
STATUTORY INSTRUMENTS

2023 No. 911

**The Building Regulations etc. (Amendment)
(England) Regulations 2023**

PART 2

Amendment of the Building Regulations 2010

Starting on site and commencement of work

15.—(1) In regulation 16 of the 2010 Regulations—

- (a) for the heading substitute “Notices in relation to building work”;
- (b) in paragraph (1)—
 - (i) for “commence that work” substitute “start that work”;
 - (ii) for “commence work” substitute “start work”;
- (c) in paragraph (3) for “commence building work” substitute “start work”;
- (d) after paragraph (3B) insert—

“(3C) Not more than five days after the day on which work is to be regarded as commenced the person carrying out the work must give a notice to that effect to the relevant authority.

(3D) The relevant authority may take such steps, including—

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

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

(3E) If the relevant authority are 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 (3C) is given, and the rejection notice must give the reasons for rejection.

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

(3G) If the person carrying out the work accepts the rejection notice they may not give a further notice under paragraph (3C) unless, having regard to the reasons given by the relevant authority, they are satisfied the work is to be regarded as commenced.

(3H) A person who gave the notice under paragraph (3C) may appeal to the First-tier Tribunal against the decision of the relevant authority to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the relevant authority gives the rejection notice.

(3I) The First-tier Tribunal may allow an appeal under paragraph (3H) 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; or
- (d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(3J) For the purposes of paragraphs (3C) to (3I) the provisions of regulation 46A (lapse of building control approval: commencement of work) apply to determine whether work is to be regarded as commenced.”.

(2) After regulation 46 of the 2010 Regulations insert—

“Lapse of building control approval: commencement of work

46A.—(1) For the purposes of section 32(6) of the Act (lapse of building control approval) 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, any basement level (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, where a statement under—

- (a) regulation 14(1)(f)(vii), or
- (b) regulation 12(1)(e)(viii) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023,

sets out details of the work which the client considers amounts to 15% of the proposed work, when the work detailed in the statement is completed.

(5) In this regulation—

“approved plans” means plans which were part of or accompanied the application for building control approval with full plans of the building work and which was granted building control approval, or plans approved under a requirement imposed on such an approval;

“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;

“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.”.