

SL(6)465 – The Building (Approved Inspectors etc.) (Amendment) (Wales) Regulations 2024

Background and Purpose

Part 2 of these Regulations amends the Building (Approved Inspectors etc.) Regulations 2010 (“the 2010 Regulations”) to implement Part 3 of the Building Safety Act 2022 (“the 2022 Act”). Part 3 of the 2022 Act amends the Building Act 1984 (“the 1984 Act”) and defines the scope and provisions for the regime during the design and construction phase for higher-risk buildings. It also provides for the registration of building inspectors and building control approvers to better regulate and improve competence levels in the building control sector.

In particular, regulation 3 of these Regulations renames the forms in Schedule 1 to the 2010 Regulations and makes consequential amendments.

Regulation 5 of these Regulations inserts new regulation 16A into the 2010 Regulations: new regulation 16A provides a rejection notice.

Regulation 6 of these Regulations provides for new forms to cancel an initial notice under section 52, section 52A and section 53D of the 1984 Act.

Regulation 6 amends regulation 18 of the 2010 Regulations and regulation 10(g) amends Schedule 1 to the 2010 Regulations to achieve this.

Regulation 7 of these Regulations inserts new regulation 18A into the 2010 Regulations. It provides that a notice must be given by a registered building control approver where they are of the opinion that the initial notice should be cancelled under section 52 of the 1984 Act for contravention of building regulations, and a timescale to remedy this contravention.

Regulation 8 of these Regulations inserts new regulation 19A into the 2010 Regulations. It provides periods within which information on work to which an initial notice relates must be provided for the purposes of section 53(4B) and section 53(4C) of the 1984 Act.

Regulation 9 of these Regulations inserts a new Part 3A into the 2010 Regulations, which contains new regulations 19B to 19F. These new regulations make provision for where an initial notice ceases to be in force and a new registered building control approver is appointed. In particular, new regulation 19C of the 2010 Regulations makes provision for the content of a transfer certificate. New regulation 19E of the 2010 Regulations and Schedule 2 to these Regulations (which is inserted into the 2010 Regulations as new Schedule 3A) set out the grounds for rejecting a transfer certificate and transfer report. New regulation 19D of the 2010 Regulations prescribes the period for a local authority to consider the transfer certificate and report. New regulation 19F of the 2010 Regulations sets out cases where a further initial notice may be given after cancellation of an initial notice under section 53D of the 1984 Act.

Part 3 of these Regulations makes transitional provisions.



Procedure

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

In Regulation 10 it may be helpful to the reader to footnote that forms 1 to 5 are renamed in accordance with regulation 3 of the 2024 Regulations.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

There may be a risk of confusion in regulation 10(g) as to where the “*appropriate place, in numerical order*” is for the new forms to be inserted. It would appear that the numerical order would be the forms [number](w) first, followed by the PB[number](w) forms. However, it may be that in this context there could be some risk of confusion about where the new forms are being inserted, because the PB forms currently have numbers and are being renamed in the same regulations, so it may not be completely clear where the new forms should be inserted.

Welsh Government response

A Welsh Government response is not required.

Committee Consideration

The Committee considered the instrument at its meeting on 18 March 2024 and reports to the Senedd in line with the reporting points above.

