
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building (Scotland) Regulations 2004 which set out functional standards for buildings. The principal amendments are in relation to the six Schedules to the 2004 regulations which are replaced in their entirety. These amendments arise due to a number of factors being the result of practical experience of the new system, changes to some of the technical requirements and the implementation of certain requirements in terms of the EC Directive on Energy Performance of Buildings (O.J. L 001, 4.1.2003, p.65–71 (the EPBD) (Regulation 2 and new Section 6 of Schedule 5 to the regulations).

New regulation 17 is inserted into the 2004 Regulations and is required in order to implement the terms of Article 9 of the EPBD regarding the inspection of air conditioning systems. (regulation 2).

The Regulations come into force on 1st May 2007 but do not apply to any application for a building warrant for work made before that date (regulation 3). There are transitional arrangements for work which must comply with the regulations but which does not require a warrant and where a contract has been entered into for the work before 1st May 2007 (regulation 4).

The Schedules have been amended as follows:

1. Schedule 1:

- (a) the subordinate legislation reference in building type 1 has been amended to take account of new legislation.
- (b) building type 20 has been amended to cover a small detached building that is located within 1 metre from the flat or maisonette to which it relates, similar to a house. A swimming pool deeper than 1.2 metres has been added to the exceptions.

2. Schedule 3:

- (a) the exceptions to building types 1 and 2 have been amended to include underpinning and to clarify the extent of drainage work that may be constructed without a warrant.
- (b) the first exception to building type 5 has been amended to permit a small detached building to be located up to 1 metre from the flat or maisonette to which it relates so that this is the same exception as in building type 4 which deals with a house.
- (c) the exceptions to building type 6 have been amended to cover constructional hearths only.
- (d) building type 19 has been amended by extending the exception to ensure escape routes are not compromised with the installation of external decked areas.

3. Schedule 4:

- (a) paragraph 2 has been added to provide additional information on the measurement of rooms.
- (b) paragraph 4 (a) has been amended to include types 1 and 2 of schedule 3.

4. Schedule 5:

- (a) paragraph 1.1 has been amended to ensure that ground conditions and the stability of adjacent buildings are taken into account in the design of a building.
- (b) the scope of paragraph 3.11 has been amended to cover the convenience of occupants and visitors and to the provision of facilities for the sustainable drying of washing.

Status: This is the original version (as it was originally made).

- (c) the scope of paragraph 3.12 has been amended to cover more convenient use of sanitary facilities.
- (d) the scope of paragraph 3.13 has been extended to permit improved guidance on compliance.
- (e) paragraph 3.23 has been amended to cover the fire protection of woody biomass storage and the title of the standard has been changed to suit.
- (f) paragraph 3.24 has been amended to cover the sustainable storage of woody biomass and the title of the paragraph has been changed to suit.
- (g) the limitations to paragraph 4.1 have been amended to ensure improved accessibility to certain types of dwellings.
- (h) paragraph 4.2 has been amended to ensure improved accessibility within domestic buildings.
- (i) paragraph 4.8 has been amended to better explain the scope of the guidance provided.
- (j) all the paragraphs in section 6 have been amended to take account of improved energy efficiency measures. In particular, paragraph 6.9 is a new paragraph which has been inserted to take into account the requirement for implementation of Article 7.1 and 7.3 of the EPBD in relation to the provision of an Energy Performance Certificate when certain buildings are being constructed.

These Regulations were notified in draft to the European Commission and other Member States in accordance with Directive [98/34/EC](#), as amended by Directive [98/48/EC](#).