

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

9 September 2008

Our ref: CI/43/19/1

Dear Sir or Madam

**Housing and Regeneration Act 2008 section 317: time limit for prosecutions of breaches of building regulations**

I am writing to inform you about the commencement on 22 September 2008 of section 317 of the Housing and Regeneration Act 2008. Section 317 amends section 35A of the Building Act 1984 ("the Act") so that the time limit for bringing prosecutions for all breaches of building regulations which are subject to prosecution under section 35 of the Act is extended to two years from the completion of the offending building work. The two year limit is subject to a requirement that any prosecution must be brought within six months of the date on which a local authority

has sufficient evidence to justify bringing a prosecution. The extension of the time limit is not retrospective, i.e. it applies only to offences committed on or after 22 September 2008.

You may recall that we wrote to you on 20 March about the Building (Amendment) Regulations 2008 (S.I. 2008/671), which included the addition of regulation 22A to the Building Regulations. Regulation 22A designated certain provisions of building regulations for which the time limit for bringing prosecutions for breaches had been extended to two years for offences committed on or after 6 April 2008. This two year limit is also subject to the requirement that any prosecution must be brought within six months of the date on which a local authority has sufficient evidence to justify bringing a prosecution. The provisions designated by new regulation 22A were regulations 4 and 6, to the extent that Part L of Schedule 1 imposes a requirement, and regulations 4A, 4B, 17C and 17D.

The amendment of section 35A of the Act by section 317 of the Housing and Regeneration Act means that all offences under section 35 of the Act committed on or after 22 September 2008 will be subject to the extended time limit for bringing prosecutions. Until that date the extended time limit only applies to offences committed on or after 6 April 2008 in relation to the provisions designated by regulation 22A. Regulation 22A will for the time being continue in force, although we intend to revoke it as soon as possible after 22 September, as after that date it will no longer be necessary. Please note that even after regulation 22A is revoked the extended time limit for bringing prosecutions for any offences committed in relation to the designated provisions between 6 April and 22 September 2008 will continue to apply.

The following table may help to explain the effect of these changes in practice:

<b>Date of offence under section 35</b>	<b>Provisions to which section 35 applies breached</b>	<b>Time limit for bringing prosecution</b>
Before 6 April 2008	All provisions	Six months
6 April 2008 to 21 September 2008	Provisions designated by regulation 22A	Two years, subject to maximum of 6 months from date of obtaining sufficient evidence to bring prosecution
6 April 2008 to 21 September 2008	Provisions not designated by regulation 22A	Six months
From 22 September 2008	All provisions	Two years, subject to maximum of 6 months from date of obtaining sufficient evidence to bring prosecution

## Enquiries

Any enquiries on this Circular Letter should be addressed to Ian Drummond, Sustainable Buildings Division, Department for Communities and Local Government, Zone 2/H6, Eland House, Bressenden Place, London SW1E 5DU (Tel: 020 7944 4821, e-mail: [ian1.drummond@communities.gsi.gov.uk](mailto:ian1.drummond@communities.gsi.gov.uk)).

Yours faithfully

A handwritten signature in grey ink that reads "J Matthew".

**JESSICA MATTHEW**

Deputy Director  
Sustainable Buildings Division