



Department for
Communities and
Local Government

To:

The Chief Executive
Unitary, Metropolitan, District and
London Borough Councils in England
County and County Borough
Councils in Wales
The Town Clerk, City of London
The Clerk, Council of the Isles of Scilly
The Sub-Treasurer, Inner Temple
The Under Treasurer, Middle Temple

The Head of Building Control
Unitary Metropolitan, District and
London Borough Councils in
England
County and County Borough
Councils in Wales
City of London
Council of the Isles of Scilly

Approved Inspectors

cc: The Chief Executive:
County Councils in England
National Park Authorities in England &
Wales

The Chief Fire Officer: Fire and Rescue
Authorities in England & Wales

Dear Sir or Madam

BUILDING ACT 1984, AS AMENDED BY THE DEREGULATION ACT 2015

BUILDING REGULATIONS 2010

BUILDING (APPROVED INSPECTORS ETC.) REGULATIONS 2010

BUILDING REGULATIONS & C (AMENDMENT) REGULATIONS 2015

LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS (FINES ON SUMMARY CONVICTION) REGULATIONS 2015

APPROVED DOCUMENTS E, F, G, H, M AND Q

I am writing to inform you of changes made to the Building Regulations and Approved Inspectors Regulations by the Building Regulations &c. (Amendment) Regulations 2015, new Approved Documents G, H, M and Q to support these changes, removal of the maximum fine limit for breaches of the Building Regulations under sections 35 and 35A of the Building Act, an amendment to Approved Document E in respect of the sound insulation in schools and supplementary guidance to the guidance on ventilation in Approved Document F.

Scope of this Circular Letter

The guidance in this Circular Letter applies to buildings and building work in England, and also to excepted energy buildings in Wales.¹

Publications

DCLG Circular 01/2015, which explains the amendments made by the Building Regulations &c. (Amendment) Regulations 2015 and contains the notice of approval for new Approved Documents G, H, M and Q and for the amendment of Approved Document E. It also contains a notice of approval for the methodology used to calculate the potential consumption of wholesome water in new dwellings. The Circular is available at:

<https://www.gov.uk/government/collections/building-regulations-circulars>

Approved Document G: (Sanitation, hot water safety and water efficiency) (2015), available at:

<http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partg/approved>

Approved Document H (Drainage and waste disposal) (2015), available at:

<http://www.planningportal.gov.uk/buildingregulations/approveddocuments/parth/approved>

Approved Document M (Access to and use of buildings) (2015), Volume 1 and 2 available at:

Volume 1

<http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partm/adm/admvol1>

Volume 2

<http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partm/adm/admvol2>

¹ Excepted energy buildings are defined in the schedule to the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I. 2009/3019)

Approved Document Q (Security) (2015), available at:

<http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partq/approved>

Amendment to Approved Document E, available at:

<http://www.planningportal.gov.uk/buildingregulations/approveddocuments/parte/approved>

Housing Standards Review

As building control bodies will be aware, this Department has carried out a major review of the technical standards which local authorities impose on new dwellings as planning conditions with a view to simplifying them and incorporating such standards within the Building Regulations as far as possible. The 2015 Regulations reflect the outcome of the review as far as the Building Regulations and the building control system are concerned.

The review has also resulted in a national space standard for new dwellings. This standard has not been incorporated into the Building Regulations. The standard may be imposed by local planning authorities as a planning condition. Checking whether the standard where imposed has been complied with and any enforcement action remain the responsibility of the local planning authority, though it is open for local planning authorities to ask for the assistance of building control bodies in doing so if they choose.

New Security Requirement for Dwellings

The 2015 Regulations amend the Building Regulations to introduce a new mandatory security requirement (Part Q) for new dwellings, including new dwellings formed by a material change of use. Part Q is supported by new Approved Document Q.

Part Q comes into effect on 1 October 2015 and applies to all building notices, full plans deposits and initial notices given on or after that date for new dwellings. It does not apply to building notices full plans deposit or initial notices given before 1 October so long as the work to which the notices or full plans relate commences before 1 October 2016. For commencement of work see below.

New optional access requirements for new dwellings

The 2015 Regulations make substantial changes to Part M of Schedule 1 to the Building Regulations. First it divides Part M into two sections: one dealing with buildings other than dwellings (requirements M1, M2 and M3) and the other with dwellings (requirements M4(1), M4(2) and M4(3)).

There are no changes to the requirements for buildings other than dwellings. The existing Approved Document M has also been divided into two volumes. Volume 2 gives guidance on buildings other than dwellings. There has been no change to this guidance from the previous edition.

There are, however, very significant changes to the requirements for new dwellings:

Requirement M4(1) (visitable dwellings) is the same as the previous requirement M1 as it applied to dwellings, except that it now applies in the case of material alterations. It

continues not to apply to a dwelling created by a material change of use or to an extension to a dwelling.

Requirements M4(2) (accessible and adaptable dwellings) and M4(3) (wheelchair user dwellings) are new optional requirements. This means that one or the other can be imposed as a planning condition by the local authority in the grant of planning permission where there is an appropriate policy in the local plan. Where they are imposed compliance with M4(1) need not be assessed as each applies in substitution for requirement M4(1). Requirements M4(2) and M4(3) may apply only to the erection of a new dwelling, not to the creation of a new dwelling by a material change of use. For building control functions in respect of optional requirements see below.

The material alteration provisions now apply to dwellings by virtue of what is now requirement M4(1). This means that regulation 3(2) and 3(3) of the Building Regulations now apply to the material alteration of a dwelling where compliance with requirement M4(1) would be affected. As optional requirements M4(2) and M4(3) apply only on the erection of a new dwelling, a dwelling subject to a material alteration in respect of Part M need continue to comply only with Part M4(1).

Volume 1 of new Approved Document M gives guidance on requirements M4(1), (2) and (3).

Please note that the previous requirement M4(1) and (2) (Sanitary conveniences in dwellings) has been subsumed into each of the new requirements M4(1), M4(2) and M4(3). Guidance on this is given in sections 1B, 2B and 3B of the new volume 1 of the Approved Document.

The changes to Part M come into force on 1 October 2015 and apply only to building notices, deposit of full plans or initial notices given on or after that date.

New optional water efficiency requirement for new dwellings

Regulation 36 of the Building Regulations has been amended to include an optional requirement enabling a local planning authority as a condition of planning permission where there is an appropriate policy in the local plan, to impose a limit of 110 litres per person per day for the consumption of wholesome water where the planning authority considers it appropriate to do so. If this optional requirement is not imposed the limit of 125 litres per person per day for the consumption of wholesome water will continue to apply. The consumption must be calculated in accordance with the methodology approved by the Secretary of State. The approved methodology is now printed as an appendix to new Approved Document G which gives guidance on this new optional requirement. The methodology now also includes an alternative fittings based approach which can be used to demonstrate compliance.

For building control functions in respect of optional requirements see below.

The notice required under regulation 37 to be given to building control bodies must now specify which water consumption target applies to the dwelling concerned as well as the calculated consumption for that dwelling.

Regulation 36 applies to the erection of a dwelling and to a dwelling created by a material change of use under regulation 5(a) or (b) of the Building Regulations.

This change to the water efficiency requirements comes into effect on 1 October 2015 and applies only to building notices, deposit of full plans or initial notices given on or after this date. The previous Departmental publication *The Water Efficiency Calculator for New Dwellings* will be withdrawn from this date except in relation to building notices, deposit of full plans or initial notices given before 1 October 2015.

Changes to the building control system in respect of optional requirements

The 2015 Regulations make a number of changes to the building control system in respect of building control functions where optional requirements have been imposed.

The duty to tell a building control body that an optional requirement has been imposed falls on the person carrying out the work. Optional requirements will be imposed as a condition of the planning permission for the dwelling concerned. In some cases planning permission will be given before a building notice, deposit of full plans or an initial notice is given. In other cases it will be after. The amendments made by the 2015 Regulations make allowance for both circumstances.

Local authority building control

Regulations 13 and 14 of the Building Regulations 2010 have been amended to require the person carrying out the work to give with a building notice or a deposit of full plans a statement whether an optional requirement applies, and if so which, if this is known at the time a building notice is given or full plans deposited. This applies only in the case of a new dwelling.

If it is not known whether an optional requirement applies to a dwelling at the time a building notice is given or deposit of full plans made because planning permission has not yet been given a statement to this effect must accompany the building notice or full plans. Within 28 days of the grant of planning permission the person carrying out the work must notify the local authority whether an optional requirement applies and, if so, which.

Approved inspector building control

The forms in Schedule 1 to the Building (Approved Inspectors etc.) Regulations 2010 have all been amended and substituted to deal with optional requirements where imposed on dwellings. **The substituted Form 1 or Form 4 must be used in respect of all initial notices given on or after 1 October whether or not the building to which the forms relate is a dwelling.** Where a substituted initial notice form has been used any subsequent amendment notices, plans certificates and final certificates must also use the substituted Forms 2, 3 or 5. Failure to use the amended forms may result in a rejection by the local authority to which the notices/certificates must be sent.

Initial notices, amendment notices and plans certificates all make provision for whether the imposition of an optional requirement is known at the time the notice./certificate is given (and if so which) or whether this is not known because planning permission has not yet been granted. Where the notices/certificates concern a new dwelling it will be for the approved inspector to obtain this information from the person carrying out the work.

Where the information is not known at the time an initial notice, amendment notice or plans certificate is given, a supplementary statement (or an amendment notice) must be given to the local authority as soon as reasonably practicable after planning permission has been granted to set out whether an optional requirement has been imposed and, if so, which. These supplementary statements will form part of the public register held by local authorities under section 56 of the Building Act.

Please note that Form 4 (combined initial notice and plans certificate) cannot be used in respect of a dwelling where planning permission has not been granted before the form is given to the local authority.

Schedules 2 to 7 of the Approved Inspectors Regulations have all been amended to add to the reasons for rejection of notices/certificates by a local authority a failure to supply information relating to whether the building concerned is a new dwelling and, if so, whether an optional requirement applies.

Completion/final certificates

Regulation 4 of the Building Regulations has been amended to make it clear that where an optional requirement has been imposed the standard of compliance required in regulation 4(3) of the Regulations is the same as for the mandatory requirements. A local authority should not give a completion certificate under regulation 17 of the Building Regulations or an approved inspector a final certificate under section 51 of the Building Act unless satisfied that any optional requirement imposed has been complied with.

Commencement of work

In some cases a transitional period is dependent in part on the date of commencement of work. In this case this applies to the new requirement Q1 on security. In the Department's opinion the commencement of work 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;
- drainage work specific to the building(s) concerned.

We consider that the following sorts of work would not be likely to constitute the commencement of work:

- removal of vegetation
- demolition of any previous buildings on the site;
- removal of top soil;
- removal or treatment of contaminated soil;
- excavation of trial holes;
- dynamic compaction;
- general site servicing works (e.g. roadways)

In some cases applications will be in respect of a number of buildings on a site, for example a number of houses. In such cases it is the commencement of work on the first of the buildings within the application which determines whether all the building work can take advantage of the transitional provisions, not each individual building.

New Approved Documents

New Approved Documents G, H, M and Q come into effect on 1 October 2015 and apply to building work where a building notice, full plans deposit or initial notice was given on or after that date. The previous editions of these Approved Documents will continue to apply to work where a building notice, full plans deposit or initial notice was given before 1 October 2015.

The amendment to Approved Document E comes into force on 6 April 2015 and applies to building notices, full plans deposit or initial notices given on or after that date. The unamended Approved Document E will continue to apply to work where a building notice, full plans deposit or initial notice was given before that date.

New and amended competent person schemes

The 2015 Regulations authorise a number of new or extended competent person schemes and also revoke a small number of authorisations. One authorisation and one revocation of authorisation concern pressure testing schemes as set out in regulation 43(4) of the Building Regulations 2010. All the others are changes to Schedule 3 to those Regulations. A list of the authorisations and revocations of authorisation made by the 2015 Regulations is at Annex C to Circular 01/2015. All authorisations come into effect on 18 April 2015, as do all revocations of authorisation except that of the British Institute of Non-Destructive Testing which does not come into effect until 31 December 2015.

The 2015 Regulations have substituted a consolidated Schedule 3 which incorporates the latest authorisations and revocations of authorisation and therefore provides a more convenient list of all the schemes authorised for particular types of work. This new Schedule 3 comes into effect on 18 April 2015.

Fine for breaches of the Building Regulations

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 have removed the maximum fine limit of £5000 for prosecutions under sections 35 and 35A of the Building Act 1984 for breaches of the Building Regulations. This change came into effect on 12 March 2015. The change applies only to offences committed on or after that date, for which a fine of any amount will be available to the court.

Approved Document F: BCA Technical Guidance Note 20: Ensuring adequate ventilation to naturally-ventilated dwellings with high levels of as-built airtightness

Changes to Part L energy efficiency standards since 2006 have led to new dwellings becoming substantially more airtight than in the past. While increased airtightness is beneficial for improving energy efficiency, there are consequences for ventilation: with fewer minor gaps in the fabric, there will be less unintended infiltration to supplement purpose-provided background ventilation. Adequate ventilation is important to ensure that moisture and pollutants do not rise to levels that could cause mould growth and occupant ill-health.

Where ventilation system 1 (background ventilators and intermittent extract fans) and system 2 (passive stack ventilation) are used, Approved Document F 2010* recommends that an increased total ventilator area is provided where:

- the design air permeability is tighter than $5 \text{ m}^3/(\text{h.m}^2)$ at 50 Pa
- the as-built air permeability is tighter than $3 \text{ m}^3/(\text{h.m}^2)$ at 50 Pa

(* See paragraph 5.10 and tables 5.2a and 5.2b of Approved Document F)

As builders have become more used to delivering airtight dwellings, an increasing proportion of homes are over-achieving in terms of airtightness, which gives rise to a key question:

- What action should building control bodies take when a dwelling has been designed with an air permeability leakier than $5 \text{ m}^3/(\text{h.m}^2)$, but when tested the as-built permeability is tighter than $3 \text{ m}^3/(\text{h.m}^2)$?

In these situations, the dwelling will have only the lower total equivalent ventilator area rather than the increased total equivalent ventilator area that should have been provided.

To help building control bodies decide what action to take, the Building Control Alliance has published BCA Technical Guidance Note 20, which can be downloaded from:

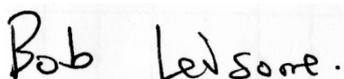
www.buildingcontrolalliance.org/guidance/technical-guidance-notes/

Enquiries

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All e-mail enquiries to enquiries.br@communities.gsi.gov.uk.

Yours faithfully



Bob Ledsome

Deputy Director

Building Regulations and Standards Division

Yours sincerely

R J LEDSOME

**Deputy Director
Building Regulations and Standards**