

GUERNSEY STATUTORY INSTRUMENT

2021 No. 52

**The Building (Guernsey) (Amendment) Regulations,
2021**

<i>Made</i>	12 th May, 2021
<i>Coming into operation</i>	1 st September, 2021
<i>Laid before the States</i>	, 2021

THE DEVELOPMENT & PLANNING AUTHORITY, in exercise of the powers conferred on it by sections 17(1) and 89 of the Land Planning and Development (Guernsey) Law, 2005^a and section 12 of the Land Planning and Development (Fees and Commencement) Ordinance, 2008^b, and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Amendment of the Building (Guernsey) Regulations, 2012.

1. The Building (Guernsey) Regulations, 2012^c are amended as follows.

^a Order in Council No. XVI of 2005; amended by Order in Council No. XIII of 2010; Ordinance Nos. XXI, XXII, XXV, XXVII and XXVIII of 2007; No. XVIII of 2011; Nos. IX and XI of 2016 and No. III of 2019.

^b Ordinance No. XLI of 2008; as amended by Ordinance No. XVIII of 2011; No. IX of 2016; No. III of 2019; G.S.I. No. 6 of 2010; Nos. 11 and 47 of 2012; No. 15 of 2015; No. 29 of 2017; and No. 113 of 2019.

^c G.S.I. No. 11 of 2012; as amended by Ordinance No. IX of 2016.

2. In regulation 2 (interpretation) –

(a) after the definition of "approved" insert –

""associated independent living unit" means a building, or part of a building, other than a room for residential purposes, which –

(a) is attached to, or situated within the curtilage of, a dwelling ("**principal dwelling**"),

(b) has a dedicated entrance and bathroom and kitchen facilities but which may share one or more of the following utilities or services with the principal dwelling –

(i) electricity supply,

(ii) hot or cold water supplies or systems,

(iii) foul water drainage as referred to in Part H1 of Schedule 1,

(iv) heat producing appliances, and

(v) fuel supply,

(c) is used, or is intended to be used (in the case of a building or part of a building not yet occupied), as living accommodation to be occupied only by a person who is allowed access to the principal dwelling and its facilities including, without limitation, such a person who –

(i) is working as a live-in carer of an occupier of the principal dwelling, or

(ii) is a relative of an occupier of the principal dwelling,"

(b) after the definition of "dwelling" insert –

""**dwelling-house**" does not include a flat or a building containing a flat," and

(c) in the definition of "flat" –

(i) after "self-contained premises" insert "comprising a dwelling",

(ii) for "or vertically," substitute –

"; but, for the avoidance of doubt, does not include such self-contained premises comprising a house a small part of which

(for example, a room over a neighbour's garage) is only separated horizontally from the neighbouring premises," and

(d) after the definition of "plans" insert –

""principal dwelling" means, when used in relation to an associated independent living unit ("the unit"), the dwelling to which the unit is attached or within the curtilage of which the unit is situated,".

3. In regulation 7 (meaning of material change of use) –

(a) the current text is renumbered as paragraph (1),

(b) after each of renumbered paragraph (1)(j) and (1)(l), omit "or", and

(c) after paragraph (1)(m) insert –

"or

(n) the building, or part of it, is an associated independent living unit, where previously it was not,".

(d) after renumbered paragraph (1) insert –

"(2) There is no material change of use of a building, or part of it, within paragraph (1)(a) or (1)(m) where the change of the building, or part of it, is to use as a dwelling which is an associated independent living unit.".

4. In regulation 8(1) (requirements relating to material change of use) –
 - (a) in subparagraphs (d), (e) and (g)(i), for "or (m)" substitute ", (m) or (n)",
 - (b) in subparagraph (g)(ii), after "7(e)" insert "or (n)",
 - (c) in subparagraph (h), after "7(b)" insert "or (n)", and
 - (d) in subparagraph (j), for "or (b)" substitute ", (b) or (n)".

5. In regulation 15 (full plans) –

- (a) for paragraph (2) substitute –

"(2) Where full plans are deposited by being transmitted to the Authority by electronic communication or other similar means in accordance with section 88 of the Law, the person who is required to deposit the full plans under regulation 14 must supply the Authority with a hard copy of such plans upon receipt of a written request for the same.",

- (b) in paragraph (4), after subparagraph (b) insert –

"(ba) a statement as to whether the building is a relevant building within the meaning of regulation 24A (fire safety information) or will be such a building after the completion of the building work,"

6. In regulation 17(2)(g), the second subparagraph "(i)" is renumbered as "(ii)".

7. In regulation 18(4) (completion certificates) –

(a) after subparagraph (a) omit "and", and,

(b) after subparagraph (b), insert –

"and

(c) any applicable requirements of regulation 24A (fire safety information).".

8. In regulation 20(5) (application of energy efficiency requirements), for "European Parliament and Council Directive 2002/9/EC of 16th December, 2002 on the energy performance of buildings" substitute "European Parliament and Council Directive 2010/31/EU of 19th May, 2010 on the energy performance of buildings (recast)".

9. In regulation 22 (requirements relating to thermal elements) for each reference to "paragraph L1(a)(i)" substitute "paragraphs L1(a)(i) and L2".

10. In regulation 23(2) (water efficiency), after "a dwelling" insert ", other than an associated independent living unit,".

11. After Part VII (water efficiency) insert –

"PART VIIA

INFORMATION PROVIDED BY THE PERSON CARRYING OUT WORK ETC.

Fire safety information.

24A. (1) Subsection (2) applies where building work –

- (a) consists of or includes the erection or extension of a relevant building, or
- (b) is carried out in connection with a relevant material change of use of a building,

and Part B of Schedule 1 imposes a requirement in relation to the work.

(2) The person carrying out the work shall give fire safety information to the owner of the building not later than the date of completion of the work, or the date of occupation of the building or extension, whichever is the earlier.

(3) The owner of a building, from time to time, must ensure that any fire safety information given to that owner under subsection (2) or under this paragraph by a previous owner is –

- (a) given to the new owner of the building not later than the date the change in ownership takes effect, and
- (b) brought to the attention of –
 - (i) occupiers of the building, and,
 - (ii) to the extent necessary in relation to any work in question, any person carrying out building work or other work in the building,

in such manner as is reasonably necessary to allow the building to continue to be operated and maintained with reasonable safety.

(4) In this regulation –

"fire safety information" means information relating to the design and construction of the building or extension, and the services, fittings and equipment provided in or in connection with the building or extension which will assist the building or extension to be operated and maintained with reasonable safety,

"a relevant building" means –

- (a) any building, or part of a building, except a house which is occupied as a single private dwelling, or
- (b) any building, or part of a building which will fall within subparagraph (a) after the completion of the building work, and

"a relevant change of use" is a material change of use, where after the material change of use takes place, the building, or part of the building will continue to be, or will be, a relevant building.

(5) For the purposes of subparagraph (a) of the definition of "a relevant building", a house which is occupied as a single private dwelling includes -

- (a) any outbuilding or other building which is an appurtenance of the house and is not used in common by the occupants of more than one single private dwelling, and
- (b) an associated independent living unit in relation to which that single dwelling house is the principal dwelling."

12. In regulation 26(1) (pressure testing), for "paragraph L1(a)(i) of Schedule 1 imposes a requirement" substitute "paragraphs L1(a)(i) or L2 of Schedule 1 impose requirements".

13. In Schedule 1 (requirements) –

- (a) in Part G (health, hygiene and water efficiency) –
 - (i) at the end of the subparagraph headed "limits on application of G2" insert –

"Requirement G2 does not apply in relation to a building or part of a building which is an associated independent living unit.",
 - (ii) immediately after the cross heading "*Limits on application of G3*" insert –

"Requirement G3 may be met, in relation to hot water supplied in an associated independent living unit, by installations, systems and supplies located in the principal dwelling.",

- (b) in Part J (heat producing appliances and fuel storage systems), after paragraph J7 insert –

"Limits on application of PART J

The requirements of this Part do not apply to an associated independent living unit where the combustion appliance, flue pipe or other heat producing appliance, fuel storage system or related equipment and fittings etc., are located in the principal dwelling.", and

- (c) in Part M (access to and use of buildings), in the subparagraph headed "*Limits on application of Part M and of requirements M2 and M3*" –

(i) after item (a) omit "or", and

(ii) after item (b) insert –

"or

- (c) any building or part of a building which is an associated independent living unit."

14. In Schedule 2 (exempted buildings and work) –

(a) In Class IV, for subparagraphs (1) and (2) substitute –

“A detached single storey building –

(a) which has a floor area not exceeding 20m²,

(b) which contains no sleeping accommodation, and

(c) where the building has a floor area exceeding 8m² -

(i) no part of which is located less than one metre from the boundary of its curtilage, or

(ii) which is constructed substantially of non-combustible material.”,

(b) in Class VI –

(i) in subparagraph (1)(a), omit “, sun lounge”, and

(ii) in subparagraph (2), after the definition of “covered yard” omit “and” and the definition of “sun lounge”, and

(c) in Class VII –

- (i) for the heading "Garden walls" substitute "Free standing walls",
- (ii) in subparagraph (1), omit "within the curtilage of a dwelling or along the boundary of the curtilage of a dwelling with another dwelling or a public highway," and
- (iii) in the table immediately following subparagraph (1) –
 - (A) in the third row of the second column, for "145mm" substitute "140mm", and
 - (B) in the fourth row of the second column, for "220mm" substitute "215mm".

Transitional provisions.

15. (1) The lawfulness of any extension of a building by the addition at ground level of a sun lounge, without complying with certain requirements of the principal Regulations, but in accordance with the exemption for sun lounges in regulation 13 and Class VI of Schedule 2 of the principal Regulations as in force immediately before the commencement of regulation 14(b), is not affected by the amendments made by regulation 14(b); and any such building work commenced but not completed as at 1st September, 2021 may be continued provided that it is completed within 12 months of that date.

(2) The principal Regulations shall apply to –

- (a) valid plans deposited before 1st September, 2021, and
- (b) building work carried out in accordance with such plans, with or without any departure or deviation from such plans,

as if the amendments made by these Regulations to the principal Regulations had not been made.

(3) In this regulation, "the principal Regulations" means the Building (Guernsey) Regulations, 2012 and, unless the context requires otherwise, other terms or expressions used in this regulation, have the same meaning as in the principal Regulations.

Consequential amendments.

16. (1) Schedule 2 to the Land Planning and Development (Fees and Commencement) Ordinance, 2008 is amended as follows.

- (2) In the Table of Fees in Part I –
 - (a) in the second column of the first row of category 1, after "a dwelling" insert "not falling within category 1A",
 - (b) after category 1 add –

"1A.	The creation of an associated independent living unit (whether by its erection, by a material change of use or by the extension or	
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	alteration of a building) including any associated building work.	
A	for each associated independent living unit created, of less than 30 square metres in floor area	550
B	for each associated independent living unit created, of 30 square metres or more in floor area	900",

(c) in category 2 –

(i) in the second column of the first row in category 2, after "category 1" insert "or 1A", and

(ii) in category 2L, in the second column omit "or a sun lounge", and

(d) in the second column of the first row in category 3, for "category 1 or 2" substitute "category 1, 1A or 2".

(3) In the notes to table in Part II –

(a) in the heading to paragraph 4, after 1 insert ", 1A",

(b) in paragraph 4(2), before "building work" insert "subject to subparagraph (4)",

(c) at the end of paragraph 4, add –

"(4) Despite the provisions of any other subparagraph of this paragraph, any building work to create an associated independent living unit shall be treated as falling within category 1A.",

(d) at the end of paragraph 7(2), for "category 2" substitute "category 1A or 2", and

(e) in paragraph 9 –

(i) in subparagraph (1), omit the definition of "sun lounge", and

(ii) in subparagraph (2), before "**controlled service or fitting**" insert ""**associated independent living unit**",.

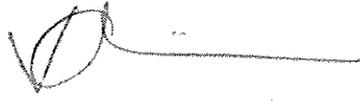
Citation.

17. These Regulations may be cited as the Building (Guernsey) (Amendment) (Guernsey) Regulations, 2021.

Commencement.

18. These Regulations shall come into force on the 1st September, 2021.

Dated this 12th day of May, 2021

A handwritten signature in black ink, consisting of a stylized initial 'V' followed by a long horizontal line.

V. S. OLIVER

President of the Development & Planning Authority

For and on behalf of the Authority

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building (Guernsey) Regulations, 2012 ("Building Regulations").

Regulation 11 inserts a new Part VIIA into the Building Regulations requiring a person carrying out specified building work to give fire safety information, in relation to the building and its services and fittings, to the owner of a building. The information is such that will assist the building to be operated and maintained with reasonable safety. The requirement applies to specified building work (including the erection of, or extension to, a building) in relation to all buildings except private dwelling-houses. The regulation also requires the owner of a building, from time to time, to give the information to a new owner and to ensure that the information is brought to the attention of occupiers and workmen carrying out works in the building. Consequential amendments are to other Parts of the Building Regulations by regulations 5(b) and 7.

Regulations 2(a) and (d), 3, 4, 10 and 13 make various amendments to the Building Regulations to provide for associated independent living units. Such units cover wings or extensions to houses or outbuildings in the garden of a house which comprise a dwelling and are occupied by a person[s] who is allowed access to the main house and its facilities. The provisions allow for such units to meet reduced requirements under the Building Regulations, compared to a new dwelling, providing they continue to be used by a person who has access to the main dwelling house and its facilities. If such a wing or outbuilding ceases to be an associated independent living unit, for example, because it is sold to be used by a person who does not have

access to the main house and its facilities, then this would be a material change of use to create a new dwelling under the Building Regulations so that the wing or outbuilding etc. would have to meet all the requirements of the Building Regulations applying to ordinary independent dwellings. If a new associated independent dwelling unit is created it would still have to meet specified relevant requirements of the Building Regulations as provided in the amendments.

Regulation 14 amends Schedule 2 to reword the description of the small detached buildings exempted from most requirements of the Building Regulations in Class IV, to remove the exemption for sun lounges in Class VI and to widen the current exemption in Class VII so that it applies to free standing walls, in all locations, which meet the conditions in the exemption. Regulation 15 makes a related transitional provision for buildings which are in the course of being built in reliance on the exemption for sun lounges. The opportunity has also been taken in regulations 2(c), 5(a), 6, 9 and 12 to make amendments to other regulations to update them or to clarify certain provisions.

Regulation 16 makes consequential amendments to Schedule 2 the Land Planning and Development (Fees and Commencement) Ordinance, 2008 in relation to fees payable on the deposit of full plans under the Building Regulations.

These Regulations will come into force on the 1st September, 2021.