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Building Regulations Wales

Circular

Circular number:	WGC 005/2017	Date issued:	09 / 04 / 2017
Status:	For information		
Title:	Changes to the criteria for schemes of insurance for approved inspectors		
Issued by:	Francois Samuel, Head of Building Regulations		
Addressed to:	Please forward to:		
Local Authority Chief Executives Welsh Local Government Association Association of Corporate Approved Inspectors Construction Industry Council Competent Persons Forum	Local Authority Building Control Officers Assembly Members		
Summary:	This circular provides information on changes the criteria for schemes of insurance for approved inspectors pursuant to Section 47(6) of the Building Act 1984		
For further information contact:			
Colin Blick Building Regulations Welsh Government - Rhyd Y Car Morbey Trefil	Direct Line: 03000 628144 E-mail: enquiries.brconstruction@wales.gsi.gov.uk Website: wales.gov.uk/topics/planning/buildingregs/		

Introduction

This circular letter informs you of changes to the criteria for schemes of insurance for approved inspectors.

Scope

This Circular Letter applies to all building work carried out in Wales except building work on *excepted energy buildings*¹ in Wales

Criteria for schemes of insurance for approved inspectors.

The building control function can be carried out by the local authority building control or an approved inspector. Approved inspectors check the plans of building work and inspect building work on site to make sure the work complies with all the applicable standards in the Building Regulations.

However, approved inspectors do not have the financial strength of local authorities as permanent statutory bodies. For this reason, one of the safeguards provided for in legislation is an approved inspector must have insurance approved by Welsh Ministers. This protects clients and others who may be adversely affected by any breach of contract, negligence or misrepresentation on the part of the approved inspector, by ensuring, subject to the limits of cover, the approved inspector has the financial resources to comply with any court award of damages or out of court settlement.

Under Section 47 (6) Building Act 1984 and the Building (Approved Inspectors etc.) Regulations 2010, as amended, an approved inspector must declare on the initial notices, amendment notices, plans certificates and final certificates given to local authorities hold the relevant insurance. A copy of a declaration signed by the insurer which a scheme of insurance approved by Welsh Ministers, applies in relation to the relevant work, must be held on the publicly available register maintained by CICAIR Limited.

Currently there are three approved schemes of insurance for approved inspectors: NHBC (who only insure NHBC Building Control Services Limited), Griffiths & Armour Limited and Howden Limited.

Following queries arising from potential insurance providers and the last approval carried out by Welsh Ministers, it was found some of the current criteria for schemes of insurance needed clarification.

The main change to the criteria is to show clearly the insurance schemes need to include both public liability and professional indemnity insurance cover.

It was found most run off cover (cover provided after the completion of the project) for similar professions, e.g. architects, is 6 years, however as all the current insurance providers are able to provide the 10 year run off cover which ties in with the length of cover for most new home warranties, therefore we have kept the run off cover at 10

¹ "Excepted energy buildings are defined in the schedule to the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I. 2009/3019)

years. The minimum and excess limits are still appropriate so therefore remain the same as previous.

The revised criteria makes it clear that a run off cover for non injury claims, covers all buildings, not just the houses of owner-occupiers.

Coming into force date

The revised criteria for schemes of insurance for approved inspectors will come into force on 1 June 2017. A copy of the revised criteria is at Annex 1.

Enquiries

Any enquiries on this Circular Letter should be addressed to:

Colin Blick, Building Regulations, Welsh Government, Rhydycar, Merthyr Tydfil, CF48 1UZ.

Telephone: 03000 628144.

E mail: enquiries.brconstruction@wales.gsi.gov.uk

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Francois Samuel', written in a cursive style.

Francois Samuel
Head of Building Regulations

Annex 1

Criteria for schemes of insurance for approved inspectors pursuant to section 47(6) of the Building Act 1984 – 1 June 2017

a) Public liability and professional indemnity insurance cover

Schemes of insurance for approved inspectors must provide for public liability and professional indemnity insurance covering the inspector for losses arising from claims in respect of the performance of duties as an approved inspector.

The following minimum levels of cover apply:

i) for claims against the approved inspector in respect of personal injury (including illness, disease and death) a minimum limit of not less than £5m per claim (all claims attributable to one occurrence shall be treated as one claim)

ii) for other claims against the approved inspector, a minimum limit of not less than £1m per claim (all claims attributable to one occurrence shall be treated as one claim)

(iii) the minimums in subparagraphs (i) and (ii) are subject to an overall minimum cover of £15m for all claims against the approved inspector in respect of work carried out by the inspector in any one period of 12 months.

b) Defence costs

Cover is to extend to the approved inspector's defence costs, which are to be treated on a "costs in addition basis", i.e. such costs will not be taken into account for the per claim minimums, though they will count towards the overall minimum of £15m.

c) Automatic run off cover

In relation to:

(i) any personal injury claims as set out in subparagraph (a)(i); and

(ii) non-injury claims as set out in subparagraph (a)(ii) other than under the law of contract,

Cover must be provided in respect of claims notified to the insurer within 10 years of the date of completion of the approved inspector's work in respect of the relevant building project, whether that date is that of giving of a final certificate, which is not subsequently rejected by a local authority, relating to the project, or of some other event marking the practical termination of the approved inspector's involvement in the project.

The minimum per claim levels set out in subparagraphs (a)(i) and (ii) above apply in respect of this cover, as does the overall minimum of £15m in subparagraph (a)(iii).

d) Index linking

Not required.

e) Excess

Not more than £5,000 per claim.

f) Voiding of cover

In line with commercial practice, reasonable provisions for voiding of cover will be allowed for example: for failure to disclose material information, failure to adhere to the terms and conditions of the policy, or failure to pay the premium.