

Sustainable and Secure Buildings Bill

CONTENTS

- 1 Purposes of building regulations
- 2 Contents of building regulations
- 3 Continuing requirements of building regulations
- 4 Removal of exemptions and repeals
- 5 Secretary of State to report on building stock
- 6 Proper person
- 7 Energy requirements of buildings
- 8 Energy efficiency of houses in multiple occupation
- 9 Financial provision
- 10 Short title, commencement and extent

Schedule – Repeals and revocations

A
B I L L

TO

Make provision in relation to matters connected with buildings.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Purposes of building regulations

- (1) In subsection (1) of section 1 of the Building Act 1984 (c. 55) (which sets out the purposes for which building regulations may be made), for paragraphs (b) and (c) substitute—
- “(b) furthering the conservation of fuel and power, 5
 - (c) preventing waste, undue consumption, misuse or contamination of water,
 - (d) furthering the protection or enhancement of the environment,
 - (e) facilitating sustainable development, or
 - (f) furthering the prevention or detection of crime,”. 10
- (2) In the words in that subsection after those paragraphs (which set out matters about which building regulations may be made), for the words from “design and construction” onwards substitute “matters mentioned in subsection (1A) below”.
- (3) After that subsection insert— 15
- “(1A) Those matters are—
- (a) the design and construction of buildings;
 - (b) the demolition of buildings;
 - (c) services, fittings and equipment provided in or in connection with buildings.” 20
- (4) In section 126 of that Act (general interpretation), in the definition of “substantive requirements” for the words from “design and construction” to “with buildings” substitute “matters mentioned in section 1(1A) above”.

2 Contents of building regulations

- (1) Schedule 1 to the Building Act 1984 (c. 55) (provision that may be included in building regulations) is amended in accordance with subsections (2) to (6).
- (2) In sub-paragraph (a)(ii) of paragraph 7, for “and use” substitute “, use and re-use”. 5
- (3) In sub-paragraph (a)(ix) of that paragraph, after “gases,” insert “vapours,”.
- (4) After sub-paragraph (a)(xxii) of that paragraph insert –
- (xxiia) measures relating to the security of buildings,
 - (xxiib) installation and inspection of security systems,
 - (xxiic) energy efficiency of appliances, 10
 - (xxiid) equipment for monitoring and measuring supplies of electricity, and
 - (xxiie) recycling and composting facilities.”.
- (5) In sub-paragraph (1) of paragraph 8, after paragraph (e) insert –
- “(f) buildings or parts of buildings, together with any services, fittings or equipment provided in or in connection with them, in cases where the persons in occupation of a building or part of a building change consequent upon sale, let or relet of the premises.” 15
- (6) For sub-paragraph (2) of paragraph 8 substitute – 20
- “(2) Subject to sub-paragraphs (3) to (6) below and to sections 2(2) and 2A of this Act, building regulations shall not apply to or in connection with buildings erected before the date on which the regulations come into force.
 - (3) The following building regulations may be made to apply to or in connection with buildings erected before the date on which the regulations come into force – 25
 - (a) regulations falling within sub-paragraph (1)(a) to (e) above;
 - (b) regulations made with respect to the demolition of buildings;
 - (c) regulations made with respect to the use of materials or components (including surface finishes) that (in whole or in part) have been produced from, or incorporate, recycled items; 30
 - (d) regulations made with respect to the re-use of materials or components (including surface finishes); 35
 - (e) regulations falling within sub-paragraph (4) below.
 - (4) Building regulations fall within this sub-paragraph if –
 - (a) in accordance with sub-paragraph (1)(f) above, they are framed by reference to a change in the occupants of a building (or part); and 40
 - (b) they are –
 - (i) made for the purpose mentioned in section 1(1)(b) of this Act; or
 - (ii) made (otherwise than for that purpose) with respect to measures calculated to secure, or to contribute to, the prevention or reduction of emissions (whether or 45

- not from the building in question) of smoke, gases, vapours or fumes.
- (5) The provision that may be made by building regulations includes provision imposing on a person carrying out work of any type in relation to a building (whenever erected), or in relation to any service, fitting or equipment provided in or in connection with a building (whenever erected) – 5
- (a) a requirement to do things for the purpose mentioned in section 1(1)(b) of this Act; or
- (b) a requirement to do things (otherwise than for that purpose) with respect to measures calculated to secure, or to contribute to, the prevention or reduction of emissions (whether or not from the building in question) of smoke, gases, vapours or fumes. 10
- (6) The things whose doing may be required by virtue of sub-paragraph (5) above are – 15
- (a) things to be done in relation to the work in question;
- (b) any other things but only if they are to be done in relation to –
- (i) the building in question; or 20
- (ii) any service, fitting or equipment provided in or in connection with that building.”
- (7) In section 44 of that Act (Crown application), after subsection (10) insert –
- “(11) For the purposes of building regulations which, in accordance with paragraph 8(1)(f) of Schedule 1 to this Act, are framed by reference to a change in the occupants of a building (or part), subsections (1) to (9) above apply in relation to the making of a change of occupants as they apply in relation to the carrying out of work, but with any necessary modifications [(including, in particular, any resulting reference to a change in occupants being made or proposed to be made on behalf of a person of a particular kind becoming a reference to a change of occupants involving a person of that kind as a former or new occupant being made or proposed to be made)].” 25 30

3 Continuing requirements of building regulations

- (1) After section 2 of the Building Act 1984 (c. 55) insert – 35
- “2A Continuing requirements in relation to fuel, power and emissions**
- (1) Building regulations may impose, on owners and occupiers of buildings, continuing requirements that fall within subsection (2) below.
- (2) A continuing requirement falls within this subsection if – 40
- (a) it requires the inspection and testing of a building –
- (i) as respects the use of fuel and power in or in connection with the building; or
- (ii) as respects its contribution to or effect on emissions (whether or not from the building) of smoke, gases, vapours or fumes; 45

- (b) it requires the inspection and testing of any service, fitting or equipment provided in or in connection with a building –
- (i) as respects the use of fuel and power in or in connection with the service, fitting or equipment; or
 - (ii) as respects its contribution to or effect on emissions (whether or not from it or the building) of smoke, gases, vapours or fumes; 5
- (c) it requires the implementation, in relation to a building, or any service, fitting or equipment provided in or in connection with a building, of – 10
- (i) measures for the purpose mentioned in section 1(1)(b) above; or
 - (ii) measures (otherwise than for that purpose) that are calculated to secure, or to contribute to, the prevention or reduction of emissions (whether or not from the building in question or a thing provided in or in connection with it) of smoke, gases, vapours or fumes; 15
- (d) it requires the keeping of records in relation to matters within paragraph (a), (b) or (c); or
- (e) it requires the making of reports in relation to any of those matters to a prescribed authority. 20
- (3) Those requirements may be imposed in the case of buildings, or in the case of services, fittings and equipment provided in or in connection with buildings, irrespective of both –
- (a) when the buildings were erected; and 25
 - (b) whether building regulations were applicable to them at the time of their erection.
- (4) Subsections (3) to (6) of section 2 above apply in relation to continuing requirements imposed by virtue of this section as they apply in relation to continuing requirements imposed by virtue of that section. 30
- (5) Paragraph 8(2) of Schedule 1 to this Act does not impose any restriction on the building regulations that may be made by virtue of this section.”
- (2) In section 33(4) of that Act (powers of local authorities in relation to contraventions of continuing requirements), after “section 2(1) or (2)” insert “or 2A”. 35
- (3) In section 38(2) of that Act (provision relating to civil liability), after “section 2(2)” insert “or 2A”.
- (4) In section 44 of that Act (Crown application) –
- (a) in subsection (3)(a) after “section 2” insert “or 2A”; and
 - (b) in subsection (8) for the definition of “continuing requirement” substitute – 40
- “‘continuing requirement’ means a continuing requirement of building regulations –
- (a) imposed by virtue of section 2(1) or (2)(a) or (b) above; or 45
 - (b) of a kind mentioned in subsection (2)(a), (b) or (c) of section 2A above and imposed by virtue of subsection (1) of that section;”.

- (5) In section 126 of that Act (general interpretation), in the definition of “substantive requirements” after “above” insert “and requirements that are of a kind mentioned in subsection (2)(a), (b) or (c) of section 2A above and are imposed by virtue of subsection (1) of that section”.

4 Removal of exemptions and repeals 5

- (1) The following provisions of the Building Act 1984 (c. 55) (which provide certain exemptions from the requirements of the Act for educational buildings and buildings of statutory undertakers and other authorities and licensees) shall cease to have effect—
- (a) section 4; 10
 - (b) section 59(4) and (5).
- (2) The enactments and instruments specified in the Schedule to this Act are repealed or revoked to the extent shown in the second column of that Schedule.

5 Secretary of State to report on building stock

- (1) The Secretary of State must— 15
- (a) for the period of two years beginning with the commencement of this section, and
 - (b) for each succeeding period of two years,
- prepare a report on progress during the period in connection with the purposes mentioned in section 1(1)(b) to (e) of the Building Act 1984 in the context of the building stock in England and Wales. 20
- (2) A report under this section must (in particular) deal with—
- (a) building regulations made during the period for any of those purposes;
 - (b) proposals current at the end of the period to make building regulations for any of those purposes; 25
 - (c) effects or likely effects of regulations or proposals dealt with in the report under paragraphs (a) and (b);
 - (d) overall changes during the period in—
 - (i) the efficiency with which energy is used in buildings in England and Wales; 30
 - (ii) levels of emissions from such buildings that are emissions considered by the Secretary of State to contribute to climate change;
 - (iii) the extent to which such buildings have their own facilities for generating energy; 35
 - (iv) the extent to which materials used in constructing, or carrying out works in relation to, such buildings are recycled or re-used materials; and
 - (e) consideration of setting such targets as the Secretary of State deems appropriate for— 40
 - (i) specific building types; and
 - (ii) specific technologies

in connection with the purposes mentioned in section 1(1)(b) to (e) of the Building Act 1984.
- (3) A report under this section must contain estimates, as at the end of the period, of— 45

- (a) the number of buildings in England and Wales that are dwellings; and
 - (b) the number of other buildings in England and Wales.
- (4) The Secretary of State must—
- (a) for the period of two years beginning with the commencement of this section, and 5
 - (b) for each succeeding period of two years
- prepare a report on progress during the period in connection with the Warm Homes and Energy Conservation Act 2000 (c. 31).
- (5) A report under this section must, in particular, deal with—
- (a) the standard or standards set for social housing; 10
 - (b) whether those standards will, in the opinion of the Secretary of State, eradicate fuel poverty for the houses for which they are set;
 - (c) the reasons for that opinion;
 - (d) whether or not he intends to review that standard or those standards;; 15
 - and
 - (e) the number of persons living in social housing removed from fuel poverty in the report period.
- (6) In subsection (5) “social housing” means housing let by a registered social land lord or a local housing authority.
- (7) The Secretary of State must lay before Parliament each report he prepares 20 under this section.

6 Proper person

- (1) In Schedule 1 to the Building Act 1984 (c. 55) (provision that may be included in building regulations), after paragraph 4 insert—
- “4A (1) Building regulations may require that, in prescribed circumstances, 25 a person of a prescribed class or description is to give to a local authority or an approved inspector a certificate to the effect that the requirements of building regulations as to matters of a prescribed description are satisfied.
- (2) Building regulations may provide for such certificates to be treated 30 as evidence (but not conclusive evidence) of the matters certified.
- (3) Building regulations may provide for requiring an approved inspector to, at the same time as he gives a final certificate to a local authority in relation to any work, give also to the authority a copy of a certificate that, in pursuance of regulations falling within sub- 35 paragraph (1) above, has been given to the inspector in relation to that work.”
- (2) In subsection (1)(a) of section 57 of that Act (offences relating to false or misleading certificates), for sub-paragraph (i) substitute—
- “(i) purports to comply with the requirements of this Part of 40 this Act, section 16(9) above or building regulations falling within paragraph 4A(1) of Schedule 1 to this Act, and”.

7 Energy requirements of buildings

Planning authorities may set targets in their development plans in respect of the proportion of the buildings' energy requirements on a building site to be supplied by renewable sources.

8 Energy efficiency of houses in multiple occupation

5

(1) Any scheme for licensing houses in multiple occupation ("HMO") established pursuant to any legislation passed on or after 1st January 2004 shall –

(a) in the case of any scheme that has not been established at the time of the passing of this Act include; or

(b) in the case of any scheme that has been established at the time of the passing of this Act be amended to include

10

as a condition of the licence, provisions for a minimum standard of energy efficiency required in any HMO for which a licence is required and a date by which that standard shall be reached.

(2) Different dates may be set for different HMOs.

15

(3) For the purposes of this section the term "houses in multiple occupation" has the same meaning as in any scheme to which this section applies.

9 Financial provision

There shall be payable out of money provided by Parliament –

(a) *any expenditure incurred by the Secretary of State in consequence or by virtue of this Act; and*

20

(b) *any increase attributable to this Act in the sums payable out of money so provided under any other Act.*

10 Short title, commencement and extent

(1) This Act may be cited as the Sustainable and Secure Buildings Act 2004.

25

(2) Sections 2(7), 3(4) and 4, and the Schedule to this Act, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.

(3) The other provisions of this Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed.

30

(4) This Act extends to England and Wales only.

SCHEDULE

Section 4

REPEALS AND REVOCATIONS

| <i>Enactment or instrument</i> | <i>Extent of repeal or revocation</i> | |
|--|---|----|
| Building Act 1984 (c. 55) | Section 4. | |
| | In section 59, subsections (4) and (5). | 5 |
| Education Act 1996 (c. 56) | In Schedule 37, paragraph 59. | |
| Transport Act 2000 (Consequential Amendments) Order 2001 (S.I. 2001/4050) | In the Schedule, paragraph 7. | |
| | | 10 |
| Education Act 2002 (c. 32) | In Schedule 21, paragraph 6. | |

Sustainable and Secure Buildings Bill

A

B I L L

To make provision in relation to matters connected with buildings.

*Presented by Mr Andrew Stunell
supported by
Sir Sydney Chapman, Sir Nicholas Winterton,
Alan Simpson, Joan Walley, Brian White,
Mr Simon Thomas, Sue Doughty,
Mrs Patsy Calton, Mr Peter Ainsworth,
Paddy Tipping and Mr David Amess*

*Ordered, by The House of Commons
to be Printed, 7th January 2004*

© Parliamentary copyright House of Commons 2004
*Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St. Clements House, 2-16 Colegate, Norwich, NR3 1BQ*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx net