
STATUTORY INSTRUMENTS

2023 No. 906

The Building (Approved Inspectors etc. and
Review of Decisions) (England) Regulations 2023

PART 3

Amendments of the Approved Inspectors Regulations

Amendments to the Approved Inspectors Regulations

6. The Approved Inspectors Regulations are amended in accordance with regulations in this Part.

Amendments to regulation 2

7. In regulation 2 (interpretation)—
- (a) in paragraph (1), in the appropriate place, insert—

““relevant day” means any day excluding Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971.”; and
 - (b) after paragraph (1) insert—

“(1A) In these Regulations “client”, “contractor”, “designer”, “domestic client”, “principal contractor”, “principal designer”, “sole contractor” and “sole or lead designer” have the meanings given in the Principal Regulations.”.

Amendment to regulation 8

8. In regulation 8 (functions of approved inspectors) after “7 (materials and workmanship),” insert “Part 2A (dutyholders and competence).”.

New regulation 10A

9. After regulation 10 insert—

“Invalid notices

10A.—(1) This regulation applies where a notice which purports to be an initial notice or amendment notice (“the original notice”) is given to a local authority on or after 1st October 2023 and the local authority is satisfied all or part of the work to which the notice relates is higher-risk building work.

(2) Where this regulation applies the local authority must, as soon as reasonably practicable, give a notice to the approved inspector and the person intending to carry out the work (and where that person is not the client, the client) which—

- (a) states that the local authority is satisfied the original notice is invalid as it breaches section 47(1), or as the case may be section 51A(1), of the Act by including work that is higher-risk building work; and
- (b) explains that—
 - (i) the regulator is the building control authority in relation to higher-risk building work; and
 - (ii) a right of appeal may be available under section 101A of the Act.”.

Amendments: deposit of plans etc

10.—(1) In regulation 2(1) after the definition of “the Act” insert—

““application for building control approval with full plans” has the meaning given in regulation 2 of the Principal Regulations;”.

(2) In regulation 12(5) for “plans were deposited” substitute “an application for building control approval with full plans were submitted or granted”.

(3) In regulation 19(4) for “plans deposited” substitute “an application for building control approval with full plans”.

(4) In regulation 30(3) omit “and certificates given under section 16(9) of the Act”.

New regulations 16A to 16E etc

11.—(1) After regulation 16 insert—

“Form of rejection notice and form of notice under section 51C of the Act

16A.—(1) Where a local authority reject a relevant notice or certificate the form set out as form 5A in Schedule 1 must be used.

(2) When giving a notice under section 51C(2) of the Act (change of person intending to carry out work) the form set out as form 5B in Schedule 1 must be used.

(3) In this regulation “relevant notice or certificate” means an initial notice, amendment notice, plans certificate or a final certificate which is given to a local authority on or after 1st October 2023.

Notice before starting work and further notice when work is “commenced” etc.

16B.—(1) At least two days before the day on which building work starts, the person carrying out the work must give a notice to the approved inspector shown on the initial notice relating to the building work setting out their intention to start the work and the date that work is to start.

(2) Not more than five days after the day on which the work is to be regarded as commenced the person carrying out the work must give a notice to that effect to the approved inspector.

(3) If the approved inspector is not satisfied the work is to be regarded as commenced they must give the person carrying out the work a notice to that effect (“rejection notice”) within four weeks of the date the notice under paragraph (2) is given, and the rejection notice must give the reasons for rejection.

(4) Where a notice is given under paragraph (2) and the period referred to in paragraph (3) expires without a rejection notice being given, then the work is to be regarded as commenced.

(5) If the person carrying out the work accepts the rejection notice they may not give a further notice under paragraph (2) unless, having regard to the reasons given by the approved inspector, they are satisfied the work is to be regarded as commenced.

(6) A person who gave the notice under paragraph (2) may appeal to the First-tier Tribunal against the decision of the approved inspector to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the approved inspector gives the rejection notice.

(7) The First-tier Tribunal may allow an appeal under paragraph (6) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable;
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(8) The approved inspector may take such steps, including—

- (a) requiring information;
- (b) laying open of work for inspection,

as it thinks appropriate to check whether the work is to be regarded as commenced.

(9) For the purposes of paragraphs (2) to (8), the provisions of regulation 16C (lapse of initial notices: commencement of work) apply to determine whether work is to be regarded as commenced.

Lapse of initial notice: commencement of work

16C.—(1) For the purposes of section 53A(6) of the Act (lapse of initial notice) work is to be regarded as commenced in accordance with the following paragraphs.

(2) Where the work consists of the construction of a complex building, work is to be regarded as commenced in relation to that building or the first stage of building work for that building when the foundations supporting the building and the structure of the lowest floor level of that building (but not the other buildings or structures to be supported by those foundations) are completed.

(3) Where the work consists of—

- (a) the construction of a building and paragraph (2) does not apply, or
- (b) horizontal extension of a building,

work is to be regarded as commenced when the sub-surface structure of the building or the extension including all foundations, basement levels (if any) and the structure of ground floor level is completed.

(4) Where the work consists of any other building work then work is to be regarded as commenced when the initial work is completed.

(5) In this regulation—

“approved plans” means plans which were part of or accompanied the initial notice, or plans to which a plans certificate referred;

“complex building” means—

- (a) a building which is to be constructed on the same foundation plinth or podium as any other building or structure;
- (b) a building which has more than one storey below ground level;

- (c) a building where it is proposed use is primarily as a public building where the public or a section of the public has access to the building (whether or not on payment) provided that the building has a capacity for 100 or more visitors;

“initial work” means the work set out in the initial notice which the client considers amounts to 15% of all the work described in the initial notice;

“public building” means—

- (a) a shop or shopping centre;
- (b) premises where food or drink are sold for consumption on the premises, including a nightclub, social club or dance hall;
- (c) a stadium, theatre, cinema, concert hall;
- (d) a sports ground;
- (e) an exhibition hall or conference centre;
- (f) a hospital or premises for the provision of health care.

Notification of dutyholders

16D.—(1) This paragraph applies where, in relation to any building work, the client appoints a principal contractor (or sole contractor) or a principal designer (or sole or lead designer).

(2) Subject to paragraph (3), where paragraph (1) applies the client must give a notice to the approved inspector shown on the initial notice relating to the building work which includes—

- (a) the name, address, telephone number and (if available) email address of the person appointed (PA) and the date of appointment;
- (b) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the person who held the role before PA (“outgoing dutyholder”) and the date their appointment ended;
- (c) where the notice is given by someone on behalf of the client, a statement signed by the client confirming they agree to the notice being made and that the information contained in the notice is correct.

(3) Where the client is a domestic client (DC), the following applies instead of paragraph (2)

- (a) an outgoing dutyholder must provide the information referred to in paragraph (2)(b) to the DC within 5 calendar days of the date their appointment ends;
- (b) DC must provide the information referred to under sub-paragraph (a) to PA on the date of appointment of PA or as soon as practicable after that date;
- (c) subject to paragraph (4), PA must give a notice to the approved inspector which includes—
 - (i) the name, address, telephone number and (if available) email address of PA and date of appointment;
 - (ii) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the outgoing dutyholder and the date their appointment ended;
 - (iii) a statement explaining the notice is given on behalf of a domestic client.

(4) Where the outgoing dutyholder has not received the information required under paragraph (3)(b) by the time the notice under paragraph (3)(c) is to be given and DC does not

have the information, the statement given by PA under paragraph (3)(c)(iii) must also include an explanation to that effect.

(5) A notice required under paragraph (2) or (3)(c) must be given to the approved inspector within the period of 14 calendar days beginning with the date of the appointment.

Compliance declarations

16E. Where building work described in an initial notice is completed the client must give the approved inspector a notice which includes—

- (a) the name, address, telephone number and (if available) email address of the client;
- (b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- (c) a statement that the building work is complete;
- (d) a statement, signed by the client, confirming that to the best of the client's knowledge the work complies with all applicable requirements of the building regulations;
- (e) a statement given by each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work, signed by the person to which the declaration relates, which includes—
 - (i) the name, address, telephone number and (if available) email address of that person;
 - (ii) the dates of their appointment, and
 - (iii) confirmation—
 - (aa) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the Principal Regulations;
 - (bb) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the Principal Regulations.”.

(2) In Schedule 1 (forms) to the Approved Inspectors Regulations—

(a) in form 1 (initial notice)—

(i) in paragraph 5, after sub-paragraph (d) insert—

“(e) a statement setting out—

- (i) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16C (lapse of initial notice: commencement of work); and
- (ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16C applies, details of the work which the client considers amounts to 15% of the proposed work.”;

(b) in form 2 (amendment notice), in paragraph 4, after sub-paragraph (f) insert—

“(g) a statement setting out—

- (i) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16C (lapse of initial notice: commencement of work); and
- (ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16C applies, details of the work which the client considers amounts to 15% of the proposed work.”;

- (c) in form 4 (combined initial notice and plans certificate), in paragraph 5, after sub-paragraph (d) insert—
- “(e) a statement setting out—
- (i) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16C (lapse of initial notice: commencement of work); and
- (ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16C applies, details of the work which the client considers amounts to 15% of the proposed work.”;
- (d) in form 5 (final certificate), after paragraph 10 insert—
- “**10A.** I have received a statement, from the client for the work described in this final certificate, which is in accordance with regulation 16E(d) of the Regulations.
- 10B.** I have received a statement, from each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work described in this final certificate, which is in accordance with regulation 16E(e) of the Regulations.”.
- (3) In Schedule 2 (grounds for rejecting an initial notice etc) to the Approved Inspectors Regulations—
- (a) in paragraph 4, after sub-paragraph (c) insert—
- “(ca) a statement setting out the date when work will reach the point when it is to be regarded as commenced and, if applicable, the details of the work which the client considers amounts to 15% of the proposed work.”;
- (b) after paragraph 11 insert—
- “**11A.** Where a statement setting out the details of the work which the client considers amounts to 15% of all the work described in the notice has been provided, the local authority are not satisfied that the work described in the statement amounts to 15% of all the work described in the notice.”.

Amendments to regulation 18

12.—(1) Regulation 18 (cancellation of initial notices) is amended in accordance with the following provisions.

- (2) After paragraph (2) insert—
- “(2A) An approved inspector who is of the opinion that in relation to any of the work described in an initial notice there has been a contravention of any provision of Part 2A of the Principal Regulations (except regulations 11D(3)(a), 11D(8) and 11D(9)) may give notice in writing to the client 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 to which the contravention relates.
- (2B) A notice of contravention given in accordance with paragraph (2A) must inform the client that if within the prescribed period the client has not effected such alterations to the arrangements for carrying out the work and such improvements to the competence of persons carrying out the work (or as the case may be, the client), the principal contractor or principal designer as may be necessary to ensure the carrying out of the work complies with provisions of the building regulations referred to in paragraph (1), the approved inspector will cancel the initial notice.”.
- (3) For paragraph (3) substitute—

“(3) The period within which the person carrying out the work or, as the case may be, the client is to remedy the contravention as described in paragraph (2) or (2A) is three months beginning with the day on which the notice is given.”.

(4) At the end of regulation 18 insert—

“(7) Form 8A in Schedule 1 is the form of notice to be given by an approved inspector to cancel an initial notice in accordance with section 52A(1) of the Act.

(8) Form 8B 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 52A(2) of the Act.

(9) Form 8C in Schedule 1 is the form of notice to be given by a local authority to cancel an initial notice in accordance with section 52A(4) of the Act.”.

Amendments in relation to fire safety information etc

13.—(1) Regulation 20 (application of regulations) is amended as follows—

(a) in the heading after “37,” insert “38,”;

(b) in paragraph (1)—

(i) after “37 (wholesome water consumption calculation),” insert “38 (fire safety information),”;

(ii) for “local authority” substitute “building control authority or relevant authority”;

(c) after paragraph (4) insert—

“(4A) Regulation 38 of the Principal Regulations applies in relation to building work which is the subject of an initial notice as if for paragraph (2) there were substituted—

“(2) The person carrying out the work must give the fire safety information to the responsible person no later than—

(a) the date of completion of the work to which the initial notice relates;

(b) the date of occupation of the building or extension;

(c) the date on which, in accordance with regulation 17(5) of the Building (Approved Inspectors etc.) Regulations 2010, the initial notice ceases to be in force,

whichever is the earlier.”.

(d) in paragraph (5) for “notice of commencement of the work” substitute “notice of intention to start work”.

(2) Schedule 1 (forms) is amended as follows—

(a) in form 5 (final certificate) after paragraph 6 insert—

“**6A.** [I confirm the person carrying out the work has notified me to the effect that the fire safety information has been given to the responsible person as required by regulation 38 of the Building Regulations 2010.] **(7A).**”; and

(b) in the Notes to form 5 after note (7) insert—

“(7A) Delete this statement if regulation 38 of the Building Regulations 2010, as modified by regulation 20 of the Building (Approved Inspectors etc.) Regulations 2010, does not apply to the building work to which the final certificate relates.”.

(3) In Schedule 4 (grounds for rejecting a final certificate), after paragraph 4 insert—

“Lack of fire safety information confirmation

4A. Regulation 38 of the Building Regulations 2010, as modified by regulation 20 of the Building (Approved Inspectors etc.) Regulations 2010, applies to the building work to which the final certificate relates and the approved inspector has not provided a confirmation that the person carrying out the work has notified the approved inspector to the effect that the fire safety information has been given to the responsible person as required by that regulation.”.

Revocation of regulation 29

14. Regulation 29 is omitted.

Amendments as to appeals under Part 2 of the Act

15. Before regulation 30 insert the following new Part—

“PART 6A**Appeals under Part 2 of the Act****Appeal under section 50(2) of the Act**

29A.—(1) An appeal to the regulator under section 50(2) of the Act must be made within 21 relevant days beginning with the day after the day on which the approved inspector refused to give the plans certificate.

(2) Where a person is aggrieved with the decision of the regulator given on an appeal under section 50(2) of the Act wishes to appeal that decision by virtue of section 43A(3) of the Act, they must appeal to the First-tier Tribunal within 21 relevant days beginning with the day after the day on which the regulator notifies them of its decision.

(3) The First-tier Tribunal may allow an appeal referred to in paragraph (2) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable;
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(4) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

Appeals under section 55 of the Act

29B.—(1) An appeal to the First-tier Tribunal—

- (a) under section 55(1) of the Act;
- (b) under section 55(2A) of the Act,

must be made within 21 relevant days beginning with the day after the day on which the local authority notifies the approved inspector of its decision.

(2) The First-tier Tribunal may allow an appeal under paragraph (1)(a) only if it is satisfied that the notice, certificate or report referred to in section 55(1) of the Act was not properly rejected on one or more of the following grounds—

- (a) that the rejection was based on an error of fact;
 - (b) that the rejection was wrong in law;
 - (c) that the rejection was unreasonable;
 - (d) that the rejection was made without following the procedures set out in the Act or regulations made under the Act.
- (3) The First-tier Tribunal may allow an appeal under paragraph (1)(b) only if it is satisfied that the initial notice was not properly cancelled under section 52A of the Act on one or more of the following grounds—
- (a) that the cancellation was based on an error of fact;
 - (b) that the cancellation was wrong in law;
 - (c) that the cancellation was unreasonable;
 - (d) that the cancellation was made without following the procedures set out in the Act or regulations made under the Act.
- (4) On determining an appeal under section 55(1) or (2A) of the Act, the First-tier Tribunal must give notice of the decision to—
- (a) the person who made the appeal;
 - (b) the local authority.
- (5) On determining an appeal under section 55(2A) of the Act, where the First-tier Tribunal determines—
- (a) that an initial notice was properly cancelled, it must additionally notify the regulator of the decision;
 - (b) that an initial notice was not properly cancelled, it must in the notice referred to in paragraph (4) explain the effect of section 55(2C)(a) to (c) of the Act.”.

Substitution of regulation 31

16. For regulation 31 (contravention of certain regulations not to be an offence) substitute—

“Contravention of certain regulations not to be an offence etc

31. Each of the regulations, other than regulations 16B(1), (2) and (5) and 19, is prescribed for the purposes of section 35(2) and 35B(7)(a) of the Act.”.

Revocation of regulation 32

17. Regulation 32 (electronic service of documents) is omitted.

Amendments to Schedule 1

- 18.—(1) In Schedule 1 (forms) to the Approved Inspectors Regulations—

- (a) in form 1 (initial notice)—

(i) in paragraph 3 for “(3)” substitute “(3A)”;

(ii) after paragraph 13 insert—

“13A. I (9) confirm that none of the work to which this notice relates is higher-risk building work.”;

(iii) in the Notes at the end of the form, for note (3) substitute—

“(3) Name, address, telephone number and (if available) email address of the approved inspector.

(3A) Name, address, telephone number and (if available) email address of the person intending to carry out the work, and if that person is not the client also the name, address, telephone number and (if available) email address of the client.”;

(b) in form 2 (amendment notice), after paragraph 13 insert—

“**13A. I (7)** confirm that none of the work to which this notice relates is higher-risk building work.”;

(c) in form 3 (plans certificate), after paragraph 11 insert—

“**11A. I** confirm that none of the work to which this certificate relates is higher-risk building work.”;

(d) in form 4 (combined initial notice and plans certificate)—

(i) in paragraph 3 for “(4)” substitute “(4A)”;

(ii) after paragraph 17 insert—

“**17A. I (8)** confirm that none of the work to which this notice relates is higher-risk building work.”;

(iii) in the Notes at the end of the form, for note (4) substitute—

“(4) Name, address, telephone number and (if available) email address of the approved inspector.

(4A) Name, address, telephone number and (if available) email address of the person intending to carry out the work, and if that person is not the client also the name, address, telephone number and (if available) email address of the client.”;

(e) in form 5 (final certificate) after paragraph 10B insert—

“**10C. I** confirm that none of the work to which this certificate relates is higher-risk building work.”;

(f) in form 8, before note (1) in the Notes at the end of the form insert—

“Only use this form where the three year period for the work to be commenced expired before 1st October 2023. With effect from 1st October 2023 under section 53A of the Building Act 1984 (lapse of initial notice) an initial notice lapses automatically if work is not commenced within 3 years from the date the initial notice is given.”.

(2) In Schedule 1 (forms) to the Approved Inspectors Regulations, in the appropriate place, insert the new forms set out in the Schedule to these Regulations.

Amendments to Schedule 2 for gigabit broadband

19. In Schedule 2 (grounds for rejecting an initial notice, an amendment notice, or a plans certificate combined with an initial notice) to the Approved Inspectors Regulations after paragraph 4(d) insert—

“(dd) in the case of an initial notice or amendment notice in relation to the erection of a new dwelling—

(i) a statement giving details of any public electronic communications network in relation to which a connection is to be provided;

(ii) if an exemption in regulation 44ZB of the Principal Regulations is proposed to be relied on, a statement giving details in support of the exemption;

- (iii) if regulation 44ZC of those Regulations is proposed to be relied on, a statement giving details of the matters mentioned in regulation 44ZC(6)(a) and (b) of those Regulations and, if paragraph RA1(1)(c)(i) or (ii) of Schedule 1 to those Regulations is also proposed to be relied on, evidence of the steps taken to establish whether, and if so where, a distribution point for a gigabit-capable public electronic communications network (as defined in regulation 44C of those Regulations) is likely to be installed, in a location relevant for the purposes of paragraph RA1(1)(c) of that Schedule, within the period of two years beginning with the day on which the notice is given.”.