
STATUTORY INSTRUMENTS

2023 No. 753

**The Building Safety (Responsible Actors
Scheme and Prohibitions) Regulations 2023**

PART 3

Planning and Building Control Prohibitions

CHAPTER 3

Building Control Prohibitions

Exception to building control prohibition: work to occupied buildings

35.—(1) An applicable person is not prohibited from—

- (a) depositing plans under section 16 of the Building Act 1984;
- (b) giving an initial notice within the meaning of section 47 of the Building Act 1984 (giving and acceptance of initial notice); or
- (c) giving a building notice within the meaning of regulation 2 of the Building Regulations 2010 (interpretation),

in relation to relevant building work to be carried out to an existing occupied building where on the application date the work had not started.

(2) Where plans are deposited pursuant to paragraph (1) the local authority is not prohibited from giving the applicable person a notice of passing or rejection in relation to those plans under section 16(6) of the Building Act 1984.

(3) Where an initial notice is given pursuant to paragraph (1) the local authority is not prohibited from giving the applicable person a notice accepting or rejecting that initial notice under section 47 of the Building Act 1984.

(4) Where relevant building work is carried out to an existing occupied building following the depositing or giving of a document under paragraph (1)—

- (a) then the applicable person is not prohibited from giving—
 - (i) an application for a certificate under regulation 17 of the Building Regulations 2010 (completion certificates) in relation to the work;
 - (ii) an application for a certificate under regulation 17A of the Building Regulations 2010 (certificate for building occupied before work is completed) in relation to the work;
 - (iii) a request for a plans certificate under section 50(1) (plans certificate) of the Building Act 1984 in relation to the work;
- (b) then, in respect of the work, a person may give to the applicable person—
 - (i) a plans certificate within the meaning of section 50 (plans certificate) of the Building Act 1984 in relation to the work;

(ii) a final certificate within the meaning of section 51 (final certificate) of the Building Act 1984 in relation to the work.

(5) Where paragraph (4) applies the local authority is not prohibited from giving the person a certificate under regulation 18 of the Building Regulations 2010 in relation to the work.

(6) Where paragraph (4) applies the local authority is not prohibited from giving the person a notice accepting or rejecting that final certificate under section 51 of the Building Act 1984.

(7) In this regulation—

“application date” means the date on which the document referred to in paragraph (1) is deposited or given by the applicable person;

“dwelling” has the meaning in regulation 2 of the Building Regulations 2010;

“material change of use” has the meaning in regulation 5 of the Building Regulations 2010;

“occupied”, in relation to a building, means at least one dwelling contained in the building is occupied by an arm’s length third party on the application date;

“relevant building work” means any building work except work done to give effect to a material change of use of the building or part of the building.