
WELSH STATUTORY INSTRUMENTS

2024 No. 238 (W. 48)

BUILDING AND BUILDINGS, WALES

The Building (Restricted Activities and Functions) (Wales) Regulations 2024

Made - - - - 28 February 2024
Laid before Senedd Cymru 1 March 2024
Coming into force - - 6 April 2024

The Welsh Ministers, in exercise of the powers conferred on them by sections 1(1), 46A(4) and 54B(5) of the Building Act 1984(1), make the following Regulations.

In accordance with section 14(7)(2) of the Building Act 1984 the Welsh Ministers have consulted the Building Regulations Advisory Committee for Wales and any other person that the Welsh Ministers consider appropriate.

Title, application and coming into force

1.—(1) The title of these Regulations is the Building (Restricted Activities and Functions) (Wales) Regulations 2024.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 6 April 2024.

Interpretation

2.—(1) In these Regulations—

“the 1984 Act” (“*Deddf 1984*”) means the Building Act 1984;

(1) 1984 c. 55. Section 1 was amended by section 1 of the Sustainable and Secure Buildings Act 2004 (c. 22) and section 55 of, and paragraph 2 of Schedule 5 to, the Building Safety Act 2022 (c. 30) (“the 2022 Act”), which, amongst other things, substitutes references to the Secretary of State with “appropriate national authority” in section 1(1) of the Building Act 1984 (“the 1984 Act”). “Appropriate national authority” in relation to Wales means the Welsh Ministers (see section 126 of the 1984 Act, which was amended by section 55 of, and paragraph 81 of Schedule 5 to, the 2022 Act). Sections 46A and 54B were inserted by section 44 of the 2022 Act. See the definition of “prescribed” in section 126 of the 1984 Act.

(2) Section 14(7) was amended by paragraph 17(3) of Schedule 5 to the 2022 Act. This amendment took effect from 5 September 2023 and is subject to transitional provisions specified in regulation 5 of the Building Safety Act 2022 (Commencement No. 3, Transitional and Saving Provisions) (Wales) Regulations 2023 (S.I. 2023/914 (W. 141)). The consultation referred to in the preamble to these Regulations was started before 5 September 2023.

“the 2010 Regulations” (“*Rheoliadau 2010*”) means the Building Regulations 2010(3);
 “the Approved Inspectors Regulations” (“*y Rheoliadau Arolygwyr Cymeradwy*”) means the Building (Approved Inspectors etc.) Regulations 2010(4);
 “building” (“*adeilad*”) has the meaning given in regulation 2 of the 2010 Regulations;
 “building work” (“*gwaith adeiladu*”) has the meaning given in regulation 3 of the 2010 Regulations.

(2) Subject to paragraph (1), words and expressions used in these Regulations and the 1984 Act have the same meaning as in that Act.

Building control authorities: restricted activities and functions

3.—(1) For the purposes of section 46A(1) of the 1984 Act, the following activities are prescribed as a restricted activity—

- (a) where plans relating to any building work are submitted to a local authority under any provision of the 2010 Regulations, the checking of those plans for compliance with any requirement of the building regulations(5) which is applicable to that building work;
- (b) where an inspection of building work is to be carried out by a local authority for the purpose of checking compliance with any requirement of the building regulations which is applicable to the work, the carrying out of that inspection and scheduling the stages or points for inspections.

(2) For the purposes of section 46A(2) of the 1984 Act, the following functions are prescribed as a restricted function—

- (a) determining an application for a direction under section 8 of the 1984 Act (relaxation of building regulations);
- (b) passing or rejecting plans under section 16 of the 1984 Act (passing or rejection of plans) including exercising, in relation to such plans, a power in—
 - (i) section 19(1) of the 1984 Act (use of short-lived materials),
 - (ii) section 21(4) of the 1984 Act (provision of drainage), or
 - (iii) section 25(1) of the 1984 Act (provision of water supply);
- (c) fixing a period on the expiration of which a building or building work must be removed, extending such a period, imposing conditions in relation to a building or varying such conditions, under section 19(2) or (3) of the 1984 Act (use of short-lived materials);
- (d) requiring a building to be drained in combination under section 22 of the 1984 Act (drainage of buildings in combination);
- (e) giving consent under section 23 of the 1984 Act (provision of facilities for refuse);
- (f) giving a notice or granting a certificate under section 25(3) of the 1984 Act (provision of water supply);
- (g) exercising any power under section 33 of the 1984 Act (tests for conformity with building regulations);
- (h) deciding, for the purposes of section 35 of the 1984 Act (penalty for contravening building regulations), whether there is a contravention of a provision contained in building regulations;

(3) S.I. 2010/2214, amended by S.I. 2013/747 (W. 89), S.I. 2013/2621 (W. 258), S.I. 2014/110 (W. 10), S.I. 2015/1486 (W. 165), S.I. 2016/611 (W. 168), S.I. 2018/558 (W. 97); there are other amending instruments but none is relevant.

(4) S.I. 2010/2215, to which there are amendments not relevant to this instrument.

(5) See the definition of “building regulations” in section 122 of the 1984 Act.

- (i) giving a section 36 notice(6) or deciding to pull down or remove work or effect alterations in it as deemed necessary under section 36(3) of the 1984 Act (removal or alteration of offending work);
- (j) deciding whether to withdraw a section 36 notice where a written report is given under section 37(1)(a) of the 1984 Act (obtaining of report where section 36 notice given);
- (k) giving a cancellation notice under section 52A(4) of the 1984 Act (cancellation of initial notice when work becomes higher-risk building work)(7);
- (l) giving a completion certificate under regulation 17 of the 2010 Regulations (completion certificates);
- (m) giving a completion certificate under regulation 17A of the 2010 Regulations (certificate for building occupied before work is completed)(8);
- (n) deciding, where regulation 18 of the 2010 Regulations (unauthorised building work) applies, whether—
 - (i) a regularisation certificate under regulation 18 of the 2010 Regulations may be given;
 - (ii) any reasonable steps are required under regulation 18(3) of the 2010 Regulations;
- (o) deciding, where regulation 19(1) of the Approved Inspectors Regulations (partly completed work) applies, whether—
 - (i) plans given under regulation 19(2)(a) of the Approved Inspectors Regulations are sufficient to show that the intended work would not contravene any requirement of the 2010 Regulations;
 - (ii) an owner should be required to cut into, lay open or pull down any of the work under regulation 19(2)(b) of the Approved Inspectors Regulations.

Registered building control approvers: restricted activities and functions

4.—(1) For the purposes of section 54B(2) of the 1984 Act, the following activities are prescribed as a restricted activity—

- (a) where an initial notice(9), amendment notice(10) or plans certificate(11) is to be given in relation to any building work, the checking of plans to which the notice or certificate relates for compliance with any requirement of the building regulations which is applicable to the work;
- (b) where an inspection of building work is to be carried out by the registered building control approver for the purpose of checking compliance with any requirement of the building regulations which is applicable to the work, the carrying out of that inspection (including scheduling the stages or points for inspections).

(2) For the purposes of section 54B(3) of the 1984 Act, the following functions are prescribed as a restricted function—

- (a) giving an initial notice to a local authority under section 47 of the 1984 Act (initial notices) including an initial notice combined with a plans certificate or a new initial notice under section 53(7) of the 1984 Act (new initial notices);
- (b) giving a plans certificate to a local authority under section 50 of the 1984 Act (plans certificates);

(6) See the definition of “section 36 notice” in section 36(4) of the 1984 Act.

(7) Section 52A was inserted into the 1984 Act by section 46 of the 2022 Act.

(8) Regulation 17A was inserted into the Building Regulations 2010 (S.I. 2010/2214) by S.I. 2012/3119.

(9) See the definition of “initial notice” in section 47(1) of the 1984 Act.

(10) See the definition of “amendment notice” in section 51A(2) of the 1984 Act.

(11) See the definition of “plans certificate” in section 50(1) of the 1984 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (c) giving a final certificate to a local authority under section 51 of the 1984 Act (final certificates);
- (d) giving an amendment notice to a local authority under section 51A of the 1984 Act (variation of work to which initial notice relates);
- (e) giving a notice to a local authority under section 52(1)(c) or 52A(1) of the 1984 Act (cancellation of initial notice);
- (f) giving a transfer certificate and transfer report to a local authority under section 53B(3) of the 1984 Act (new initial notice: change of registered building control approver).

28 February 2024

Julie James
Minister for Climate Change, one of the Welsh
Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the activities and functions of building control authorities and registered building control approvers which are restricted under sections 46A and 54B of the Building Act 1984 (c. 55) (“the 1984 Act”).

Regulation 3 prescribes the restricted activities and functions of a building control authority for the purposes of section 46A the 1984 Act.

Regulation 4 prescribes the restricted activities and functions of a registered building control approver for the purposes of section 54B the 1984 Act.

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 .