

EXPLANATORY MEMORANDUM

THE BUILDING REGULATIONS & (AMENDMENT) REGULATIONS 2014

S.I. 2014 No. 579

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This instrument introduces provisions for third party certification of electrical installations in dwellings as compliant with the requirements of the Building Regulations 2010 (S.I.2010/2214) (“the 2010 Regulations”), made under the Building Act 1984 (c.55). It also consolidates and clarifies schedule 3 to the 2010 Regulations concerning the self-certification of work as compliant by registered competent persons who carry the work out, and makes certain miscellaneous amendments..

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 This instrument makes amendments to the 2010 Regulations and to the Building (Approved Inspectors etc.) Regulations 2010 (S.I 2010/2215) (“the Approved Inspectors Regulations”). In relation to third party certification it gives effect to the response to consultation outlined below. In relation to schedule 3 to the 2010 Regulations this instrument is part of the continuing review by the Department of the operation of self-certification procedures.

5. **Territorial Extent and Application**

5.1 The Building Act 1984 extends to England and Wales. The functions of the Secretary of State under the Act have been transferred to the Welsh Ministers by the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I. 2009/3019), except in relation to “excepted energy buildings” as defined in that Order. This instrument applies in England and to excepted energy buildings in Wales.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Third party certification schemes

7.1.1 Part P of Schedule 1 to the 2010 Regulations, supported by statutory guidance in Approved Document P, seeks to ensure that electrical work carried out in the home is safe. The consultation (see paragraph 8.1 below) highlighted concern from external partners about the cost associated with these provisions – both from electricians and from home-dwellers carrying out their own electrical work.

7.1.2 All electrical work in the home is required to meet the safety requirement in Part P. As a result of the consultation the Department decided that two measures would be appropriate to reduce the burden of compliance: a reduction in the types of work which have to be notified to a building control body (a local authority or a private sector approved inspector) and the introduction of third party certification schemes to help reduce the cost of inspection and testing for compliance for work that is still notifiable.

7.1.3 Making work non-notifiable avoids the need to notify work to a building control body and to pay building control charges. This aspect of the changes to Part P was brought into force on 6 April 2013 by the Building Regulations &c. (Amendment) Regulations 2012 (S.I. 2012/3119).

7.1.4 This instrument introduces third party certification schemes. Where notifiable electrical work is carried out by the home-dweller or by an unregistered installer it must at present be notified to a building control body in advance and a building control charge paid. The Department has received many complaints that the cost of the building control charge is too high, and that it encouraged persons doing their own electrical work and unregistered installers not to notify work in order to save the cost of the charge.

7.1.5 The Department therefore consulted on introducing third party certification schemes for electrical installations. Those wishing to register with such schemes would have to demonstrate their competence to carry out the inspection and testing of electrical work carried out by others to check that it complied with the requirements of the Building Regulations. After registration, where inspection and testing confirmed that the work complied, the registered third party certifiers would give a certificate of compliance with building regulations. The impact assessment covering this proposal estimated that there would be savings to business of around £6m per year using this method of checking compliance as compared to the cost of engaging a building control body.

7.1.6 Regulation 2(3) and (6) sets out the procedural requirements for third party certification and regulation 2(10) adds new Schedule 3A to the Building Regulations 2010 which lists the bodies the Secretary of State has authorised so far to operate third party certification schemes for electrical installations in dwellings.

Consolidation of Schedule 3 of the Building Regulations 2010

7.2.1 This Schedule lists all the bodies which have been authorised to operate registration schemes for competent person self-certification for various types of work. This is a procedure by which persons carrying out building work are allowed to certify work as compliant with building regulations. Schedule 3 has been amended numerous times since the Building Regulations 2010 first came into force, in respect both of the names of scheme operators and of the types of work for which schemes have been authorised. In addition, following the coming into effect of the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 on 31 December 2011 all individual amendments to the Schedule had to be qualified that they applied only in England or to excepted energy buildings in Wales. The resultant Schedule had become very complex and very difficult to use.

7.2.2 Amendment regulation 2(9) therefore replaces the table in the current Schedule 3 with a consolidated table applying only in England and to excepted energy buildings in Wales. Welsh Ministers had earlier taken similar action in Wales (see Building (Amendment No.2) Regulations 2013 (S.I. 2013/2621)). The opportunity has been taken to clarify some of the wording in the Schedule and to re-order the paragraphs, and to remove the names of certain scheme operators from a number of paragraphs where they no longer wished to operate a scheme for a particular type of work.

Other amendments

7.3.1 Other amendments made by this instrument correct a number of omissions in the 2010 Regulations and the Building Approved Inspectors Regulations, arising from earlier amendments to the 2010 Regulations, and make certain other drafting corrections.

8. Consultation outcome

8.1 The Department carried out public consultation in 2012 relating to a range of proposals relating to building regulations. Section 3, Question 4 of the consultation sought views about the third-party inspection and testing of electrical work. On the basic question whether this option should be available, there were 146 responses. Of these, 75% supported the proposal, 15% did not and 10% did not know. Most categories of respondent showed strong support for the idea – citing the potential benefits for DIY-ers and electricians outside competent person schemes from alternative and less costly ways of having work approved. A summary of the responses to the 2012 consultation is available at: <https://www.gov.uk/government/consultations/building-regulations-accessstatements-security-changing-places-toilets-and-regulation-7>

9. Guidance

9.1 Guidance on electrical safety in dwellings, including guidance on third party certification schemes, is given in the 2013 edition of Approved Document P which is

available at

<https://www.planningportal.gov.uk/buildingregulations/approveddocuments/partp>.

9.2 The Department will issue guidance on the changes brought in by this instrument by the publication of a Circular and a Departmental Circular Letter.

10. Impact

10.1 The impact on business, charities or voluntary bodies in respect of electrical installations in dwellings is deregulatory. Changes to the electrical safety provisions in Part P will deliver annual net savings to business of £9.4m. In addition, DIYers who carry out their own electrical work will benefit by approximately £5.3m per year.

10.2 The impact on the public sector is deregulatory in so far as advantage is taken of the introduction of third party certification in electrical installation work in dwellings that public sector bodies own.

10.3 An impact assessment in respect of the changes to Part P of Schedule 1 was published in conjunction with the laying before Parliament of the Building Regulations &c. (Amendment) Regulations 2012 (S.I. 2012 No.3119) and is available at <https://www.gov.uk/government/publications/building-regulations-part-p-electrical-safety-in-dwellings>.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 As the substantive changes made by the amendment regulations are deregulatory the impact of the requirements on firms employing up to 20 people is minimal.

11.3 The basis for the final decision on what action to take to assist small business arose from the outcome of the consultation where the changes were supported by small business.

12. Monitoring & review

12.1 The Department will undertake a review of the changes made to Part P of Schedule 1 to the Building Regulations in 2015.

13. Contact

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