

DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT

Communities and Local Government Circular 05/2008
Department for Communities and Local Government
Eland House, Bressenden Place, London SW1E 5DU

5 September 2008

THE BUILDING ACT 1984

THE BUILDING REGULATIONS 2000

THE BUILDING (APPROVED INSPECTORS ETC) REGULATIONS 2000

PROVISION MADE FOR THE ELECTRONIC COMMUNICATION OF SPECIFIED BUILDING CONTROL DOCUMENTS

INTRODUCTION

1. I am directed by the Secretary of State to draw your attention to the Building (Electronic Communications) Order 2008 S.I. 2008/2334 which was made on 28 August 2008. The provisions will come into force on 1 October 2008.
2. The purpose of this Circular is to draw attention to the amendments and explain the changes they make to the Building Act 1984, the Building Regulations 2000/2531 (as amended) and the Building (Approved Inspectors etc.) Regulations 2000/2532 (as amended).
3. This Order was made after consultation with the Building Regulations Advisory Committee and with other bodies representative of the interests concerned.
4. The Annexes to this Circular set out in tabular form all the changes made to the Act and the Regulations by S.I. 2008/2334.

ELECTRONIC COMMUNICATION OF BUILDING CONTROL DOCUMENTS

5. Section 94 of the Building Act 1984 sets out the ways in which certain kinds of building control documents and information authorised or required by the Act or regulations made under it may be served. These methods of communication do not include electronic communication of documents.

6. This Order is made to enable the electronic giving or service of certain specified notices and other documents under the Building Act which are currently required to be given or served in accordance with one of the methods set out in section 94 of the Act. The Order:
 - a. inserts a new section 94A which sets out the conditions under which such a document may be electronically given or served and the specified documents which may be so given or served electronically,
 - b. amends the Building Regulations 2000/2531 (as amended) to list those notices and other documents provided for in those Regulations which are to be subject to section 94A and therefore capable of being given or served electronically, and
 - c. amends the Building (Approved Inspectors etc.) Regulations 2000/2532 (as amended), to list those notices and other documents provided for in those Regulations which are to be subject to section 94A and therefore capable of being given or served electronically.
7. The conditions set out in section 94A under which a document may be served electronically are:
 - a. that the recipient has stated a willingness to receive the document by means of an electronic communication which may be limited to documents of a specified description and to documents in a specified electronic form,
 - b. that the statement has not been withdrawn as provided for in section 94A, and
 - c. that the document was transmitted to an electronic address specified by the recipient.
8. The Order is made under section 8 of the Electronic Communications Act 2000. Section 8(1)(a) gives the Secretary of State the power to modify any enactment for the purpose of authorising or facilitating the use of electronic communications.
9. Provision for electronic service has not been made for all documents subject to section 94 of the Building Act. Only those documents where the recipient is likely to be able to receive and consent to electronic receipt have been specified as capable of being given or served electronically. Such consent is unlikely to be forthcoming where the document alleges a breach of building control or is part of an enforcement procedure and such a document has not been specified to be given or served electronically.

ENQUIRIES

All enquiries on matters covered by this circular should be addressed to:

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Signed:
John Fiennes
Director in the Department for Communities and Local Government

ANNEX A

BUILDING ACT 1984

The following table lists those documents provided in the Building Act 1984 which may be served electronically subject to the conditions provided for in section 94A as inserted by the Building (Electronic Communications) Order S.I. 2008/2334.

Section in the Building Act 1984 as amended	Description of document for which provision has been made for electronic service in section 94A
16(6)	Notice on the passing or rejecting of plans
47	Notices on the giving and acceptance of initial notice and a document containing plans or evidence accompanying an initial notice
50(1)	Plans certificate
50(4)	Combined initial notice and plans certificate
50(7)	Notice of rejection of a plans certificate
50(8)	Notice rescinding acceptance of plans certificate
51(1)	Final certificate
51A	Notice of variation of work to which initial notice relates and a document containing plans or evidence accompanying an amendment notice
51C	Notice of change of person intending to carry out work

continued

52	Notice of cancellation of an initial notice
54	The giving, acceptance and effect of public body's notice and a document containing plans or evidence which accompanies a public body's notice
Paragraph 1(1) of Schedule 4	Provision for acceptance of public body's notice
Paragraph 2(1) of Schedule 4	Public body's plans certificate
Paragraph 2(2) of Schedule 4	Combined public body's notice and plans certificate
Paragraph 2(5) of Schedule 4	Provision for rejection of public body's plans certificate
Paragraph 2 (6) of Schedule 4	Provision for rescinding acceptance of public body's plans certificate
Paragraph 3(1) of Schedule 4	Public body's final certificate

ANNEX B

THE BUILDING REGULATIONS 2000

The following table lists those documents provided for in the Building Regulations 2000 which may be served electronically subject to the conditions provided for in section 94A as inserted by the Building (Electronic Communications) Order S.I. 2008/2334.

Regulation in the Building Regulations 2000 as amended	Description of document for which provision for electronic service has been made in new regulation 22B as inserted by article 3 of the 2008 Order
13	Building notice and any accompanying statement, description, particulars or plan
14	Full plans and any accompanying statement
15	Commencement notice
16A	Certificate or notice relating to self certification schemes
17	Completion certificate
17E(2)(a)	Provision of energy performance certificate to building owner
17E(2)(b)	Provision of notice to local authority that the energy performance certificate has been given to building owner
20A(2)(b)	Results of sound insulation testing
20B(2)(b)	Notice of the results of pressure testing
20C(2)	Commissioning notice
20D(1)	CO ₂ emissions rate calculations notice
21(3)	Application for a regularisation certificate
21(6)	Regularisation certificate

ANNEX C

THE BUILDING (APPROVED INSPECTORS etc.) REGULATIONS 2000

The following table lists those documents provided for in the Building (Approved Inspectors etc.) Regulations 2000 which may be served electronically subject to the conditions provided for in section 94A as inserted by the Building (Electronic Communications) Order S.I. 2008/2334.

Regulation in the Building (Approved Inspectors etc.) Regulations as amended	Description of document for which electronic communication has been made in regulation 31A as inserted by article 4 of the 2008 Order
11A(2)	Competent persons certificate containing evidence that work complies with regulations
11A(3)(a)	Competent persons certificate to the occupier
12(2)(a)	Energy performance certificate to building owner
12(2)(b)	Notice to approved inspector that the energy performance certificate has been given to building owner
12A(2)(b)	Results of sound insulation testing
12B(2)(b)	Notice of the results of pressure testing
12C(2)	Commissioning notice
12D(1)	CO ₂ emissions rate calculations notice
12D(4)(b)	Notice of specifications to which the building has been constructed
19(1)	Notice specifying the requirements not complied with and location of work
20(2)(b)	Notice relating to the removal of restrictions preventing the checking of work for compliance where there is no final certificate

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