
WELSH STATUTORY INSTRUMENTS

2022 No. 564 (W. 130)

BUILDING AND BUILDINGS, WALES

The Building (Amendment) (Wales) Regulations 2022

Made - - - - 20 May 2022
Laid before Senedd Cymru 24 May 2022
Coming into force - - 23 November 2022

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 1, 34 and 47(1) of, and paragraphs 1, 2, 4, 4A, 7, 8 and 10 of Schedule 1 to, the Building Act 1984(1), now exercisable by them(2) having consulted the Building Regulations Advisory Committee for Wales and such other bodies as appear to them to be representative of the interests concerned in accordance with section 14(7) of the Building Act 1984(3), make the following Regulations.

PART 1

Introductory

Title, application, commencement and interpretation

- 1.—(1) The title of these Regulations is the Building (Amendment) (Wales) Regulations 2022.
- (2) These Regulations apply in relation to Wales.
- (3) These Regulations come into force on 23 November 2022.
- (4) In these Regulations—

“the Approved Inspectors Regulations” (“*y Rheoliadau Arolygwyr Cymeradwy*”) means the Building (Approved Inspectors etc.) Regulations 2010(4);

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- (1) 1984 c. 55; section 1 was amended by section 1 of the Sustainable and Secure Buildings Act 2004 (c. 22) (“the 2004 Act”). Section 47 was amended by S.I. 1996/1905 and section 8 of the 2004 Act. For the definition of “prescribed” see section 126 of the Building Act 1984. Paragraph 4A of Schedule 1 was inserted by section 8 of the 2004 Act; paragraph 7 of Schedule 1 was amended by section 3 of the 2004 Act and by section 11 of the Climate Change and Sustainable Energy Act 2006 (c. 19); and paragraph 8 of Schedule 1 was amended by section 3 of the 2004 Act and section 40 of the Flood and Water Management Act 2010 (c. 29).
 - (2) The functions conferred on the Secretary of State by sections 1 and 34 of, and paragraphs 1, 2, 4, 7, 8 and 10 of Schedule 1 to, the Building Act 1984 were, insofar as exercisable in relation to Wales, transferred to the Welsh Ministers by the Welsh Ministers (Transfer of Functions) (No. 2) Order 2009 (S.I. 2009/3019) (“the 2009 Order”).
 - (3) Section 14(7) was added by the 2009 Order.
 - (4) S.I. 2010/2215, amended by S.I. 2012/3119, 2013/747 (W. 89), 2013/1959, 2014/58 (W. 5), 2014/110 (W. 5), 2016/611 (W. 168), 2018/558 (W. 97); there are other amending instruments but none are relevant.

“the Building Regulations” (“*y Rheoliadau Adeiladu*”) means the Building Regulations 2010(5).

PART 2

Amendment of the Building Regulations

Amendment of the Building Regulations

2. The Building Regulations are amended in accordance with regulations 3 to 17.

Amendment of regulation 2 of the Building Regulations

3. In regulation 2(1) (interpretation)—
 - (a) in the definition of “energy efficiency requirements”—
 - (i) after “26B” insert “, 26C”;
 - (ii) for “and 40” substitute “40 and 40A, ”;
 - (b) after the definition of “softened wholesome water” insert—

“;

“system for on-site electricity generation” means a system that produces electricity and has a direct electrical connection to the building in question.”

Amendment of regulation 4 of the Building Regulations

4. In regulation 4 (requirements relating to building work), after paragraph (3) insert—

“(4) This paragraph applies in relation to a building where—

 - (a) building work is undertaken in respect of that building (“relevant work”), and
 - (b) Part L of Schedule 1 imposes a requirement in respect of the relevant work.

(5) Notwithstanding paragraph (3), upon completion of the relevant work, any building to which paragraph (4) applies must—

 - (a) comply with Part F of Schedule 1, or
 - (b) where the building did not comply with Part F of Schedule 1 before the relevant work was begun, be no more unsatisfactory in relation to it than before the work was begun.”

Amendment of regulation 17 of the Building Regulations

5. In regulation 17(2A) (completion certificates)—
 - (a) in sub-paragraph (c), omit “consumption”;
 - (b) after sub-paragraph (ca) insert—

“(cb) regulation 26C (target primary energy rates for new buildings),”.

Amendment of regulation 25C of the Building Regulations

6. In regulation 25C (new buildings: minimum energy performance requirements)—

(5) S.I. 2010/2214, amended by S.I. 2013/747 (W. 89), 2013/2621 (W. 258), 2014/110 (W. 10), 2015/1486 (W. 10), 2016/611 (W. 168), 2018/558 (W. 97); there are other amending instruments but none are relevant.

- (a) in paragraph (a)—
 - (i) omit “(other than new dwellings),”;
 - (ii) omit “consumption”;
- (b) in paragraph (b), for “new dwellings” substitute “when a dwelling is erected”.

Insertion of regulation 25D of the Building Regulations

7. After regulation 25C (new buildings: minimum energy performance requirements) insert—

“Energy efficiency rating

25D. Energy efficiency ratings must be approved by the Welsh Ministers, applying the methodology of calculation and expression of the energy performance of buildings approved pursuant to regulation 24 for new buildings.”

Amendment of regulation 26A of the Building Regulations

8. In regulation 26A (primary energy consumption rates for new buildings)—
- (a) in the heading, omit “consumption”;
 - (b) omit “(other than a dwelling)”;
 - (c) omit “consumption”.

Insertion of regulation 26C into the Building Regulations

9. After regulation 26B (fabric performance values for new dwellings) insert—

“Minimum energy efficiency rating

26C. Where a dwelling is erected, it must equal or exceed the energy efficiency rating for the dwelling which has been approved pursuant to regulation 25D applying the methodology of calculation and expression of the energy performance of buildings approved pursuant to regulation 24 for new buildings.”

Amendment of regulation 27A of the Building Regulations

10. In regulation 27A (primary energy consumption rate calculations)—
- (a) in the heading, omit “consumption”;
 - (b) in paragraph (1), omit “(other than a dwelling)”;
 - (c) in paragraphs (2)(a) and (b), (3)(a)(i) and (ii) and (5), omit “consumption”.

Insertion of regulation 27C into the Building Regulations

11. After regulation 27B (fabric performance values calculations) insert—

“Energy efficiency rating calculations

27C.—(1) This regulation applies where a dwelling is erected and regulation 26C applies.

(2) Not later than the day before the work starts, the person carrying out the work must give the local authority a notice which specifies—

- (a) the energy efficiency rating for the dwelling as designed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and
 - (b) a list of specifications to which the dwelling is to be constructed.
- (3) Not later than five days after the work has been completed, the person carrying out the work must give the local authority—
- (a) a notice which specifies—
 - (i) the target energy efficiency rating for the building, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,
 - (ii) the energy efficiency rating of the building as constructed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and
 - (iii) whether the building has been constructed in accordance with the list of specifications referred to in paragraph (2)(b), and if not, a list of any changes to those specifications, or
 - (b) a certificate of the sort referred to in paragraph (4) accompanied by the information referred to in sub-paragraph (a).
- (4) A local authority is authorised to accept as evidence that the requirements of regulation 26C have been satisfied, a certificate to that effect by an energy assessor who is accredited to produce energy performance certificates for that category of building.”

Insertion of regulations 40A and 40B into the Building Regulations

12. After regulation 40 (information about use of fuel and power) insert—

“Information about systems for on-site generation of electricity

40A.—(1) This regulation applies to building work in respect of a building in relation to which paragraph L2 of Schedule 1 applies.

(2) The person carrying out the work must, not later than five days after the work has been completed, provide to the owner sufficient information about the system for on-site electricity generation in respect of its operation and maintenance requirements so that the system may be operated and maintained in such a manner as to produce the maximum electricity that is reasonable in the circumstances and delivers this electricity to the optimal place for use.

Information about overheating

40B.—(1) This regulation applies to building work in respect of a building where Part O of Schedule 1 imposes a requirement in relation to building work.

(2) The person carrying out the work must, not later than five days after the work has been completed, give sufficient information to the owner about the provision made in accordance with Part O so that the systems in place further to Part O can be operated in such a manner as to protect against overheating.”

Amendment of regulation 42 of the Building Regulations

13. In regulation 42 (mechanical ventilation air flow rate testing)—
- (a) for paragraph (1) substitute—

“(1) This regulation applies where paragraph F1(1) of Schedule 1 imposes a requirement in relation to—

- (a) the creation of a new dwelling by building work; or
- (b) an existing dwelling which undergoes building work for the provision or extension of any fixed building system for mechanical ventilation.

(1A) Paragraph (1)(b) excludes building work to which Schedule 4 applies.”;

- (b) in paragraph (2)(b), for “.” substitute “, other than when Schedules 3 or 4 apply.”

Amendment of regulation 43 of the Building Regulations

14. In regulation 43(4) (pressure testing), for “the Independent Airtightness Testing Scheme Limited” substitute “Elmhurst Energy Systems Limited”.

Insertion of regulation 44ZA into the Building Regulations

15. After regulation 44 (commissioning) insert—

“Commissioning in respect of a system for on-site electricity generation

44ZA.—(1) This regulation applies to building work in respect of a building in relation to which paragraph L2 of Schedule 1 imposes a requirement, but does not apply to the provision or extension of any system for on-site electricity generation where testing and adjustment is not possible.

(2) Where this regulation applies the person carrying out the work must, for the purpose of ensuring compliance with paragraph L2 of Schedule 1, give to the local authority a notice confirming that the system for on-site electricity generation has been commissioned.

(3) The notice must be given to the local authority—

- (a) not later than the date on which the notice required by regulation 16(4) is required to be given; or
- (b) where that regulation does not apply, not more than 30 days after completion of the work.”

Amendment of Schedule 1 to the Building Regulations

16. In Schedule 1 (requirements)—

- (a) in Part L, after entry L1 insert—

“On-site generation of electricity

L2. Where a system for on-site electricity generation is installed— Requirement L2 applies only to dwellings.”

- (a) reasonable provision must be made to ensure that—
 - (i) the system and its electrical output are appropriately sized for the site and available infrastructure;
 - (ii) the system has effective controls; and

- (b) it must be commissioned by testing and adjusting as necessary to ensure that it produces the maximum electricity that is reasonable in the circumstances."

- (b) after Part N of Schedule 1 insert—

"PART O OVERHEATING

Overheating Mitigation

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| <p>O1.—(1) Reasonable provision must be made to—</p> <p>(a) limit unwanted solar gains in summer;</p> <p>(b) provide an adequate means to remove heat from the indoor environment.</p> <p>(2) In meeting the obligations in subparagraph (1)—</p> <p>(a) account must be taken of the safety of any occupant, and their reasonable enjoyment of the building; and</p> <p>(b) mechanical cooling may only be used where insufficient heat is capable of being removed from the indoor environment without it."</p> | <p>Requirement O1 applies only to the erection of the following buildings—</p> <p>(a) a dwelling;</p> <p>(b) an institution; or</p> <p>(c) any other building containing one or more rooms for residential purposes (other than a room in a hotel)."</p> |
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Amendment of Schedule 3 to the Building Regulations

17.—(1) Schedule 3 (self-certification schemes and exemptions from requirement to give building notice or deposit full plans) is amended as follows.

- (2) In the table, in column 2 (person carrying out work)—
- (a) in each of rows 7, 8 and 9, omit “, Building Engineering Services Competence Assessment Limited”;
- (b) in each of rows 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19 and 20, omit “or Stroma Certification Limited”;
- (c) in row 2, after “NAPIT Registration Limited”, for “,” substitute “or”;
- (d) in row 3, after “NAPIT Registration Limited”, for “,” substitute “or”;
- (e) in row 4, after “NAPIT Registration Limited”, for “,” substitute “or”;
- (f) in row 5, after “Certsure LLP”, for “,” substitute “or”;
- (g) in row 6, after “Certsure LLP”, for “,” substitute “or”;
- (h) in row 7, after “Certsure LLP”, for “,” substitute “or”;
- (i) in row 8, after “NAPIT Registration Limited”, for “,” substitute “or”;
- (j) in row 9, after “Certsure LLP”, for “,” substitute “or”;
- (k) in row 10, after “Fenestration Self-Assessment Scheme”, for “,” substitute “or”;

- (l) in row 11, after “Fenestration Self-Assessment Scheme”, for “,” substitute “or”;
- (m) in row 12, after “HETAS Limited”, for “,” substitute “or”;
- (n) in row 13, after “HETAS Limited”, for “,” substitute “or”;
- (o) in row 14, after “HETAS Limited”, for “,” substitute “or”;
- (p) in row 15, after “NAPIT Registration Limited”, for “,” substitute “or”;
- (q) in row 17—
 - (i) for “Cavity Insulation Guarantee Agency” substitute “Insulation Assurance Authority Limited”;
 - (ii) after “Certsure LLP”, for “,” substitute “or”;
- (r) in row 18, after “Certsure LLP”, for “,” substitute “or”;
- (s) in row 19, after “Certsure LLP”, for “,” substitute “or”;
- (t) in row 20, after “Certsure LLP”, for “,” substitute “or”.

PART 3

Amendment of the Approved Inspectors Regulations

Amendment of the Approved Inspectors Regulations

18. The Approved Inspectors Regulations are amended in accordance with regulations 19 and 20.

Amendment of regulation 8 of the Approved Inspectors Regulations

19. In regulation 8(1) (functions of approved inspectors)—

- (a) in sub-paragraph (a)—
 - (i) after “26B (fabric performance values for new dwellings),” insert “26C (target primary energy rates for new buildings),”;
 - (ii) for “and” before “40” substitute “,”;
 - (iii) after “40 (information about use of fuel and power)” insert “, 40A (information about systems for on-site generation of electricity) and 40B (information about overheating)”;
- (b) in sub-paragraph (b)—
 - (i) after “27B,” insert “27C,”;
 - (ii) for “and 44” substitute “, 44 and 44ZA”.

Amendment of regulation 20 of the Approved Inspectors Regulations

20. In regulation 20 (application of certain regulations of the Building Regulations)—

- (a) in the heading—
 - (i) after “27B,” insert “27C,”;
 - (ii) for “and 44” substitute “, 44 and 44ZA”;
- (b) in paragraph (1)—
 - (i) after “27B (fabric performance values calculations),” insert “27C (target primary energy rate calculations for new buildings),”;
 - (ii) for “and 44” substitute “, 44”;

- (iii) after “(commissioning)” insert “and 44ZA (commissioning in respect of a system for on-site electricity generation)”;
- (c) after paragraph (2B) insert—
 - “(2C) Regulation 27C(3) of the Principal Regulations applies in relation to building work which is the subject of an initial notice as if after “work has been completed,” there were inserted “or, if earlier, the date on which in accordance with regulation 17 of the Building (Approved Inspectors etc.) Regulations 2010 the initial notice ceases to be in force”.”;
- (d) after paragraph (6) insert—
 - “(6A) Regulation 44ZA of the Principal Regulations applies in relation to building work which is the subject of an initial notice as if for paragraph (3) there were substituted—
 - “(3) The notice must be given to the approved inspector—
 - (a) subject to sub-paragraphs (b) and (c), not later than five days after completion of the work to which the initial notice relates;
 - (b) where regulation 17 of the Building (Approved Inspectors etc.) Regulations 2010 applies, not later than the date on which the initial notice ceases to be in force or, if earlier, the end of the period referred to in sub-paragraph (a);
 - (c) where regulation 20 applies by virtue of regulation 20 of the Building (Approved Inspectors etc.) Regulations 2010, not later than the date on which the notice or certificate required by that regulation must be given.””

PART 4

Transitional Provision

Transitional provision

21.—(1) The amendments made by Parts 2 and 3 of these Regulations do not apply in a case where—

- (a) building work on a particular building has been commenced prior to the day these Regulations come into force in accordance with any relevant notification provision, or
- (b) a relevant notification provision has been complied with in relation to proposed building work on an individual building and the building work has commenced within 12 months beginning with the day these Regulations come into force.

(2) In this regulation, “relevant notification provision” means regulation 12(2) of the Building Regulations and sections 47(1), 50, 51A(2) and 54 of the Building Act 1984.

20 May 2022

Lee Waters
Deputy Minister for Climate Change under
authority of the Minister for Climate Change,
one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building Regulations 2010 (“the Building Regulations”) and the Building (Approved Inspectors etc.) Regulations 2010 (“the Approved Inspectors Regulations”) as they apply in relation to Wales. The amendments made by these Regulations apply the new metric for the measurement of energy efficiency in the form of a target primary energy rate to new dwellings. Previously, primary energy consumption rates applied to buildings other than dwellings.

The amendments also introduce new energy efficiency ratings to new buildings and introduce a new regulation for on-site electricity generation and in relation to overheating (in particular by virtue of the insertion of paragraph L2 into Part L of Schedule 1 to the Building Regulations and a new Part O). These Regulations also amend the application of Part F relating to mechanical ventilation air flow testing. Amendments are made to the Approved Inspectors Regulations in consequence of these changes.

These Regulations also make transitional provision for building work on a particular building where the building work has been started in accordance with a relevant notification provision, provided that the building work on that building has already commenced, or is started within 12 months of these Regulations coming into force.

Schedule 3 to the Building Regulations is amended to reflect changes to bodies participating in self-certification schemes.

The Building Act 1984 gives the Secretary of State the power to approve and issue documents containing practical guidance with respect to the requirements contained in the Building Regulations. That power is exercisable by the Welsh Ministers insofar as it applies to Wales.

Approved Document L Volume 1, 2022 edition, Approved Document F Volume 1, 2022 edition and Approved Document O, 2022 edition contains practical guidance on meeting the new requirements inserted into the Building Regulations by this instrument. The Approved Documents are published by the Welsh Ministers and may be accessed at www.gov.wales.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.wales.