STATUTORY INSTRUMENTS

2013 No. 1105

BUILDING AND BUILDINGS, ENGLAND AND WALES

The Building (Amendment) Regulations 2013

Made - - - -	*8th May 2013*
Laid before Parliament	*13th May 2013*
Coming into force - -	*3rd June 2013*

The Secretary of State is a Minister designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to measures relating to the environment.

The Secretary of State makes the following Regulations, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 1 and 8(6) and paragraphs 1, 4, 4A, 7, 8 and 10 of Schedule 1 to the Building Act 1984(**c**), having consulted, in accordance with section 14(3) of that Act, the Building Regulations Advisory Committee for England(**d**) and such other bodies as appear to the Secretary of State to be representative of the interests concerned.

Citation, commencement, application

1.—(1) These Regulations may be cited as the Building (Amendment) Regulations 2013.

(2) These Regulations shall come into force on 3rd June 2013.

(3) Subject to paragraph (4), these Regulations extend to England and Wales, but do not apply in relation to any building in Wales, other than an excepted energy building.

(4) Regulations 3(2) and 3(3) apply in relation to—

(a) educational buildings and buildings of statutory undertakers(**e**) in Wales;

(**a**) S.I. 2008/301. This instrument, which came into force on 15 March 2008, revoked the previous designation of the Secretary of State in relation to the energy performance of buildings in S.I. 2004/3328.

(**b**) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(**c**) 1984 c.55. Amendments relevant to these Regulations include section 4, which was repealed by section 5 of the Sustainable and Secure Buildings Act 2004 (c.22), but section 5 of that Act has not yet been commenced. Section 4(1)(a)(i) to (iv) of the Building Act 1984 was substituted by paragraph 59 of Schedule 37 to the Education Act 1996 (c.56); subsection (1)(a)(ii) was substituted by paragraph 6 of Schedule 21 to the Education Act 2002 (c.32); subsection (1)(a)(iii) and (iv) was repealed by Schedule 31 to the School Standards and Framework Act 1998 (c.31); subsection (1)(b) was amended by Schedule 6 to the Airports Act 1986 (c.31); subsection (1)(b)(ii) was amended by S.I. 2011/2491; and subsection (1)(c) was amended by S.I. 2001/4050. There are other amendments to section 4 and to other sections in this Act which are not relevant to these Regulations.

(**d**) Existing members of the Building Regulations Advisory Committee as at 31 December 2011 were transferred on that date to the Building Regulations Advisory Committee for England pursuant to article 9 of the Welsh Ministers (Transfer of Functions)(No.2) Order 2009 (S.I. 2009/3019).

(**e**) In exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (c.68), these Regulations contain a procedural amendment to the Building Regulations 2010 (S.I. 2010/2214) arising as a consequence of the transposition of the provisions of the European Parliament and the Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (recast)(2010/31/EU OJ No L 153,18.06.2010, p.0013) in the Building Regulations &c. (Amendment) Regulations 2013 (S.I. 2013/181), in relation to educational buildings, buildings of statutory undertakers, Crown buildings and building work carried out or proposed to be carried out by Crown authorities in England and Wales.

(b) Crown buildings in Wales; and

(c) building work carried out or proposed to be carried out by Crown authorities in Wales.

Interpretation

2.—(1) In these Regulations—

"educational buildings and buildings of statutory undertakers" means buildings which fall within paragraphs (a), (b) or (c) of section 4(1) of the Building Act 1984; and

"excepted energy building" has the meaning given in the Schedule to the Welsh Ministers (Transfer of Functions)(No.2) Order 2009(**a**).

Amendments to the Building Regulations 2010

3.—(1) The Building Regulations 2010(**b**) are amended as set out in this regulation.

(2) For regulation 11(3) substitute—

"(3) Sub-sections (1) to (5) of section 8 of the Act (relaxation of building regulations) do not apply to regulations 23(1)(a), 25A, 25B, 26, 29 (apart from regulations 29(4)(e), 29(9A), 29(10), 29(11) and 29(12)) and 29A.".

(3) In regulation 34(1) before "21" insert "11(3),".

(4) In column 2 of Schedule 3 (self-certification schemes and exemptions from requirement to give building notice or deposit full plans)—

(a) in paragraph 13—

(i) for "or" where it occurs before "Stroma Certification Limited" substitute ","; and

(ii) after "Stroma Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)" insert "or Certsure LLP(**c**) (in respect of work carried out in England or in relation to excepted energy buildings in Wales)";

(b) in paragraph 17—

(i) for "or" where it occurs before "Stroma Certification Limited" substitute ","; and

(ii) after "Stroma Certification Limited" insert "or BRE Global Limited(**d**) (in respect of work carried out in England or in relation to excepted energy buildings in Wales)";

(c) in paragraph 21—

(i) after "Stroma Certification Limited (in respect of work carried out in England or in relation to excepted energy buildings in Wales)" insert ", Certsure LLP (in respect of work carried out in England or in relation to excepted energy buildings in Wales)";

(d) in paragraph 22—

(i) for "or" where it occurs before "Stroma Certification Limited" substitute ","; and

(ii) after "Stroma Certification Limited" insert "or British Board of Agrément(**e**)";

(e) in paragraph 23—

(i) for "or" where it occurs before "Stroma Certification Limited" substitute ","; and

(ii) after "Stroma Certification Limited" insert "or British Board of Agrément";

(**a**) S.I. 2009/3019. The Welsh Ministers (Transfer of Functions)(No.2) Order 2009 transferred functions under the Building Act 1984 exercised by the Secretary of State, so far as the functions related to Wales, to the Welsh Ministers, subject to articles 3 and 4 of that Order. Article 3(a) provides that functions so far as exercisable in relation to an excepted energy building (as defined in the Schedule to that Order) are not transferred.

(**b**) S.I. 2010/2214 as amended by S.I. 2011/1515, S.I. 2012/718, S.I. 2012/3119 and S.I. 2013/181.

(**c**) A limited liability partnership formed and registered under the Limited Liability Partnerships Act 2000 (c.12) with the registration number OC379918.

(**d**) A company formed and registered under the Companies Acts (defined in section 2 of the Companies Act 2006, c.46) with the registration number 03548352.

(**e**) A company formed and registered under the Companies Acts with the registration number 00878293.

(f) in paragraph 24—

(i) for "or" where it occurs before "NAPIT Registration Limited" substitute ","; and

(ii) after "NAPIT Registration Limited" insert "or British Board of Agrément".

Signed by authority of the Secretary of State for Communities and Local Government

Don Foster
Parliamentary Under Secretary of State
8th May 2013 Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building Regulations 2010 ("the 2010 Regulations").

Regulation 3(2) contains a procedural amendment to regulation 11 of the 2010 Regulations. The amendment arises as a consequence of transposition of articles 2, 6, 7, 9 and 11 of the European Parliament and Council Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (recast). This regulation amends the reference to regulation 29 and adds regulations 23(1)(a), 25A, 25B and 29A to the list of building regulations that cannot be relaxed or dispensed with under sections 8(1) to (5) of the Building Act 1984. The regulation also removes the floor area qualification previously at regulation 11(3)(b).

Regulation 3(4) amends Schedule 3 to the 2010 Regulations by adding bodies to the list of bodies in paragraphs 13, 17, 21, 22, 23 and 24 which are able to register persons authorised under the self certification scheme provided for by regulations 12 and 20 of, and Schedule 3 to the Building Regulations.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk, and shows a net benefit to business in relation to the amendments made to Schedule 3. The consequential amendment at regulation 11 was covered by Impact Assessment DCLG 105 which accompanies the Building Regulations &c. (Amendment) Regulations 2012 (S.I. 2012/3119).

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