

SL(6)557 – The Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024

Background and Purpose

These Regulations replace the Building (Approved Inspectors etc.) Regulations 2010 (“the AI Regulations”) which govern private-sector building control bodies. The purpose of this change is to bring secondary legislation in-line with changes made to the Building Act 1984 by the Building Safety Act 2022.

These Regulations:

- (i) revoke the majority of the provisions of the Building (Approved Inspectors etc.) Regulations 2010 (“2010 Regulations”);
- (ii) replace and update provisions in the 2010 Regulations to bring them up-to-date for the new building control regulation regime in Wales; and
- (iii) make consequential amendments to other regulations.

Procedure

Negative.

These Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument:

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In the English text of the Regulations, there is an issue with the formatting in the penultimate line on page 8 after “52(1)...” which has resulted in provisions that should follow immediately after section 52(1) not appearing in the correct place. Rather than listing the relevant subsections of section 52 sequentially after 52(1), the provisions appear in the first line on page 9 listed as subsections to section 53B (as that is the last section that appears at the end of page 8). The effect of this is that all of the references listed in the first line on page 9 are incorrect.

Additionally, the enabling powers relied on in section 52A are also omitted, which the Welsh text correctly identifies as being section 52A(1), (2) and (4).



2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In Schedule 1, Form 1(W) and Form 4(W) both contain a paragraph (2) that refers to the identification of the registered building control approver. However, in both instances the footnote to that paragraph (numbered footnote (3)) provides that the information required is the contact details of the person intending to carry out the work. As such, it appears that the footnote references are incorrect in both instances.

Similarly, in Forms 1(W) and 4(W) respectively the footnote numbered (6) (which defines “professional or financial interest”) is erroneously used where footnote (5) (which provides that the name of the registered building control approver is required) should occur.

These errors could cause confusion for the reader, potentially leading to incorrect information being entered on the relevant form.

3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

The opening words of regulation 5(12) refer specifically to regulation 7A(3) of the Energy Performance of Buildings (England and Wales) Regulations 2012.

However, it appears that the opening words should instead refer to regulation 7A more generally. Regulation 5(12)(a) makes provision as to how the term “local authority” should be interpreted, but that term only appears in regulation 7A(2)(b) - it does not appear in paragraph (3).

4. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In paragraph 9 of Schedule 3 to the Regulations, from the context of the provision it appears the word “*apelydd*” (i.e. appellant) in the fourth line should be “*cymeradwywr*” to correspond with the word “*approver*” in the English text.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument:

1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

The phrase ‘higher-risk building work’ (“HRBW”) is used multiple times across the suite of forms in the Schedules to the Regulations. The person completing the relevant form is asked to confirm in various places, inter alia, that none of the work to which the relevant notice pertains constitutes HRBW.



To improve the accessibility of the instrument, the Welsh Government may wish to consider whether each form containing the term HRBW should include a footnote referencing the relevant legal definition as it applies in Wales.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

17 December 2024



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee