

## **Explanatory Memorandum to the Building (Amendment) (Wales) Regulations 2024**

This Explanatory Memorandum has been prepared by the Building Regulations Policy Team and is laid before Senedd Cymru in conjunction with the above subordinate legislation.

### **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 2024.

**Julie James MS**  
**Cabinet Secretary for Housing, Local Government and Planning**

11 June 2024

## **PART 1**

### **1. Description**

- 1.1 These regulations implement changes to the Building Regulations 2010 (“the Building Regulations”) (as amended) for the provision of automatic fire suppression systems in care homes for children.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

- 2.1 None

### **3. Legislative background**

- 3.1 Building Regulations are made under sections 1 and 34 of, and paragraphs 7, 8 and 10 of Schedule 1 to the Building Act 1984 (“the 1984 Act”). Section 1(1) of the 1984 Act confers power on the Welsh Ministers to make building regulations for a number of purposes (which include securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings) in respect of matters mentioned in section 1(1A) of the 1984 Act. Matters mentioned in section 1(1A) of the 1984 Act include the design and construction of buildings. Schedule 1 to the 1984 Act makes further provision as to the matters as to which building regulations may provide. Paragraph 7 of Schedule 1 of the 1984 Act provides without prejudice to the generality of section 1(1) of the 1984 Act, building regulations may for any of the purposes mentioned in section 1(1), make provision with respect to a number of matters which include “fire precautions, including services, fittings and equipment designed to mitigate the effects of fire or to facilitate fire-fighting”.
- 3.2 Section 14(5) of the 1984 Act requires the Welsh Ministers to appoint a committee to be known as the Building Regulations Advisory Committee for Wales (BRACW) for the purpose of advising them on the exercise of their power to make building regulations and any other subjects connected with building regulations. Section 14(7) of the 1984 Act requires the Welsh Ministers to consult BRACW (and any such other bodies as appear to them to be representative of the interests concerned) before making any building regulations containing substantive requirements.
- 3.3 The Welsh Ministers have the power to do things which are conducive or incidental to their functions by virtue of the common law executive functions transferred to them via section 58A of the Government of Wales Act 2006.
- 3.4 These Regulations are being made under the negative resolution procedure.

#### **4. Purpose and intended effect of the legislation**

- 4.1 The Building Regulations provide the primary vehicle for the installation of automatic fire suppression systems in certain new and converted buildings. The Building Regulations include provision of automatic fire suppression systems in care homes for adults in Wales, however provision of automatic fire suppression systems in care homes for children in Wales are provided in the Domestic Fire Safety (Wales) Measure 2011 (“the Measure”).
- 4.2 These Regulations will transpose the requirement for provision of automatic fire suppression systems in care homes for children from the Measure to the Building Regulations. These regulations will also amend the definition of institution to clearly identify children’s homes. This will provide parity between care homes for children and care homes for adults where automatic fire suppression systems are already required under the Building Regulations.
- 4.3 Having provisions for automatic fire suppression systems in two different pieces of legislation causes confusion and inconsistency in their application. The changes to the legislation will assist developers by only requiring one application for building regulation purposes. This will also simplify the process of recording application data and site inspection details for the building control body on their database. All of the information relating to a development will be recorded in one place.

#### **5. Consultation**

- 5.1 In line with the Government’s policy on consultation, a 12 week consultation ran from 14 December 2022 to 7 March 2023 on the draft proposals to amend the Building Regulations. The consultation document ‘Rationalising the legislation controlling automatic fire suppression systems in care homes for children’ sought the public consideration of the proposals for these provisions. The consultation was drawn to the attention of a wide audience of key stakeholders such as Approved Inspectors, Local Authority Building Control Bodies and professional bodies such as Chartered Association of Building Engineers (CABE), Royal Institute of Chartered Surveyors (RICS), and the Chartered Institute of Building (CIOB).
- 5.1 The consultation received 23 responses. The consultation documents and a summary of the responses are available at: [Automatic fire suppression systems in care homes for children | GOV.WALES](#)
- 5.2 The majority of respondents supported the proposals set out in the consultation. A small percentage of the respondents questioned the change to Regulation 2 (Interpretation) of the Building Regulations to identify children’s homes by using the words “vulnerability or need” stating that this was open to a wide interpretation. This wording is used

in Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 to identify a care home service for children. The wording has been reviewed and in response to the questions raised, revised wording of “under the age of 18” has been included in the regulations. This differentiates between adult care homes for those aged over 18 years and children’s care homes in the Building Regulations. This also reduces the problem raised around interpretation and provides clarity for use within the Building Regulations.

5.3 The majority agreed on the changes to Regulation 37A (Provision of automatic fire suppression systems) of the Building Regulations as this transposed the requirements for children’s homes from the Measure into the Building Regulations 2010.

5.4 In addition, BRACW were consulted during the consultation stage and subsequently regarding the proposed changes to the Building Regulations. They raised no objections to the regulatory changes.

## **6.0 PART 2 – REGULATORY IMPACT ASSESSMENT**

6.1 In line with the Welsh Ministers’ code of practice for carrying out regulatory impact assessments for subordinate legislation, an RIA has not been undertaken in respect of these technical regulations. This is because they do not introduce any new policy, do not change existing policy (or its impact) in any significant way, and do not affect how the existing policy is applied.