



Department for Levelling Up,  
Housing & Communities

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

4 October 2022

Dear Sir or Madam

### **The Building etc. (Amendment) (England) (No.2) Regulations 2022**

I am writing to inform you of The Building etc. (Amendment) (England) (No.2) Regulations 2022 (the "Amendment Regulations"). The Amendment Regulations were made on 23 September 2022 and laid before Parliament on 26 September 2022. Alongside the publication of these regulations, the Government has also published new statutory guidance in the form of new Approved Document R Volumes 1 and 2.

### **Scope of this Circular Letter**

The guidance in this Circular Letter applies to buildings and building work in England.

## **Publications**

The Government response to the consultation on this policy is available at:

<https://www.gov.uk/government/consultations/new-build-developments-consultation-delivering-gigabit-capable-connections/outcome/new-build-developments-consultation-delivering-gigabit-capable-connections-government-response>

The Amendment Regulations and accompanying Explanatory Memorandum is available at

<https://www.legislation.gov.uk/ukxi/2022/984/contents/made>

DLUHC Circular 04/2022, which describes the amendments more fully is available at:

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

New editions of Approved Document R Volumes 1 and 2 that give practical guidance are available at:

<https://www.gov.uk/government/collections/approved-documents>

## **Coming into force date**

The Amendment Regulations and new editions of Approved Document R Volumes 1 and 2 come into force on 26 December 2022.

## **The Amendment Regulations**

The Amendment Regulations and new requirements RA1 and RA2 to Part R in Schedule 1 to the Building Regulations introduce new infrastructure and connectivity requirements upon developers to install the following for newly erected dwellings:

- The gigabit-ready physical infrastructure necessary for gigabit-capable connections (ducts, chambers etc. and network termination points at each dwelling) up to a network distribution point, or as close as is reasonably practicable where the developer does not have the right to access land up to the distribution point; and
- Subject to a £2,000 cost cap per dwelling, a functioning gigabit-capable connection (fibre optic cable or other technological means of facilitating such a connection) or where a developer is unable to secure a gigabit-capable connection within the cost cap, the next fastest technology connection available, provided this can be done without that connection also exceeding the cost cap.

In the first instance this should be a superfast broadband connection and failing that a USO-standard public electronic communications network connection.

Where a next fastest technology connection (also referred to as a ‘next best’ technology connection) or no connection can be secured within the cost cap, a developer must still install gigabit-ready physical infrastructure.

Where the developer has no right over intervening land in which it would need to install gigabit-ready physical infrastructure to reach the network distribution point, and no gigabit-capable connection is being provided, developers are still required to install gigabit-ready physical infrastructure to one of the following points in order of priority:

(i) as close as reasonably practicable to a location at which it is likely that a distribution point is to be installed within the relevant 2-year period (a ‘likely future location’).

(ii) where there is no likely future location that is closer to the building than the closest distribution point already installed, an access point for gigabit-capable public electronic communications networks.

This means that the first requirement to install the physical infrastructure necessary for gigabit-capable connections (to which the cost cap does not apply), will still apply in almost all circumstances to ensure that the new dwelling is future-proofed and ready for gigabit connectivity.

The Amendment Regulations also amend requirement R1 in Schedule 1 to the Building Regulations to set out the types of building to which the requirements for physical infrastructure for high-speed electronic communication networks will continue to apply i.e., this no longer includes the erection of new dwellings to which RA1 applies.

The Building (Approved Inspectors etc.) Regulations 2010 are amended accordingly so that the forms to be provided to approved inspectors contain relevant information required when the building work is subject to an initial notice or public body notice.

### **Approved Document R Volume 1**

A new edition of Approved Document R Volume 1 is published to provide guidance on ways to show compliance with the new requirements on developers to ensure that each new dwelling erected is equipped with gigabit-ready physical infrastructure and, subject to a cost cap, connection to a gigabit-capable public electronic communications network or next fastest technology connection. The Approved Document Volume 1 provides guidance on modifications and exemptions to these connectivity requirements, obtaining quotations from suitable network operators, and what is included in and excluded from the cost cap.

Approved Document R Volume 1 also provides guidance on how to comply with the requirement to submit particulars of a connection to public electronic communication network with applications for building regulations approval (the connectivity plan) including a model form that developers may use for this purpose. The requirement to submit these particulars at this stage will help to ensure that early engagement between developers and network operators takes place.

To assist developers and building control bodies, further information about gigabit-ready physical infrastructure and gigabit-capable public electronic communications network connections is to be made available on the UK Government's Digital Connectivity Portal at <https://www.gov.uk/guidance/digital-connectivity-portal>

## **Approved Document R Volume 2**

A new edition of Approved Document R Volume 2 is published to provide guidance on ways to show compliance with the high-speed ready in-building infrastructure provisions in requirement R1 in Schedule 1 to the Building Regulations when new buildings are erected or when existing buildings are subject to major renovation works. The guidance in this Approved Document does not apply where requirement RA1 applies i.e., upon the erection of a new dwelling.

## **Transitional arrangement**

The Amendment Regulations will come into force on 26 December 2022. However, the Amendment regulations will not apply to building work on a building where a building notice or initial notice has been given to a local authority, or full plans have been deposited with a local authority, before 26 December 2022, provided the work is started on site within the period of 12 months beginning with 26 December 2022.

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

The same transitional provisions will apply to the new editions of Approved Document R Volumes 1 and 2.

## **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.

### **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](mailto:enquiries.br@levellingup.gov.uk)

Yours faithfully

A handwritten signature in black ink that reads "V. Molho". The signature is written in a cursive style with a large initial "V" and a clear surname "Molho".

V Molho  
Deputy Director  
Technical Policy Division  
Building Safety Portfolio