



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

Chair: National Fire Chiefs Council

1 June 2022

Dear Sir or Madam

The Building (Amendment) Regulations 2022

I am writing to inform you of the Building etc. (Amendment) (England) Regulations 2022 (S.I. 2022/ 603) (the “Regulations”) and publication of Approved Document B 2019 edition incorporating 2020 and 2022 amendments.

The regulations were made on 31 May 2022 and laid before Parliament on 1 June 2022. Approved Document B (2019 edition incorporating 2020 and 2022 amendments) guidance was published on the 1 June. Both the Regulations and Approved Document B guidance will come into effect on the 1 December 2022.

Scope of this Circular Letter

The guidance in this Circular Letter applies to buildings and building work in England. This Circular letter gives an overview of the amendments brought forward. Building Control Bodies should familiarise themselves with the detail technical content of the following documents.

Publications

The Building etc. (Amendment) (England) Regulations and accompanying Explanatory Memorandum will be available at www.legislation.gov.uk.

DLUHC Circular 02/2022, is available at <https://www.gov.uk/government/publications/approved-document-b-2022-amendments-circular-022022>

The Government response to the consultation is available at: <https://www.gov.uk/government/consultations/review-of-the-ban-on-the-use-of-combustible-materials-in-and-on-the-external-walls-of-buildings>

The 2022 updated edition of Approved Documents B is available at <https://www.gov.uk/government/publications/fire-safety-approved-document-b>

The Section 11 Direction temporarily relaxing the requirements of the ban for cavity trays is available at <https://www.gov.uk/government/publications/approved-document-b-2022-amendments-circular-022022>

Combustible materials in the external wall of buildings

Coming into force date

The Building etc. (Amendment) (England) Regulations and associated ADB guidance come into force on 1 December 2022.

Description of the changes

The Regulations amend the Building Regulations 2010 (S.I. 2010/2214).

The Regulations inserts a new definition of reaction to fire classification which updates the classification to the most recent version published in 2019 by the British Standards Institution. Buildings works within the scope of the current restrictions on combustible materials will have to meet this updated reaction to fire classification (i.e. BS EN 13501-1:2018). It also inserts a new definition of relevant metal composite material.

The Regulation defines solar shading devices and includes them in the definition of 'specified attachment'. However, all components of solar shading devices are exempt except components whose primary function is to provide shade such as awning curtains or slats. This has the effect to require the curtain and/ or slats of solar shading devices in a relevant building (as defined in regulation 7(4)) to achieve class A1 or A2-s1, d0. Solar shading devices installed below 4.5m from ground level are not required to meet these requirements.

The definition of relevant building is also modified so that the combustible materials ban in regulations 6(3) and 7(2) now applies to hostels, hotels, and boarding houses.

The Regulation also introduces a ban on relevant metal composite material becoming part of the external wall or specified attachment when undertaking building work to any building. Relevant metal composite material will be defined as:

Any panel or sheet, having a thickness of no more than 10mm, which is comprised of a number of layers:

- (i) two or more of which are made of metal, alloy or metal compound; and*
- (ii) one or more of which is substantial and is made of a material having a gross calorific value of more than 35 MJ/kg when tested in accordance with BS EN ISO 1716:2018 entitled "Reaction to fire tests for products – Determination of the gross heat of combustion (calorific value)" published by the British Standards Institution in 2018.*

And for these purposes a substantial layer is one which is at least 1mm thick or has a mass per unit area of at least 1kg per m².

The Regulations add to the list of exemptions from the requirement of materials to meet the reaction to fire classification standard. It exempts fibre optic cables as well as insulation and waterproofing materials used below ground level to such materials used up to 300mm above that level. In addition, any materials which form the top horizontal floor layer of a balcony may meet the equivalent horizontally tested classification so long as beneath it there is an impermeate substrate.

The Regulations amend the Building Regulations 2010 such that where there is a material change of use of the whole building, any work necessary must be carried out to ensure the external walls meet the requirements of Part B4(1) of Schedule 1 in the case of a building exceeding 11m in height where it was previously only required for buildings exceeding 15m in height.

These changes do not change the need to consider the relevant functional requirements of Schedule 1 of the Building Regulations and the associated guidance in Approved Document B.

Approved Document B June 2022 edition

Coming into force date

The amendments to Approved Document B come into force on 1 December 2022 alongside the Building etc. (Amendment) (England) Regulations 2022.

Description of the changes

Approved Document B (ADB) has been updated to provide guidance on the following fire safety provisions:

a) Combustible materials in and on the external walls of buildings:

Section 10 and 12 of Volume 1 and 2 respectively have been updated in respect of residential buildings (purpose groups 1 and 2) with a storey of more than 11m in height.

Buildings will be able to comply with the external walls provisions in ADB by either complying with the guidance on external surfaces, materials and products, and cavities and cavity barriers or by meeting the performance criteria given in BRE report BR 135 for external walls using full-scale test data from BS8414-1 or BS 8414-2.

For residential buildings with a storey of more than 11m, the amendments to ADB mean that, where the first of these routes to compliance is chosen, the external surfaces of external walls and materials (as defined in section 10 and 12 of ADB vol 1 and 2 respectively) such as insulation should be class A2-s1, d0 or better.

Provisions have been introduced in ADB for balconies on these buildings. Balconies will need to either only be constructed of materials (with some exceptions) achieving class A2-s1, d0 or better or the balcony has an imperforate soffit which extends the full area and achieves a minimum REI 30 rating and is constructed of materials achieving class A2-s1, d0 or better and complies with provisions on materials extending beyond the boundary line of a compartment.

Further clarification has also been provided on roofing membranes and the guidance has been amended to take into account the measures in the Building etc. (Amendment) (England) Regulations 2022.

b) Secure Information Boxes:

These amendments to Approved Document B Section 15 of volume 1 also deliver on important Grenfell Tower Inquiry Phase 1 recommendations. Provision has been introduced for Secure Information Boxes in all new blocks of flats over 11 metres in height in line with recommendation 12.c. These boxes provide a secure facility to store information about a building and will further assist fire and rescue service during an incident.

c) Evacuation Alert Systems:

Provision have been introduced for Evacuation Alert System (EAS) to be provided in accordance with BS 8629 in blocks of flats (purpose group 1(a)) with a top storey over 18m above ground level. These will help fire and rescue services to alert residents to a change in evacuation strategy during an incident, alongside existing communication methods.

d) Clarifications and corrections:

In the Summer of 2019, we published a clarified version of Approved Document B. Although most of the diagrams were updated at the time, a small remaining number of diagrams remained to be updated in line with the most current style guide. These are now updated in the amendment booklet. The Department has also been closely monitoring areas where further clarifications were necessary. These additional clarifications are now included in the changes we are publishing today.

Transitional arrangements: The Building (Amendment) Regulations and ADB updates

The Regulations and guidance come into force on 1 December 2022. However, The Regulations will not apply where a building notice or an initial notice has been given to, or full plans deposited with, a local authority before 1 December 2022 and either the building work to which it relates:

- (a) has started before that day; or
- (b) is started within the period of six months beginning on that day.

Please note that “building notice”, “initial notice” and “full plans” have the meanings given in Regulation 2 of the Building Regulations 2010.

Commencement of work

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.

Type relaxation of buildings regulations: Cavity Barriers in External walls

The Secretary of State has also made a direction for the relaxation of regulations 6(3) and 7(2) of the Building Regulations 2010 in relation to cavity trays. The direction is made under Section 11 of the Buildings Act 1984. The direction is available at the following: <https://www.gov.uk/government/publications/approved-document-b-2022-amendments-circular-022022>

Background to the type relaxation

Since the implementation of the ban we have been aware that some parts of industry are struggling with the use of non-combustible cavity trays, often opting for sheet metal that is shaped on site. We are concerned about the durability of these materials with long-term exposure to water and the potential for structural damage to occur over time.

We are also aware of instances where developers are unable to get a new homes warranty, making the homes unsaleable, reportedly due to concerns over the performance of non-combustible cavity trays

Cavity trays are already exempt from the requirements of the ban when used between two leaves of masonry. However, modern high-rise buildings often use different construction types. As such in line with the proposal made in our January 2020 [consultation](#), we are bringing forward a relaxation which exempts cavity trays from the performance requirements of regulations 7(2) and 6(3).

Condition and time limitation

We are aware that non-combustible cavity tray alternatives are being developed by some manufacturers. It remains our clear intention to ensure that non-combustible cavity trays are used in the external walls of building where they are readily available. To encourage the continuous development of non-combustible cavity trays we are proposing to limit this relaxation in time. As such it will expire after 18 months after which cavity trays will need to meet the performance requirement of the ban.

Functional requirements

The exemption of cavity trays from the performance requirements of the ban (set out in regulations 7(2) and 6(3)), does not change the need to consider the relevant functional requirements of Schedule 1 of the Building Regulations and the associated guidance in Approved Document B.


Transitional arrangement : Section 11 Direction

In accordance with section 11 (7) of the Building Act 1984 the direction will continue to operate after it ceases to have effect in cases where plans of the proposed work were, in accordance with building regulations, deposited with a local authority before the direction ceased to have effect.

Enquiries

Telephone enquiries on this Circular Letter should be addressed to Technical Policy Division on 0303 444 0000 and all e-mail enquiries to enquiries.br@levellingup.gov.uk

Yours faithfully



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Building Safety Portfolio