

**0.4 Changes in the occupation or use of a building that cause the
 regulations to apply**

- 0.4.1 Explanation
- 0.4.2 Schedule 2

regulation

4

mandatory

For the purposes of section 56(1) of *the Act* and these regulations, the changes in occupation or use of *buildings* set out in schedule 2 shall be *conversions* to the extent specified by regulation 12.

0.4.1 Explanation

The building regulations always apply where *construction* occurs, unless exempted by regulation 3, and *construction* includes alterations and extensions as well as entirely new *buildings*. When there is a *conversion* it will be necessary to seek a warrant and possibly to undertake *works* to improve the standards of the *building*, or part of the *building*, concerned.

Regulation 4 and schedule 2 set out what changes of occupation or use of a *building* are defined as *conversions* and for which the owner must obtain a warrant before making the change. The warrant for a *conversion* will only be granted if the standards set out in regulation 12 are achieved and this might well require *building works*.

Those changes of use or occupation listed in schedule 2 are those which are considered critical due to the risks involved. They relate to:

- a. *domestic buildings*, for example:
 - a hotel to a *dwelling* (type 1);
 - use of an attic space as a *room* within a *dwelling* (type 1);
 - use of a garage attached to a *dwelling* as a *room* (type 2);
 - sub-division of a *house* into two *flats* (type 3);
 - use of a *house* as *shared residential accommodation* (type 4);
- b. *residential buildings*, for example:
 - use of a hotel as *office* (type 5);
 - use of a hotel as a residential care home (type 6);
 - use of *offices* as a backpackers hostel (type 7);
- c. whether a *building* falls within the exemptions of schedule 1, for example:
 - use of a railway signal box as a *house* (type 8);
- d. public access to buildings, for example:
 - development of a retail trade in a storage *building* (type 9);
- e. division of a *building* into different occupancies, for example:
 - use of a single *shop* to provide space for two different occupancies (type 10).

Type 6 in schedule 2 refers to the significant alterations in the type and the number of expected occupants. A significant alteration of type could be considered to occur when there was a significant change in the mobility, the familiarity with *building*, or the awareness of danger, of the occupants. For example, significantly different types would include:

- patients receiving care and/or treatment in a residential care home/*hospital*;
- children in a residential institution or residential school;
- guest in a hotel;
- people held in lawful detention.

A significant alteration in number could be considered to occur where it amounted to an increase greater than 25%.

Type 9 in schedule 2 refers to allowing access by the general public where previously there was none. Access by the general public refers to permitting members of the general public to enter a *building* during opening hours and allowing them to access all parts of the *building*, other than those parts restricted to staff only.

For *conversions* it is the intention that the standards achieved in the *converted building* should be broadly similar to those achieved by entirely new *buildings*. Schedule 6 to regulation 12 guides the verifier as to where discretion is expected to be necessary. It identifies those standards where it is not expected to be *reasonably practicable* to have existing *buildings* fully comply. However for these standards improvement of the existing *building* is expected where it is *reasonably practicable*. This means that matters such as thermal insulation now have to be improved even if meeting the full standard is not practically achievable. Guidance on what is normally *reasonably practicable* is given in schedule 6 and in the individual sections. Guidance is also given on the treatment of historic *buildings*.

It is also relevant that the requirements of other legislation, for example regulations made under Health and Safety at Work or licensing legislation, will apply to changes of use, so that risk assessments of changed circumstances will provide protection to the occupants of *buildings*.

0.4.2 Schedule 2

Conversions to which the regulations apply

Type	Conversion
1.	Changes in the occupation or use of a <i>building</i> to create a <i>dwelling</i> or <i>dwellings</i> or a part thereof.
2.	Changes in the occupation or use of a <i>building</i> ancillary to a <i>dwelling</i> to increase the area of human occupation.
3.	Changes in the occupation or use of a <i>building</i> which alters the number of <i>dwellings</i> in the <i>building</i> .
4.	Changes in the occupation or use of a <i>domestic building</i> to any other type of <i>building</i> .
5.	Changes in the occupation or use of a <i>residential building</i> to any other type of <i>building</i> .
6.	Changes in the occupation or use of a <i>residential building</i> which involve a significant alteration to the characteristics of the persons who occupy, or who will occupy, the <i>building</i> , or which significantly increase the number of people occupying, or expected to occupy, the <i>building</i> .
7.	Changes in the occupation or use of a <i>building</i> so that it becomes a <i>residential building</i> .
8.	Changes in the occupation or use of an exempt <i>building</i> (in terms of schedule 1) to a <i>building</i> which is not so exempt.
9.	Changes in the occupation or use of a <i>building</i> to allow access by the public where previously there was none.
10.	Changes in the occupation or use of a <i>building</i> to accommodate parts in different occupation where previously it was not so occupied.