

2021 No. 1391

BUILDING AND BUILDINGS, ENGLAND

**The Building Regulations etc. (Amendment) (England)
Regulations 2021**

<i>Made</i>	- - - -	<i>13th December 2021</i>
<i>Laid before Parliament</i>		<i>15th December 2021</i>
<i>Coming into force</i>	- -	<i>15th June 2022</i>

The Secretary of State has consulted the Building Regulations Advisory Committee for England and such other bodies as appear to be representative of the interests concerned in accordance with section 14(3) of the Building Act 1984(a).

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 1 and 47(1) of, and paragraphs 2, 4, 7, 8 and 10 of Schedule 1 to, the Building Act 1984.

PART 1

Introductory

Citation, commencement, extent, application and interpretation

1.—(1) These Regulations may be cited as the Building Regulations etc. (Amendment) (England) Regulations 2021 and come into force on 15th June 2022.

(2) They extend to England and Wales and apply in relation to buildings(b) and building work in England.

(3) In these Regulations—

“the Building Regulations” means the Building Regulations 2010;

“the Approved Inspectors Regulations” means the Building (Approved Inspectors etc.) Regulations 2010(c).

(a) 1984 c. 55; section 1 was amended by section 1(1) to (3) of the Sustainable and Secure Buildings Act 2004 (c. 22). Section 1A was inserted by section 2 of the Sustainable and Secure Buildings Act 2004. Section 14(3) was amended by S.I. 2009/3019. There are other amendments, but none is relevant to this instrument.

(b) “Building” has the meaning given in regulation 2(1) of the Building Regulations 2010 (S.I. 2010/2214); that instrument was amended by S.I. 2013/1959, 2014/110, 2015/767, 2016/285, 2017/856 and 1274. There are other amending instruments but none is relevant.

(c) S.I. 2010/2215, as amended by S.I. 2012/3119, 2013/747, 2013/1959, 2014/579 and 2016/285; there are other amending instrument but none is relevant.

PART 2

Amendment of the Building Regulations

Amendment of the Building Regulations

2. The Building Regulations are amended in accordance with regulations 3 to 13.

Amendment of regulation 2 of the Building Regulations

3. In regulation 2(1) (interpretation)—

(a) in the definition of “energy efficiency requirements”, after “26B” insert, “, 26C”;

(b) after the definition of “softened wholesome water” insert—

“;

“system for on-site electricity generation” means a system that produces electricity and has a direct electrical connection to the building in question”.

Amendment of regulation 4 of the Building Regulations

4. In regulation 4 (requirements relating to building work), after paragraph (3) insert—

“(4) This paragraph applies in relation to a building where—

(a) building work is undertaken in respect of that building (“relevant work”); and

(b) Part L of Schedule 1 imposes a requirement in respect of the relevant work.

(5) Notwithstanding paragraph (3), upon completion of the relevant work, any building to which paragraph (4) applies must—

(a) comply with Part F of Schedule 1; or

(b) where the building did not comply with Part F of Schedule 1 before the relevant work was begun, be no more unsatisfactory in relation to it than before the work was begun.”.

Amendment of regulation 25 of the Building Regulations

5. In regulation 25 (minimum energy performance requirements for new buildings)—

(a) at the end of paragraph (a) omit “and”;

(b) after paragraph (b) insert—

“; and

(c) new buildings in the form of target primary energy rates”.

Insertion of regulation 26C into the Building Regulations

6. After regulation 26B (fabric performance values for new dwellings) insert—

“Target primary energy rates for new buildings

26C. Where a building is erected it must not exceed the target primary energy rate for the building which has been approved pursuant to regulation 25(c), applying the methodology of calculation and expression of the energy performance of buildings approved pursuant to regulation 24.”.

Insertion of regulation 27C into the Building Regulations

7. After regulation 27B (fabric performance values calculations) insert—

“Target primary energy rate calculations for new buildings

27C.—(1) This regulation applies where a building is erected.

(2) Not later than the day before the work starts, the person carrying out the work must give the local authority a notice which specifies—

- (a) the target primary energy rate for the building calculated and expressed in accordance with the methodology approved pursuant to regulation 24;
- (b) the calculated target primary energy rate for the building as designed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24; and
- (c) a list of specifications to which the building is to be constructed.

(3) Not later than five days after the work has been completed, the person carrying out the work must give the local authority—

- (a) a notice which specifies—
 - (i) the target primary energy rate for the building calculated and expressed in accordance with the methodology approved pursuant to regulation 24;
 - (ii) the calculated target primary energy rate for the building as constructed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24; and
 - (iii) whether the building has been constructed in accordance with the list of specifications referred to in paragraph (2)(c), and if not a list of any changes to those specifications; or
- (b) a certificate of the sort referred to in paragraph (4) accompanied by the information referred to in sub-paragraph (a).

(4) A local authority is authorised to accept, as evidence that the requirements of regulation 26C have been satisfied, a certificate to that effect by an energy assessor who is accredited to produce energy performance certificates for that category of building.

(5) In this regulation, “specifications” means specifications used for the calculation of the target primary energy rate.”.

Insertion of regulations 40A and 40B into the Building Regulations

8. After regulation 40 (information about use of fuel and power) insert—

“Information about systems for on-site generation of electricity

40A.—(1) This regulation applies to building work in respect of a building in relation to which paragraph L2 of Schedule 1 applies.

(2) The person carrying out the work must, not later than five days after the work has been completed, provide to the owner sufficient information about the system for on-site electricity generation in respect of its operation and maintenance requirements so that the system may be operated and maintained in such a manner as to produce the maximum electricity that is reasonable in the circumstances and delivers this electricity to the optimal place for use.

Information about overheating

40B.—(1) This regulation applies to building work in respect of a building where Part O of Schedule 1 applies.

(2) The person carrying out the work must, not later than five days after the work has been completed, give sufficient information to the owner about the provision made in accordance with Part O so that the systems in place further to Part O can be operated in such a manner as to protect against overheating.”.

Amendment of regulation 43 of the Building Regulations

9. In regulation 43(4) (pressure testing) for “the Independent Air Tightness Testing Scheme Limited” substitute “Elmhurst Energy Systems Limited”.

Insertion of regulation 44ZA into the Building Regulations

10. After regulation 44 (commissioning) insert—

“Commissioning in respect of a system for on-site electricity generation

44ZA.—(1) This regulation applies to building work in respect of a building in relation to which paragraph L2 of Schedule 1 imposes a requirement, but does not apply to the provision or extension of any system for on-site electricity generation where testing and adjustment is not possible.

(2) Where this regulation applies the person carrying out the work must, for the purpose of ensuring compliance with paragraph L2 of Schedule 1, give to the local authority a notice confirming that the system for on-site electricity generation has been commissioned.

(3) The notice must be given to the local authority—

- (a) not later than the date on which the notice required by regulation 16(4) is required to be given; or
- (b) where that regulation does not apply, not more than 30 days after completion of the work.”.

Amendment of Schedule 1 to the Building Regulations

11. In Schedule 1 (requirements)—

- (a) in entry L1, in paragraph (b)(i), after “are energy efficient” insert “to a reasonable standard”;
- (b) after entry L1 insert—

“On-site generation of electricity

L2

Where a system for on-site electricity generation is installed—

- (a) reasonable provision must be made to ensure that—
 - (i) the system and its electrical output are appropriately sized for the site and available infrastructure;
 - (ii) the system has effective controls; and
 - (b) it must be commissioned by testing and adjusting as necessary to ensure that it produces the maximum electricity that is reasonable in the circumstances.”.
-

- (c) after entry N4 insert—

“PART O OVERHEATING

Overheating mitigation

O1

(1) Reasonable provision must be made in respect of a dwelling, institution or any other building containing one or more rooms for residential purposes, other than a

room in a hotel (“residences”) to—

- (a) limit unwanted solar gains in summer;
- (b) provide an adequate means to remove heat from the indoor environment.

(2) In meeting the obligations in paragraph (1)—

- (a) account must be taken of the safety of any occupant, and their reasonable enjoyment of the residence; and
- (b) mechanical cooling may only be used where insufficient heat is capable of being removed from the indoor environment without it.”.

Amendment of Schedule 3 to the Building Regulations

12.—(1) Schedule 3 (self-certification schemes and exemptions from requirement to give building notice or deposit full plans) is amended as follows.

(2) In the table, in column 2 (person carrying out work)—

- (a) in each of rows 7, 8 and 9 omit “, Building Engineering Services Competence Assessment Limited”;
- (b) in each of rows 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19 and 20 omit “or Stroma Certification Limited”;
- (c) in row 2 after “NAPIT Registration Limited”, for “,” substitute “or”;
- (d) in row 3 after “NAPIT Registration Limited”, for “,” substitute “or”;
- (e) in row 4 after “NAPIT Registration Limited”, for “,” substitute “or”;
- (f) in row 5 after “Certsure LLP”, for “,” substitute “or”;
- (g) in row 6 after “Certsure LLP”, for “,” substitute “or”;
- (h) in row 7 after “Certsure LLP”, for “,” substitute “or”;
- (i) in row 8 after “NAPIT Registration Limited”, for “,” substitute “or”;
- (j) in row 9 after “Certsure LLP”, for “,” substitute “or”;
- (k) in row 10 after “Fenestration Self-Assessment Scheme”, for “,” substitute “or”;
- (l) in row 11 after “Fenestration Self-Assessment Scheme”, for “,” substitute “or”;
- (m) in row 12 after “HETAS Limited”, for “,” substitute “or”;
- (n) in row 13 after “HETAS Limited”, for “,” substitute “or”;
- (o) in row 14 after “HETAS Limited”, for “,” substitute “or”;
- (p) in row 15 after “NAPIT Registration Limited”, for “,” substitute “or”;
- (q) in row 17—
 - (i) for “Cavity Insulation Guarantee Agency” substitute “Insulation Assurance Authority Limited”;
 - (ii) after “Certsure LLP”, for “,” substitute “or”;
- (r) in row 18 after “Certsure LLP”, for “,” substitute “or”;
- (s) in row 19 after “Certsure LLP”, for “,” substitute “or”;
- (t) in row 20 after “Certsure LLP”, for “,” substitute “or”.

Amendment of Schedule 3A to the Building Regulations

13. In Schedule 3A (third party certification schemes and exemptions from requirement to give building notice or deposit full plans), in column 2 (person inspecting work) of the table omit “, or Stroma Certification Limited”.

PART 3

Amendment of the Approved Inspectors Regulations

Amendment of the Approved Inspectors Regulations

14. The Approved Inspectors Regulations are amended in accordance with regulations 15 and 16.

Amendment of regulation 8 of the Approved Inspectors Regulations

15. In regulation 8 (functions of approved inspectors)—

- (a) in paragraph (1)(a)—
 - (i) before “28” insert “26C (target primary energy rates for new buildings)”;
 - (ii) for “and” before “40” substitute “,”;
 - (iii) after “(information about use of fuel and power)” insert “, 40A (information about systems for on-site generation of electricity) and 40B (information about overheating)”;
- (b) in paragraph (1)(b)—
 - (i) after “regulations 20,” insert “20A,”;
 - (ii) before “37” insert “27C,”;
 - (iii) for “and 44” substitute “, 44 and 44ZA”.

Amendment of regulation 20 of the Approved Inspectors Regulations

16. In regulation 20 (application of certain regulations of the Building Regulations)—

- (a) in the heading—
 - (i) before “, 29” insert “, 27C”;
 - (ii) for “and 44” substitute “, 44 and 44ZA”;
- (b) in paragraph (1)—
 - (i) before “37” insert “27C (target primary energy rate calculations for new buildings)”;
 - (ii) for “and 44” substitute “, 44”;
 - (iii) after “(commissioning)” insert “and 44ZA (commissioning in respect of a system for on-site electricity generation)”;
- (c) after paragraph (2B) insert—

“(2C) Regulation 27C(3) of the Principal Regulations applies in relation to building work which is the subject of an initial notice as if after “work has been completed,” there were inserted “or, if earlier, the date on which in accordance with regulation 17 of the Building (Approved Inspectors etc.) Regulations 2010 the initial notice ceases to be in force”.”;
- (d) after paragraph (6) insert—

“(6A) Regulation 44ZA of the Principal Regulations applies in relation to building work which is the subject of an initial notice as if for paragraph (3) there were substituted—

“(3) The notice must be given to the approved inspector—

- (a) subject to sub-paragraphs (b) and (c), not later than five days after completion of the work to which the initial notice relates;
- (b) where regulation 17 of the Building (Approved Inspectors etc.) Regulations 2010 applies, not later than the date on which the initial notice ceases to be in force or, if earlier, the end of the period referred to in sub-paragraph (a);
- (c) where regulation 20 applies by virtue of regulation 20 of the Building (Approved Inspectors etc.) Regulations 2010, not later than the date on which the notice or certificate required by that regulation must be given.”.”.

PART 4

Transitional Provision

Transitional provision

17.—(1) The amendments made by Parts 2 and 3 of these Regulations (other than regulations 9, 12 and 13 in Part 2) do not apply in relation to building work on a particular building, where a building notice or an initial notice has been given to, or full plans have been deposited with, a local authority, in respect of that building, before 15th June 2022, provided that the building work on that building is started before 15th June 2023.

(2) In this regulation, “building notice”, “initial notice” and “full plans” have the meanings given in regulation 2(1) of the Building Regulations.

Signed by authority of the Secretary of State

Eddie Hughes

Parliamentary Under Secretary of State

Department for Levelling Up, Housing and Communities

13th December 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building Regulations 2010 (S.I. 2010/2214) and the Building (Approved Inspectors etc.) Regulations 2010 (S.I. 2010/2215) as they apply in relation to England. The amendments made by these Regulations provide for a new metric for the measurement of energy efficiency in the form of the target primary energy rate and introduce new regulation for on-site electricity generation and in relation to overheating (in particular by virtue of the introduction of paragraph L2 into part L of Schedule 1 to S.I. 2010/2214, and a new Part O). Amendments are made to S.I. 2010/2215 in consequence of these changes.

They also make transitional provision in respect of building work on a particular building where a building notice or an initial notice has been given to, or full plans have been deposited with, a local authority before 15th June 2022, provided that the building work on that building is started before 15th June 2023.

Schedule 3 to S.I. 2010/2214 is amended to reflect changes to bodies participating in self-certification schemes, and Schedule 3A to that instrument is amended to reflect a change to the bodies that may participate in third-party certification schemes.

The Building Act 1984 (c. 55) gives the Secretary of State power to approve and issue documents containing practical guidance with respect to the requirements contained in the Building Regulations 2010. Approved Document L Volumes 1 and 2, 2021 editions, Approved Document F Volumes 1 and 2, 2021 editions and Approved Document O, 2021 edition contain practical guidance on meeting the new requirements inserted into the Building Regulations 2010 by this instrument. The Approved Documents are published by the Department for Levelling Up, Housing

and Communities and may be accessed at <https://www.gov.uk/guidance/building-regulations-and-approved-documents-index> or from the Department for Levelling Up, Housing and Communities, 2nd Floor NW, Fry Building, 2 Marsham Street, London SW1P 4DF.

An impact assessment is available with the explanatory memorandum for these Regulations at www.legislation.gov.uk.

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