, omit paragraph (2)(c).

Schedule 1 to the Approved Inspectors Regulations 2010

41.—(1) The numbered forms specified in Schedule 1 are amended as specified in paragraphs 2 to 7.

(2) In Form 1 (initial notice)—

- (a) omit sub-paragraphs (a) and (b) of paragraph 4;
- (b) after the end of paragraph 11 insert—

“**12. I (7)** am an approved inspector for the purposes of Part 2 of the Act and the above work is [the whole]/[part] of the work described in this initial notice given by me and dated:
(12)”

13. Copies of the notice of approval and of a declaration of insurance relevant to the work described in this notice are on the register kept by the body designated under regulation 3 of the 2010 Regulations.”; and

(c) after Note (11) insert—

“(12) Insert date.”.

(3) In Form 2 (amendment notice)—

- (a) omit sub-paragraphs (b) and (d) of paragraph 3;
- (b) after the end of paragraph 11 insert—

“**12. I (6)** am an approved inspector for the purposes of Part 2 of the Act and the above work is [the whole]/[part] of the work described in an initial notice given by me and dated:
(11)”

13. Copies of the notice of approval and of a declaration of insurance relevant to the work described in this notice are on the register kept by the body designated under regulation 3 of the 2010 Regulations.”; and

(c) after Note (10) insert—

“(11) Insert date.”.

(4) In Form 3 (plans certificate), omit paragraph 3 and in its place insert—

“**3.** Copies of the notice of approval and of a declaration of insurance relevant to the work described in this notice are on the register kept by the body designated under regulation 3 of the 2010 Regulations.”.

(5) In Form 4 (combined initial notice and plans certificate)—

- (a) omit sub-paragraphs (a) and (b) of paragraph 4;
- (b) after the end of paragraph 15 insert—

“**16. I (7)** am an approved inspector for the purposes of Part 2 of the Act and the above work is [the whole]/[part] of the work described in an initial notice given by me and dated:
(13)”

17. Copies of the notice of approval and of a declaration of insurance relevant to the work described in this notice are on the register kept by the body designated under regulation 3 of the 2010 Regulations.”; and

(c) after Note (12) insert—

“(13) Insert date.”.

(6) In Form 5 (final certificate)—

- (a) omit paragraph (6) and in its place insert—

“**6.** Copies of the notice of approval and of a declaration of insurance relevant to the work described in this notice are on the register kept by the body designated under regulation 3 of the 2010 Regulations.”; and

(b) after paragraph 8 insert—

“9. This certificate is evidence (but not conclusive evidence) that the requirements specified in the certificate have been complied with.”.

(7) In Form 12 (public body’s final certificate), after paragraph 6 insert—

“7. This certificate is evidence (but not conclusive evidence) that the requirements specified in the certificate have been complied with.”.

Schedule 2 to the Approved Inspectors Regulations 2010

42. In Schedule 2—

(a) omit paragraph 5; and

(b) for paragraph 6 substitute—

“6. In the case of a notice dated on or after 6th April 2013, having taken all reasonable steps to establish whether there is a named scheme of insurance approved by the Secretary of State in relation to the work described in the notice, the local authority believe that this is not the case.”.

Schedule 3 to the Approved Inspectors Regulations 2010

43. In Schedule 3, for paragraph 6 substitute—

“6. In the case of a certificate dated on or after 6th April 2013, having taken all reasonable steps to establish whether there is a named scheme of insurance approved by the Secretary of State in relation to the work described in the notice, the local authority believe that this is not the case.”.

Schedule 4 to the Approved Inspectors Regulations 2010

44. In Schedule 4, for paragraph 5 substitute—

“5. In the case of a certificate dated on or after 6th April 2013, having taken all reasonable steps to establish whether there is a named scheme of insurance approved by the Secretary of State in relation to the work to which the certificate relates, the local authority believe that this is not the case.”.

PART 4

Transitional Provisions

Transitional provisions: interpretation

45. In regulations 46 and 47—

“relevant notification provision” means regulation 12(2) of the Building Regulations 2010 and sections 47(1), 50, 51A(2) and 54 of the Building Act 1984; and

“relevant regulations” means regulations 9, 15 or 17 of these Regulations.

Work already started before certain regulations take effect

46. An amendment made by a relevant regulation does not apply in any case where at the time the amendment takes effect, building work has been started in accordance with any relevant notification provision applicable in relation to the work.

Notice given or plans deposited before those regulations take effect

47. An amendment made by a relevant regulation does not apply in any case where—
- (a) at the time the amendment takes effect a relevant notification provision has been complied with in relation to proposed building work; and
 - (b) the building work is started within the period of twelve months beginning on the day the relevant regulation takes effect.

Signed by the authority of the Secretary of State for Communities and Local Government

17th December 2012

Don Foster
Parliamentary Under Secretary of State
Department for Communities and Local Government

SCHEDULE 1

Regulation 1

<i>Coming into force date</i>	<i>Provision</i>	<i>Purpose for which the provision comes into force</i>
9th January 2013	Regulations 1, 2, 3, 7, 8, 10, 11, 12, 14, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29(1), 29(2)(b)-(m), 30, 31, 32(b), 33, 34, 38, 39, 45 to 47 and Schedule 1	All purposes
9th January 2013	Regulation 15	In respect of buildings occupied by public authorities
9th January 2013	Regulation 17 (for the purpose of new regulation 25A)	In respect of new buildings occupied by public authorities
28th January 2013	Regulation 13(a) (in so far as it inserts paragraphs (3B), (3C) and (3D) into regulation 20) and (b)	All purposes
6th April 2013	Regulation 4, 5, 6, 9, 27, 28, 29(2)(a), 32(a), 35, 36, 38, 40 to 44 and Schedule 2	All purposes
9th July 2013	Regulation 15	In respect of all buildings
9th July 2013	Regulation 17 (for the purpose of new regulation 25A)	In respect of all new buildings
1st October 2013	Regulation 13(a) (so far as not otherwise commenced)	All purposes
1st January 2019	Regulation 17 (for the purpose of new regulation 25B)	In respect of new buildings occupied by public authorities

SCHEDULE 2

Regulation 27

“PART K PROTECTION FROM FALLING, COLLISION AND IMPACT**Stairs, ladders and ramps**

K1. Stairs, ladders and ramps shall be so designed, constructed and installed as to be safe for people moving between different levels in or about the building.

Requirement K1 applies only to stairs, ladders and ramps which form part of the building.

Protection from falling

K2. The following shall be provided with barriers where it is necessary to protect people in or about the building from falling—

Requirement K2(a) applies only to stairs and ramps which form part of the building.

- (a) any stairs, ramps, floors and balconies and any roof to which people have access, and
- (b) any light well, basement area or similar sunken area connected to a building.

Vehicle barriers and loading bays

K3.—(1) Vehicle ramps and any levels in a building to which vehicles have access, shall be provided with barriers where it is necessary to protect people in or about the building.

(2) Vehicle loading bays shall be constructed in such a way, or to be provided with such features, as may be necessary to protect people in them from collision with vehicles.

Protection against impact with glazing

K4. Glazing, with which people are likely to come into contact while moving in or about the building, shall—

- (a) if broken on impact, break in a way which is unlikely to cause injury; or
- (b) resist impact without breaking; or
- (c) be shielded or protected from impact.

Protection from collision with open windows etc.

K5.1. Provision shall be made to prevent people from moving in or about the building from colliding with open windows, skylights or ventilators.

Requirement K5.1 does not apply to dwellings.

Manifestation of glazing

K5.2. Transparent glazing with which people are likely to come into contact while moving in and about the building, shall incorporate features which make it apparent.

Requirement K5.2 does not apply to dwellings.

Safe opening and closing of windows etc.

K5.3. Windows, skylights and ventilators which can be opened by people in or about the building shall be so constructed or equipped that they may be opened, closed or adjusted safely.

Requirement K5.3 does not apply to dwellings.

Safe access for cleaning windows etc.

K5.4. Provision shall be made for any windows, skylights or translucent walls, ceilings or roofs to be safely accessible for cleaning.

Requirement K5(4) does not apply to—
(a) dwellings, or
(b) any door or gate which is part of a lift.

Protection against impact from trapping by doors

K6.—(1) Provision shall be made to prevent any door or gate—

Requirement K5(4) does not apply to—

- (a) which slides or opens upwards, from falling onto any person; and
- (b) which is powered, from trapping any person.

(a) dwellings, or

(b) any door or gate which is part of a lift.”

(2) Provision shall be made for powered doors and gates to be opened in the event of a power failure.

(3) Provision shall be made to ensure a clear view of the space on either side of a swing door or gate.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building Regulations 2010 (“the Building Regulations”), the Building (Local Authority Charges) Regulations 2010 (“the Charges Regulations”) and the Building (Approved Inspectors etc) Regulations 2010 (“the Approved Inspectors Regulations 2010”).

The amendments to the Building Regulations are set out in Part 1. Regulations 4 and 28 and Schedule 2 amend Part K (Protection from falling, collision and impact) to incorporate the previous Part N (Glazing) so that all requirements relating to protection from falling, collision and impact are set out in the same Part of Schedule 2.

Regulations 5, 6 and 32(a) amend the provisions in the Building Regulations concerning electrical installation work so that work requiring notification and the definition of a “special location” is set out in the body of the Building Regulations.

Regulation 9 amends regulation 16 of the Building Regulations by removing the requirement for automatic notification of the local authority at various stages of building work by the person carrying out that work. Instead the local authority may give the person a notice specifying the stages at which it requires to be notified. The local authority may also specify the timing of such

notification, including a period during which the work concerned may not be covered up. Conditions are imposed on local authorities who give such notices: they may only do so if they intend to inspect the building work, and their intention to inspect the work must be based on an assessment of the risk of breach of the Regulations if the work is not inspected. The amendment to regulation 16(5) limits the applicability of this paragraph to buildings to which the Regulatory Reform (Fire Safety) Order 2005 applies (or will apply on completion of the relevant work).

Regulation 10 contains new provisions regarding the giving by the local authority of completion certificates, and regulation 11 adds a new regulation 17A which replaces and largely re-enacts, with minor amendments, the substance of regulation 17 with regard to buildings which are occupied before work is completed. The amendments to regulation 14 in regulation 7, to regulation 15 in regulation 8, to regulation 19 in regulation 12, to regulation 47 in regulation 25 and to regulation 48 in regulation 27 are consequential on this amendment.

Regulations 10(b) and 13(b) add to regulation 17 and to regulation 20 respectively a requirement for wording in specified certificates about the evidential value of those certificates.

Regulation 13 amends regulation 20 to provide that a certificate issued in accordance with regulation 20 of the Building Regulations, under a self-certification scheme, states that future payment liabilities apply to the property concerned under a green deal plan for repayment of the costs of energy efficiency improvement work on the property. The amendment also requires the local authority to store the relevant notices and certificates in a retrievable form.

Regulations 14 to 23 and regulations 25 to 27 transpose articles 2, 3, 6, 7, 9 and 11 of the European Parliament and Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (recast) (“the recast Directive”). Regulation 15 amends regulation 23 of the Building Regulations relating to the renovation or replacement of thermal element to fully implement the requirements of the recast Directive. Regulation 17 implements in part the requirements in the recast Directive for high-efficiency alternative systems and nearly zero-carbon buildings in respect of new buildings. Regulations 18 to 21 set out requirements for energy performance certificates in relation to the construction of a building; they transpose the recast Directive and also include provisions previously set out in the Energy Performance of Buildings (Certificates and Inspections)(England and Wales) Regulations 2007 (S.I. 2007/991). Regulation 22 applies the provisions in these Regulations transposing the recast Directive to buildings of statutory undertakers, Crown buildings and building work proposed or undertaken by Crown authorities.

Regulation 24 amends regulation 43 of the Building Regulations to add a further body that may register a person to certificate compliance with pressure testing requirements.

Regulation 29(2) adds bodies to the list of bodies authorised under the self-certification scheme provided for by regulations 12 and 20 and Schedule 3 of the Building Regulations.

Part 2 contains an amendment to the Charges Regulations to insert a definition of “officer”.

Part 3 contains amendments to the Approved Inspectors Regulations 2010. Previously, the Approved Inspectors Regulations 2010 required inspectors approved by a body designated by the Secretary of State to submit a copy of the approval notice with certain of the forms of notice specified in Schedule 1 of the Approved Inspectors Regulations 2010. They were also required to include with certain of those notices a declaration signed by the insurer that a named scheme of insurance approved by the Secretary of State applied to the work described in the notice. Part 3 of these Regulations remove those requirements, and replace them with information on the relevant notices that copies of the approval notice and insurance declaration are on the public register kept by the designated body.

Regulation 35 adds a new regulation 5A to the Approved Inspectors Regulations 2010, requiring an approved inspector who gives an initial notice to a local authority to ensure that the approving designated body (or the Secretary of State if approval was by the Secretary of State) has a copy of the insurance declaration relating to the work in the notice.

Regulations 37 and 39 amend regulations 8 and 20 of the Building Regulations to ensure that the changes required under the recast Directive also apply when the building control function is undertaken by an approved inspector.

The designated body (or the Secretary of State where relevant) is required by regulation 7 of the Approved Inspectors Regulations 2010 to maintain a list of inspectors approved by that body, and regulation 36 of these Regulations adds to regulation 7 a requirement that the designated body (or Secretary of State) must keep the approval certificate and the insurance declaration referred to in new regulation 5A.

Regulation 38 adds a provision to regulation 16 clarifying that a final certificate given by an approved inspector is evidence but not conclusive evidence of the matters stated in it.

Regulation 40 removes from regulation 30 of the Approved Inspectors Regulations 2010 the requirement for a local authority to keep on its register of notices and certificates the name and address of the insurer who signed the insurance declaration in respect of the work to which a notice or certificate relates.

Regulation 41 makes consequential amendments to the relevant forms of notice specified in Schedule 1 and add where appropriate the statement that the notice or certificate is evidence but not conclusive evidence of compliance with the requirements specified in it. These are Form 1 (initial notice), Form 2 (amendment notice), Form 3 (plans certificate), Form 4 (combined notice and plans certificate) and Form 5 (final certificate). Form 12 (public body's final certificate) also has the statement added that it is evidence but not conclusive evidence of compliance with the requirements specified in it.

Regulations 42 and 43 make corresponding amendments to the grounds for rejection of a notice or certificate by the local authority in Schedules 2, 3 and 4 of the Approved Inspectors Regulations 2010.

Part 4 sets out the transitional provisions.

Schedule 1 sets out the commencement table.

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