

CIBSE press release

Release date: 05.12.18



Technical Note: the government ban on combustible materials in high-rise residential buildings

Amendment to Building Regulations will come into force on 21 December 2018 and affect buildings over 18, high. Hywel Davies, Technical Director of CIBSE, looks at the detail.

The Government has introduced an amendment to the Building Regulations, which will prohibit the use of 'combustible cladding' in high-rise residential buildings above 18 metres.

The Building (Amendment) Regulations, SI 2018/1230, come into force on 21 December. The amendment implements the promised ban on combustible cladding by prohibiting the use of combustible materials anywhere in the external walls of high-rise buildings over 18m above ground level, containing or more dwellings.

This ban will apply whenever work is carried out that comes within the scope of Building Regulations, so it applies to new building or to refurbishment work where the external wall is involved. It will also apply if a building which is not currently within the scope of the ban subsequently undergoes a change of use that means it falls within scope, at which point the external walls must be brought into compliance with the new requirements.

This note provides an overview of the Regulations and amendments to the Approved Documents, although readers are strongly encouraged to read the documents themselves.

The ban is being implemented through explicit regulation rather than guidance. The way this has been done is as follows:

Regulation 7 of the Building Regulations deals with materials and workmanship, and currently reads:

7 Materials and workmanship

Building work shall be carried out—

(a) with adequate and proper materials which:

- 1. are appropriate for the circumstances in which they are used,*
- 2. are adequately mixed or prepared*
- 3. are applied, used or fixed so as adequately to perform the functions for which they are designed; and*

(b) in a workmanlike manner.

This has been amended by adding three paragraphs. These include exemptions for certain materials such as seals and gaskets, which are set out in the new paragraph 3, below. The new text says:

(2) Subject to paragraph (3), building work shall be carried out so that materials which become part of an external wall, or specified attachment, of a relevant building are of European Classification A2-s1, d0 or A1, classified in accordance with BS EN 13501-1:2007+A1:2009 entitled "Fire classification of construction products and building elements. Classification using test data from reaction to fire tests" (ISBN 978 0 580 59861 6) published by the British Standards Institution on 30th March 2007 and amended in November 2009.

It is worth noting that the only recognised classification is the European classification. The older British Standard classification, which was recognised in previous guidance, is not included in the new regulation.

BS EN 13501-1 defines the classes A1 and A2 as follows:

Class A1 Will not contribute in any stage of the fire, including the fully developed fire.

Class A2 Will not significantly contribute to the fire load and the fire growth in a fully developed fire

The characteristics “s” and “d” are defined as follows:

s1 Weak or no smoke

s2 Medium Smoke

s3 High Smoke

d0 No dripping at all

d1 Slow dripping recorded

d2 High dripping recorded

“Relevant” buildings over 18m must be constructed or refurbished using only materials in the external wall which meet the limited combustibility of A2-s1, d0 or better (the new ban).

Relevant buildings are defined below in new paragraph (4) of the Regulation.

The guidance in Approved Document B for any other building over 18, states that materials in the external wall should meet the limited combustibility requirement of A2-s3, d2 or better.

The second new paragraph details those components that are exempt from the ban, which applied to the entire external wall construction, and not just the cladding.

(3) Paragraph (2) does not apply to:

- (a) cavity trays when used between two leaves of masonry;*
- (b) any part of a roof (other than any part of a roof which falls within paragraph (iv) of regulation 2(6)) if that part is connected to an external wall;*
- (c) door frames and doors;*
- (d) electrical installations;*
- (e) insulation and water proofing materials used below ground level;*
- (f) intumescent and fire stopping materials where the inclusion of the materials is necessary to meet the requirements of Part B of Schedule 1;*
- (g) membranes;*
- (h) seals, gaskets, fixings, sealants and backer rods;*
- (i) thermal break materials where necessary to prevent thermal bridging in order to meet the requirements of Part L of Schedule 1; or*
- (j) window frames and glass.*

New paragraph 4 then sets out where these new restrictions apply

(4) In this regulation—

- (a) a “relevant building” means a building with a storey (not including roof-top plant areas or any storey consisting exclusively of plant rooms) at least 18 metres above ground level and which:*

contains one or more dwellings;
contains an institution; or
contains a room for residential purposes but does not include a room in a hostel, hotel or boarding house; and

(b) *“above ground level” in relation to a storey means above ground level when measured from the lowest ground level adjoining the outside of a building to the top of the floor surface of the storey.*

So new regulation 7(2) applies to any building with a storey at least 18m above ground level containing one or more dwellings. By including institutions (which are defined in Regulation 2) it also covers some residential schools, care homes and hospitals, sheltered accommodation, student residences or other institutional accommodation blocks. The final group includes any building which contains “a room for residential purposes”. Hostels, hotels or boarding houses are excluded, unless they are converted into residential accommodation, such as student housing.

There are additional amendments in Regulation 2, relating to the definition of an external wall and a “specified attachment”, in the definition of material change of use in Regulation 5 to refer to new Regulation 7(4)(a), and in Regulation 6 to mirror the new Regulation 7(2).

The material change-of-use requirement is very important, because it means that - for example - a hotel may be built using materials not permitted in a student residence, but the hotel cannot then be converted to a student residence without replacing any non-compliant materials.

This means that owners or developers will need to think very hard about the materials used in taller buildings that are not covered by Regulation 7(4)(a)(i) or (ii).

The Government has also issued amendments to Approved Document B (ADB) to support this new regulation and a new paragraph in Approved Document 7 (AD7), which refers the reader to the revised ADB. The government has committed to issue wider clarifications to ADB. The amendments to ADB are therefore themselves “transitional” and it is anticipated that the revised ABD, due in the spring, will incorporate these changes in the Regulations.

The regulations come into force on 21 December 2018 and there is a two month transition period. A circular letter setting out the changes, transitional provisions and so on has also been published.

The transitional period is very short, and only those schemes where a building notice has been given to, or full plans deposited with, a local authority before 21 December 2018 are included. Even then, the building work to which the notice or plans relate must have either started before 21 December, or be started by 21 February 2019.

However, it would certainly appear to be very wise for anyone thinking of applying this provision to obtain firm advice from their insurer before committing to do so.

Government has released the following documents:

1. Written Ministerial Statement - <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-11-29/HCWS1126/>
2. The Building (Amendment) Regulations 2018 - <http://www.legislation.gov.uk/id/uksi/2018/1230>
3. The 2018 updated to Approved Documents B - <https://www.gov.uk/government/publications/fire-safety-approved-document-b>
4. The 2018 update edition of Approved Document 7 - <https://www.gov.uk/government/publications/material-and-workmanship-approved-document-7>

5. MHCLG Circular letter and Circular 02/2018,
<https://www.gov.uk/government/publications/building-amendment-regulations-2018-circular-022018>

ENDS

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