

DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT

Communities and Local Government Circular 03/2008
Department for Communities and Local Government
Eland House, Bressenden Place, London SW1E 5DU

13 March 2008

THE BUILDING ACT 1984

THE BUILDING REGULATIONS 2000

- **DESIGNATION OF CERTAIN PROVISIONS OF THE BUILDING REGULATIONS FOR BREACHES OF WHICH A LONGER TIME LIMIT FOR PROSECUTION APPLIES**
- **FURTHER PROVISIONS FOR SELF-CERTIFICATION**

INTRODUCTION

1. I am directed by the Secretary of State to draw your attention to the Building (Amendment) Regulations 2008 (S.I. 2008/671) which were made on 10 March 2008. The provisions will come into force on 6 April 2008.
2. The purpose of this Circular is to draw attention to the amendments and explain the changes they make to the Building Regulations 2000 (the “Building Regulations”).
3. These regulations were made after consultation with the Building Regulations Advisory Committee and with other bodies representative of the interests concerned.
4. The Annex to this Circular sets out in tabular form all the changes made to the Building Regulations by S.I. 2008/671

TIME LIMIT FOR PROSECUTION FOR CONTRAVENTION OF CERTAIN REGULATIONS IN THE BUILDING REGULATIONS

5. Section 35A of the Building Act 1984 provides for longer time limits for the prosecution of breaches of designated provisions of building regulations. Provisions may only be designated:

- if they were made for the purpose of conserving of fuel and power (or otherwise in connection with the use of fuel and power), or for the purpose of reducing greenhouse gas emissions; and
 - if a breach of the provision would be an offence under section 35 of the Building Act.
6. These amendment regulations designate the following provisions of the Building Regulations as those to which the longer time limit in section 35A applies:
 - regulations 4 (requirements relating to building work) and 6 (requirements relating to material change of use), to the extent that Part L of Schedule 1 to the Building Regulations imposes a requirement; and
 - regulations 4A (requirements relating to thermal elements), 4B (requirements relating to a change of energy status), 17C (new buildings: target CO₂ emission rate) and 17D (consequential improvements to energy performance).
 7. Currently, in accordance with section 127(1) of the Magistrates Courts Act 1980, local authorities must bring prosecutions for breaches of building regulations within 6 months of the completion of the offending work. From 6 April 2008, in the case of contravention of the provisions listed in paragraph 6 above, the time limit will be increased to two years from commission of the offence. However, this is subject to a requirement that within that two year period any prosecution must be brought within 6 months of the date on which the local authority has sufficient evidence to justify bringing the prosecution.
 8. **Please note that the longer time limit only applies to contraventions of the designated provisions committed on or after 6 April 2008.**
 9. A clause in the Housing and Regeneration Bill, which is currently being considered by Parliament, would extend the longer prosecution time limit to breaches of all building regulations provisions.

AMENDMENTS RELATING TO SCHEDULE 2A TO THE BUILDING REGULATIONS

10. The self-certification scheme for the installation of fixed low or extra low voltage electrical installations formerly owned by BRE Certification Limited has been transferred by sale to the ownership of EC Certification Limited. These amendment regulations amend Schedule 2A to reflect the change of ownership.
11. Regulation 12(5) of the Building Regulations makes reference to paragraphs 1 and 2 of Schedule 2A to the Building Regulations. These paragraphs were omitted from Schedule 2A when a revised Schedule 2A was substituted by the Building and Approved Inspectors (Amendment) Regulations 2006 (S.I. 2006/652). These amendment regulations remove the superfluous reference in regulation 12(5).

ENQUIRIES

12. All enquiries on matters covered by this Circular should be addressed to:

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Signed:

Shona Dunn

An Assistant Secretary in the Department for Communities and Local Government

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ANNEX

The Building (Amendment) Regulations 2008 (S.I. 2008/671)

The following table lists all the changes made by S.I. 2008/671 to the Building Regulations 2000 (S.I. 2000/2531)

S.I. 2000/2531 Regulation No.	S.I. 2008/671 Regulation No.	Action
12(5)	2(2)	Giving of a building notice or deposit of plans. Removes a reference to certain paragraphs in Schedule 2A which were removed by the Building and Approved Inspectors (Amendment) Regulations 2006 (S.I. 2006/652).
22A	2(3)	New provision designating the building regulations provisions to which section 35A of the Building Act 1984 applies.
Schedule 2A, column 2 of paragraph 10	2(4)	Descriptions of work where no building notice or full plans required. Substitutes in the list of prescribed bodies EC Certification Limited for BRE Certification Limited on a change of ownership

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