EXPLANATORY MEMORANDUM

OFFICE OF THE DEPUTY PRIME MINISTER

THE BUILDING (APPROVED INSPECTORS ETC.) (AMENDMENT) REGULATIONS 2004 No. 1466

This explanatory memorandum is laid before Parliament by command of Her Majesty

The responsible department is the Office of the Deputy Prime Minister

1. Description

1.1 The Building (Amendment) Regulations 2004 further amend the Building Regulations 2000 (SI 2000/2531), as amended ("the Building Regulations"). They clarify a definition ("room for residential purposes") in Regulation 2 (Interpretation) of the Building Regulations, and amend Regulation 6 (Requirements relating to material change of use) and Regulation 20A (Sound insulation testing). They amend some of the technical requirements in the Building Regulations (those in Parts A, C and F of Schedule 1).

1.2 The Building (Approved Inspectors etc.) Regulations 2004 further amend the Building (Approved Inspectors etc.) Regulations 2000 (SI 2000/2532), as amended ("the Approved Inspectors Regulations"). They amend Regulation 12A (Sound insulation testing) in the Approved Inspectors Regulations to keep that regulation in line with Regulation 20A of the Building Regulations.

2. Legislative background

2.1 Under section 1 of the Building Act 1984, building regulations may be made for the purpose of securing the health, safety, welfare and convenience of building users, and for other purposes not relevant to this Memorandum. The technical requirements of the Building Regulations are contained in Schedule 1 to those regulations. They are arranged in thirteen Parts. Each of those Parts is kept under review. Most of the provisions of the Building (Amendment) Regulations 2004 are the outcome of reviews of Part A (Structure) and Part C (Site preparation and resistance to moisture).

2.2 The other provisions in the Building (Amendment Regulations 2004, and the provisions in the Building (Approved Inspectors etc.) (Amendment) Regulations 2004, relate to sound insulation. The amendment of Regulation 20A of the Building Regulations and the corresponding amendment of Regulation 12A of the Approved Inspectors Regulations, are in response to representations from the house building industry regarding the new requirements, explained below, relating to sound insulation testing. (The Approved Inspectors Regulations provide for building control (the checking of

plans and work for compliance with the Building Regulations) to be carried out by private sector inspectors approved under the Building Act 1984, as an alternative to building control by the local authority.)

3. Extent

3.1 The Building Act 1984, the Building Regulations and the Approved Inspectors Regulations apply to England and Wales.

4. Policy Background

4.1 The amendments contained in the Amendment Regulations have been the subject of public consultation processes. They also take account of the views of the Building Regulations Advisory Committee, appointed under section 14 of the Building Act 1984.

4.2 The amendment of Part A (Structure) in Schedule 1 to the Building Regulations removes the Limit on Application that has hitherto applied to paragraph A3, Disproportionate collapse. Paragraph A3 requires that the building shall be constructed so that in the event of an accident the building will not suffer collapse to an extent disproportionate to the cause. Under the old Limit on Application, paragraph A3 applied only to buildings having five or more storeys. In future it will apply to buildings regardless of the number of storeys. This change responds to the particular concern of the joint Standing Committee on Structural Safety of the Institutions of Civil and Structural Engineering, regarding the exclusion of public buildings of less than five storeys from the terms of paragraph A3.

4.3 A revised Part C (Site preparation and resistance to contaminants and moisture) is introduced into Schedule 1 to the Building Regulations. The revised Part C deals with the same range of issues as the old Part C (Site preparation and resistance to moisture), but it also addresses condensation. This allows the revocation of paragraph F2 (Condensation in roofs) in Part F (Ventilation). The revised Part C requires precautions to avoid danger to health and safety caused by contaminants on or in land *associated with* the building (for example, garden areas), as well as (as before) in land *covered by* the building.

4.4 The amendments of regulation 6 (Requirements relating to material change of use) are largely consequential on the revision of Part C. In addition, a new subparagraph (cc) has been introduced into regulation 6(1) of the Building Regulations. This provides that where a material change of use (as defined in regulation 5) is made to a building so that new residential accommodation is provided, the building must comply with subparagraph (2) in paragraph C1 (Preparation of site and resistance to contaminants) in the revised Part C. Thus where (for example) an industrial or commercial building is converted into flats, work must, if necessary, be done to put in place reasonable precautions against health risks that might arise from contaminants in the ground under or around the building.

4.5 The amendments of Regulations 20A and 12A (Sound insulation testing) of the Building Regulations and the Approved Inspectors Regulations provide exemption from the requirement for sound insulation testing, in defined circumstances. The purpose of sound insulation testing is to check for the compliance of building work with paragraph E1 (Protection against sound from other parts of the building and adjoining buildings) in Part E (Resistance to the passage of sound). Paragraph E1 relates to the sound insulation performance of separating walls and floors. Under Regulations 20A and 12A, the person carrying out the building work must arrange for appropriate sound insulation testing. Regulations 20A and 12A came into force on 1 July 2003 for houses and flats created by conversion work and for "new rooms for residential purposes" (this term is explained in paragraph 4.7 below). In relation to newly constructed houses and buildings containing flats, Regulations 20A and 12A come into effect from 1 July 2004. The House Builders Federation argued that a cost-effective alternative to sound insulation testing, as a means of achieving high levels of confidence that compliance with paragraph E1 is being achieved, would be for builders to adopt standard design details from a published set that had been rigorously tested.

4.6 After a process of public consultation, and in the light of the views of the Building Regulations Advisory Committee, ODPM Ministers agreed that the use of "robust details" should be an alternative to sound insulation testing, for newly constructed house and flats. Accordingly, with effect from 1 July 2004, Regulations 20A and 12A are amended to provide that, for newly constructed houses and buildings containing flats, the requirement for sound insulation testing does not apply to parts of the building identified in a notice given to the local authority or the approved inspector, prior to the start of work, as parts incorporating design details approved by Robust Details Ltd. The notification must identify the particular design detail or details from the set approved and published by Robust Details Ltd, that the builder is intending to use. It must include the unique number or numbers issued by Robust Details Ltd in respect of the specified use of the design detail or details. This ensures that builders register the intended use of the design details with Robust Details Ltd (who own the copyright) and pay any required fee to the company. It ensures that Robust Details Ltd have the information they need to operate a programme of monitoring to check that the design details they approve and publish are reliable, in practice, in providing party structures whose sound insulation performance complies with paragraph E1.

4.7 The Building (Amendment) Regulations 2004 amend Regulation 2 (Interpretation) of the Building Regulations to clarify the definition of "room for residential purposes". This expression was introduced into the Building Regulations by the Building (Amendment)(No. 2) Regulations 2002 (SI 2002/2871), as part of the implementation of a review of Part E. It covers cases such as hotel rooms, rooms in student accommodation and rooms in residential homes. The revised wording is to make clear the original intention that, where a room used by one or more persons to live and sleep in is arranged in a cluster of rooms (such as a group of study-bedrooms in a student accommodation block), each individual room is a "room for residential purposes", rather than the cluster collectively. This means that the separating

walls and floors for each room must comply with the requirements of paragraph E1 in Part E. The revised definition comes into force on 1 July 2004.

5. Impact

5.1 A Regulatory Impact Assessment has been prepared in relation to these Regulations. A copy accompanies this Memorandum.

6. Contact

6.1 Enquiries on these Amendment Regulations can be addressed to Simon Barnes, Buildings Division, Office of the Deputy Prime Minister, Zone 18/A, Portland House, Stag Place, London SW1E 5LP, tel 020 7944 5709, fax 020 7944 5739, e-mail partscdgh.br@odpm.gsi.gov.uk

Office of the Deputy Prime Minister
8th June 2004