

To:

The Chief Executive
Unitary, Metropolitan, District and London Borough
Councils in England
County and County Borough Councils in Wales
The Town Clerk, City of London
The Clerk, Council of the Isles of Scilly
The Sub-Treasurer, Inner Temple
The Under Treasurer, Middle Temple

Approved Inspectors

cc: The Chief Executive: County Councils in England
The Chief Fire Officer: Fire Authorities in England
and Wales

SHONA DUNN
DEPUTY DIRECTOR OF SUSTAINABLE
BUILDINGS DIVISION

DEPARTMENT FOR COMMUNITIES AND LOCAL
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OUR REF: CI/46/02/05

21 SEPTEMBER 2007

Dear Sir or Madam,

The Building Act 1984; the Building (Approved Inspectors etc) Regulations 2000

Approval of new scheme of insurance for approved inspectors

Introduction

1. I am writing to you to inform you of an addition to the approved schemes of insurance available for approved inspectors. These schemes must comply with guidelines which were circulated by the Department in October 2001 and revised by the "Warranty Link Rule" letter of 31 October 2005. The guidelines were circulated to the Association of Consultant Approved Inspectors (ACAI), and were copied, amongst others, to the Local Government Association and the District Surveyors' Association. A copy of the latest guidelines is at **Annex A** to this letter.

Background

2. Under the Building Act 1984 and the Building (Approved Inspectors etc) Regulations 2000 ("the Approved Inspectors Regulations"), an approved inspector must include with initial notices, amendment notices, plans certificates and final certificates, a declaration signed by the insurer that a scheme of insurance, approved by the Secretary of State, applies in relation to the relevant work. The insurance cover provided under these schemes indemnifies the approved inspector in respect of claims arising from the conduct of their building control functions.



The new approval

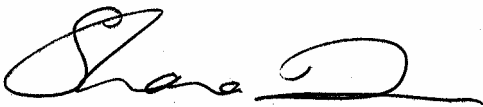
3. The Secretary of State has recently approved, under section 47(6) of the Building Act 1984, a new insurance scheme, the "Zurich Insurance Company" scheme. This scheme has been approved only in respect of work supervised by approved inspectors working for Zurich Building Control Services Ltd ("Zurich approved inspectors"), for all types of building work other than minor work (as defined in regulation 10(1) of the Approved Inspectors Regulations) and work in which the approved inspector has a professional or financial interest within the terms of regulation 10.

4. The range of building control work that may now be undertaken by Zurich approved inspectors insured under the newly approved Zurich Insurance Company scheme, is summarised in **Annex B** to this letter.

Enquiries

5. Any enquiries on this circular letter should be addressed to Phil Philippou (Sustainable Buildings, DCLG, Zone 2/G6, Eland House, Bressenden Place, London, SW1E 5DU (tel: 020 7944 5753; fax: 020 7944 5719; e-mail: enquiries.br@communities.gov.uk).

Yours faithfully

A handwritten signature in black ink, appearing to read 'Shona', followed by a long horizontal flourish.

Shona Dunn

Criterion for schemes of insurance for Approved Inspectors pursuant to section 47(6) of the Building Act 1984 - October 2005

a) Professional Indemnity cover

Schemes must provide for professional indemnity insurance covering the AI for losses arising from claims on him/it in respect of negligence, or alleged negligence, in the performance of his/its duties as an AI.

The following minimum limits apply to such cover:

- i) for claims against the AI in respect of personal injury (including illness, disease and death) an aggregate limit of £5m per claim (all claims attributable to one occurrence shall be treated as one claim)
- ii) for other claims against the AI, a limit of £1m per claim (all claims attributable to one occurrence shall be treated as one claim) subject to a minimum aggregate limit of £15m for all claims against the AI in respect of his or its work carried out in any one period of 12 months.

b) Defence costs

Cover is to extend to the AI's defence costs, which are to be treated on a "costs in addition basis", i.e. such costs will not be taken into account for the per claim limits, though they will count towards the aggregate limit of £15m.

c) Automatic run off cover

In relation to

- (i) any personal injury claims; and
- (ii) non-injury claims brought by an owner-occupier in relation to his only or main residence, other than under the law of contract,

cover must be provided in respect of claims notified to the insurer within 10 years of the date of completion of the AI's work in respect of the relevant building project, whether that date is that of acceptance of a final certificate, or of some other event marking the practical termination of the AI's involvement in the project.

The minimum per claim limits set out in (a)(i) and (ii) above apply in respect of this cover, as does the minimum aggregate limit of £15m.

d) Index linking

Not required.

e) Excess

Not more than £5,000 per claim.

f) Voiding of cover

In line with commercial practice, reasonable provisions for voiding of cover will be allowed.

Limitations on Dwellings

1. Approved Inspectors are approved for the purpose of Part II of the Building Act 1984 to act for **all types of building work** subject only to the limitations set out below.

2. In relation to building work consisting of the erection of a building containing any dwelling, or in connection with the change of use of a building or part of a building to create a dwelling only when the dwelling is within one of the following sub-paragraphs:

a. it is within purpose group 2(a) or (b) (residential (institutional) and residential (other)) in Appendix D to Approved Document B (2000 edition);

b. it is within purpose group 1(a), (b) or (c) (flats, maisonettes and dwelling houses) and -

(i) is being developed for letting by a local authority (including an Arms Length Management Organisation), a registered social landlord, a local housing action trust, a housing association whether or not registered with the Housing Corporation; or

(ii) is being developed, or created by conversion work, by or for a person on their own land and for their own occupation; or

(iii) is a flat serving purposes that are functionally connected to one or more non-residential uses of the building in which it is situated, whether or not access to the flat involves passing through non-residential accommodation; or

(iv) belongs to a school, university, hostel similar establishment and which is to be used as living accommodation for staff, pupils or students; or

(v) is specifically designed for use as living accommodation for the staff, pupils or students of an establishment described in sub-paragraph (iv) and which is subject to planning conditions or legal agreements restricting its use to such living accommodation; or

(vi) is subject to planning conditions or legal agreements restricting its use to use as holiday accommodation; or

(vii) is registered under one of the warranty schemes as listed and detailed below in paragraph 3.

3. Designated New Home Warranties

- a) NHBC Buildmark, including Sections 4 and 5 cover
- b) Zurich Standard 10
- c) Premier Guarantee for New Homes
- d) Building LifePlans BLPSecure