

**EXPLANATORY MEMORANDUM TO
THE BUILDING (AMENDMENT) (WALES) REGULATIONS 2014**

This Explanatory Memorandum has been prepared by the Department for Housing and Regeneration and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Building (Amendment) (Wales) Regulations 2014. I am satisfied that the benefits outweigh any costs.

Minister for Housing and Regeneration, one of the Welsh Ministers

21 January 2014

1. Description

- 1.1. These Regulations make amendments to the Building Regulations 2010 (S.I. 2010/2214) (“the 2010 Regulations”) and the Building (Approved Inspectors etc.) Regulations 2010 (S.I. 2010/2215) to insert new and to extend existing provisions relating to the energy efficiency of buildings in Wales.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 None.

3. Legislative background

- 3.1 Section 1 of the Building Act 1984 (“the 1984 Act”) provides a power to make building regulations for a number of purposes with respect to the design and construction of buildings and the services, fittings and equipment provided in or in connection with buildings. These purposes include securing the health, safety, welfare and convenience of persons in or about buildings, furthering the conservation of fuel and power, preventing waste, undue consumption, misuse or contamination of water, furthering the protection or enhancement of the environment and facilitating sustainable development.
- 3.2 The 2010 Regulations have, in large part, been made pursuant to these powers. The 2010 Regulations impose requirements on people carrying out building work and are supported by Approved Documents, approved and issued under section 6 of the 1984 Act, which set out detailed practical guidance on compliance. The 1984 Act and the 2010 Regulations set out procedures for the supervision and control of building work.
- 3.3 Most of the Secretary of State’s functions conferred by or under the 1984 Act were, so far as exercisable in relation to Wales, transferred to Welsh Ministers on 31st December 2011, by the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I 2009/3019) (“the 2009 Order”).
- 3.4 The 2009 Order provides for the transfer to the Welsh Ministers of most of the functions conferred on the Secretary of State by or under the 1984 Act which had not been previously transferred to the then National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). However, the 2009 Order reflects the UK Government’s policy not to devolve the power to make building regulations in respect of excepted energy buildings in Wales and, as such, these Regulations do not apply to such buildings.
- 3.5 These Regulations are made using the negative resolution procedure.

4. Purpose and intended effect of the legislation

- 4.1 Section 2 of the 2010 Regulations defines the energy efficiency requirements of the 2010 Regulations. These requirements impact on the construction, renovation or extension of buildings and on the provision of controlled services or fittings in or in connection with a building. These Regulations insert new and extend the existing energy efficiency requirements of the 2010 Regulations. It is the Welsh Government’s policy to require improvements to the energy

efficiency of buildings to reduce CO₂ emissions and thus help the United Kingdom achieve its overall carbon reduction targets.

5. Changes made to the Building Regulations 2010

- 5.1 Regulation 4 of these Regulations supplements regulation 21(4) of the 2010 Regulations to extend the energy efficiency requirements in the 2010 Regulations to a conservatory or porch in which a fixed heating appliance has been provided to heat the conservatory or porch
- 5.3 Regulation 5 of these Regulations enables the Welsh Ministers to approve target primary energy consumption rates for new buildings (other than new dwellings) and target fabric performance values for new dwellings.
- 5.4 Regulation 6 of these Regulations inserts regulations 26A and 26B into the 2010 Regulations to require that new buildings (other than new dwellings) must not exceed the target primary energy consumption rates and new dwellings must not exceed the target fabric performance values.
- 5.5 Regulation 7 of these Regulations inserts regulations 27A and 27B into the 2010 Regulations which set out the procedure to be followed to submit evidence regarding the target primary energy consumption rate and the target fabric performance values to the local authority.
- 5.6 Regulation 8 of these Regulations substitutes regulation 28 (Consequential improvements to energy performance) of the 2010 Regulations to supplement and to extend certain requirements to buildings with a total useful floor area under 1000m².
- 5.7 Regulation 9 amends Regulation 47 (Contravention of certain regulations not to be an offence) of the 2010 Regulations to include reference to regulations 27A and 27B.
- 5.8 Regulation 10 contains transitional provisions.
- 5.9 These Regulations will come into force on 31 July 2014.

6. Changes to the Building (Approved Inspector etc.) Regulations 2010 in Wales

- 6.1 Part 3 of these Regulations amends the Building (Approved Inspectors etc.) Regulations 2010. The amendments made are consequential to the amendments to the 2010 Regulations.

7. Changes to the Approved Documents L1A, L1B, L2A and L2B

- 7.1 Guidance on the changes to the energy efficiency requirements will be given in new Approved Documents L1A, L1B, L2A and L2B, statutory guidance approved and issued under section 6 of the 1984 Act. Welsh Ministers will issue a circular to explain the changes to the 2010 Regulations and the guidance. This will be published on the Welsh Government website.

8. Consultation

- 8.1 A twelve week public consultation was undertaken in July 2012. The Building Regulations Advisory Committee for Wales was consulted on the changes to the energy efficiency requirements of the 2010 Regulations. Over 90 responses were received to the consultation. The consultation document is available at: [www.](#)

9. Regulatory Impact Assessment

- 9.1 A regulatory impact assessment has been carried out in respect of the proposed amendments to the 2010 Regulations.

- 9.2 The Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum at:

www.wales.gov.uk/topics/planning/buildingregs/?lang=en.

It shows a Net Present Value benefit of £145,000,000 over ten years.