

## **Explanatory Memorandum to The Building (Amendment) (Wales) Regulations 2015**

This Explanatory Memorandum has been prepared by the Building Regulations Team, Planning Directorate within the Natural Resources Department 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 (Amendment) (Wales) Regulations 2015. I am satisfied that the benefits outweigh any costs.

**Carl Sargeant**  
**Minister for Natural Resources**

**7 July 2015**

## **1. Description**

1.1 These Regulations amend the Building Regulations 2010 (S.I.2010/2214) (“the 2010 Regulations”) in relation to Wales. They substitute the table in Schedule 3 (self-certification schemes and exemptions from requirement to give building notice or deposit full plans) to the 2010 Regulations with a revised and updated table. They also amend regulation 43(4) (pressure testing) of the 2010 Regulations in relation to bodies who may certify compliance with that regulation.

## **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 this power. 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 These Regulations are made using the negative resolution procedure.

## **4. Purpose and intended effect of the legislation**

4.1 Schedule 3 to the 2010 Regulations lists all the bodies that have been authorised to operate competent person self-certification schemes for various types of work. Installers who are registered with these schemes are authorised to certify their own work as compliant with the 2010 Regulations without having it checked by a building control body.

4.2 Regulation 3 replaces the current table in Schedule 3 to the 2010 Regulations with a revised and updated table. The amendments to the table are as follows:

- new row number 4 (Installation of a heating or hot water system, or its associated controls) which combines previous row numbers 2, 5, 6 and 7, of the previous schedule in relation to Wales.
- to authorise new scheme operators for existing types of work by adding their names to the appropriate paragraphs as well as extending the scope of types of work for some existing schemes.
  - Row 2 Installation of – (a) an oil-fired combustion appliance; or (b) oil storage tanks and the pipes connecting them to combustion appliances: inserts Blue Flame Certification Limited.
  - Row 3 Installation of a solid fuel-burning appliance other than a biomass appliance: inserts Oil Firing Technical Association Limited and Stroma Certification Limited
  - Row 4 Installation of a heating or hot water system, or its associated controls: inserts Blue Flame Certification Limited
  - Row 5 Installation of a mechanical ventilation or air conditioning system or associated controls, in a building other than a dwelling, that does not involve work on a system shared with parts of the building occupied separately: inserts Blue Flame Certification Limited
  - Row 6 Installation of an air conditioning or mechanical ventilation system in a dwelling, that does not involve work on a system shared with other dwellings: inserts Blue Flame Certification Limited
  - Row 7 Installation of an energy efficient lighting system or electric heating system or associated controls, in buildings other than dwellings: inserts Blue Flame Certification Limited
  - Row 8 Installation of fixed low or extra-low voltage electrical installations in dwellings: inserts Blue Flame Certification Limited
  - Row 9 Installation of fixed low or extra-low voltage electrical installations in dwellings, as a necessary adjunct to or arising out of other work being carried out by the registered person: inserts Blue Flame Certification Limited
  - Row 10 Installation, as a replacement, of a window, rooflight, roof window or door in an existing dwelling: inserts Blue Flame Certification Limited
  - Row 11 Installation, as a replacement, of a window, rooflight, roof window or door in an existing building other than a dwelling: inserts Blue Flame Certification Limited, NAPIT Registration Limited and Network VEKA Limited
  - Row 13 Installation of a wholesome cold water supply or a softened wholesome cold water supply: inserts Stroma Certification Limited
  - Row 17 Insertion of insulating material into the cavity walls of an existing building: inserts Blue Flame Certification Limited and CERTASS Limited

- Row 18 Installation of insulating material to the internal walls of a building, not including the installation of flexible thermal linings: inserts Blue Flame Certification Limited
  - Row 19 Installation of insulating material to the external walls of a building, not including insulation of demountable-clad buildings: inserts Blue Flame Certification Limited
  - Row 20 Installation of insulating material to the external and internal walls of a building (“hybrid insulation”), not including insulation of demountable-clad buildings, and not including the installation of flexible thermal linings: inserts Blue Flame Certification Limited, CERTASS Limited and Stroma Certification Limited
- to remove the names of certain scheme operators from a number of paragraphs where they no longer wished to operate a scheme for a particular type of work.
    - Row 2 Installation of – (a) an oil-fired combustion appliance; or (b) oil storage tanks and the pipes connecting them to combustion appliances: removes Benchmark Certification Limited.
    - Row 15 Installation in a building of a system to produce electricity, heat or cooling – (a) by microgeneration; or; (b) from renewable sources (as defined in Directive 2009/82/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources): removes BRE Global Limited.

4.3 Regulation 43(4) (pressure testing) of the 2010 Regulations authorises local authorities to accept certificates from persons registered with a body named in the regulation as evidence that air pressure testing has been carried out in accordance with the procedure currently approved by the Secretary of State .The amendments to regulation 43(4) are as follows:

- to insert a new body who may certify compliance with regulation 43 from the date these Regulations come into force, namely the Independent Airtightness Scheme Limited; and
- remove a body that no longer wishes to certify compliance with regulation 43 with effect from 31st December 2015, namely the British Institute of Non-Destructive Testing.

4.4 These Regulations will come into force on the dates set out in regulation 1(3) of the Regulations.

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

## **5. Consultation**

5.1 Under the 1984 Act the Welsh Ministers are not obliged to consult where the changes made to building regulations are not substantive changes to the requirements. However, the Building Regulations Advisory Committee

for Wales and the Competent Persons Forum have been consulted on the amendments made by this instrument and are content with the amendments this instrument introduces.

## **6. Guidance**

- 6.1 The Welsh Ministers will issue a Circular to explain how the 2010 Regulations have been amended  
<http://gov.wales/topics/planning/buildingregs/circulars/?lang=en>

## **7. Regulatory Impact Assessment**

- 7.1 A regulatory impact assessment has been carried out in respect of the proposed amendments to the 2010 Regulations. The Impact Assessment (IA) was carried out by the UK Government on an England and Wales basis as the data on memberships of schemes could not be disaggregated, the IA is published at:  
<http://www.legislation.gov.uk/ukxi/2015/767/impacts/2015/220>
- 7.2 Installers joining a competent person scheme will be required to pay a one-off application fee and also pay for an initial assessment to ensure they are fully competent to self-certify. In subsequent years, an installer will be expected to pay an annual registration fee and to be inspected to ensure continued compliance with the scheme. On average, each installer will be inspected once every three years. Finally, installers will be expected to undertake training to maintain technical competence levels. There is likely to be a cost to attend the training and a cost associated with lost earnings whilst undertaking the training.
- 7.3 Once registered with a competent person scheme an installer will benefit from not having to notify building control bodies in advance of a job and not having to pay a building control charge. The building control charge is estimated to be approximately £120 per job in Wales.
- 7.4 There is also expected to be a benefit to the public sector as a result of a fall in the demand on the resources of building control bodies for types of work which are self certified, which, in some cases, will enable building control bodies to concentrate on areas of work where self-certification is not appropriate.
- 7.5 The expectation is that an installer would only apply to join a voluntary scheme where the benefits of membership were expected to exceed the costs. The DCLG impact assessment estimates that the net benefit of the proposed changes over a ten-year period is between £2 million and £18.9 million in present value terms, with a best estimate of £8.9 million.