



Llywodraeth Cymru
Welsh Government

GUIDANCE, DOCUMENT

New regulations implementing the Building Safety Act 2022: Description of higher-risk buildings; charges; registration, sanctions and appeals (WGC 005/2023)

This is a circular letter that notifies the implementation of certain regulations made under the Building Safety Act 2022 for Wales.

First published: 7 December 2023

Last updated: 7 December 2023

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Building regulations circular

Circular number: WGC 005/2023

Date issued: 07/12/2023

Status: For information

Title: Description of Higher-Risk Buildings; charges; registration, sanctions and appeals regulations made as secondary legislation to implement the Building Safety Act 2022 in Wales.

Issued by: Kevin Davies, Building Control Competence & Standards Manager

Addressed to:

Local Authority Chief Executives
Welsh Local Government Association
Association of Corporate Approved Inspectors

Please forward to:

Local Authority Building Control Officers
Members of the Senedd
The Building Safety Regulator

Summary:

This is a circular letter that notifies the implementation of certain regulations made under the Building Safety Act 2022 for Wales.

For further information contact:

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Introduction

1. I am directed by Welsh Ministers to draw your attention to the changes introduced by the following regulations which come into force on 1 January 2024:
 - Building (Building Control Profession) (Registration, Sanctions and Appeals) (Wales) Regulations 2023
 - Building Control Profession (Charges) (Wales) Regulations 2023
 - Building Safety (Description of Higher-Risk Building) (Design and Construction Phase) (Wales) Regulations 2023

The purpose of this Circular is to:

- a. draw attention to the new secondary legislation and explain the changes they introduce.

Scope of this Circular Letter

2. This Circular letter applies to buildings and building work in Wales, as well as

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building control professionals operating in Wales.

New secondary legislation

The Building (Building Control Profession) (Registration, Sanctions and Appeals) (Wales) Regulations 2023

3. The Construction Industry Council Approved Inspectors Register (“CICAIR”) is presently the body designated by the Welsh Ministers in Wales to maintain and operate the Construction Industry Council Approved Inspectors Register. CICAIR’s current role in maintaining and operating the Approved Inspectors Register will end on 31 March 2024. From 6 April 2024 a new mandatory scheme will be operated for Registered Building Control Approvers (“RBCAs”) and Registered Building Inspectors (“RBIs”) working in Wales.
4. Under the above Regulations the registration period for individual RBIs will be four years from the day on which registration has effect (please see regulation 2). The registration period for RBCAs will be five years from the date on which registration has effect (please see regulation 3).
5. The Building Safety Act 2022 allows for the investigation of potential professional misconduct (by RBIs) and contraventions of the Professional Conduct Rules (by RBCAs), which can result in sanctions where appropriate, including varying, suspending or cancelling registration in Wales.
6. Regulation 4 determines that if an RBCA is sanctioned and the outcome is that their registration is varied, suspended or cancelled, all local authorities in Wales will be given a copy of the disciplinary order. Additionally, each local authority in Wales will be given a copy of an interim suspension order for suspected serious contravention of the Professional Conduct Rules,

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where the suspected contravention is so serious that a person's registration will likely be cancelled if it is determined the contravention has occurred (please see regulation 5).

7. Regulation 6 provides that the applicant can make an appeal to the Magistrates' Court.
8. This regulation provides the grounds for appeal and also that appeals must be made within 21 days from the day after Welsh Ministers, or other designated body, notify the applicant of the decision. However, this period can be extended at any time if agreed upon in writing by the applicant and the Welsh Ministers or another designated body.

The Building Control Profession (Charges) (Wales) Regulations 2023

9. These Regulations enable the Welsh Ministers to charge for certain functions it performs under the Building Act 1984 (for example, applications for registration as a RBI or RBCA). They provide details of when a charge is payable, by whom, the amount payable and what triggers the charge.
10. Regulation 3 lists the functions that are permitted to be charged for, including:
 - Registering a person as a building inspector
 - Registering a person as a building control approver
 - Conducting investigations into professional misconduct and contraventions of the Professional Conduct Rules ("PCRs") or Operational Standards Rules ("OSRs"), and related actions
 - Action taken to secure compliance with Part 2A of the Building Act 1984 or to impose a sanction in respect of a contravention of Part 2A
 - Action taken in responding to an appeal against a decision where the person making the appeal either withdraws the appeal or the original decision is

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confirmed by a Magistrates' Court

- Inspection of a local authority or a RBCA.
11. Regulation 4 provides for the Welsh Ministers, or their designated body, to make a charging scheme under which the above charges must be outlined. This is to enable the charges to be updated as necessary to maintain a cost recovery basis into the future. The charging scheme will be published ahead of the registers of building inspectors and building control approvers opening in Wales.
 12. Regulation 5 determines who must pay charges for the different functions.
 13. Regulation 6 ensures that where investigations occur into potential professional misconduct or contraventions of the PCRs or OSRs, no charges will be payable if it is subsequently found that no misconduct or contravention occurred.
 14. Regulation 7 states that applicants who appeal decisions must pay charges for functions performed under Regulation 3, including if the applicant withdraws the appeal or if the magistrate's court confirms the decision of the Welsh Ministers.
 15. Regulation 8 details when fees for chargeable functions must be paid for. For functions that are payable in advance, the applicant must make payment at the same time as their application, notification or request is submitted. For other functions, the applicant must make payment within 30 days from the date on which the request for payment of that charge is issued to them.
 16. Regulation 8 also lists the information that must be provided with requests for payment where payment is due within 30 days. This includes:
 - A statement of the work done, and the costs incurred by the Welsh Ministers, or any person for or in connection with the performance of a chargeable function
 - The period to which the statement of work relates, if work was performed by the Welsh Ministers
 - The provision of the charging scheme under which the charge has been determined

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17. Additionally, Regulation 8 states that the Welsh Ministers may require the total amount of charges to be paid before they perform the chargeable functions, issue a notification, or issue a certificate.
18. Finally, Regulation 8 allows the Welsh Ministers to refund, in whole or in part, any charge paid.

The Building Safety (Description of Higher-Risk Building) (Design and Construction Phase) (Wales) Regulations 2023

19. These Regulations define what constitutes a higher-risk building for the purposes of section 120I of the Building Act 1984. Part 3 of the Building Safety Act 2022, which inserted section 120I into the Building Act 1984, makes provision for higher-risk buildings to be subject to an enhanced regulatory regime during the design and construction phase.
20. These Regulations provide a description of a higher-risk building (regulation 3) and, for determination of whether a building is a higher-risk building, how to measure its height (regulation 4) and the number of storeys (regulation 5).
21. Regulation 6 lists a number of building types that will be excluded from being described as a higher-risk building.
22. From 6 April 2024 the description in the Regulations will interact with other legislation for the following purposes:
 - to restrict the oversight of building control for new high-risk buildings to local authorities (and to make related transitional provisions).
 - to put into place classes of registered building inspectors to ensure that those appointed to oversee work on a higher-risk building have the relevant skills, knowledge, experience and behaviours necessary to undertake the role.
 - to require that some activities and functions (some of which will apply only in

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relation to higher-risk buildings) are only carried out through/ with the advice of an RBI.

Enquiries

Any enquiries on this Circular Letter should be addressed to:

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Yours faithfully

Neil Hemington
Chief Planner

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