

SL(6)708 – The Building etc. (Amendment) (No. 2) (Wales) Regulations 2025

Background and Purpose

These Regulations amend the Building Regulations 2010 and other related secondary legislation in Wales to implement provisions of Part 3 of the Building Safety Act 2022. The amendments introduce new procedural requirements, clarify duties and competencies of dutyholders, establish mechanisms for enforcement and appeals in relation to building control, and provide transitional arrangements for work commenced or approved prior to the coming into force date.

These Regulations also make minor, unrelated amendments to the Building Regulations 2010 and consequential amendments to other statutory instruments.

Part 2 (regulations 2-15) of these Regulations amend the Building Regulations 2010.

Part 3 (regulations 16-18) of these Regulations amend the following secondary legislation:

- The Building (Local Authority Charges) Regulations 2010;
- The Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024;
- The Building (Restricted Activities and Functions) (Wales) Regulations 2024.

Part 4 (regulations 19-22) of these Regulations make transitional, supplementary and saving provisions.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following 23 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In regulation 6(11)(a), in the new regulation 27(3)(b), it notes “not later than **five days**”. However, many of the other amendments that are made to the 2010 Regulations refer to periods of time that are described as “working days” such as the amendment made by



regulation 6(5)(c). In addition, figures rather than words have been used to express periods of days elsewhere in the amendments. Therefore, should it refer to “not later than **5 working days**” in this amendment as well? This also occurs in the new regulation 16(2A) inserted by regulation 9(1)(d) of these Regulations where it refers to “Not more than 5 days...”.

2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 6(13)(a), in the new regulation 27B(2)(b), it incorrectly refers to the matters set out in “paragraphs **(1)** to (iii) of sub-paragraph (a)”. However, it should be referred to by using a Roman rather than an Arabic numeral as “paragraphs **(i)** to (iii) of sub-paragraph (a)”. Otherwise it could be interpreted as referring to paragraph (1) of regulation 27B.

3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In regulation 6(13)(a), in the new regulation 27B(3)(b), the reference to the matters mentioned “in sub-paragraphs (aa) to (cc)” is incomplete because it does not note that they are found in sub-paragraph (a)(i) of regulation 27B(3). Therefore, it should refer to the matters mentioned “in sub-paragraphs (aa) to (cc) **of sub-paragraph (a)(i)**” (for a correct example, see the new regulation 27C(3)(b) inserted by regulation 6(14)(a) of these Regulations).

4. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 6(14)(a), in the new regulation 27C(2)(b), it incorrectly refers to the matters set out in “**paragraphs (i) to (iii)** of sub-paragraph (a)”. However, there is no paragraph (iii) in sub-paragraph (a). Therefore, it should refer to the matters set out in “**paragraphs (i) and (ii)** of sub-paragraph (a)”.

5. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 16(2)(a), in the new definition of “local authority” that is inserted in regulation 2 of the Building (Local Authority Charges) Regulations 2010, it refers to “section 91ZD of **the 1984 Act**”. However, the Building Act 1984 has been defined as “the Act” by regulation 2 of those Regulations. Therefore, the new definition fails to use the correct definition of the Building Act 1984. It is also inconsistent with the other new textual amendments made to the Building (Local Authority Charges) Regulations 2010 which have used the correct definition.

6. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 16(7)(b), in the new text that replaces some of the existing text in regulation 14(1) of the Building (Local Authority Charges) Regulations 2010, it refers to “regulation 14E of **the Building Regulations 2010**”. However, the Building Regulations 2010 have been



defined as “**the Principal Regulations**” by regulation 2 of the Building (Local Authority Charges) Regulations 2010. Therefore, the new textual amendment fails to use the correct definition of the Building Regulations 2010. It is also inconsistent with the other new textual amendments made to the Building (Local Authority Charges) Regulations 2010 which have used the correct definition.

7. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In regulation 17(4), in the new regulation 6A(1) that is inserted into the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024 it refers to “higher-risk building work”. In addition, there is a related footnote that explains that the definition of “higher-risk building work” is found in section 120I(3) of the Building Act 1984. However, it is not possible to define a term by means of a non-operative part of a statutory instrument such as a footnote. Also, the Legislation (Wales) Act 2019 does not contain a provision corresponding to section 11 of the Interpretation Act 1978, which provides that expressions used in subordinate legislation have the meaning which they bear in the Act under which the subordinate legislation is made. A Welsh subordinate instrument should include express provision wherever the intention is to attract meanings from the parent legislation. A definition of “higher-risk building work” should be inserted in the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024 if it is intended to bear the same meaning as given by the Building Act 1984.

8. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 17(6), in the new regulations 13A(7)(d) and 13B(1) that are inserted in the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024, there are references to “**the Act**” when appearing to refer to the Building Act 1984. However, the Building Act 1984 has been defined as “**the 1984 Act**” by regulation 2 of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024. Therefore, these new textual amendments fail to use the correct definition of the Building Act 1984. They are also inconsistent with the other textual amendments made to the Building (Local Authority Charges) Regulations 2010 which have used the correct definition such as the new regulation 6A(4) inserted by regulation 17(4) of these Regulations.

9. Standing Order 21.2(vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In regulation 17(10)(c), there is a difference between the English and Welsh text. In the English text, the amendment fails to correctly identify the existing text for substitution in regulation 37 of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024. It identifies the text as “section 35 of **the Act (penalty for contravening building regulations)** does not apply”. However, the existing text notes “section 35 of **the 1984 Act** does not apply” in regulation 37 of the 2024 Regulations. The Welsh text does



correctly identify the existing text for substitution which is found in regulation 37 of those Regulations.

10. Standing Order 21.2(vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In regulation 17(11), there is a difference between the English and Welsh text. In the English text, the amendment is incorrect because the words “substitute” and “for” are in the wrong order. Therefore, it notes “**substitute** “Parts 2 - 5” **for** “Parts 1-6”” in regulation 42(1) of Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024. But it should note “**for** “Parts 2 - 5” **substitute** “Parts 1-6”” because “Parts 2 to 5” is the existing text in regulation 42(1) and the new text that will replace it is “Parts 1 -6”. The amendment is correctly described in the Welsh text. The same error and difference between the English and Welsh text also occurs in the amendment made by regulation 17(12)(a) of these Regulations.

11. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In regulation 17(12)(b), it could be argued that the words “after form 5(W)” should appear at the beginning of the description in both language texts. In addition, the amendment would be clearer if some additional words such as “set out” were included after “form 6(W)”. Otherwise, the amendment could be read as instructing that Form 6(W) is to be inserted in the Schedule to these new Regulations.

12. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In regulation 17(13)(a), in the new paragraph 6(d) that is inserted in Schedule 2 to the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024, it refers to “the client’s assessment of when **building control oversight** is required”. However, it also refers to “when the client considers **building control input** is required” in the new paragraph 13 that is inserted in that Schedule to the 2024 Regulations by regulation 17(13)(c) of these Regulations. In addition, the term “building control input” is also used in the new regulation 13B(4) inserted by regulation 17(6) of these Regulations. Therefore, could the Welsh Government confirm whether the use of the term “building control oversight” is correct in the new paragraph 6(d) or whether it should note “building control input”? The same issue arises in the Schedule, in the new Form 1(W), paragraph 4(c)(ii), Form 2(W), paragraph 3(e)(ii), and Form 4(W), paragraph 4(c)(ii), where the term “building control oversight” has also been used.

13. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In regulation 17(13)(c), in the new paragraph 13, the term “may” rather than “can” should be used if the paragraph is conferring discretionary legal power on the local authority to reject the building control input rather than only expressing possibility.



14. Standing Order 21.2(vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In regulation 18(2)(a), there is a difference between the English and Welsh text. In the English text, the words “, a power in—” are noted at the end of the new text that will replace some of the existing text in regulation 3(2)(b) of the Building (Restricted Activities and Functions) (Wales) Regulations 2024. But in the Welsh text, the meaning of those words is not included at the end of the new text that replaces the existing text. However, it appears that the English text is incorrect because the words “, a power in-” aren’t noted as part of the existing text for replacement. Therefore, the effect of the textual amendment made by the English text is that those words will appear twice at the end of the amended text so that it will read as “a power in- a power in-” which doesn’t make sense.

15. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In the heading of regulation 19, it refers to “the Building Regulations 2010” but those Regulations have been defined as “the 2010 Regulations”. It is also inconsistent with the body of the text in regulation 19 where the defined term “the 2010 Regulations” has been used.

16. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In regulation 19(b)(i), there is a reference to “section 16 of the Act” when the term “the Act” appears to be referring to the Building Act 1984. However, the term “the Act” has not been defined as the Building Act 1984 for the purpose of this regulation or in these Regulations. In addition, it is also inconsistent with the transitional provisions of regulations 21 and 22 where the title of that Act has been noted in full in the references.

17. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In regulation 19, the terms “building work” and “building notice” are used which are terms that have been defined with a meaning in the Building Regulations 2010. However, those terms have not been defined with the same meaning for the purpose of that regulation in these Regulations.

18. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In regulation 21, the term “building notice” is also used which is a term that has been defined with a meaning in the Building Act 1984. Likewise, the terms “initial notice”, “plans”, and “plans certificate” are used in regulation 22 which are also terms that are defined in that Act. However, the only term that is defined with a meaning for either regulation 21 or 22 is “plans certificate” which is defined with a meaning for regulation 22. It would appear that all of the terms that are defined by the Building Act 1984 and that are also used in regulations



21 and 22 should be defined for the purposes of those regulations. Additionally, it appears to be an inconsistent approach to define some of those terms such as “plans certificate” but not all of them.

19. Standing Order 21.2(vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In the Schedule, in the new Form 5(W), in paragraph 2, there is a difference between the English and Welsh text. In the English text, it notes “and the work **described** above was” but the meaning given by the Welsh text is “and the work above was”.

20. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In the Schedule, in the new Form 5(W), in paragraphs 9 and 10, in the Welsh text, “it” has been expressed by using “ei fod” when referring to “(2)”. However, the phrase “ei fod neu ei bod” has been used elsewhere in the Welsh text of this Form on each occasion when referring to “(2)”. Therefore, these paragraphs are inconsistent with the approach that has been taken elsewhere in the Welsh text of this Form and in the other Forms.

21. Standing Order 21.2(vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In the Schedule, in the new Form 5(W), in paragraph 13, there is a difference between the English and Welsh text. In the English text, it notes “specified” but it could be argued that the meaning given by the Welsh text is “noted” (“nodwyd”). The word “pennu” is a clearer term for “specify”.

22. Standing Order 21.2(vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In the Schedule, in the new Form 6(W), there is a difference between the English and Welsh text. In the English text, in the heading of the Form, the title of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024 is defined as “(the 2024 Regulations)”. However, there is no corresponding definition to “(“the 2024 Regulations”)” in the Welsh text of the heading of that Form.

23. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In the Schedule, in the new Form 1(W), paragraph 4(a), Form 2(W), paragraph 3(c) and Form 4(W), paragraph 4(a), terms such as “cesspool”, “sewer” and “private sewer” have been used which are defined with a meaning in the Building Act 1984. However, they have not been defined in the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024 or in these Forms. It appears that these terms should be defined in the 2024 Regulations or in these Forms if they are intended to bear the same meaning as given by the Building Act 1984.



Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

24. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

Paragraph 2.1 of the Explanatory Memorandum (Matters of special interest to the Legislation, Justice and Constitution Committee) states as follows:

“Further to the LJCC report in relation to the Building etc. (Amendment) (Wales) Regulations 2025 (SL(6)606)¹, we have amended the drafting to regulations 15 of these Regulations to address comments in the Technical Scrutiny points raised.”

Welsh Government response

A Welsh Government response is required in respect of reporting points 1 to 23.

Legal Advisers

Legislation, Justice and Constitution Committee

21 January 2026

¹ <https://business.senedd.wales/mglIssueHistoryHome.aspx?IId=45427>

