

# DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT

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*Communities and Local Government Circular 06/2007*  
*Department for Communities and Local Government*  
*Eland House, Bressenden Place, London SW1E 5DU*

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7 December 2007

## THE BUILDING ACT 1984

## THE BUILDING REGULATIONS AND THE BUILDING (APPROVED INSPECTORS ETC) REGULATIONS 2000

- **Building Regulations 2000, Schedule 1, Part L**
- **Approved documents L1A, L1B, L2A, L2B – proposed revisions**
- **Multi-foil insulation**

1. I am writing to inform you about the judgment handed down on 2 November 2007 in a case brought against Communities and Local Government (“the Department”) by a multi-foil insulation manufacturer which concerned the guidance in approved documents L1A, L1B, L2A and L2B (“the Approved Documents L”) for determining the thermal performance of multi-foil insulation products. Multi-foil insulation products consist of several layers of foil separated by other materials, which inhibit heat loss by both providing a non-conductive barrier and by incorporating elements which reflect heat back towards its source. Thermal performance is indicated by “U-values”.
2. The 2 November judgment included a decision that the Department had failed to correctly notify the European Commission (under the Technical Standards Directive) of paragraph 3.10.2 of BR 443, “Conventions for U-value calculations”, March 2006 edition. Paragraph 3.10.2 made specific provision for measuring the thermal performance of multi-foil insulation products, whereas there had been no reference to multi-foil insulation in previous approved documents for Part L.
3. The result is that **paragraph 3.10.2 of BR 443 has been declared unenforceable, and remains so unless and until the notification procedures under the Technical Standards Directive have been properly completed.** Consequently, building control bodies (“BCBs”) are advised that this paragraph should not be used when deciding how to assess the thermal performance of multi-foil insulation products. The decision does not, however, affect any other part of BR 443 or the Approved Documents L.
4. In light of this decision, **the Department gives notice that it has withdrawn paragraphs 25 to 27 inclusive of Annex B to its Circular Letter dated 30 March 2006,** which related to the thermal performance of multi-foil insulation products.
5. I am also writing to inform you that the Department is proposing to amend the current Approved Documents L in the near future, to address a number of forthcoming minor changes to building regulations, and we will be consulting you on the proposed amendments. The formal consultation process provides an appropriate opportunity to re-consult on the references in the Documents to methods of calculating thermal performance of building materials and constructions, including multi-foil insulation. You will be formally consulted, over a 12 week period, on the revised Documents and the relevant references once drafting is complete. In addition, the proposed revised Documents will be notified in draft to the European Commission, in accordance with the Technical Standards Directive.
6. Following the judgment referred to above, and until such time as the revised Documents referred to in paragraph 5 above are properly notified to the European Commission in accordance with the Technical Standards Directive, the Department considers it essential to provide some guidance to all interested parties about how multi-foil products should be treated. This is summarised in the following paragraphs.
7. First, the Department would like to emphasise that it is the function of BCBs to determine whether building work complies with building regulations, and in particular in this case with the energy efficiency requirements (i.e. regulations 4A, 17C and 17D of, and Part L of Schedule 1 to, the Building Regulations 2000). Consequently, BCBs are free to decide for themselves whether or not to accept that construction details put to them comply with the Regulations, and whether claims about the thermal performance of products are correct. This has always been the case.

8. As you may be aware, there is a scientific dispute over the appropriate test method for measuring the thermal performance of multi-foil insulation products. Some multi-foil insulation manufacturers consider that the most appropriate method is comparative ('in situ') testing. The Department has been informed that these manufacturers are in the process of attempting to obtain a European Technical Approval ("ETA") for multi-foil insulation, which would contain an approved method for testing the thermal performance of those products. The Department understands that it is likely to be at least 18 months, and possibly longer, before an ETA could be obtained.
9. The Department is currently of the view, based both on international scientific opinion and on scientific evidence commissioned and published by it, that comparative testing does not provide accurate indications of thermal performance. The Department considers that, currently, the only appropriate methods for measuring the thermal performance of materials and products are the "hot-box" test, which is a British Standard test based on Standardised European Norms, or tests that have been agreed at a European level, such as those which form part of an agreed ETA for a product or products. Consequently, at present, only results from hot-box or approved ETA tests carry a statutory presumption that they are correct, as provided by the reference to BR 443 (2006) in the Approved Documents L, and as was the case under the previous (2002) Approved Documents L1 and L2.
10. The Department accepts that the scientific dispute over test methods for measuring the thermal performance of multi-foil insulation is likely to take some time to be resolved. However, as has always been the case, manufacturers of multi-foil insulation products can seek to persuade BCBs and others that they should accept claims for their products' performance based on comparative ('in situ') testing, and BCBs are free to make their own judgements about compliance with the regulations based on their assessment of these claims.

# Annex A

## WITHDRAWN

### **PARAGRAPHS 25 TO 27 OF ANNEX B TO ODPM CIRCULAR LETTER DATED 30 MARCH 2006**

#### **Multi-Foil Thermal Insulation Products**

25. Building Control Bodies (BCBs) should make their own decisions based on the information provided by suppliers about compliance of Multi-Foil insulation products with Regulation 7 and Part L of Building Regulations for England and Wales.
26. BCBs may wish to be aware that the Confederation of Multi-Foil Manufacturers (CMM) has confirmed to the ODPM that it hopes to obtain a European Technical Approval (ETA) for thermal insulation products by 31 December 2006. Therefore from 1 January 2007 values of thermal resistance may be taken either from the technical data supporting the Common Understanding of Assessment Procedures (a method of assessment which results in an ETA) or from the test methods set out in BR443 "Conventions for U-value calculations", Edition dated March 2006, underpinning Part L of Building Regulations for England and Wales.
27. All CMM members have agreed to take such action for their multi-foil products. As an interim arrangement the CMM has also agreed that its multi-foil products placed on the market will be supported by United Kingdom Accreditation Service (UKAS) accredited certification, which is urgently being sought, incorporating, as appropriate, the latest test results by its members or UKAS accredited testing bodies.

## Enquiries

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Signed  
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