

2023 No. 906

BUILDING AND BUILDINGS, ENGLAND

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

<i>Made</i> - - - -	<i>9th August 2023</i>
<i>Laid before Parliament</i>	<i>17th August 2023</i>
<i>Coming into force</i> - -	<i>1st October 2023</i>

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SCHEDULE — New forms to be inserted into Schedule 1 to the Approved Inspectors Regulations

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 35(2), 35B(7), 47(1) and (5), 50(1) and (4), 51(1) and (2), 51A(2) and (6), 52(2), 52A(1), (2) and (4), 53(2) and (4), 53A(6), 54(1) and (5), 58C(5) and 58O(4) of, and paragraphs 1A, 1D, 1F, 1G, 1I and 10 of Schedule 1 to, the Building Act 1984(a) and sections 25(1) to (3) and (7) of the Building Safety Act 2022(b).

The Secretary of State has consulted the Building Regulations Advisory Committee for England and such other bodies as appear to be representative of the interests concerned in accordance with section 14(3) of the Building Act 1984(c) and has consulted the regulator and such other persons as the Secretary of State considers appropriate in accordance with section 7 of the Building Safety Act 2022.

PART 1

Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023.

(2) These Regulations come into force on 1st October 2023.

(a) 1984 c. 55. Section 1 was amended by section 1(1) of the Sustainable and Secure Buildings Act 2004 (c. 22). Section 35 was amended by section 39 of the Building Safety Act 2022 (c. 30) ("the 2022 Act"). Section 35B was inserted by section 38 of the 2022 Act. Section 51A was inserted by S.I. 1996/1905 and amended by sections 46(2) and 48(3) of, and paragraph 42 of Schedule 5 to, the 2022 Act. Section 52 was amended by paragraph 44 of Schedule 5 to the 2022 Act. Section 52A was inserted by section 46 of the 2022 Act. Section 53(2) was amended by section 36(6) of the 2022 Act. Section 53A was inserted by section 36 of the 2022 Act. Sections 58C and 58O were inserted by section 42 of the 2022 Act. Paragraphs 1A, 1D, 1F, 1G and 1I of Schedule 1 were inserted by section 33 of the 2022 Act. Paragraph 10 of Schedule 1 was substituted by paragraph 83(8) of Schedule 5 to the 2022 Act.

(b) 2022 c. 30.

(c) Under the transitional provisions in regulation 5(1) of S.I. 2023/362 the requirement to consult under section 120B of the Building Act 1984 does not apply to proposals consulted on under section 14(3) of the Building Act 1984 before it was repealed by paragraph 17 of Schedule 5 to the Building Safety Act 2022.

(3) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

“the Act” means the Building Act 1984;

“the 2022 Act” means the Building Safety Act 2022;

“the Approved Inspectors Regulations” means the Building (Approved Inspectors etc.) Regulations 2010(a);

“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(b).

PART 2

Registration etc.

Registration periods

3.—(1) For the purposes of section 58C(5) of the Act (registered building inspectors), the prescribed period is four years.

(2) For the purposes of section 58O(4) of the Act (registered building control approvers), the prescribed period is five years.

Review of regulator’s decisions under Part 2A of the Act

4.—(1) The following decisions are prescribed(c) for the purposes of section 25(1) of the 2022 Act—

- (a) a decision not to register an individual as a registered building inspector under section 58C(3) of the Act;
- (b) a decision, on the registration of a registered building inspector, for the registration to have effect in relation to work of a description which is different to that requested in the application;
- (c) a decision, on the registration of a registered building inspector, for the registration to be subject to a condition;
- (d) a decision not to register a person as a registered building control approver under section 58O(2) of the Act;
- (e) a decision, on the registration of a registered building control approver, for the registration to have effect in relation to work of a description which is different to that requested in the application;
- (f) a decision, on the registration of a registered building control approver, for the registration to be subject to a condition.

(2) The person prescribed for the purposes of section 25(2) of the 2022 Act in relation to the decisions referred to in paragraph (1) is the person who applied for registration in accordance with section 58D or, as the case may be, section 58P of the Act.

(a) S.I. 2010/2215 as amended by S.I. 2012/3119, S.I. 2013/1959, S.I. 2014/579, S.I. 2015/767, S.I. 2016/285, S.I. 2021/1391, S.I. 2021/1392, S.I. 2022/717, S.I. 2022/984 and S.I. 2023/520. There are other amendments not relevant to this instrument.

(b) 1971 c. 80.

(c) See section 30 of the Building Safety Act 2022 for the meaning of prescribed in relation to section 25.

(3) For the purposes of section 25 of the 2022 Act, a person requiring the regulator^(a) to carry out a review, or a person on their behalf, must give a notice to the regulator in writing within 21 relevant days beginning with the day after the day on which the decision referred to in paragraph (1) is notified to the person, containing the following information—

- (a) the name, address, telephone number and (if available) email address for the person giving the notice;
- (b) if the person giving the notice is doing so on behalf of a person who falls within the description in paragraph (2), the name and address of that person and a statement that the person giving the notice is authorised to give the notice on behalf of that person;
- (c) a statement of the review being sought which—
 - (i) identifies the decision to be reviewed (including the date of the decision and any reference number included on the decision), and
 - (ii) sets out the reason the person considers the decision should be reviewed;
- (d) any information that is available to the person giving the notice, that may have been relevant to the regulator’s original decision but was not available at the time the original decision was made.

(4) The regulator must give the person who required a review a notice setting out the outcome of the review within 28 relevant days beginning with the day after the day on which the person gives a notice under section 25(2) of the 2022 Act.

(5) Where the outcome of a review is to uphold the original decision, the regulator must set out its reasons in the notice required under paragraph (4).

(6) Where the outcome of a review is to vary the decision, the regulator must issue a new decision.

(7) If requested, by the person requiring the review, the regulator must provide a paper copy of the outcome of the review.

Appeal in relation to reviewed decisions

5.—(1) A person may appeal to the First-tier Tribunal against the decision of the regulator of a kind referred to in regulation 4(1) (review of regulator’s decisions under Part 2A of the Act) provided that the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies the person under regulation 4(4)^(b).

(2) The First-tier Tribunal may allow an appeal under paragraph (1) 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 the Act.

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

(a) See section 126 of the Building Act 1984 for the definition of “the regulator”.

(b) Section 26 of the Building Safety Act 2022 provides that a review under section 25 must have concluded before an appeal is made.

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).**”;

(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 10 insert—

“**10A. 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.”.

PART 4

Transitional, supplementary and savings provisions

Cases where initial notice was given before October 2023

20.—(1) Subject to the other provisions of this Part, the amendments made to the Approved Inspectors Regulations by the regulations listed in paragraph (2) do not apply in relation to building work for which an initial notice has been given to a local authority, and which was accepted or treated as accepted under section 47 of the Act, before 1st October 2023.

(2) The regulations referred to in paragraph (1) are—

- (a) regulation 8 (amendment to regulation 8);
- (b) regulation 11 (new regulations 16A to 16E);
- (c) regulation 12(2) and (3) (amendments to regulation 18);
- (d) regulation 13 (amendments in relation to fire safety information);
- (e) regulation 16 (substitution of regulation 31).

(3) The disapplication of—

- (a) regulation 8 (amendment of regulation 8);
- (b) the insertion of regulation 16B into the Approved Inspectors Regulations in regulation 11 (new regulations 16A to 16E);
- (c) regulation 12(2) and (3) (amendments to regulation 18);
- (d) regulation 13 (amendments in relation to fire safety information); and
- (e) regulation 16 (substitution of regulation 31),

ceases on 6th April 2024 in relation to an initial notice where the building work described in the initial notice was not started before that date.

Appeals

21. The amendments made by regulation 15 (amendments as to appeals under Part 2 of the Act) do not apply in relation to any appeal under Part 2 of the Act which was made before 1st October 2023.

Forms

22.—(1) The amendments to form 2 (amendment notice) of Schedule 1 to the Approved Inspectors Regulations made by regulation 18(1)(b) (amendments as to Schedule 1) do not apply to any amendment notice^(a) given on or after 1st October 2023 where the building work to which the initial notice relates includes higher-risk building work, provided the work described in the amendment notice does not vary any of the work to which the initial notice relates to become higher-risk building work.

(2) The amendments to form 3 (plans certificates) of Schedule 1 to the Approved Inspectors Regulations made by regulation 18(1)(c) (amendments as to Schedule 1) do not apply to any plans certificate given on or after 1st October 2023 in respect of higher-risk building work in relation to which an initial notice was given before 1st October 2023.

(3) The amendments to form 5 (final certificates) of Schedule 1 to the Approved Inspectors Regulations made by regulation 18(1)(e) (amendments as to Schedule 1) do not apply to any final certificate given on or after 1st October 2023 in respect of higher-risk building work in relation to which an initial notice was given before 1st October 2023.

Approved inspector’s initial notices to be treated as notices of registered building control approver on 6th April 2024

23.—(1) This regulation applies where an approved inspector who gave an initial notice before 6th April 2024 has become a suitably qualified registered building control approver before that date.

(2) Where this regulation applies then with effect from 6th April 2024 the initial notice given by the approved inspector is treated as if it were given instead by that person in their capacity as a registered building control approver.

(3) For the purposes of this regulation, a registered building control approver is suitably qualified if the building work to which the initial notice relates is within the scope of the registration of the registered building control approver.

Cases where building work supervised by approved inspector is not completed before October 2024

24.—(1) This regulation applies where an initial notice has been given by an approved inspector before 6th April 2024 and any of the building work described in the initial notice given has not been given a final certificate before 1st October 2024.

(2) Where this regulation applies then, for the purposes of section 47(4)(b)(ii) of the Act, the initial notice ceases to be in force with effect from 1st October 2024.

(3) This regulation does not apply to any initial notice which is treated as given by a registered building control approver by virtue of regulation 23 (approved inspector’s initial notices to be treated as notices of registered building control approver on 6th April 2024).

Transitional, supplementary and saving provisions: HRBs

25. Except to the extent provided for in Schedule 3 (transitional, supplementary and saving provisions) to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, regulations 20 to 24 do not apply to the higher-risk buildings.

Interpretation of this Part

26. For the purposes of this Part, “building work” has the meaning given in the Building Regulations 2010^(b).

(a) Section 51A of the Act defines “amendment notice”.

(b) S.I. 2010/2214.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

9th August 2023

Lee Rowley
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

SCHEDULE

Regulation 18

New forms to be inserted into Schedule 1 to the Approved Inspectors Regulations

Form 5A

The Building (Approved Inspectors etc.) Regulations 2010

NOTICE OF REJECTION OF AN INITIAL NOTICE, AMENDMENT NOTICE, PLANS CERTIFICATE OR FINAL CERTIFICATE

To: **(1)**

1. I am authorised to sign this notice by _____ **(2)**
2. This notice relates to the [initial notice / amendment notice / plans certificate / final certificate] **(3)** received on _____ **(4)**.
3. The local authority hereby rejects the [initial notice / amendment notice / plans certificate / final certificate] **(3)** on the following grounds _____ **(5)**
4. A person aggrieved with this rejection may appeal under section 55(1) of the Building Act 1984. An appeal must be made within 21 days beginning with the day after the day on which this notice is given (ignoring Christmas Day, Good Friday and bank holidays).

Signature

Date

NOTES

- (1)** Insert the name and address of the person to whom the notice is given. It must be given to the approved inspector who submitted the notice or certificate and, in the case of an initial notice or amendment notice, also to the person intending to carry out the work (and if that person is not the client also to the client).
- (2)** Insert name and address of the local authority.
- (3)** Delete whichever does not apply.
- (4)** Insert date the notice or certificate was received by the local authority.
- (5)** State which of the grounds set out in Schedule 2, 3, or, as the case may be, 4 to the Building (Approved Inspectors etc.) Regulations 2010 are relied on to reject the notice or certificate.

Form 5B

Section 51C of the Building Act 1984

The Building (Approved Inspectors etc.) Regulations 2010

NOTICE OF CHANGE OF PERSON CARRYING OUT THE WORK

To: **(1)**

1. This notice proposes a change to the person carrying out the work in relation to the initial notice a copy of which accompanies this notice.
2. I **(2)** am an approved inspector for the purposes of Part 2 of the Building Act 1984 and I gave the initial notice referred to in paragraph 1.
3. We **(2)** and **(3)** propose that the work to which the initial notice relates should be carried out by **(4)**.

Signed

Signed

Approved inspector

Person intending to carry out the work

Date

Date

NOTES

- (1)** Name and address of local authority.
- (2)** Name of the approved inspector.
- (3)** Name of the person intending to carry out the work.
- (4)** 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.

Form 8A

Section 52A(1) of the Building Act 1984

The Building (Approved Inspectors etc.) Regulations 2010

NOTICE OF CANCELLATION OF ALL OR PART OF AN INITIAL NOTICE BY AN APPROVED INSPECTOR WHEN WORK BECOMES HIGHER-RISK BUILDING WORK

To: **(1)**

1. An initial notice dated **(2)** has been given in relation to work.
2. This notice relates to [the following part of]/[all of] **(3)** that work: **(4)**
3. I am the approved inspector in relation to the initial notice referred to in paragraph 1.
4. I hereby cancel [the part of the initial notice which relates to higher-risk building work referred to in paragraph 2]/[the initial notice] **(3)**.

Signature

Date

NOTES

- (1)** Insert the name and address of the person to whom the notice is given. It must be given to the local authority and the person carrying out or intending to carry out the work (and if that person is not the client also to the client).
- (2)** Insert date
- (3)** Delete whichever does not apply.
- (4)** Location and description of the higher-risk building work.

Form 8B

Section 52A(2) of the Building Act 1984

The Building (Approved Inspectors etc.) Regulations 2010

NOTICE OF CANCELLATION OF ALL OR PART OF AN INITIAL NOTICE BY PERSON CARRYING OUT OR INTENDING TO CARRY OUT THE WORK WHEN WORK BECOMES HIGHER-RISK BUILDING WORK

To: **(1)**

1. An initial notice dated **(2)** has been given in relation to work.
2. This notice relates to [the following part of]/[all of] **(3)** that work: **(4)**
3. I am the person [carrying out]/[intending to carry out] **(3)** the work under the initial notice referred to in paragraph 1.
4. I hereby cancel [the part of the initial notice which relates to higher-risk building work referred to in paragraph 2]/[the initial notice] **(3)**.

Signature

Date

NOTES

(1) Insert the name and address of the person to whom the notice is given. It must be given to the local authority and the approved inspector (and if the person carrying out the work is not the client also to the client).

(2) Insert date

(3) Delete whichever does not apply.

(4) Location and description of the higher-risk building work.

Form 8C

Section 52A(4) of the Building Act 1984

The Building (Approved Inspectors etc.) Regulations 2010

NOTICE OF CANCELLATION BY LOCAL AUTHORITY OF ALL OR PART OF AN INITIAL NOTICE WHEN WORK BECOMES HIGHER-RISK BUILDING WORK

To: **(1)**

1. The local authority accepted an initial notice on **(2)** in relation to work.
2. This notice relates to [the following part of]/[all of] **(3)** that work: **(4)**
3. I am authorised to sign this notice by the following local authority: **(5)**
4. It appears to the local authority that the work referred to in paragraph 2 has become higher-risk building work and the local authority hereby cancels [the part of the initial notice which relates to higher-risk building work referred to in paragraph 2]/[the initial notice] **(3)**.

Signature

Date

NOTES

- (1)** Insert the name and address of the person to whom the notice is given. It must be given to the approved inspector and the person shown in the initial notice as the person intending to carry out the work (and if that person is not the client also to the client).
- (2)** Insert date
- (3)** Delete whichever does not apply.
- (4)** Location and description of the higher-risk building work.
- (5)** Name and address of the local authority.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument is part of a number of Regulations which implement Part 3 of the Building Safety Act 2022. That Act inserts section 91ZA into the Building Act 1984. Section 91ZA, which is to have effect from 1st October 2023, provides for the regulator to be the building control authority in relation to any higher-risk building in England and any proposed higher-risk building. The Act also introduces a new regulatory regime for the building control profession under which approved inspectors will be replaced by registered building control approvers.

Part 2 of these Regulations provide sets out the registration period for registered building inspectors and registered building control approvers, and also specifies those decisions of the regulator, in relation to registration of those inspectors and approvers, which are subject to review under section 25 of the Building Safety Act 2022 and makes provision in relation to appeal following a review.

Part 3 of these Regulations amend the Building (Approved Inspectors etc.) Regulations 2010 (S.I. 2010/2215) (“the 2010 Regulations”).

In particular, regulation 8 amends regulation 8 of the 2010 Regulations to add the dutyholder and competence provisions of the Building Regulations 2010 into the list of provisions in relation to which an approved inspector must take reasonable steps to be satisfied is complied with (and regulation 12(2) and (3) introduces a new notice which an approved inspector must send to the person carrying out the work where the inspector is proposing to cancel the initial notice for breach of the dutyholder and compliance provisions).

Regulation 9 sets out that where on or after 1st October 2023 an approved inspector submits an initial notice or amendment notice which the local authority is satisfied includes higher-risk building work (in breach of the new restriction in section 47(1) or 51A(1) of the Building Act 1984) the local authority must send a notice explaining that the notice submitted was invalid.

Regulations 10, 14 and 17 make amendments which are consequential on the repeal of section 16 of the Building Act 1984 and other amendments to that Act.

Regulation 11 inserts new regulations 16A to 16E into the 2010 Regulations: regulation 16A and regulation 20(2) provides a rejection notice, regulation 16B provides for a new notice before starting work and a new notice where work is to be regarded as commenced and a power for the local authority to reject such a notice and the right of appeal against a rejection, regulation 16C sets out when work is to be regarded as commenced for the purposes of lapse of initial notices under section 53A of the Building Act 1984, regulation 16D provides that the client must notify the approved inspector where the principal contractor or principal designer in relation to the work changes, and regulation 16E provides that after completion of the work the client must send a notice to the approved inspector which includes compliance statements as to the work.

Regulation 12(4) and regulation 18(2) provide for new forms to cancel an initial notice under section 52A of the Building Act 1984. Regulation 13 makes amendments in relation to the handover of fire safety information. Regulation 15 makes amendments in relation to appeals. Regulation 16 adds new provision as to contraventions. Regulation 18(1) makes amendments to a number of the forms in the 2010 Regulations, in particular to require a confirmation that the work to which the notice or certificate relates is not higher-risk building work. Regulation 19 amends the grounds in Schedule 2 to the 2010 Regulations in relation to gigabit broadband.

Part 4 of these Regulations makes transitional, supplementary and saving provisions.

A full impact assessment of the effect that this instrument will have on the costs to business is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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