

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 Authorities in England and Wales

11 September 2009

Dear Sir/Madam

BUILDING REGULATIONS 2000 (SI 2000/2531)

BUILDING (APPROVED INSPECTORS ETC) REGULATIONS 2000

I am writing to inform you about the Building (Amendment No.2) Regulations 2009 (S.I. 2009/2397) and associated documents, and the Building and Approved Inspectors (Amendment No.2) Regulations (S.I. 2009/2465).

Building (Amendment No.2) Regulations 2009

The principal purposes of these Regulations are to:

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(a) amend the reference inserted by the Building and Approved Inspectors (Amendment) Regulations 2009 (S.I. 2009/1219) in the Building Regulations 2000 to the publication *The Water Efficiency Calculator for New Dwellings* to reflect a revised edition published in September 2009;

(b) authorise a number of competent person scheme operators for the self-certification of the installation of a wholesome cold water supply and the installation of a supply of non-wholesome water to a sanitary convenience; and

(c) revoke regulation 22A which is now redundant as the extension of the period for the prosecution of all contraventions of the Building Regulations is now two years from the date of the completion of the work.

The Building (Amendment No.2) Regulations 2009 were to come into force on 1 October 2009 alongside the Building and Approved Inspectors (Amendment) Regulations 2009, but see below.

Publications

The following publications are relevant to the Building (Amendment No.2) Regulations 2009:

Circular 09/2009; available at:

www.communities.gov.uk/publications/planningandbuilding/circular092009

The Circular describes the amendments made by the Building (Amendment No.2) Regulations 2009 and the publication of the revised methodology for the calculation of water efficiency in new dwellings.

New publication: *Water Efficiency Calculator for New Dwellings*, September 2009 edition, available at:

www.communities.gov.uk/publications/planningandbuilding/watercalculator

Transitional provisions

There are no transitional provisions in the Building (Amendment No.2) Regulations 2009 in respect of the authorisation of competent person schemes or the revocation of regulation 22A.

The transitional provisions in the Building and Approved Inspectors (Amendment) Regulations 2009 will apply to the use of the revised *Water Efficiency Calculator for New Dwellings*, September 2009. These transitional provisions were explained in detail in Circular 05/2009.

Completion and final certificates

Local authorities will wish to note the amendment to regulation 17(3)(b) of the Building Regulations 2000 on the coming into force of the Building and Approved Inspectors (Amendment) Regulations 2009, which will require regulation 17K (water efficiency of new dwellings) to have been satisfied before giving a completion certificate. Section 51 of the Building Act 1984 operates to the same effect for the giving of final certificates for new dwellings where the building control function is carried out by an approved inspector. In both cases regulation 17K of the Building Regulations will be satisfied only by using the new September 2009 edition of the *Water Efficiency Calculator for New Dwellings*.

Building and Approved Inspectors (Amendment No.2) Regulations 2009

The purpose of these Regulations is to delay the coming into force date from 1 October 2009 to 6 April 2010 of all the provisions in the Building and Approved Inspectors (Amendment) Regulations 2009 (S.I. 2009/1219), with corresponding changes in the transitional provisions in those Regulations, and in the Building (Amendment No.2) Regulations S.I. 2009/2397). In brief, this means that the amendments made to Part G of the Building Regulations, the new requirements on the calculation of the use of wholesome water in new dwellings, and the operation of new competent person schemes to support Part G, will not now come into effect until 6 April 2010.

The Department is required under the Technical standards Directive (98/34/EC) to notify the European Commission of the guidance contained in the draft Approved Document G. On 3 September we received a “detailed opinion” from the Commission with a number of comments on the draft Approved Document. This creates a three month standstill period which prohibits us from introducing the final Approved Document before 2 December 2009.

The Department has therefore had to introduce regulations to delay the coming into force of S.I. 2009/1219 and S.I. 2009/2397 until 6 April 2010, the next common commencement date).

We are currently considering the comments from the European Commission and working to resolve them as soon as we can. Our aim is to resolve the issues raised and to issue a Final Approved Document as far in advance of the coming into force date in April next year.

Publications

The following publication is relevant to these regulations:

Circular 10/2009, available at:

www.communities.gov.uk/publications/planningandbuilding/circular102009

Transitional provisions

The postponement of the coming into force date by six months is accompanied by corresponding provision that all dates in the transitional provisions in the Building and Approved Inspectors (Amendment) Regulations 2009 are also put back by six months, i.e.

- for 1 October 2009 in the transitional provisions, substitute 6 April 2010;
- for 6 April 2010 in the transitional provisions, substitute 1 October 2010; and
- for 1 October 2010 in the transitional provisions, substitute 6 April 2011.

The explanation of the transitional provisions in *Communities and Local Government Circular 05/2009* should be amended accordingly.

Enquiries

Telephone enquiries on this Circular Letter should be addressed to Ian Drummond on 020-7944 4821.

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

Yours faithfully



Anthony Burd
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Sustainable Buildings Division