



**FINAL BUSINESS AND REGULATORY IMPACT ASSESSMENT
(ref: 2012/24)**

**AMENDMENT OF THE BUILDING (SCOTLAND) REGULATIONS 2004
AND GUIDANCE FOR SECTION 2: FIRE OF THE OF THE NON-
DOMESTIC TECHNICAL HANDBOOK**

**Building Standards Division
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FINAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

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1.0 TITLE OF PROPOSAL

Amendment to the Building (Scotland) Regulations 2004 and accompanying standards and guidance for Section 2: Fire of the Technical Handbooks.

2.0 PURPOSE AND INTENDED EFFECT

2.1 Background

Scottish Building Regulations set standards for the health, safety and welfare of persons in and around buildings, furthering the conservation of fuel and power and furthering the achievement of sustainable development. These standards are supported by guidance contained in the Technical Handbooks. The Building Regulations apply to new buildings and to buildings being converted, altered or extended. Scottish Building Regulations are devolved to the Scottish Parliament, therefore there is no alternative framework in place which deals with Scottish Building Regulations and mandatory building standards.

Building Regulations are expressed in functional terms and do not dictate the method of compliance. The Scottish Government issues guidance on how the requirements of the Building Regulations may be met. The guidance may be relied upon in any proceedings as tending to negative liability for an alleged contravention of the Building Regulations. This does not however preclude the use of alternative approaches provided the designer can satisfy the local authority verifier that the aim of the Building Regulations is being fulfilled.

Automatic fire suppression systems were introduced in new primary and secondary schools in October 2010 to further the achievement of sustainable development. The intention is to provide enhanced property protection against fire. There are cases where the additional cost of installing a suppression system in an existing school is clearly disproportionate to the overall building costs (e.g. temporary buildings, small extensions and the like) and there is a need to review this policy.

Key fire safety information relating to non-domestic buildings is often hidden within the building warrant application details and is not easily accessible. This means that the building as designed is not always used as intended which could lead to inefficiencies and fire safety concerns when the building is occupied. The Rosepark Fatal Accident Inquiry also made reference to this gap in fire safety information.

2.2 Objectives

Buildings have significant implications for health, safety, the environment and our communities. Through the appropriate application of minimum building standards, set by regulations, the design, construction and maintenance of Scotland's built environment can benefit all owners, users and people in and around our buildings.

This Business and Regulatory Impact Assessment (BRIA) forms part of the Building (Miscellaneous Amendments) (Scotland) Regulations 2013 including proposed amendments to Section 2: Fire of the Building Standards non-domestic Technical

Handbook. The principle aims and objectives of the proposed amendments support the government strategic objectives of a healthier, safer and greener Scotland by seeking to:

- address recommendations from the Rosepark Fatal Accident Inquiry on the provision of fire safety information ;
- simplify public service procedures for the relaxation or dispensation of automatic fire suppression systems in certain school buildings where the cost of installation the system is disproportionate to the building cost.
- promote well-designed, sustainable places where we are able to access the amenities and services we need; value and enjoy our built and natural environment and protect it and enhance it for future generations;
- ensure our public services are high quality, continually improving, efficient and responsive to local people's needs.

2.3 Rationale for Government Intervention

The two aspects of the building standards that are being considered in this BRIA are automatic fire suppression in school buildings and the provision of a fire safety design summary. The rationale for government intervention in respect of each topic is identified below.

Automatic fire suppression in school buildings – Where an existing school is being extended, or a stand-alone building being erected within school grounds, the current mechanism is to apply to Scottish Ministers to dispense with or relax the standard where the costs of installing a fire suppression system is considered to be disproportionate to the cost of the building. It is proposed that this bureaucratic process is reduced by amending the standard and supporting guidance, to allow local authorities to make the decision based on the local circumstances of each case. Particularly when the existing school does not have a suppression system.

Fire safety design summary – Following the Rosepark Care Home Fatal Accident Inquiry (FAI), the Sheriff Principal recommended that Scottish Ministers consider introducing a requirement to provide fire safety information after a building has been constructed. Currently, after construction, this information is not easily accessible to building owners, users or other enforcing authorities such as the fire and rescue services. It is proposed to amend procedure and forms regulations to require the production of a Fire Safety Design Summary (FSDS) prior to the building being occupied. The information will be lodged within Part 2 of the Building Standards register making the information more accessible.

The regulations will apply to new non-domestic buildings only. This important fire safety information will also help inform any fire risk assessments required under the Fire (Scotland) Act 2003. A similar building regulation was introduced in England and Wales in 2007. There will be negligible cost to industry as designers and fire engineers are required to provide the information as part of building warrant process.

3.0 CONSULTATION

3.1 Development phase

During the development phase of the proposals, the Building Standards Division (BSD) set up a Departmental Working Group (DWG) to independently review and scrutinise the matters under consideration. The DWG comprised SG colleagues from health policy, schools policy, fire and rescue policy, a local authority verifier, fire engineers from private sector organisations and academia and an architectural technologist.

The DWG helped shape the proposals over two meetings ready for public consultation and targeted face to face discussions with Scottish firms and other stakeholders during the consultation period.

3.2 Within Government

Discussions were held with the following divisions and agencies before and during the life of the fire working group which informed the development of the proposal.

- SG Schools Infrastructure Unit
- SG Fire and Rescue Services Division;
- Scottish Futures Trust
- Buildings Division, Communities and Local Government (CLG);
- Building Regulations Unit, Department of Finance and Personnel, Northern Ireland; and
- Construction Unit, Welsh Government.

Scottish Futures Trust and the Schools Infrastructure Unit have provided information on the existing and proposed schools estate in Scotland. This has allowed the Building Standards Division (BSD) to make informed decisions on the impact of the amendment to standard 2.15 (automatic fire suppression systems) as well as provide costs for research contractors.

The Fire and Rescue Services Division provided advice on the provision of fire safety information and identified potential linkage between the building standards system and the fire safety regime established under the Fire (Scotland) Act 2005. CLG provided advice on the content and implementation of Regulation 38 Fire Safety Information of the Building Regulations 2010 (England and Wales).

3.3 Public Consultation

The Building Standards Division (BSD) has an extensive data base of names of individuals and organisations that have expressed a specific interest in building standards and regulations. Stakeholders on the BSD list are directly alerted to any forthcoming consultation in areas that they have expressed an interest in. As well as directly contacting stakeholders with a known interest, forthcoming consultation exercises are also promoted on the BSD homepage of the Scottish Government website and in the BSD electronic newsletter/newsflash issued to approximately 3275 stakeholders.

The full consultation package was also published in different formats on the Scottish Government main website (<http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/publications/pubconsult>). The consultation period commenced on 20 September 2012 and closed on 12 December 2012. Printed copies of consultation papers, issued without charge, were available direct from the Building Standards Division of the Scottish Government on request.

Proposals to amend mandatory building standards and guidance issued under the Building (Scotland) Regulations 2004 require to be notified to the European Commission under the provisions of Technical Standards & Regulations Directive 98/34/EC. This Directive seeks to prevent technical barriers to trade and lays down a procedure for the provision of information in the field of technical standards and regulations. A standstill period on further development is imposed by the Directive until after this consultation process is completed.

3.4 Business Consultation

In addition to the above general consultation, a consultation exercise in support of the Scottish Firms Impact Test was also undertaken. These consultations consisted of a combination of face to face discussions, email correspondence or telephone discussion with 8 construction sector businesses that might be affected by the proposals (see Section 5: Scottish Firms Impact Test) and included:-

- 5 architectural firms; and
- 3 fire engineering firms.

4.0 OPTIONS

The following three options have been considered;

Option 1 Do nothing;

Option 2 Promotion through additional information campaigns and voluntary codes;

Option 3 Amend building/procedure regulations and guidance.

4.1 Sectors and Groups Affected

Sectors and groups affected can be categorised as:

a. Persons procuring or occupying new non-domestic buildings, who may bear any additional costs associated with gathering fire safety information. Although dependent on approach adopted, it is not anticipated that a large section of the population will be affected. It is important to note that gathering and assessing fire safety information is necessary under the Fire (Scotland) Act 2005, therefore no additional cost burden is imposed on building occupiers by this policy.

b. Building warrant applicants would need to complete a model form and extract the relevant fire safety information from the building warrant submission that they should be familiar with. It is not anticipated that a large number of developers will be

affected. The information is more likely to be gathered by construction professionals such as architects or fire engineers acting on behalf of their clients.

c. Those involved with building design and construction, who would have to familiarise themselves with any revised standards and methodologies through training etc.

d. Local authority verifiers, who may need to arrange training of staff on changes to standards and guidance, to ensure these can be verified at design submission and during construction where necessary.

e. Minimal impact on sprinkler contractors as relaxations / dispensations have been granted since October 2010 by Scottish Ministers for schools projects where the cost of installation was disproportionate to the building costs.

4.2 Benefits

4.2.1 Option 1 Do nothing

The Scottish Government is committed to considering the findings of the Rosepark Fatal Accident Inquiry, protecting the built environment and improving the efficiency of our public services. Accordingly, no benefits are identified which relate to this option.

No implementation and delivery plan required as there is no change and therefore no delivery.

Without the proposed changes to Standard 2.15 (Automatic Fire Suppression Systems) the current process will be overly bureaucratic.

4.2.2 Option 2 Promotion and subsidy

This option will produce benefits, but these are likely to be small because only a small proportion of the industry, probably that in the public sector is likely to adopt the changes. This is supported by experience gained from, for example, Department for Business Innovation and Skills (BIS) Construction Best Practice (now Constructing Excellence) which suggests that only a small proportion (about 10%) of the target market has used the programme, although this figure is much higher (nearly half) in respect of public sector clients.

Any benefits gained by the introduction of a voluntary code would be wholly dependent on the level of use of any such code. Without mandatory status, benefits would be limited and such guidance is unlikely to be followed, as it would be left to the market forces to determine implementation.

This would not be an appropriate option for Standard 2.15 (Automatic Fire Suppression Systems).

4.2.3 Option 3: Amend building/procedure regulations and guidance

Option 3 would produce the greatest benefits which would be mostly social but also have some associated economic and environmental benefits. It has the advantage over Option 2 in that it provides clear and consistent guidance to all parties.

Specific benefits under this Option 3 can be quantified under the following categories:

Social benefits

In non-domestic buildings, the provision of fire safety information may lead to small reductions in deaths and injuries in Scotland. More accessible information might lead to risk reductions as responsible persons for fire safety management are more likely to have a better understanding on the building design and what key fire safety measures are incorporated in the building.

A stronger link between the building standards regime and fire safety in existing buildings will improve the processing of alternative approaches and lead to an increase in design flexibility and innovation.

In general, the proposals will have a positive benefit to local authority verifiers, fire safety enforcing authorities and dutyholders under the Fire (Scotland) Act 2005. The information will also assist fire and rescue services when developing Integrated Risk Management Plans (IRMP).

There can be other social benefits associated with reducing the severity and incidence of fires, such as reducing the distress and disruption caused by fire (e.g. the upset at the loss of business, downtime etc. These may be considerable but are far harder to quantify and therefore a figure has not been included in this BRIA.

As the proposal to modify Standard 2.15 (Automatic Fire Suppression Systems) relates to procedure and the intent to simplify procedures and reduce building warrant processing times, there will be negligible impact.

Economic benefits

The basic approach for assessing social benefits is to determine the annual risks of death and injury per accommodation unit, estimate how the proposed revision would reduce these risks and then calculate the number of lives saved and injuries prevented per year for a given number of non-domestic buildings. In order to calculate a financial benefit, deaths and injuries have been converted into a cash sum using standard valuation figures. Specifically, the value of a statistical life used is £1.62m and a weighted value of an injury is £19.96k¹ based on practice in the transport sector. Estimated benefit £400k - £500k per annum.

There may be substantial savings in terms of avoiding the economic loss associated with buildings and their contents damaged or destroyed by fire. For example, a recent Government publication estimated the average property loss per fire at

¹ Welsh Government, Cost benefit analysis of residential sprinklers for Wales (BRE Global) April 2012

£33,700¹ for commercial properties. In the case of very large fires the negative impact on the local community/business could be significant. Improving the accessibility of the fire safety information will assist dutyholders to manage fire safety within their buildings more efficiently and have a better understanding of the impact their management decisions will have on the fire strategy for the building and the fire risk assessment. It is estimated that the fire safety information could reduce the average property loss per fire by 10 - 20%. This equates to £3.4k – £6.8k per annum per fire in a non-domestic building.

Where the amendments facilitate more efficient use of alternative approaches to meeting the requirements of the mandatory standards in section 2: fire, this could produce cost savings in terms of reduced construction costs. This could lead to greater design freedoms and promote innovation.

The proposal to amend Standard 2.15 (Automatic fire suppression systems) will allow certain school buildings to be exempt from the requirement to install a suppression system. For example, temporary buildings, small extensions and small stand-alone buildings within existing school grounds. New primary and secondary schools will continue to require automatic suppression systems as the default position. The current mechanism is to apply to Scottish Ministers to dispense with or relax the standard where the costs of installing a fire suppression system are considered to be disproportionate to the cost of the building. This policy is cost neutral for public services as decision making is being transferred from Scottish Ministers (dispensing or relaxing Standard 2.15) to local authorities as part of their building warrant issuing procedures

Environmental benefits

The provision of fire safety information will have minimal impact on the environment. Any impact is likely to be positive as the fire safety management of the building might be improved as a result of having the key fire safety information more accessible. The environmental benefits of Option 3 would arise from further limiting the size and hence the consequence of fires. It is estimated that some 40 fires per year result in a Category 1 or 2 pollution incident². Fewer, smaller fires would reduce water usage and help to reduce air and water borne pollution. Although these impacts cannot be considered directly within the current locus of Section 2: Fire and are a secondary consideration. Such benefits are extremely difficult to quantify and so figures have not been included in this BRIA but are likely to be small in comparison to the social benefits.

When implementing Standard 2.15 (Automatic fire suppression systems), the current mechanism is to apply to Scottish Ministers to dispense with or relax the standard where the costs of installing a fire suppression system is considered to be disproportionate to the cost of the building. It is proposed that this bureaucratic process is reduced by amending the standard and supporting guidance, to allow local authorities to make the decision based on the local circumstances of each case. As the proposal relates to procedure and the intent to simplify procedures and reduce building warrant processing times, there will be negligible impact on the environment.

² Source: Environment Agency Pollution Incident Statistics 2001-2003

The changes will apply to building warrant applications for non-domestic buildings submitted on or after 1 October 2013.

4.3 Costs

The cost of implementation for each option is given below.

4.3.1 Option 1: Do nothing

There would be a reputational cost to the Scottish Government for not acting upon the recommendations of the Rosepark Fatal Accident Inquiry.

This option would not address Scottish Ministers commitment to improve compliance with building regulations, protecting the built environment and improving the efficiency of our public services.

The current mechanism to apply to Scottish Ministers to dispense with or relax Standard 2.15 is a bureaucratic process. This option would not allow local authorities to make the decision based on the local circumstances of each case and reduce unnecessary burden.

4.3.2 Option 2 Promotion and subsidy

Option 2 would impose some costs on Government to fund efforts to encourage industry to adopt best practice principles and to produce guidance material to show how this could be achieved.

The development costs for production of voluntary codes of practice would form part of the work of the Scottish Government - Building Standards Division (BSD). Therefore the costs of development, e-publishing and raising awareness of voluntary codes would be borne by Government and not the public. The documents would be available online at no charge.

No exact values have been assessed, as the actual costs will be proportional to the time spent on converting word documents to XML and the extent of the advertising and publicity campaign. As a benchmark, the promotional campaign to launch the fire safety regulations and guidance for existing buildings under Part 3 of the Fire (Scotland) Act 2005 has been used as a guide. The guidance and promotional campaign allocated to fund this was £350k. This equates to approximately £500k at 2012 prices for all four BSD policy areas currently under review. Therefore, the cost per policy area is estimated at £125k.

- guidance documents;
- website;
- press articles;
- radio adverts;
- trade publications;
- posters; and
- leaflets.

As with the potential benefits, these costs are difficult to estimate since they depend on the take-up rate, but they could amount to 10% of option 3 and it is likely that take-up would be highest in the public sector.

This would not be an appropriate option for Standard 2.15 (Automatic Fire Suppression Systems).

4.3.3 Option 3 Amend building/procedure regulations and guidance

The amended regulations and supporting guidance requiring the provision of a Fire Safety Design Summary will have a clear explanation of intent. The increase in the costs of producing the information is likely to be passed on to the building warrant (BW) applicant and will be proportional to the level of complexity of the building.

For minor building warrant applications, there will be limited information required to complete on the model form compared with more complex applications. In such cases, the supplementary fire safety design information will be contained in the BW submission drawings and specification. For all other buildings, any costs associated with providing more accessible fire safety information must be balanced against the benefits that will accrue to building users and enforcing authorities throughout the life of a building. This must not contribute disproportionately to the cost of a new non-domestic building. As the fire safety information is simply a summary of the fire strategy and fire safety measures incorporated in the BW submission, the cost of completing the model form is likely to be borne by the BW applicant / agent as part of the process of obtaining a Completion Certificate.

Costs are estimated at no more than half an hour per BW application for simple applications and one hour for complex applications. Therefore total cost of producing and verifying the fire safety information prior to the Completion Certificate being accepted is estimated at £60,000 per annum.

The cost of verifying proposals in relation to amended standard 2.15 (Automatic fire suppression systems) will be cost neutral in terms of cost to the public purse. Decision making has been transferred from central Government to local Government and it is expected that any additional time costs incurred by local authority verifiers in processing standard 2.15 will be covered by the existing BW fees. There will be no additional cost burden for industry. Indeed the amendment will save time in the process of obtaining building warrant.

Cost of new guidance and familiarisation

BSD now produces their technical guidance in-house. Therefore the only cost for producing new guidance is BSD staff costs.

There are approximately 560 building standards professionals in Scotland. The time impact per person should be no more than 4 hours on training and familiarisation. Therefore, based on average hourly rates plus overhead costs, the total one off cost for building standards professionals would be around £48k.

However this can be off-set against Continued Professional Development requirements. For example, building standards professionals (verifiers) architects, architectural technologists, energy consultants may incur no additional costs as professional institutions demand at least 25 - 40 hours Continued Professional Development as part of their professional membership criteria.

According to the Scottish Corporate Sector Statistics 2011, there are approximately 307,770 enterprises in Scotland. This figure includes the self employed. There are an estimated 45,000 voluntary organisations. Assuming one person from every enterprise and every voluntary organisation in Scotland spends 1 hour familiarising themselves with the guidance the total cost of familiarisation for both bodies will be around £3.82m.

However, it is estimated that only 5% of enterprises and voluntary organisations will need to use the guidance with the remainder using construction professionals to advise them when carrying out building work. Therefore the total cost of familiarisation for enterprises and the voluntary sector would be £191k.

5.0 SCOTTISH FIRMS IMPACT TEST

The small firms' impact test regards all firms with less than 50 full time employees as being small businesses. The majority of small firms have fewer than 10 employees and guidelines state that a concerted effort should be made to consult them over policy proposals.

As at March 2012, there were an estimated 341,360 private sector enterprises operating in Scotland. Almost all of these enterprises (98.3%) were small (0 to 49 employees); 3,635 (1.1%) were medium-sized (50 to 249 employees) and 2,250 (0.7%) were large (250 or more employees). These percentage shares have remained relatively stable since 2000 (the earliest point in the time series).

As at March 2012, there were 339,110 Small and Medium-sized Enterprises (SMEs) operating in Scotland, and employing an estimated 1.09 million people. SMEs accounted for 99.3% of all private sector enterprises and accounted for 54.5% of private sector employment and 37.7% of private sector turnover.

Parties affected by the proposals would include small firms involved in the construction of buildings and in the materials used in construction. There are a number of ways in which small firms may be disproportionately affected by the proposals when compared to how larger firms are affected, for example, it may be harder for small firms to alter their design process.

The majority of micro-businesses in the construction industry deal with the domestic market. Approximately 80% of all Building Warrant Applications in Scotland relate to domestic buildings and have an estimated cost of under £50K. As the proposed changes relate to non-domestic buildings only, the proposals will have zero impact on the majority of small firms or micro-businesses in Scotland where they work within the domestic housing sector.

Assessment has been based on Option 3 as Options 1 and 2 have no cost implications for small firms, including micro-businesses.

In order to explore the issues facing smaller firms, the Building Standards Division consulted the following range of small businesses face to face, during the consultation process:

- Architect (Sole Trader x 3);
- Architectural firm (< 10 employees)

- Architectural firm (< 30 employees);
- Fire Engineers (< 10 employees)
- Fire Engineers (< 20 employees)
- Fire Consultancy (< 50 employees)

All firms interviewed at 'face to face' discussions agreed with the proposals. The smaller architectural firms felt that the proposals would have negligible impact on their business as they predominantly work in the domestic market.

For small firms in the construction industry working in the non-domestic building market, the proposed technical changes may create some training issues. Some architectural firms interviewed suggested that training of staff for the proposed 2013 changes would be an additional burden over and above their normal Continued Professional Development (CPD) requirements. However, no evidence was provided to support this and it is thought that the economic downturn continues to be a major contributory factor with investment in training. Approach to training tends to be 'on the job' and more reactive to project specific issues which is shared amongst the firms employees. With the fire engineering firms interviewed it was regarded that staff have a responsibility to keep their CPD up to date and that making themselves aware of the proposed changes would go towards satisfying their CPD commitments.

The fire engineering firms interviewed identified that the proposals simply reflected what should be good practice, but making it mandatory would help ensure consistency across the country. The proposals would also help to ensure that any changes to the design during the construction phase, which impacted on fire safety, were reflected in the fire safety design summary.

All firms confirmed that building standards guidance documents continue to be downloaded free of charge from the BSD website. There is no additional cost to industry in obtaining guidance documents.

See 5.2 Test run of business forms for additional analysis of the impact of amending procedure and forms regulations to introduce a requirement to provide a 'Fire Safety Design Summary'.

It is considered that the proposals to change the standards and guidance apply in a proportional and equitable way.

5.1 Competition Assessment

Proposals to change standard 2.15 (automatic fire suppression systems) is a procedural change for school buildings to allow local authorities to make decisions based on the local circumstances of each case without reference to Scottish Ministers. As all 32 local authority verifiers have been appointed by Scottish Ministers to implement the building standards system in Scotland, there are no significant areas where issues of competition, restriction or imbalance have been identified.

The requirement to provide fire safety information applies proportionally based on the complexity of the proposed development. The BW applicant is responsible to satisfy procedure and forms regulation. They may choose to complete the model

form themselves or appoint professional advisors to provide the information as part of the normal BW process. Therefore there are no significant areas where issues of competition, restriction or imbalance have been identified.

5.2 Test run of business forms

The Fire Safety Design Summary (FSDS) model form and pre-completed form has been tested at the 'face to face' meetings. Feedback received has been used to improve the template. Further consideration will be given to the development of a second pre-completed form for less complex buildings. Specific guidance will be introduced to support the introduction of a FSDS through amended procedure and forms regulations.

6.0 LEGAL AID IMPACT TEST

It is not envisaged that there will be any greater demands placed on the legal system by this proposal. Accordingly, it is not considered that there will be any effect on individuals' right of access to justice through availability of legal aid or on possible expenditure from the legal aid fund.

The Scottish Government Legal Aid Division was consulted during the consultation period and have confirmed that they do not foresee any issues arising out of this BRIA.

7.0 ENFORCEMENT, SANCTIONS AND MONITORING

7.1 Background

The proposed changes for Standard 2.15 within Option 3 will require amendment to the Building (Scotland) Regulations 2004 and the supporting guidance given within the Technical Handbooks. The Technical Handbooks list the mandatory functional standards set out under regulation 9 of the Regulations and give guidance on ways of complying with these mandatory functional standards.

The Building (Procedure) (Scotland) Regulations 2004 and The Building (Forms) (Scotland) Regulations 2006 will also require to be amended to facilitate the introduction of a requirement to provide a 'Fire Safety Design Summary'.

All matters relating to enforcement, sanctions and monitoring will be carried out under the existing processes, which form the building standards system in Scotland, as set out under the Building (Scotland) Act 2003. Parties responsible for operation of this system are currently the 32 Scottish local authorities, appointed as verifiers under the Act, and the Building Standards Division, on behalf of Scottish Ministers.

7.2 Enforcement and sanctions

Work subject to the Building (Scotland) Regulations 2004 generally requires that a building warrant must be obtained before work commences and to have a completion certificate accepted once works are finished. Whether or not such work requires a building warrant is set out under regulation 5 of the regulations, the person responsible for the building or works. The 'relevant person' as defined in section 17 of the Building (Scotland) Act 2003, is required to ensure compliance with building regulations.

Where a building warrant is required, proposals are subject to the scrutiny of verifiers prior to approval of building warrant or acceptance of a Completion Certificate. Local authorities have enforcement powers under the Act to ensure compliance with approvals and the regulations. Cases of non-compliance can be referred to the Procurator Fiscal and persons found guilty of offences in terms of the Act are liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5000).

7.3 Monitoring

Continuous monitoring of the implementation of proposals is available through feedback from local authority verifiers, designers, manufacturers, developers and clients. These parties are in regular contact with the technical officers in the Building Standards Division and the queries they raise will offer a broad view of how proposals are being implemented and if intent is being achieved. They may also identify areas where objectives may be unclear and allow clarification of these objectives as part of the ongoing review process. Issues raised in this manner become a matter of record and are used to inform the continued development of building standards and guidance.

7.4 Post-implementation review

It is intended that a record of the fire safety information would be held on Part 2 of the building standards register (held with local authorities) and that analysis of data and the use of the model form will be reviewed with the co-operation of verifiers once the system has been established.

The Building Standards Division can monitor implementation of changes to building standard 2.15 relating to schools through submissions of applications to relax or dispense with the standard. The number of applications is expected to reduce significantly following implementation.

The policies above will be reviewed within 10 years.

8.0 IMPLEMENTATION AND DELIVERY PLAN

The proposed changes will be taken forward in the form of amended regulations, standards and guidance reflected within the Technical Handbooks which support compliance with the Building (Scotland) Regulations 2004. This guidance will be introduced as part of the Building (Scotland) (Amendment) Regulations 2013 and implementation will be carried out under existing processes, which form the building standards system in Scotland, as set out by the Building (Scotland) Act 2003.

The Technical Handbooks are the primary reference source for compliance with building standards and, as such, are used by designers and others involved in the building process to ensure compliance with the Scottish Building Regulations.

The guidance to the standards will illustrate the most common way of meeting the requirements of the building standards and, thus, complying with the Building (Scotland) Regulations 2004. When carrying out work that is subject to the building

standards, it is the duty of the relevant person (normally the owner of the building) to comply with the requirements of the regulations.

Publication in this form is the established method of introducing changes to the building standards system and ensures that information on changes reaches those involved in works that are subject to building standards. This information is made available in as an electronic download from the Building Standards Division (BSD) website, www.scotland.gov.uk/bsd

8.1 Implementation

The proposed changes will form part of the building standards system in Scotland, produced and maintained, on behalf of Ministers, by the BSD and operated and enforced by the 32 Scottish local authorities.

Building work subject to the Building (Scotland) Regulations 2004, requires a building warrant to be obtained prior to commencing building work and to have a Completion Certificate accepted by the Verifier on completion of the work. Such works are subject to the scrutiny of local authorities as Verifiers of the system, who also have enforcement powers under the Act to ensure compliance with the Regulations.

The proposed changes to the guidance within the Technical Handbooks are relevant to any party responsible for a building who intends to carry out building work that is subject to building regulations.

Subject to Ministerial approval, proposed changes will be published online in June 2013. Guidance will come into effect on the 1st of October 2013 and be applicable to all building warrant applications made on or after that date.

8.2 Promotion

Any changes to the building standards system are publicised by the BSD through the website, newsletters, e-newsflashes, seminars and articles in relevant publications. In addition, the BSD would seek to promote changes to the standards and guidance in association with organisations who have an expressed interest in building design and construction issues, together with other key stakeholders who have been involved in development of guidance and during the consultation process.

8.3 Post implementation review

Continuous monitoring of the implementation of proposals is available through feedback from verifiers, designers, manufacturers, developers and property owners. These parties are in regular contact with the technical officers within BSD and the queries they raise offer a broad view of how proposals are being implemented and if intent is being achieved. They also identify areas where objectives may be unclear and allow clarification of these objectives as part on the ongoing review process. Issues raised in this manner become a matter of record and are used to inform the continued development of building standards and guidance.

In line with Scottish Government policy, any implemented changes will be subject to review within 10 years of its introduction.

9.0 SUMMARY AND RECOMMENDATION

Building Standards Division have analysed the 3 options identified in this report and make their recommendation as set out below.

9.1 Summary and recommendation

Option 3 is the strongest option to:

- deliver recommendations from the Rosepark Fatal Accident Inquiry on the provision of fire safety information;
- protect the built environment by providing easily accessible fire safety information on the design and construction of non-domestic buildings; and
- to cut red tape by simplifying public service procedures and reduce the need to apply to Scottish Ministers for relaxations or dispensations of standard 2.15 (automatic fire suppression systems) in certain school buildings where the cost of installation the system is disproportionate to the building cost.

Overall, it is considered that any costs that are likely to be incurred will be directly proportional to the benefits i.e. there are no significant social, economic or environmental costs associated with these proposals. The costs of the proposals, as well as the costs of implementation have been developed with businesses and local authority verifiers during the consultation period.

Option 3 is the strongest option in order to fully realise the benefits identified in section 4.2. Regulation supported by guidance in the Technical Handbooks and supporting documents will encourage consistency of application throughout Scotland.

A sensitivity analysis has not been carried out for the purposes of this BRIA.

The summary of benefits and costs are identified in the table below.

9.2 Summary benefits and costs table

Option	Total benefit per annum	Total cost per annum
Option 1 Do nothing.	Social, Economic and Environmental - no benefits	Social, Economic and Environmental - no monetary cost but reputational cost to Scottish Ministers (see 4.3)
Option 2: Promotion and subsidy	Take up rate estimated at 10% of option 3 and likely to be highest in the public sector	125k per annum
Option 3: amend building regulations and guidance	<p>Social, Economic and Environmental –</p> <p>Would have some social benefit by indirectly reducing the risk of death / injury by ensuring better fire risk management.</p> <p>Primarily economic benefit. Reduce future costs in sourcing and assessing fire safety information with preparation of fire safety risk assessments under Fire (Scotland) Act 2005. Difficult to predict monetised benefits in terms of savings therefore non given.</p> <p>The assessment of cost is based on the value of a statistical life at £1.62m and a weighted value of an injury at £19.96k based on practice in the transport sector³. (Estimated at £400k - £500k per annum)</p> <p>Remove disproportionate cost of fire suppression systems for some new extensions and detached buildings in existing schools. This policy is cost neutral for public services as decision making is being transferred from Scottish Ministers (dispensing or relaxing Standard 2.15) to local authorities as part of their building warrant issuing procedures.</p> <p>There are no expected negative environmental impacts by the introduction of this policy</p> <p>Additional benefits :</p> <ul style="list-style-type: none"> • reduction in fire damage, distress and business disruption due to fire (average property loss per fire reduced by 10 - 20% or £3.4k – 6.8k per annum; • improved clarity of guidance and consistency in application; • proactive measures to reduce future fire risk and assist with fire-fighting and search and rescue operations; • improved interface with other fire safety legislation under Fire (Scotland Act) 2005. 	<p>Economic, Environmental and social</p> <p>Total cost of preparing fire safety information and verification by Local Authorities estimated at £60K per annum (see 4.3.3).</p> <p>These costs will be off-set by need to supply the information for building warrant applications and cost recovery by LA through warrant fees.</p> <p>Familiarisation and training:</p> <ul style="list-style-type: none"> • £127k per annum for enterprises and voluntary sector (see 4.3.3) • Building standards professionals £48k (one off cost, see 4.3.3) <p>Assumed professionals will familiarise themselves with the changes under their Continued Professional Development criteria required to satisfy the professional institutions (say 25-40 hours CPD)</p>

³ Welsh Government, Cost benefit analysis of residential sprinklers for Wales (BRE Global) April 2012

9.3 Recommendation

From the information provided in the preparation of this BRIA it is proposed to adopt option 3.

10.0 DECLARATION

DECLARATION

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that the business impact has been assessed with the support of businesses in Scotland

Signed by the accountable Minister

Derek MacKay, Minister for Local Government and Planning

Date: May 2013

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