

**Explanatory Memorandum to the Building (Approved Inspector etc.)
(Amendment) (Wales) Regulations 2014**

This Explanatory Memorandum has been prepared by the Department for Housing and Regeneration and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Building (Approved Inspector etc.) (Amendment) (Wales) Regulations 2014. I am satisfied that the benefits outweigh any costs.

Carl Sargeant AM
Minister for Housing and Regeneration, one of the Welsh Ministers

14 January 2014

1. Description

1.1 These Regulations amend the Building (Approved Inspectors etc.) Regulations 2010 (“the 2010 Regulations”). The 2010 Regulations required inspectors approved by a body designated by the Welsh Ministers to submit a copy of their approval notice with certain notices and certificates specified in Schedule 1 to the 2010 Regulations. The inspectors were also required to include with certain of these notices and certificates a declaration signed by the insurer that a named scheme of insurance approved by the Welsh Ministers applied to the work to which a notice or certificate relates. These Regulations remove those requirements and replace them with a requirement that the relevant notices and certificates state that copies of the approval notice and insurance declaration are on the public register kept by the designated body (currently the Construction Industry Council Approved Inspector Register (CICAIR)) in relation to Wales.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1 These Regulations make minor amendments to the 2010 Regulations. They apply in relation to Wales but do not apply in relation to “excepted energy buildings” as defined by the Schedule to the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I 2009/3019) (“the 2009 Order”).

3. Legislative background

3.1 Section 1 of the Building Act 1984 (“the 1984 Act”) provides a power to make building regulations for a number of purposes with respect to the design and construction of buildings and the services, fittings and equipment provided in or in connection with buildings. These purposes include securing the health, safety, welfare and convenience of persons in and about buildings, furthering the conservation of fuel and power, preventing waste, undue consumption, misuse or contamination of water, furthering the protection or enhancement of the environment and facilitating sustainable development.

3.2 The 2010 Regulations have, in part, been made pursuant to these powers. The 2010 Regulations impose requirements on people carrying out building work and are supported by Approved Documents, approved and issued under section 6 of the 1984 Act, which set out detailed practical guidance on compliance. The 1984 Act and the 2010 Regulations set out procedures for the supervision and control of building work.

3.3 Most of the Secretary of State’s functions conferred by or under the 1984 Act were, so far as exercisable in relation to Wales, transferred to Welsh Ministers on 31st December 2011, by the 2009 Order.

3.4 The 2009 Order provides for the transfer to the Welsh Ministers of most of the functions conferred on the Secretary of State by or under the 1984 Act which had not been previously transferred to the then National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.

1999/672). However, the 2009 Order reflects the UK Government's policy not to devolve the power to make building regulations in respect of excepted energy buildings in Wales and, as such, these Regulations do not apply to such buildings.

3.5 These Regulations are made using the negative resolution procedure.

4. Purpose and intended effect of the legislation

4.1 These Regulations amend the Building (Approved Inspector etc.) Regulations 2010 in relation to Wales.

4.2 The new regulation 5A requires an Approved Inspector who gives certain notices and certificates to a local authority to ensure that the designated body has a copy of the insurance declaration in respect of the work to which the notice or certificate relates.

4.3 Regulation 7 is amended to require the designated body to maintain a list of inspectors approved by that body. The designated body must keep a copy of the approval certificate and the insurance declaration.

4.4 Regulation 30 is amended to remove the requirement for local authorities to keep on its register a list of notices and certificates in the name and address of the insurer who signed the insurance declaration in respect of the work to which a notice or certificate relates.

4.5 These Regulations will come into force on the date set out in regulation 1(4) of these Regulations.

4.6 These Regulations do not consolidate any parts of the 2010 Regulations.

4.7 The Welsh Ministers will issue a Circular to explain how the 2010 Regulations have been amended. This will be published on the Welsh Government's website.

5. Consultation

5.1 An eight week consultation was undertaken in May 2013. The Building Regulations Advisory Committee for Wales were consulted on the changes.

6. Regulatory Impact Assessment

6.1 A regulatory impact assessment has been carried out in respect of the proposed amendments to the 2010 Regulations.

6.2 The Impact Assessment shows the total average annual benefits are £30,000 which gives a present value benefit for the changes to the Approved Inspector Regulations over 10 years of £259,000.

6.3 The £30,000 annual benefit derived by not having the provide copies of the approval and insurance cover requirements to the local authority are achieved by:

- i. £15,000 per annum benefit for the Approved Inspectors time and costs for preparing and sending copies of their approval and insurance cover to the local authorities
- ii. £15,000 per annum benefit for the local authorities administration time for receiving and recording the information on their database.