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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 428**

**The Building (Procedure) (Scotland) Regulations 2004**

**PART V**

**APPLICATION TO SCOTTISH MINISTERS FOR A DIRECTION  
IN RELATION TO A DESCRIPTION OF BUILDING**

**Application of this Part**

- 25.** The provisions of this Part shall apply—
- (a) to an application under section 3(2)(b) of the Act to the Scottish Ministers for a direction in relation to a description of building;
  - (b) in relation to the giving of such a direction by the Scottish Ministers whether on an application made to them or of their own accord; and
  - (c) in relation to the giving of a subsequent direction under section 3(4)(c) of the Act varying or revoking such a direction.

**Making of an application for direction**

**26.—**(1) An application shall be made by submitting to the Scottish Ministers an application in writing signed by the applicant or a duly authorised agent and accompanied by such plans as are necessary to show the aspects of the building or the part thereof for which a direction is sought and the provision of the building regulations from which dispensation or relaxation is sought.

- (2) The applicant shall if required by the Scottish Ministers—
- (a) submit to them such further information as the Scottish Ministers may direct; and
  - (b) obtain at the applicant's expense and submit to the Scottish Ministers the results of such tests as the Scottish Ministers may direct are to be undertaken.

**Process of consultation**

- 27.—**(1) The Scottish Ministers—
- (a) shall send to the applicant (if any) or a duly authorised agent, the Buildings Standards Advisory Committee and every verifier a copy of their draft direction; and
  - (b) may if they think fit send to any other person or body appearing to them to be interested a copy of the application and of their draft direction;

inviting comment on the draft direction to be sent in writing to the Scottish Ministers before the expiry of the period of 21 days beginning with the date of issue of the draft direction, and they shall take into account any comments received before making their decision final.

(2) Following the receipt of comments from persons to whom a copy of the draft direction has been sent in accordance with paragraph (1) the Scottish Ministers may if they think fit produce a further draft direction in accordance with that paragraph.

### **Determination**

**28.**—(1) After giving a direction under section 3(2) (b) of the Act the Scottish Ministers shall give notification of the direction to the applicant if any or a duly authorised agent, and any other body or person who received a copy of the draft direction in terms of paragraph (b) of regulation 27.

(2) In the event that the Scottish Ministers determine not to give a direction on the matter referred to them they shall notify any applicant or a duly authorised agent of their determination and of their reasons therefor.

### **Registration in Building Standards Register**

**29.** Where in accordance with section 3(6) of the Act, the Scottish Ministers have sent a copy of any direction to the local authority, the local authority shall proceed forthwith to register the said copy direction in the building standards register.