

# **DTLR Circular 03/2001 - dated 31 October 2001**

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On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

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## **The Building Act 1984.**

### **The Building (Amendment) Regulations 2001 and the The Building (Approved Inspectors etc.) (Amendment) Regulations 2001:**

- **Repeal of section 18 of the Building Act 1984;**
- **Amendment of sections 21 and 59 of the Building Act 1984;**
- **New Parts H, J and L in Schedule 1 to the Building Regulations 2000;**
- **Consequential amendments to the Building Regulations 2000;**
- **Consequential amendments to the Building (Approved Inspectors etc.) Regulations 2000.**

### **New Approved Documents to support:**

- **Part H (drainage and waste disposal);**
- **Part J (combustion appliances and fuel storage systems);**
- **Part L1 (conservation of fuel and power in dwellings);**
- **Part L2 (conservation of fuel and power in buildings other than dwellings).**

## **Introduction**

1. I am directed by the Secretary of State for Transport, Local Government and the Regions to draw your attention to the Building (Amendment) Regulations 2001 (S.I. 2001/3335) and the Building (Approved Inspectors etc.) (Amendment) Regulations 2001 (S.I. 2001/3336). These were made on 4 October 2001 and will come into force on 1 April 2002, subject to the transitional provisions referred to in paragraph 27 below.

2. In accordance with section 14(3) of the Building Act 1984, these Amendment Regulations were made after consultation with the Building Regulations Advisory Committee and with other bodies representative of the interests concerned.

3. The purpose of this circular is to:

- draw attention to these Amendment Regulations and explain the changes they make to the Building Act 1984, to the Building Regulations 2000 ("the Building Regulations") and to the Building (Approved Inspectors etc.) Regulations 2000 ("the AI Regulations");
- explain the transitional provisions;
- announce the approval and publication of four new Approved Documents; and
- recommend certain action by Building Control Bodies ("BCBs").

4. This circular does not give advice on the technical requirements of Parts H, J and L because these are matters covered in the Approved Documents. Annexes A and B to this circular set out all the changes to the Building Regulations and the AI Regulations made by SI 2001/3335

and SI 2001/3336 in tabular form.

## Amendments relating to drainage

### *Part H in Schedule 1 to the Building Regulations*

5. SI 2001/335 introduces a revised Part H (drainage and waste disposal) into Schedule 1 to the Building Regulations and revokes the current Part H. The main changes in Part H are noted in the summary in the inside of the front cover of the 2002 edition of the Approved Document. Paragraphs H1, H2, H3 and H5 in the revised Part H deal with foul and rainwater drainage. Paragraph H4 deals with building over sewers. Paragraph H6 deals with solid waste storage. In consequence of the revision of Part H, SI 2001/3335 makes various amendments to the Building Act 1984 and to the main body of the Building Regulations; and SI 2001/3336 makes various amendments to the AI Regulations. These are subject to the transitional provisions referred to in paragraph 27 below.

### *Section 18 of the Building Act 1984 (building over sewer etc.)*

6. Section 18 of the Building Act 1984 is repealed with effect from the coming into force date of SI 2001/3335, subject to the transitional provisions. Section 18 currently requires a local authority to reject deposited plans of new buildings and extensions, in stated circumstances, if the building or extension is to be built over a drain, sewer or disposal main shown on the statutory map of sewers. Section 18 currently requires the local authority to consult with the sewerage undertaker if the drain or sewer is vested in the sewerage undertaker. Under section 48 of the Act, initial notices are treated as deposits of plans for the purposes of section 18. Paragraph 10 of Schedule 3 to the AI Regulations currently requires a local authority to reject an initial notice if it relates to a planned new building or extension to be built over a sewer or drain shown on the statutory map of sewers, and the local authority considers that it cannot properly consent to the building or extension.

### *Amendments to procedures in the Building Regulations and AI Regulations to complement new paragraph H4*

7. Paragraph H4 in the revised Part H addresses the erection, extension or underpinning of buildings over or in the vicinity of drains and sewers shown on maps of sewers (i.e. records kept by sewerage undertakers under section 199 of the Water Industry Act 1991). Regulation 12 of the Building Regulations is amended to require the deposit of plans, rather than the giving of a building notice, in cases where it is intended to carry out work that is subject to paragraph H4. There are consequential amendments to regulations 13 and 14.

8. New regulation 14A is added to the Building Regulations. Where plans are deposited and paragraph H4 imposes requirements in relation to the work, regulation 14A requires the local authority to consult the sewerage undertaker before passing plans, and before giving a completion certificate. This requirement applies whether or not the drain or sewer is actually vested in the sewerage undertaker. The requirement to consult the sewerage undertaker before giving a completion certificate does not apply if the completion certificate will relate only to Part B compliance. However the Department recommends further, voluntary, consultation between the local authority and the sewerage undertaker if the as-built work subject to

paragraph H4 diverges significantly from that shown in the plans.

9. New regulation 13A is added to the AI Regulations. Where it is intended to carry out work in relation to which paragraph H4 imposes requirements, regulation 13A requires the approved inspector to consult the sewerage undertaker. The approved inspector must do this before, or as soon as practicable after, giving the initial notice; before, or as soon as practicable after, giving an amendment notice; before giving a plans certificate; and before giving a final certificate.

10. There are amendments to Schedule 2 to the AI Regulations to adjust the prescribed forms for initial notices, amendment notices, plans certificates and combined initial notices and plans certificates, to take account of the changes relating to building over sewers.

11. There are amendments to Schedules 3 and 4 to the AI Regulations to adjust the grounds for rejecting initial notices, amendment notices, plans certificates and combined initial notices and plans certificates, to take account of the changes relating to building over sewers.

12. There are other changes to the body of the AI Regulations, and to Schedules 2, 6, 7 and 8 to the AI Regulations, to provide for equivalent changes in procedures applying to public bodies approved under section 54 of the Building Act. There are currently no such approved public bodies.

*Section 21 (provision of drainage) and section 59 (drainage of buildings) of the Building Act 1984; revised ground 9 (drain connection) in schedule 3 to the AI Regulations*

13. Sub-sections (1) and (2) of section 21 of the Building Act 1984 are repealed by SI 2001/3335, subject to the transitional provisions. The substance of subsection (2) is transferred to section 59 so that that section becomes self-contained. Sub-sections (3) and (4) of section 21 have been amended. Paragraphs H1 and H3 in the revised Part H now expressly require the provision of foul and rainwater drainage respectively. Paragraphs H1 to H5 impose requirements that builders must observe when providing drainage. It is no longer necessary for section 21 to require the rejection of deposited plans if the local authority considers that they fail to show satisfactory provision for drainage. This will in future be covered by the general provisions of section 16 as to passing or rejection of deposited plans.

14. Where plans of a new building or extension are deposited with a local authority, the amended section 21 provides (as now) for the local authority to require that a proposed new drain shall connect to an existing sewer, if that sewer is within 100 feet of the site of the building or extension/original building. There is, as now, a right of appeal to the magistrates' court. The local authority may, as now, require a connection to a sewer more than 100 feet away, if they undertake to bear the additional costs.

15. Ground 9 in schedule 3 to the AI Regulations (relating to grounds for rejecting initial notices), and the equivalent ground 6 in schedule 6 (relating to the rejection of public bodies' notices) are replaced. The revised grounds relate to the question of whether a new drain or private sewer, planned in connection with a new building or extension, should (in the light of the revised Part H) connect to an existing sewer. The revised grounds provide an additional level of assurance that basic strategies for discharge of foul water and rainwater from new buildings and extensions are correct in terms of the revised Part H. They do not involve local

authorities taking a view on detailed aspects of Part H compliance. The revised grounds of rejection will apply:

a) in the case of a proposed drain carrying foul water, discharging to a non-mains arrangement, if the local authority consider that a connection to an existing sewer is reasonably practicable, so that no non-mains discharge arrangement would be compliant with new paragraph H1;

b) in the case of a proposed drain carrying rainwater, discharging to a non-mains arrangement, if the local authority consider that discharge to an existing sewer is necessary to comply with new paragraph H3 (even though non-mains discharge arrangements for rainwater are higher in the general order of priority in new paragraph H3).

As in other cases where an initial notice is rejected, there would be a right of appeal to the magistrates' court, under section 55 of the Act, for a person aggrieved by rejection of an initial notice on the revised ground 9.

#### *Regulation 11 in the AI Regulations*

16. SI 2001/3336 revokes sub-paragraph (b) in regulation 11(1) of the AI Regulations. This refers to drainage matters now covered by Part H, and so covered by the reference in sub-paragraph (a) to regulations 4 and 6 of the Principal Regulations. Paragraph (3) of regulation 11 is revoked as it is now covered by the new consultation requirement in regulation 13A.

17. The opportunity is taken to clarify regulation 11(1) by adding wording that refers to the making of tests and the taking of samples by approved inspectors - see paragraph 26 below. The opportunity is also taken to clarify subparagraph (1)(a) by including in it a reference to regulation 7 of the Building Regulations (materials and workmanship). It has hitherto been taken as read that an approved inspector must check for compliance of work with regulation 7, but it seems desirable to make this explicit. *The changes to regulation 11 referred to in this paragraph are not subject to the transitional provisions and so take full effect from the coming into force date of SI 2001/3336.*

#### *Regulation 6 in the Building Regulations (Requirements relating to material change of use)*

18. Regulation 6(1)(a) in the Building Regulations is amended by SI 2001/3335 to add requirement H1 (foul water drainage) to the list of requirements that must be complied with in material change of use cases. The reference in regulation 6(1)(a) to paragraph H4 (solid waste storage) is amended to read "H6" in line with the amendment of Part H, and other consequential changes are made to the references to Parts J and L of Schedule 1.

### **Amendments relating to Part J of Schedule 1 to the Building Regulations 2000**

19. SI 2001/3335 introduces a revised Part J (combustion appliances and fuel storage systems) into Schedule 1 to the Building Regulations, and revokes the current Part J. Annex C to this circular refers to the changes in the revised Part J and to some new features in the new Approved Document for Part J. **Your attention is drawn to the recommendations in Annex**

## C relating to actions by BCBs to check for compliance with Part J.

### Amendments relating to Part L of Schedule 1 to the Building Regulations 2000

20. SI 2001/3335 introduces a revised Part L (L1: conservation of fuel and power - dwellings; and L2: conservation of fuel and power - buildings other than dwellings) into Schedule 1 to the Building Regulations, and revokes the current Part L. Annex D to this circular refers to the changes in the revised Part L and to the two new Approved Documents, in support of Part L1 and Part L2 respectively. **Your attention is drawn to the recommendations in Annex D relating to actions by BCBs to check for compliance with Part L.**

#### *Amendment of the definitions of "controlled service or fitting" and of "building work"*

21. SI 2001/3335 amends the definition of "controlled service or fitting" in regulation 2 of the Building Regulations. SI 2001/3336 amends the definition of "controlled service or fitting" in regulation 2 of the AI Regulations. This term now includes a service or fitting in relation to which Part L of Schedule 1 imposes a requirement. Read with regulation 3 of the Building Regulations, and the revised Part L, this means that the provision (including replacement), or extension, of the following sorts of service or fitting is "building work":

- windows, rooflights, roof windows and external doors
- space heating systems (and associated boilers, hot water pipes and hot air ducts, etc.)
- hot water systems (and associated boilers and hot water vessels, etc.)
- (*in non-domestic buildings*) hot water service pipes
- lighting systems
- (*in non-domestic buildings*) air conditioning and mechanical ventilation (ACMV) systems (and associated chilled water and refrigerant vessels and pipes and air ducts).

Some of these items are already controlled services or fittings because of the requirements of Parts G and J.

All "building work" must comply with the Building Regulations. With one current exception, relating to work consisting only of the installation of a heat-producing gas appliance (see regulation 12(5) of the Building Regulations), all "building work" is also notifiable to the local authority and is subject to building control by the local authority or an approved inspector. Many projects concerning existing buildings, of kinds not currently within the scope of "building work", will become "building work" as a result of these changes. For example, provision of complete replacement windows will be "building work" (see paragraph 23 below).

#### *Implications for existing dwellings*

22. SI 2001/3335 amends the definition of "building work" in regulation 3 of the Building Regulations by introducing a new paragraph 3(1A). This means that the provision or replacement *in an existing dwelling* of:

- a window, rooflight, roof window or external *glazed* door (relevant sorts of door are identified in paragraph 3(1A)); or
- a space heating or hot water service boiler; or
- a hot water vessel

is "building work". However, the provision or extension, *in existing dwellings*, of other services or fittings in relation to which Part L imposes requirements, *will not* be building work, unless the services or fittings in question are "controlled" because they are also subject to Part G, H or J. This means that, for example, the provision of a lighting system *in an existing dwelling* will *not* be "building work".

23. Windows, rooflights, roof windows and doors are taken to include the fixed frame as well as moving elements. This means that only the provision of *complete* new window or door installations (as distinct from repairs) is the provision of a controlled fitting. Paragraph 2.3 of the Approved Document for Part L1 makes this point. The same paragraph indicates the degree of insulation performance considered reasonable for replacement windows etc. It draws attention to the need to comply with Part N; and to ensure that compliance with any other applicable provisions of Schedule 1, in particular Parts B, F and J, is made no worse than previously. It contains guidance on reasonable energy efficiency standards for replacement boilers and hot water vessels. In particular, replacement boilers must be capable of achieving a satisfactory SEDBUK efficiency and must have suitable controls to allow a satisfactory SEDBUK efficiency to be achieved in practice. Replacement boilers must be tested and commissioned, and instructions must be provided to facilitate energy efficient operation. All this applies even in cases where, under regulation 12(5), the work is not notifiable to the local authority.

#### *Implications for existing buildings other than dwellings*

24. The provision or extension of any "Part L" controlled service or fitting, in *existing non-domestic buildings*, *will* be subject to Part L. However, it should be noted that, under the limitations on application for Part L2, the requirements in relation to ACMV and lighting systems apply only within buildings and parts of buildings where more than 200m<sup>2</sup> of floor space (ACMV systems) or more than 100m<sup>2</sup> of floor space (lighting systems) are to be served. Therefore the provision or extension, in existing or new non-domestic buildings, of ACMV and lighting systems serving smaller areas, *will not* be subject to Part L. Paragraph 4.3 of the Approved Document for Part L2 corresponds to Paragraph 2.3 of the Approved Document for Part L1. It gives guidance on reasonable standards for replacement windows etc., heating systems, hot water systems, ACMV systems and lighting systems. As in the case of existing dwellings, even where a replacement boiler project is not notifiable, the work must comply with all relevant provisions of Part J and Part L.

#### **Amendments relating to the testing of building work**

25. SI 2001/3335 replaces regulation 18 of the Building Regulations. The new regulation 18 will enable a local authority to make such tests of building work as they feel are necessary to establish whether building work complies with **any** applicable provisions of the Building

Regulations. This matches the general scope of regulation 19, sampling of material. *This change is not subject to the transitional provisions and so takes full effect from the coming into force date of SI 2001/3336.*

26. SI 2001/3336 adds words to the introductory part of regulation 11(1) of the AI Regulations. This is to make it clear that approved inspectors may, where appropriate, make tests of building work and take samples of material, as part of their function of satisfying themselves on compliance with the Building Regulations. *As noted in paragraph 17 above, this change is not subject to the transitional provisions and so takes full effect from the coming into force date of SI 2001/3336.*

### Transitional Provisions

27. Annex E to this Circular explains the transitional provisions set out in SI 2001/3335 and SI 2001/3336.

### New Approved Documents

28. The Secretary of State, in exercise of his powers under section 6(1) of the Building Act 1984, has approved four new Approved Documents containing practical guidance with respect to the requirements of Parts H, J and L of Schedule 1 to the Building Regulations. Formal notice of these approvals, which take effect on 1 April 2002, is contained in Annex F to this circular.

29. The new Approved Documents were notified in draft to the European Commission in accordance with Directive 83/189/EEC (1982 O.J. L109/8) (as amended).

30. The Secretary of State does not, for the time being, propose to withdraw the previous editions of Approved Documents H, J and L, in so far as they apply to building work which, in accordance with the transitional arrangements contained in the Amendment Regulations, will continue to be subject to the current Building Regulations.

31. The new Approved Documents:

- Approved Document to support Part H: drainage and waste disposal (2002 Edition, ISBN 011 7536075, £12)
- Approved Document to support Part J: combustion appliances and fuel storage systems (2002 Edition, ISBN 011 7534943, £12)
- Approved Document to support Part L1: conservation of fuel and power in dwellings (2002 Edition, ISBN 011 7536091, £12)
- Approved Document to support Part L2: conservation of fuel and power in buildings other than dwellings (2002 Edition, ISBN 011 7536105, £15)

are published by The Stationery Office (TSO). Copies are available from TSO (Tel: 0870 600 5522, Fax: 0870 600 5533) and through booksellers. They can also be viewed on the DTLR web-site.

32. A summary of the main changes in each of the 2002 Editions of these Approved Documents can be found on the inside of their front covers.

## Enquiries

33. Enquiries on Part H of the Building Regulations should be addressed to:

Mike Johnson: Building Regulations Division, DTLR, Zone 3/C2, Eland House,  
Bressenden Place, London, SW1E 5DU.  
Tel: 020 7944 5745  
Fax: 020 7944 5739 or 5719  
E-mail: [partscdgh.br@communities.gsi.gov.uk](mailto:partscdgh.br@communities.gsi.gov.uk)

34. Enquiries on Part J of the Building Regulations should be addressed to:

Andrew Brown: Building Regulations Division, DTLR, Zone 3/D2, Eland House,  
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Fax: 020 7944 5739 or 5719  
E-mail: [energy.br@communities.gsi.gov.uk](mailto:energy.br@communities.gsi.gov.uk)

35. Enquiries on Part L of the Building Regulations should be addressed to:

Ted King: Building Regulations Division, DTLR, Zone 3/D2, Eland House,  
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E-mail: [energy.br@communities.gsi.gov.uk](mailto:energy.br@communities.gsi.gov.uk)

36. Enquiries on administrative matters raised by this circular should be addressed to:

Kathleen Morris: Building Regulations Division, DTLR, Zone 3/A1, Eland House,  
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## PAUL F. EVERALL

Assistant Secretary in the Department for Transport, Local Government and the Regions

## ANNEX A

### THE BUILDING (AMENDMENT) REGULATIONS 2001 (SI 2001/3335)

The following table lists all of the changes made by SI 2001/3335 to the Building Regulations 2000 (SI 2000/2531).

SI 2000/2531 Regulation No.	SI 2001/3335 Regulation No.	Action
2(1)	2(2)	Interpretation. <i>Definition of controlled service or fitting amended to include Part L see paragraph 21.</i>
3(1)(b)	2(3)	Meaning of building work controlled service or fitting. <i>Amended to refer to new paragraph 3(1A) see paragraphs 22 23.</i>
3	2(4)	Meaning of building work. <i>New paragraph 3(1A) added to limit the effect on existing dwellings of adding Part L to the definition of controlled service or fitting see paragraphs 22 23.</i>
6(1)(a)	2(5)	Requirements relating to material change of use. <i>New H1 added to the list. Reference to Parts H, J and L updated see paragraph 18.</i>
8	2(6)	Limitation on requirements. <i>Amended to except H2 and J6 from the limitation.</i>
12	2(7)	Giving of a building notice or deposit of plans. <i>New paragraph 12(4A) added so that full plans must be submitted where new H4 imposes a requirement see paragraph 7.</i>
13(2)(c)(ii)	2(8)	Particulars and plans where a building notice is given. <i>Deleted see paragraph 7.</i>
14(3)(a)	2(9)	Full plans. <i>Amended to include information relevant to complying with new H4 see paragraph 7.</i>
/	2(10)	Consultation with the sewerage undertaker. <i>New regulation 14A added on local authority consultation with the sewerage undertaker when H4 imposes a requirement see paragraph 8.</i>
18	2(11)	Testing of building work. <i>Replaced with a new provision which extends testing to any building work see paragraph 25.</i>
Schedule 1, Part H	2(12) (and Schedule 1)	Part H drainage and waste disposal. <i>Revised Part H replaces old Part H see</i>

		<i>paragraph 5.</i>
Schedule 1, Part J	2(12) (and Schedule 1)	Part J combustion appliances and fuel storage systems. <i>Revised Part J replaces old Part J see paragraph 19.</i>
Schedule 1, Part L	2(12) (and Schedule 1)	Part L conservation of fuel and power. <i>Revised Part L replaces old Part L see paragraph 20.</i>

**ANNEX B****THE BUILDING (APPROVED INSPECTORS ETC.) (AMENDMENT) REGULATIONS 2001 (SI 2001/3336)**

The following table lists all of the changes made by SI 2001/3336 to the Building (Approved Inspectors etc.) Regulations 2000 (SI 2000/2532).

<b>SI 2000/2532 Regulation No.</b>	<b>SI 2001/3336 Regulation No.</b>	<b>Action</b>
2(1)	3	Interpretation. <i>Definition of controlled service or fitting amended to include Part L see paragraph 21.</i>
11(1)	4	Function of Approved Inspectors. <i>Amended to refer to the testing and taking of samples see paragraph 17 and 26.</i>
11(1)(a)	4	Function of Approved Inspectors. <i>Amended to include reference to regulation 7 of the Principal Regulations see paragraph 17.</i>
11(1)(b)	4	Function of Approved Inspectors. <i>Deleted see paragraph 16.</i>
11(3)	4	Function of Approved Inspectors. <i>Deleted see paragraph 16.</i>
/	5	Approved inspectors consultation with the sewerage undertaker. <i>New regulation 13A added so that an approved inspector must consult the sewerage undertaker when H4 imposes a requirement see paragraph 9.</i>
/	6	Public bodies consultation with the sewerage undertaker. <i>New regulation 23A added so that a public body must consult the sewerage undertaker when H4 imposes a requirement see paragraph 12.</i>
Schedule 2 Form 1, 2, 3, 4, 9, 10, 11	7	Prescribed Forms. <i>Amended to reflect the repeal of section 18 of the Building Act</i>

		<i>1984; the introduction of the new requirement to consult the sewerage undertaker; and the revision of ground 9 (schedule 3) and ground 6 (schedule 6) see paragraphs 10 12 and 15.</i>
Schedules 3, 4, 6, 7, 8	8	<p>Grounds for rejecting notices/certificates.</p> <p><i>Amended to reflect the repeal of section 18 and the introduction of the new requirement to consult the sewerage undertaker; and to substitute a revised ground 9 in schedule 3 and ground 6 in schedule 6 see paragraphs 10 12 and 15.</i></p>

## ANNEX C

### PART J: COMBUSTION APPLIANCES AND FUEL STORAGE SYSTEMS

C.1 Part J of Schedule 1 to the Building Regulations is renamed "Combustion appliances and fuel storage systems". This renaming from "Heat Producing Appliances" reflects the facts that:

- a) Part J is concerned with combustion installations and not other types of heat emitter such as electric storage heaters; and
- b) Part J has two new requirements covering:
  - i) the protection of oil and liquid petroleum gas (LPG) fuel storage systems from fire (J5);
  - ii) the protection of water from domestic fuel oil pollution (J6).

There is also a new requirement for labelling (J4) to support requirements J1 to J3.

### The Requirements

*Requirements J1 to J3, and new requirement J4*

C.2 Changes have been made as follows:

- a) requirements J1, J2 and J3 now use the expression "combustion appliance" rather than "heat producing appliance", for the reason explained above;
- b) requirement J1 now includes reference to the supply of air for cooling. Requirement J1 now refers to "the efficient working of any flue", rather than "flue-pipe or chimney". As explained in the new list of definitions in paragraph 0.4 of the new Approved Document for Part J, "flue" is used to mean the passage enclosed by, e.g. the flue-pipe and the flue liner installed within a chimney;
- c) requirement J3 now refers to fireplaces and chimneys being "so constructed and installed" as to reduce the risk of fire. This reflects the use of the word "chimney" to include factory made metal chimneys that would be "installed" rather than "constructed" by the person carrying out building work. This terminology is explained in paragraph 0.4 of the new Approved Document for Part J. Requirement J3 also now addresses the risk of accidental burns from combustion appliances, flue-pipes, fireplaces and chimneys;
- d) new requirement J4 requires durable notices giving information on the correct application and use of hearths, fireplaces, flues and chimneys.

*New requirement J5 - Protection of external liquid fuel storage systems*

C.3 This requirement has been added to ensure that, when external fuel storage systems are being provided, reasonable steps are taken to reduce the risk of fires spreading to such systems from adjacent buildings and from beyond property boundaries. The new requirement is limited to fixed oil storage tanks with capacities greater than 90 litres, and connecting pipes;

and to fixed LPG storage installations with capacities greater than 150 litres, and connecting pipes. Part B already covers fire protection of fuel storage systems housed within buildings.

#### *New requirement J6 - Protection against oil pollution*

C.4 This requirement is limited to apply to external oil storage systems (other than wholly buried systems), with tanks of 3,500 litres or less, that serve fixed combustion appliances in buildings used wholly or mainly as private dwellings. The aim of the new requirement is to help ensure that new oil storage systems of this kind are sufficiently robust to the risk of oil leaks polluting water. The Control of Pollution (Oil Storage) (England) Regulations 2001 (SI 2001/2954), administered by the Environment Agency, cover this risk for other oil storage installations in England. New requirement J6 also requires durable notices to be provided, containing information on how to respond to an oil escape.

### **New Approved Document for Part J ("AD J")**

C.5 A summary of the main changes to the requirements in Part J and to the guidance contained within AD J can be found inside the front cover of the 2002 edition. The new edition of AD J provides more guidance for builders and heating engineers. The guidance addresses the hazards that can arise and ways in which the risks of exposure to these can be managed satisfactorily by efforts during construction and at completion of the work. This applies to work in new buildings and extensions and in existing buildings.

C.6 Guidance is included on whether work to existing flues amounts to the provision of a new flue and so is "building work" within the meaning of regulation 3 of the Building Regulations 2000 (see paragraphs 1.34 -1.35).

C.7 Paragraphs 1.53-54 contain new guidance to those carrying out building work on the checking of hearths, fireplaces, flues and chimneys (including, where relevant, the soundness of joints between combustion appliance outlets and flues) before work can be considered complete. A new checklist is set out in Appendix A to AD J, intended as the basis for declarations of compliance with Parts J1, 2 and 3. Appendix E to AD J gives guidance on the test methods that are available for natural draught flues intended for open-flued appliances. Appendix E also refers to British Standards for spillage tests for gas, oil and solid fuel appliances.

C.8 Paragraphs 1.56-58 give guidance on the new requirement J4, covering the content and positioning of durable notice plates giving information about the performance capabilities of hearths, fireplaces, flues and chimneys. This new requirement applies where a hearth, fireplace, flue or chimney is provided or extended.

C.9 Paragraphs 3.1-5 give information about the Gas Safety (Installation and Use) Regulations which must be taken into account when contemplating gas combustion appliance installation work. Some elements of work may be subject both to the Gas Safety (Installation and Use) Regulations and to the Building Regulations.

C.10 Section 5 of the AD deals with new requirements J5 and J6.

## Action by Building Control Bodies in relation to Part J1, J2, J3 and J4

C.11 In making the following recommendations, the Department is not detracting from the importance of checks by Building Control Bodies (BCBs) for the compliance of work with other applicable provisions in Part J, in the rest of Schedule 1 and in Regulation 7. The Department expects that all site inspection work of BCBs will follow the principles set out in "Building Control Performance Standards" published by DETR in July 1999 (see Standard 5 "Site Inspection" and the associated guidance). "Building Control Performance Standards" is available, quoting reference 99CD0352, from DTLR Free Literature, PO Box No 236, Wetherby LS23 7NB (Tel 0870 1226 236. Fax 0870 1226 237). It is also available on the DTLR web-site.

C.12 The requirements of Parts J1 and J2 make an important contribution to the reduction of the risk of carbon monoxide poisoning. The requirements of Part J3 contribute to the reduction of fire risks and risks of injury from burns. The objectives of requirements J1, J2 and J3 are supported by the new requirement J4, for durable notices giving information on the correct application and use of hearths, fireplaces, flues and chimneys.

C.13 The Department recommends that, in checking for compliance with these requirements, BCBs should, in respect of dwellings:

- a) ask for a copy of the Appendix A report, or equivalent, from the person legally responsible for achieving compliance with requirements J1, J2 and J3, for each new or extended hearth, fireplace, flue and chimney (see paragraph C7 above);
- b) in particular, check from the Appendix A report, or otherwise, that a spillage test in accordance with the appropriate British Standard has been carried out for each new combustion appliance, by a suitably qualified or supervised person;
- c) call for, and preferably witness, further tests, if there is insufficient evidence that such tests have been done for particular flues and combustion appliances, or if the tester appears not to have been suitably qualified or supervised;
- d) if necessary, *carry out* flue tests and spillage tests;
- e) check that a notice complying with requirement J4 has been provided for each new or extended hearth, fireplace, flue and chimney.

## ANNEX D

### PART L: CONSERVATION OF FUEL AND POWER

D.1 Part L of Schedule 1 to the Building Regulations now contains two sets of requirements, L1 and L2, dealing separately with dwellings; and buildings other than dwellings. This has been done in response to a widely supported industry contention that house building is a separate sector and does not ordinarily need guidance aimed at more complex buildings that are workplaces, leisure facilities etc.

#### The Requirements

##### *Requirement L1: dwellings*

D.2 Changes have been made as follows:

- a. L1(b) has been widened to encompass the performance of the boiler or other heat source as well as the control systems.
- b. L1(c) is new and calls for internal and external lighting to be energy efficient and for external lighting to be efficiently controlled.
- c. L1(d) is new and calls for the provision of information so that building occupiers can control the heating and hot water systems effectively.

##### *Requirement L2: buildings other than dwellings*

D.3 Changes have been made as follows:

- d. L2(a) refers to heat gains as well as losses because the requirements now address summer as well as winter performance.
- e. L2(c) has been widened to encompass the performance of the boiler or other heat source as well as the control systems.
- f. L2(d) is new, calling for provisions to limit exposure to solar overheating.
- g. L2(e) is new, calling for energy efficient systems when buildings are to be air-conditioned or mechanically ventilated.
- h. L2(f) is new, calling for chilled water and refrigerant vessels and pipes to be insulated against heat gain.
- i. L2(h) is new and calls for the provision of information so that building occupiers can operate and maintain the building in energy efficient ways.

#### The new Approved Document for Part L1 ("AD L1")

D.4 A summary of the main changes to the requirements in Part L1, and to the guidance contained within the AD L1, can be found inside the front cover of the 2002 edition. The following paragraphs mention some of the new material.

D.5 A checklist for designers and builders is provided immediately following the general "Use

of Guidance" section.

#### *Space heating and HWS systems*

D.6 There is new guidance (see paragraphs 1.49-50 of AD L1) on certificates or declarations by (or on behalf of) the person legally responsible for achieving compliance, that heating and HWS systems have been commissioned, and that they comply with Part L1. It is suggested that Building Control Bodies (BCBs) could accept that compliance has been achieved in respect of such systems, if such certificates are available, from suitably qualified persons, within a recognised framework such as the Benchmark scheme.

#### *Work on existing dwellings*

D.7 Section 2 of AD L1 deals with work on existing dwellings. Paragraphs 22-23 of the main body of this circular outline the Part L-related implications for existing dwellings of the amended Regulations. Section 2 of AD L1 includes guidance (see paragraphs 2.9-11) on what may be reasonable in the case of historic buildings. It is suggested that in some cases it would be prudent to take advice from the local authority's conservation officer.

### **The new Approved Document for Part L2 ("AD L2")**

D.8 A summary of the main changes to the requirements in Part L2 and to the guidance contained within the Approved Document can be found inside the front cover of the 2002 edition. The following paragraphs mention some of the new material.

D.9 A checklist for designers and builders is provided immediately following the general "Use of Guidance" section.

#### *Mixed use buildings*

D.10 Because the guidance has been separated into two publications a new paragraph (0.29) is included in Section 0 indicating that Part L1 and Approved Document L1 are applicable to dwellings in mixed-use buildings.

#### *Format of technical sections*

D.11 The format is changed in AD L2 to address design, construction, provision of information and work on existing buildings in separate sections - sections 1, 2, 3 and 4 respectively.

D.12 In paragraphs 2.1 - 4, guidance is offered on certificates or declarations, by or on behalf of the person legally responsible for compliance, that the requirements of Part L2 for insulation continuity and building *airtightness* have been achieved. For *insulation continuity* two options are suggested: to present a certificate or declaration from a suitably qualified person that appropriate design details and building techniques have been used and that the work has been carried out in ways that can be expected to achieve reasonable conformity with the specifications; or to carry out thermography tests. For *airtightness* of buildings it is suggested that, for buildings of any size, satisfactory results of air pressure tests would be acceptable, or alternatively, for buildings with floor areas of less than 1000m<sup>2</sup>, reports of satisfactory design and construction could be acceptable.

D.13 The guidance indicates that declarations on design and workmanship conformity, and test results, from suitably qualified persons may be accepted by BCBs as evidence of compliance,

but that any question of the qualifications of certifiers and testers will need to be settled before the work begins. Members of the UK Thermography Association (UKTA) may be considered qualified to confirm reasonable insulation continuity; BRE or BSRIA may be accepted as qualified to confirm reasonable airtightness. This does not imply that others may not also be suitably qualified.

D.14 There is new guidance (see paragraph 2.6 of AD L2) on reports by (or on behalf of) the person legally responsible for achieving compliance, that building services systems have been commissioned, and that they comply with Part L2. It is suggested in paragraph 2.6 that BCBs could accept that compliance with Part L2 has been achieved in respect of such systems, if such reports are available, from suitably qualified persons, but in paragraph 2.7 it is pointed out that any question of the qualifications of persons giving such reports will need to be settled before the work begins.

D.15 Section 3 of AD L2 deals with new requirement L2(h). The requirement will be satisfied by provision of a log-book with information on how to operate the building in the interests of the conservation of fuel and power, to owners or occupiers, in a form that can be readily understood by non-specialists. This is separate from the information that the contractors produce by way of as-built and as-installed drawings and operation and maintenance log-books aimed at service contractors. The requirement also calls for the provision of energy meters to enable building owners and occupiers to monitor their energy consumption.

D.16 Section 4 of AD L2 deals with work on existing buildings, and includes guidance on historic buildings. Paragraph 24 of the main body of this Circular outlines the Part L-related implications for existing buildings (other than dwellings) of the amended Regulations.

### Action by Building Control Bodies in relation to Part L

D.17 In making the following recommendations, the Department is not detracting from the importance of checks by BCBs for the compliance of work with other applicable provisions in Schedule 1 and in Regulation 7. The Department expects that all site inspection work by BCBs will follow the principles set out in "Building Control Performance Standards" published by DETR in July 1999 (see paragraph C.11 in Annex C to this Circular).

D.18 The changes to Part L make an important contribution to the achievement of the Government's targets for the reduction in carbon dioxide emissions. This is the main reason why many of the new methods are based on carbon accounting. Carbon emissions arise only when buildings are occupied. Therefore the aim of Part L is to ensure that the building envelope and the building services are *capable* of performing reasonably well in use and are *capable* of being satisfactorily controlled by owners and occupiers. In the case of Part L2, an additional particular aim is that there is sufficient provision of energy meters to permit satisfactory energy performance monitoring.

D.19 The Department recommends that in checking for compliance with **Part L1**, BCBs should, in all relevant cases, include checks:

- a) that there is a certificate of successful commissioning of the heating and HWS system, as recommended in paragraphs 1.47-51 and (as regards existing

dwellings) in paragraph 2.3 of AD L1;

b) that operating and maintenance instructions have been provided (see paragraphs 1.51 and 2.3 of AD L1).

Where a certificate from a person with a recognised qualification has not been provided, the BCB must use their judgement in deciding what weight to attach to an alternative written declaration, or what action to take in the absence of any written declaration.

D.20 The Department recommends that in checking for compliance with **Part L2**, BCBs should, amongst other things:

a) establish in all relevant cases, as part of the process of drawing up an inspection regime, whether there will be certificates from persons with recognised qualifications covering continuity of insulation and airtightness in the completed work (see paragraphs 2.1 - 4 of AD L2). If there will be no such certificates, the BCB should adopt an inspection regime that will allow them to satisfy themselves in other ways as to compliance in these respects;

b) establish, as above, whether there will be reports from persons with recognised qualifications that building services systems have been successfully commissioned as recommended in paragraphs 2.5 and 2.6 of AD L2. If there will be no such certificates, the advice in subparagraph (a) above, applies;

c) at the completion stage, check where relevant for the existence of certificates and reports as referred to in subparagraphs a) and b) above;

d) check that that a log-book has been provided for owners and occupiers in accordance with the guidance in paragraphs 3.1- 2 of AD L2; and that energy meter provision conforms to the guidance in paragraphs 3.3 - 6 of AD L2.

## ANNEX E TRANSITIONAL PROVISIONS

### *The Building (Amendment) Regulations 2001*

E.1 Regulation 4 of the Building (Amendment) Regulations 2001 contains transitional provisions. Regulation 4(1) provides that the amended terms of the Building Regulations 2000 **will not apply in relation to building work which has already started before 1 April 2002**, provided that the building work began in accordance with:

- a building notice **and** a commencement notice given to the local authority; or
- full plans deposited with **and** a commencement notice given to the local authority; or
- an initial notice, an amendment notice or a public body's notice given to the local authority.

There are supplementary provisions in Regulation 4(2), relating to cases where an initial notice given before 1 April 2002 is varied by an amendment notice given on or after that date. These are to the effect that, even if work pursuant to an initial notice has begun before 1 April 2002, so that it is not subject to the amended Regulations, work added to the scope of the initial notice by an amendment notice given on or after 1 April 2002 *is* subject to the amended Regulations.

E.2 Regulation 4(3) and (4) provide that the amended terms of the Building Regulations 2000 **will not apply in relation to building work begun on or after 1 April 2002** where:

- full plans have been deposited before that date **and** the local authority has passed the plans, without conditions, before that date; or
- full plans have been deposited before that date **and** the local authority has stated in writing, before that date, that any conditions subject to which they passed the plans have been fully met; or
- a plans certificate has been given by an approved inspector to a local authority before that date **and** is accepted (or is deemed to have been accepted) before, on or after that date.

The flow charts at Annexes E1, E2 and E3 illustrate how the transitional provisions work in relation to: the building notice route; the full plans route; and the approved inspector route.

E.3 Where the work covered by a building notice, deposited plans or an initial notice consists of or includes the erection of more than one new building (e.g. an estate of houses), the effect of the rule described in paragraph E.1 is that, unless the rule described in paragraph E.2 applies, a particular building within the overall project will be subject to the revised versions of Parts H, J and L if the erection of *that building* has not started **before 1 April 2002**. Thus if a project consists of the erection of 10 houses and work has begun on one house before 1 April 2002, the other nine houses *will be subject to the revised versions of Parts H, J and L*, unless

the rule described in paragraph E.2 applies.

E.4 The Department considers that the start of the erection of a building would usually be marked by work such as:

- excavation for strip or trench foundations or for pad footings;
- digging out and preparation of ground for raft foundations;
- vibrofloatation (stone columns) piling, boring for piles or pile driving.

E.5 The Department considers that the following sorts of work would not be likely to constitute the start of erection of a building:

- removal of vegetation;
- removal of top soil;
- removal or treatment of contaminated soil;
- excavation of trial holes;
- dynamic compaction;
- general site servicing works (e.g. roadways and drainage).

E.6 Local authorities should note that where plans are deposited before 1 April 2002, but the plans have not been passed (or all conditions discharged) before that date, and work has not begun before that date in accordance with a commencement notice:

- a) the new requirement, in regulation 14A of the Building Regulations 2000, for consultation with the sewerage undertaker will apply (if relevant) with effect from 1 April 2002;
- b) the amended version of section 21 will apply (if relevant) in relation to the work with effect from 1 April 2002;
- c) decisions on the plans taken after 1 April 2002 should be based on the amended versions of Parts H, J and L.

E.7 Where a building notice has been given before 1 April 2002, but work has not begun before that date in accordance with a commencement notice, local authorities' decisions on the work should be based on the amended versions of Parts H, J and L.

E.8 Where an initial notice has been given before 1 April 2002, but work has not begun before that date, and no plans certificate has been given before that date, approved inspectors' decisions taken after 1 April 2002 on any plans certificate and on the work itself should be based on the amended versions of Parts H, J and L.

*The Building (Approved Inspectors etc.) (Amendment) Regulations 2001*

E.9 Regulation 9 of the Building (Approved Inspectors etc.) (Amendment) Regulations 2001

contains transitional provisions. Regulation 9(1) provides that the current, unamended, provisions of the Building (Approved Inspectors etc) Regulations 2000 **will continue to apply in relation to building work which has already started before 1 April 2002**, if the building work began in accordance with:

- an initial notice;
- an amendment notice; or
- a public body's notice.

There are supplementary provisions in Regulation 9(2), corresponding to those in Regulation 4(2) of the Building (Amendment) Regulations, relating to cases where an initial notice given before 1 April 2002 is varied by an amendment notice given on or after that date.

E.10 Regulation 9(3) provides that the revised provisions of the AI Regulations will not apply to work begun on or after 1 April 2002 if a plans certificate has been given by an approved inspector to a local authority before that date **and** is accepted (or is deemed to have been accepted) before, on or after that date.

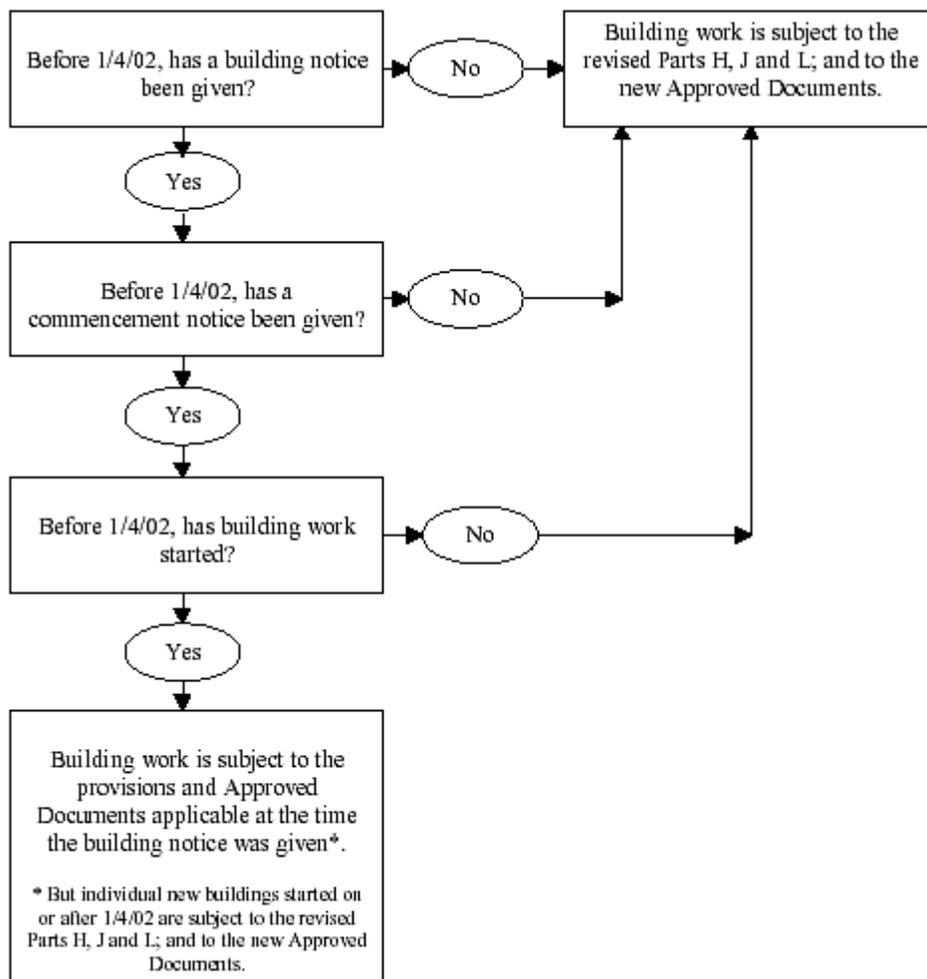
E.11 Approved Inspectors should note that where an initial notice has been given before 1 April 2002, but the work has not been started before that date, then, unless Regulation 9(3) of the Building (Approved Inspectors etc.) (Amendment) Regulations 2001 applies:

- a) the new requirement for approved inspectors to consult sewerage undertakers will apply (if relevant) with effect from 1 April 2002;
- b) amendment notices, plans certificates and final certificates given in respect of the work after 1 April 2002, should be in the amended form;
- c) the grounds for rejecting such amendment notices, plans certificates and final certificates will be as amended by the Building (Approved Inspectors etc.) (Amendment) Regulations 2001.

E.12 Unless regulation 9(3) of the Building (Approved Inspectors etc.) (Amendment) Regulations 2001 applies, plans certificates and final certificates given in relation to particular new buildings started on or after 1 April 2002, pursuant to an initial notice given before 1 April 2002 should be in the amended form (see also paragraph E.3 above).

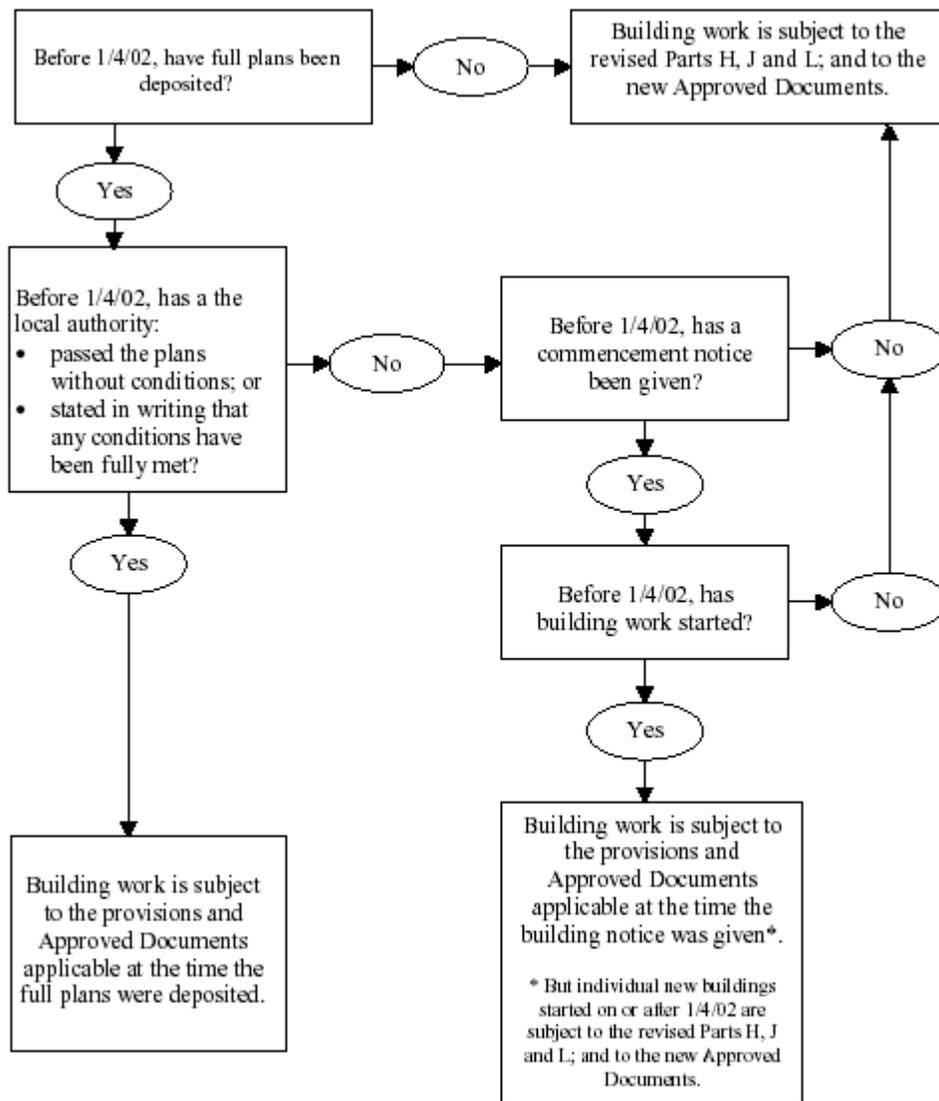
## **ANNEX E.1 THE BUILDING (AMENDMENT) REGULATIONS 2001: REVISED PARTS H, J AND L: TRANSITIONAL PROVISIONS**

### **Local Authority Building Control - Building Notice Route**



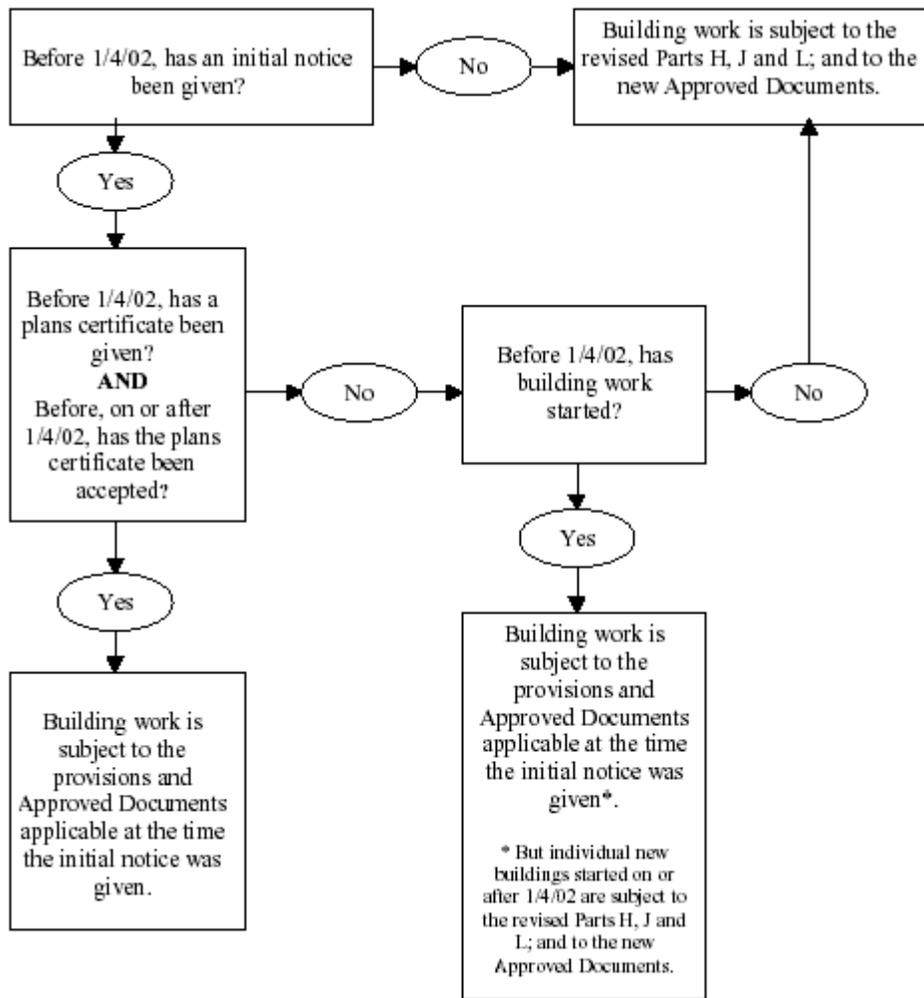
**ANNEX E.2  
THE BUILDING (AMENDMENT) REGULATIONS 2001: REVISED PARTS H, J AND L:  
TRANSITIONAL PROVISIONS**

**Local Authority Building Control - Full Plans Route**



**ANNEX E.3  
THE BUILDING (AMENDMENT) REGULATIONS 2001: REVISED PARTS H, J AND L:  
TRANSITIONAL PROVISIONS**

**Approved Inspector Building Control Route**



## ANNEX F

<b>BUILDING ACT 1984</b>	
<b>NOTICE OF APPROVAL OF DOCUMENTS FOR THE PURPOSE OF GIVING PRACTICAL GUIDANCE WITH RESPECT TO THE REQUIREMENTS OF THE BUILDING REGULATIONS 2000</b>	
The Secretary of State for Transport, Local Government and the Regions hereby gives notice under section 6 of the Building Act 1984 that, in exercise of his powers under the said section 6, he has approved the documents listed below for the purpose of giving practical guidance with respect to the specified requirements of the Building Regulations 2000 (as amended). The approvals take effect on 1 April 2002.	
<b>Document</b>	<i>Requirement of the Building Regulations 2000 in respect of which the document is approved</i>
"Approved Document H: Drainage and waste disposal. 2002 <i>Edition</i> "	Schedule 1 Part H
"Approved Document J: Combustion appliances and fuel storage systems. 2002 <i>Edition</i> "	Schedule 1 Part J
"Approved Document L1: Conservation of fuel and power in dwellings. 2002 <i>Edition</i> "	Schedule 1 Part L1
"Approved Document L2: Conservation of fuel and power in buildings other than dwellings. 2002 <i>Edition</i> "	Schedule 1 Part L2

Signed by authority of the  
Secretary of State for Transport,  
Local Government and the  
Regions  
**31 October 2001**

**Paul F. Everall**  
an Assistant Secretary  
in the Office of the Deputy Prime  
Minister

