

EXPLANATORY MEMORANDUM TO THE BUILDING (AMENDMENT) (WALES) REGULATIONS 2017

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Building (Amendment) (Wales) Regulations 2017. I am satisfied the benefits outweigh any costs.

Lesley Griffiths
Cabinet Secretary for Energy, Planning and Rural Affairs
15 December 2017

1. Description

- 1.1. These Regulations amend the Building Regulations 2010 (“the Building Regulations”). The amendments include the requirement to provide automatic fire suppression systems in hostels and make minor changes to the competent person schemes included in Schedule 3 of the Building Regulations. They apply in relation to Wales but do not apply in relation to “excepted energy buildings” as defined by the Schedule to the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I 2009/3019) (“the 2009 Order”).

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 None.

3. Legislative background

- 3.1 Section 1 of the Building Act 1984 (“the 1984 Act”) provides a power to make building regulations for a number of purposes with respect to the design and construction of buildings and the services, fittings and equipment provided in or in connection with buildings. These purposes include securing the health, safety, welfare and convenience of persons in and about buildings, furthering the conservation of fuel and power, preventing waste, undue consumption, misuse or contamination of water, furthering the protection or enhancement of the environment and facilitating sustainable development.
- 3.2 The 2010 Regulations have, been made pursuant to these powers.
- 3.3 Most of the Secretary of State’s functions conferred by or under the 1984 Act were, so far as exercisable in relation to Wales, transferred to Welsh Ministers on 31st December 2011, by the 2009 Order.
- 3.4 The 2009 Order provides for the transfer to the Welsh Ministers of most of the functions conferred on the Secretary of State by or under the 1984 Act which had not been previously transferred to the then National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The 2009 Order did not transfer functions in relation to excepted energy buildings in Wales.
- 3.4 These Regulations are made using the negative resolution procedure.

4. Purpose and intended effect of the legislation

- 4.1 The Regulations make changes to Regulation 37A relating to automatic fire suppression systems and minor changes to Schedule 3 (self-certification schemes and exemptions from requirement to give a building notice or deposit full plans) of the 2010 Regulations.
- 4.2 The changes to regulation 37A introduce a requirement for automatic fire suppression systems in hostels. The effect of the amendment is that automatic fire suppression systems will now be required in hostels, other than hostels which provide temporary accommodation to those who are ordinarily resident elsewhere.

- 4.3 The requirement to provide automatic fire suppression systems in hostels was introduced through the Domestic Fire Safety (Wales) 2011. The co-existence of having two pieces of legislation, the Building Regulations and the Measure, for the provision of automatic fire suppression systems for differing use classes of buildings has caused confusion and led to some Building Control bodies (local authority and private Approved Inspectors) misinterpreting and misapplying the provisions.
- 4.4 As the requirement for automatic fire suppression systems are considered a life safety aspect of the Building Regulations it is essential that the requirements are being applied uniformly.
- 4.5 The changes to Schedule 3 update the list of competent person schemes that appear in Schedule 3 of the Building Regulations (self-certification schemes and exemptions from requirement to give a building notice or deposit full plans). A competent person scheme is a scheme that installers can register with to self-certify that their building work complies with the Building Regulations.
- 4.6 The changes to Schedule 3 include the omission of three schemes; Benchmark Certification Limited, BM Trada Limited and Network Veka, and the authorisation of a new scheme, Assure Certification Limited.
- 4.7 These Regulations will come into force on the dates set out in regulation 1(2) of these Regulations.
- 4.8 The Welsh Ministers will issue a Circular to explain how the 2010 Regulations have been amended. This will be published on the Welsh Governments website.

5 Consultation

- 5.1 These Regulations make no change to the application of the requirements by those carrying out building work, building owners or building control bodies. The Building Act 1984 does not require the Welsh Ministers to consult the Building Regulations Advisory Committee and such other bodies as appear to them to be representative of the interests concerned where the changes made to building regulations are not substantive changes to the requirements. However, the Building Regulations Advisory Committee for Wales have been consulted, and offered no objections to, the amendments made by this instrument.

6 Regulatory Impact Assessment

- 6.1 No impact assessment has been undertaken for the amendments made in this Instrument, as minimal impact, or no impact, is foreseen on business or public sector bodies.