

OFFICE OF THE DEPUTY PRIME MINISTER

ODPM Circular 12/2003
Office of the Deputy Prime Minister
Portland House, Stag Place, London SW1E 5LP

10 December 2003

THE BUILDING ACT 1984

The Building (Repeal of Provisions of Local Acts) Regulations 2003

INTRODUCTION

1. I am directed by the First Secretary of State to draw your attention to the Building (Repeal of Provisions of Local Acts) Regulations 2003 (SI 2003/3030) which were made on 24 November 2003 and which come into force on 1 March 2004.
2. In accordance with section 14 of the Building Act 1984, SI 2003/3030 was made after consultation with the Building Regulations Advisory Committee, with representatives of local authorities and with other bodies representative of the interests concerned.

THE PURPOSE AND EFFECT OF THE REGULATIONS

3. SI 2003/3030 follows on from two consultation documents issued by the former Department of the Environment, Transport and the Regions and the Office of the Deputy Prime Minister, in July 2000 and in July 2002 respectively. The earlier of these consultation documents related mainly to proposals for amendment of Part H, Drainage and Waste Disposal, in Schedule 1 to the Building Regulations 2000. A revised Part H was subsequently introduced into the Building Regulations 2000 by the Building (Amendment) Regulations 2001 (SI 2001/3335).
4. The July 2002 document, *Proposals for repealing some provisions of local Acts regarding drainage*, referred back to proposals included in the earlier consultation document for repeal of provisions in four local Acts that enable the local authority to reject plans of building work deposited under the Building Act 1984 if they do not show separate drains for foul and surface water. The July 2002 document noted that responses to the earlier document had drawn attention to similar provisions in two other local Acts, and that the ODPM had therefore decided to consult afresh on proposals for repeal of the relevant provisions in all six local Acts.

5. The July 2002 document included the following paragraph:

'It is considered anomalous that 30 or so years after the introduction of national building regulations there are still building regulation provisions in local Acts that have no basis in special geographical conditions. The removal of such local Act provisions can be seen as helping to meet the objective of better regulation. However, if there is seen to be continuing merit in any such provisions of local Acts, there is a presumption that these provisions should equally apply throughout England and Wales.'

The July 2002 document noted that there is a provision in Schedule 1 to the Building Act 1984 (as amended) that allows the Secretary of State to repeal or modify local Act provisions pre-dating 1994, if they are inconsistent with, or are unnecessary or require alteration in consequence of, any provision contained in or made under any enactment relating to building regulations.

6. Under Requirement H5 in Part H (as amended in 2001), any system for discharging rainwater from a new building or extension to a sewer, must be separate from that provided for foul drainage, if there is a separate public surface water sewer in existence or under construction. An objective of Part H is to reduce the amount of rainwater from buildings and some associated paved areas that enters combined foul and surface water sewers, where the presence of surface water can increase the risk of foul flooding and increases loads for sewage treatment works. This concern underlay the local Act provisions now repealed.
7. Regulation 4(2) of the Building Regulations 2000 provides that, where regulated building work is carried out to an existing building, there must be no consequent reduction in the level of compliance with the applicable requirements of Schedule 1, as regards the building or any controlled service or fitting. This provision prevents the removal of existing separate drainage arrangements as part of a material alteration of a building, if such removal would lead to non-compliance, or a lesser degree of compliance, with Requirement H5.
8. In the light of the amended Part H and the existing provisions of Regulation 4(2), the July 2002 consultation document concluded that the provisions in the six local Acts are unnecessary in consequence of the current provisions of the Building Regulations. Respondents to the consultation did not dissent from this conclusion. Accordingly, SI 2003/3030 repeals the following provisions in local Acts, with effect from 1 March 2004:

Section 38(2) of the East Ham Corporation Act 1957

Section 50 of the West Yorkshire Act 1980

Section 39 of the South Yorkshire Act 1980

Section 18 of the Staffordshire Act 1983

Section 20 of the County of Lancashire Act 1984

Section 30 of the Leicestershire Act 1985

TRANSITIONAL PROVISION

9. SI 2003/3030 provides that, where, before 1 March 2004, plans to which a repealed provision applies have been deposited with a local authority, and no notice rejecting those plans has been given under section 16(6) of the Building Act 1984 before that date, the provision ceases to have effect in relation to that deposit of plans.

Enquiries

10. Enquiries on Part H of the Building Regulations 2000 (as amended) should be addressed to:

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11. Enquiries on administrative matters raised by this Circular should be addressed to:

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