



FINAL BUSINESS AND REGULATORY IMPACT ASSESSMENT
(ref: 2012/23)

**AMENDMENT OF THE BUILDING (SCOTLAND) REGULATIONS 2004 AND
GUIDANCE FOR SECTION 3: ENVIRONMENT AND SECTION 4: SAFETY
OF THE TECHNICAL HANDBOOKS**

BUILDING STANDARDS DIVISION

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FINAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

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1 TITLE OF PROPOSAL

AMENDMENT OF THE BUILDING (SCOTLAND) REGULATIONS 2004 AND GUIDANCE FOR SECTION 3: ENVIRONMENT AND SECTION 4: SAFETY OF THE TECHNICAL HANDBOOKS

2 PURPOSE AND INTENDED EFFECT

2.1 Background

Scottish Building Regulations set national mandatory building standards for the health, safety, welfare and convenience of persons in and around buildings, furthering the conservation of fuel and power and furthering the achievement of sustainable development. These building standards are supported by guidance contained in the Scottish Building Standards 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 Standards are expressed in functional terms and do not dictate the methods that should be used to achieve the requirements. The choice of how to comply with the standards lies with building owners and for this purpose Scottish Ministers issue the Technical Handbooks containing practical guidance on how the requirements of the Building Standards 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.

2.2 Objective

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 a Building (Scotland) Regulations 2004 review including proposed amendments to Section 3: Environment and Section 4: Safety of the Scottish Building Standards Technical Handbooks. The principle aims and objectives of the proposed amendments support the government strategic objectives of a healthier, safer and greener Scotland by seeking to:

- Protect the health and safety of the people of Scotland by strengthening the existing guidance relating to the climb-ability of protective barriers.
- Introduce measures to alert people to the presence of the dangerous gas, carbon monoxide, from the combustion appliances in their homes and other residential buildings.

- Initiate carbon emission savings for the environment through the introduction of a mandatory building standard requiring basic water efficiency measures in dwellings.
- Support the principles of better regulation by bringing forward changes to remove the application of the existing solid waste storage standard that is no longer be fit for purpose for houses.
- Introduce information and cite a typical specification into the building standards to raise awareness of Changing Places (CP) toilets. A CP toilet is a larger, combined toilet and changing facility which addresses the needs of people for whom standard accessible sanitary accommodation is inadequate or impractical to use. This proposal will not form part of this BRIA as the information will be advisory only and will not impose any further requirements on building owners.
- Strengthen guidance relating to the design methodologies used to assess the exposure categories of external walls exposed to wind driven rain. Reference will be made to the option of using European Standards in addition to existing British Standards. This proposal will not form part of this BRIA as the information will be advisory only and will not impose any further requirements on building owners.

2.3 Rationale for government intervention

The four aspects of the building standards that are being considered in this BRIA are protective barrier design, carbon monoxide detection, water efficiency and refuse storage provision. The rationale for government intervention in respect of each topic is identified below.

Protective barriers

Pedestrian protective barriers are required at sudden changes of level in and around buildings to protect people from an accidental fall. Guidance is provided within the technical handbooks on the form and height that such barriers should take.

Information on the importance of designing barriers to take account of the risk of young children climbing them is currently only provided within the introduction to the mandatory standard and not within the supporting technical guidance that would be used for design and construction.

In 2010 a review of the protective barrier guidance was carried out in relation to the risk of a young child falling through a gap in the barrier. However, during this review the safety issue of designing barriers so that they are not easily climbed by children was identified for further consideration. To further this consideration public opinion was sought on the matter by including a question on climb-ability within the review consultation.

The majority of responses (86%) to the question on the climb-ability of barriers considered that the interpretation and consistency of application of this safety issue should be strengthened by improving and relocating the information to within the related technical guidance. Accordingly it is now proposed to provide technical guidance on the climb-ability of protective barriers for use by those responsible for designing or constructing buildings.

Carbon Monoxide Detection

Every year in Scotland there are fatalities from carbon monoxide (CO) poisoning, some of which are directly attributed to combustion appliance installations in buildings. In addition to these deaths there are also a considerable number of incidents where people are treated in hospital for the effects of CO poisoning. In some cases CO poisoning can result in serious and permanent injury to the persons affected.

Combustion appliances fuelled by solid fuel, oil or gas all have the potential to cause CO poisoning if fuel does not burn properly or the appliance is poorly installed or commissioned, inadequately maintained or incorrectly used. Insufficient combustion ventilation or a lack of the correct maintenance of appliances, flues and chimneys are the main causes of CO poisoning in buildings.

Where CO gas may occur within a building, early detection and warning can play a vital role in the protection and safety of the occupants. This is particularly important in buildings with sleeping accommodation. There is currently no requirement under building regulations, or elsewhere, to provide building occupants or users with an early warning of the presence of CO.

Water Efficiency

Saving water saves energy and Carbon Dioxide (CO₂) emissions because power is used to process water to drinking quality standard and even more energy is required to move it to where it's needed. There are additional energy and CO₂ costs involved in the collection and treatment of the wastewater generated in dwellings. Scottish Water indicate that the average consumption of potable water per person in Scotland is around 150 litres per day. Water consumption has increased over the last few decades and is projected to continue to rise.

It has recognised that Scottish Water is one of the biggest users of energy in Scotland. Around 8% of Scottish energy is related to heating water in homes with around 30% of the average household's heating bills spent on heating water.

The Scottish Water Byelaws, enforced by Scottish Water, set requirements which must be adhered to in all properties that have a public water supply. Scottish Water now require all new industrial or commercial buildings to be metered. Water meters are only installed in dwellings if requested by the building owner. There is no Byelaw requirement for water efficiency for dwellings

Introducing mandatory water efficiency measures for sanitary facilities in homes through the building regulations will reduce the amount of household treated water used and associated waste water generated. Additionally the household will save on water heating/energy costs and contribute to the reduction in carbon emissions to the environment.

Refuse Storage Provision

Building Standards currently require all new dwellings to be designed and constructed in such a way that accommodation for solid waste storage is provided. For detached, semi-detached or terraced houses this storage is normally provided within the curtilage of the dwelling. The associated guidance within the Domestic Technical Handbook provides generic advice on the solid waste storage point.

The revised EU Waste Framework Directive (WFD) [Directive 2008/98/EC] establishes the legislative framework for the handling of waste in the European Union. The WFD lays down that Member States must have a National Waste Management Plan or Plans. In June 2010 the Scottish Government launched its Zero Waste Plan, which set out actions to deliver important changes to how Scotland treats and manages waste. To support this aim, the plan includes recycling targets, such as a 70% recycling rate for household and all other waste streams by 2025. Zero Waste Regulations are to be introduced setting out statutory measures to support delivery of the zero waste agenda by requiring, amongst other aspects, separate collection and treatment of waste.

Under the Zero Waste Plan Local Authorities will be required to offer separate collection of glass, metals, plastics, paper and card to householders.. There are also other considerations relating to the collection of textiles and food waste.

Local Authorities presently operate a variety of different levels and methods of collecting segregated waste from domestic properties and this is not likely to change as they strive to meet their requirements under the Zero Waste Plan. There is some concern that the current building standard and associated guidance for solid waste storage provision for houses is no longer relevant and not consistent with the increasing segregation and improved collection methods used by local authorities. Amending the mandatory standard will remove the solid waste storage requirement for houses and align with the local authority segregation and collection methods.

3.0 CONSULTATION

3.1 Within Government

Before making or amending the building regulations, Scottish Ministers are required to consult such other bodies considered necessary to inform on the matters under consideration. This building standards review exercise has been carried out through a Departmental Working Group. The working group comprises representatives from the fields of construction, house builders, building design, inclusive design, academics, building standards and property. The working group met on five occasions to discuss and develop the review proposals, with a final meeting held after the public consultation to discuss the responses and agree the amendments to be taken forward. One of the early meetings solely focused on water efficiency and to enhance the

discussions, presentations on the benefits of water efficiency were given by representatives from Scottish Water and the Energy Saving Trust.

In the lead up to this review, the Building Standards Division also held a Water Efficiency Workshop in September 2010. The main focus for consideration with stakeholders and government colleagues was the growing recognition that water efficiency can have a role to play in reducing energy consumption. The workshop also considered the issue of building regulations and water efficiency and whether there is a need to include measures within the regulations. In addition to various government officials, delegates represented bodies such as Waterwatch, Waterwise, Water Industry Commission for Scotland, Scottish and Northern Ireland Plumbing Federation, Homes for Scotland, Building Research Establishment, Scottish Water, Energy Savings Trust, Building Standards Verifiers and various professional bodies such as the Royal Institution of Chartered Surveyors.

3.2 Public consultation

The Building Standards Division has an extensive database 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 1800 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/or associated 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.

3.3 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 discussions with 12 construction sector businesses that might be affected by the proposals, including:

- 4 Architectural Practices (all micro businesses)
- A Protective Barrier Manufacturer Installer (micro business)
- 2 Plumbing and Heating Engineers (micro businesses)

- 2 Property Developers (small businesses)
- 2 Bathroom suppliers (micro businesses)
- A Construction Company (larger business)

4.0 OPTIONS

4.1 Options proposed

In considering how best to address the objectives identified in clause 2.2 four possible options were identified:

- Option 1 – do nothing
- Option 2 – increase awareness of the issues through the introduction of guidance outwith the Building Standards Technical Handbooks
- Option 3 – amend and improve relevant guidance to existing standards within the Building Standards Technical Handbooks
- Option 4 – introduce new or amended mandatory standards as required, together with new or amended associated guidance contained within the Building Standards Technical Handbooks.

4.2 Sectors and groups affected

Sectors and groups affected include:

- a) Building users – People living in or using buildings would benefit from safer buildings as a consequence of carbon monoxide detection and revised protective barrier guidance. Additionally, there will be some cost benefit in relation to a reduction in the amount of energy used to heat water for hygiene purposes within homes.
- b) Building designers/constructors - All those involved with building design and construction would have to familiarise themselves with the new/amended standards and guidance through training etc.
- c) Building procurement - Persons or companies procuring new buildings or building work would benefit from reduced costs, in relation to refuse storage provision or bear any extra cost of the work in relation to water efficiency measures, protective barrier design and carbon monoxide detection.
- d) Scottish Water - Would use less energy in firstly producing water to a drinking quality standard followed by distribution and secondly the collection and treatment of wastewater from buildings.
- d) Verification - Local authority verifiers would have to train staff in relevant areas of the building standards and associated guidance where the scope has been extended or revised.

4.3 Benefits

Because of the diverse nature of the subject matter in this BRIA, it is unlikely that any single option noted in clause 4.1 will be the most beneficial for all cases. When assessing the effectiveness of the four options to achieve the desired outcomes indicated in clause 2.3 the following observations were made:

Option 1 – Do nothing

As explained in clause 2.2, the Scottish Government is committed to ensuring the safety of building users as well as reducing energy use and CO₂ emissions. It is also committed to reducing unnecessary regulatory burdens

on the construction industry. This option does not address any of the four issues identified in clause 2.3.

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

Option 2 – Increase awareness through the introduction of guidance outwith the Technical Handbooks

Any benefits gained by the introduction of voluntary guidance would be wholly dependant on the level of use of the guidance. Benefits would, at best, be identical to those possible under option 3, but only in respect of those buildings where the designer chooses to adopt the recommendations of such voluntary guidance. Without mandatory status the take up, and therefore the benefits, are likely to be limited. With regard to the four aspects raised in clause 2.3:

Protective barriers – Respondents to the previous consultation exercise overwhelmingly indicated that amended guidance within the Technical Handbook should be published to address the issues raised. Additionally, it would be difficult to reach target stakeholders with informal guidance due to the variety of potential building types involved. This option will not meet the objective in respect of protective barriers.

CO Detection – There is extensive guidance on the installation and siting of CO detection within dwellings freely available from various other sources, for example, the Gas Safety Trust. It is questionable whether any informal guidance issued by BSD would be able to reach a wider audience than that currently available and whether it would be a greater influencing factor on the decision process on whether or not to install CO detection. This option will not meet the objective in respect of carbon monoxide detection.

Water efficiency - Several organisations presently provide helpful guidance on water efficiency measures and additional guidance from the BSD may, therefore, be of limited benefit. This option will not meet the objective in respect of water efficiency.

Refuse storage provision – Voluntary guidance would potentially clash with guidance contained within the Technical Handbooks to Mandatory Standard 3.25 leading to confusion among stakeholders. This option will not meet the objective in respect of the provision for refuse storage.

Option 3 – Amend and improve relevant guidance to existing standards within the Technical Handbooks

The principal benefit of option 3 is that, as an amendment to existing guidance, proposals will be applied through an existing monitoring and enforcement system. This will ensure that improvements are made to assist in achieving safe and sustainable buildings. With regard to the four aspects raised in clause 2.3:

Protective barriers – The provision of expanded technical guidance would align with the majority of responses to the previous public consultation on the climb-ability aspect of barrier design. It would assist in reducing the subjective

application of the current information provided on the climb-ability of barriers. This option is therefore the most appropriate means of meeting the objective in respect of protective barriers.

CO Detection – The existing Mandatory Standard (3.20) provides sufficient latitude that there will not be a need to amend it to include a specific reference to CO detection if amending the guidance. This option is therefore the most appropriate means of meeting the objective in respect of carbon monoxide detection.

Water efficiency – There is currently no mandatory standard on this topic and accordingly the provision of guidance alone would be inappropriate and confusing to users of the building standards system. This option will not meet the objective in respect of water efficiency.

Refuse storage provision – This option is not considered appropriate for this subject as the Mandatory Standard (3.25) currently applies to all dwellings. Therefore amending the supporting guidance would be inappropriate and confusing to users of the building standards system. This option will not meet the objective in respect of the provision of refuse storage.

Option 4 – Introduce a new or amended mandatory standard, as appropriate, together with new or amended supporting guidance within the Technical Handbooks

The principal benefit of option 4 is that a new or revised mandatory standard will ensure that the proposals will be applied through an existing monitoring and enforcement system. Amending mandatory building standards and the supporting guidance has proved in the past to be a robust method of ensuring health, safety and sustainability objectives are achieved. With regard to the four aspects raised in clause 2.3:

Protective barriers – The Mandatory Standard (4.4) currently requires protective barriers at all sudden changes in level that are accessible in, or around, buildings to be guarded by the provision of pedestrian protective barriers. Therefore the provision of a new or amended standard is not necessary to meet the objectives outlined in clause 2.3.

CO Detection – The Mandatory Standard (3.20) currently requires fixed combustion appliances to be designed and constructed to safely remove the products of combustion to external air. As the purpose of CO detectors is to indicate when this is not occurring it is considered that there is not any benefit in expanding the standard to explicitly refer to them. Therefore the provision of a new or amended standard is not necessary to meet the objectives outlined in clause 1.2.

Water efficiency – The provision of a new mandatory standard with supporting guidance is considered the most appropriate option as this should ensure water efficiency measures are introduced and implemented in all new dwellings and also where relevant alterations in existing dwellings are carried

out. This option will meet the objective outlined in clause 2.3 in respect of water efficiency.

Refuse storage provision – Amending the Mandatory Standard (3.25) and associated guidance to limit its application to flats and maisonettes is considered the most appropriate option as the mandatory standard currently applies to all dwellings. This option will meet the objective outlined in clause 2.3 in respect of the provision of refuse storage.

5.0 COSTS

5.1 Option 1 – Do nothing

This option imposes no implementation costs on developers, however, there would be no reduction in costs to society from incidents relating to CO poisoning, falls from height or the reduction in CO₂ emissions.

5.2 Option 2 - Increase awareness through the introduction of guidance outwith the Technical Handbooks

Where a person chooses to follow any recommendations identified within guidance that lies outwith the technical handbooks the cost implications would be as indicated under option 3 below.

5.3 Option 3 – Amend and improve relevant guidance to existing standards within the Technical Handbooks

Protective Barriers - The cost implications of any revised guidance will be limited to the type of material used and the construction and installation costs attributable to providing barriers that are not easily climbed by a young child. There are multiple configurations of design that may form a protective barrier and the costs attributable to any revised guidance will vary depending upon the chosen design of the developer. For example there are unlikely to be any costs associated with barriers constructed with full infill panels. However, there may be cost implications where designers wish to include horizontal rails in protective barriers.

It is expected that many designers and developers will act on the advice currently provided within the introduction to the standard in relation to buildings where children will generally be anticipated within. Therefore it is unlikely that there will be significant costs to buildings such as dwellings, public buildings and places of entertainment.

The proposed revised guidance would not apply to buildings where children are precluded from entering. Therefore, there will be no cost implications to buildings such as agricultural, industrial and warehouse buildings.

CO Detection - As the proposed new guidance only applies to residential buildings the cost implications will be limited to buildings such as dwellings, hotels and guesthouses.

The guidance advises that where a fixed combustion appliance is installed, for example a gas boiler, a CO detection and alarm system should be installed.

This will generally mean that 1 self contained CO detector and alarm unit will be installed within the building. In situations where the flue of the combustion appliance passes through a bedroom or principle habitable room an additional detector will be necessary to protect this accommodation.

The average cost for the supply of a single battery operated CO detection and alarm unit is currently around £25 including installation costs. This type of simply fitted detector would meet the minimum requirement; as they operate with a sealed battery unit there should be no maintenance costs. If based on the approximate figure of 15,000 new homes constructed in Scotland last year, an approximate cost to industry would be around £375,000. Although not all new dwellings will have a combustion fuelled appliance installed some may have more than one.

Over the last 10 years in Scotland there have been 11 fatal CO incidents. Additionally, the number of CO casualties attending hospital is on the increase as symptoms become better recognised, through education, by health professionals and the general public. Incident cost figures will become clearer as health recording improves, however, it is known that the average cost of a fatality is in excess of £1.375 million pounds per death.

Water Efficiency - The proposed guidance advises that water efficiency measures would only apply to all WCs and wash hand basins within a dwelling. The water fittings industry is already largely addressing the requirements for efficient fittings. Water efficient tap fittings are readily available at low cost amounting to £5 - £10 per wash hand basin with no cost identified for WCs. If based on the approximate figure of 15,000 new homes constructed in Scotland last year, an approximate cost to industry would be around £150000 - £300000 based on an average of 2 wash hand basins fitted in all new homes.

Refuse Storage Provision - The building standards amendment proposed would seek to remove the current requirement for waste storage points and allow local authorities to determine the most suitable waste collection arrangements that suits their collection and segregation / recycling methods. This proposal would apply only to houses with the requirements remaining unchanged for flats and other buildings due to higher risks to health in such situations.

Current means of achieving compliance for an accessible waste storage hard-standing varies across the country but generally takes the form of a slabbed or concreted area of various dimensions. The reduced costs associated with this proposal would be in terms of both the construction of a hard standing and also building for accessibility. Whilst this would vary from building to building it is anticipated that a minimum saving would be approximately relating to materials and labour costs of around £20 to £100 pounds per house. If based on the approximate figure of 15,000 new homes constructed in Scotland last year, then notwithstanding flats and maisonettes, an approximate cost saving to industry could be around £300000 to £1.5 million.

5.4 Option 4 - introduce a new or amended mandatory standard, as appropriate, together with new or amended supporting guidance within the Technical Handbooks

Whilst option 4 differs from option 3 in relation to mandating through building standards to achieve the objectives identified in clause 2.3 the cost implications remain the same. Accordingly the costings identified in option 3 above are equally appropriate to this option.

5.5 Cost of new guidance and familiarisation

BSD 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.

6.0 SCOTTISH FIRMS IMPACT TEST

The Scottish firms impact test regards all firms with fewer than 50 full time employees as being small businesses and those with less than 10 as micro businesses. Guidelines state that a concerted effort should be made to consult small and micro businesses over policy proposals.

The consultation with micro, small and medium sized Scottish businesses referred to in clause 3.3 above has been completed and outcomes are outlined below in relation to the individual work streams. Some of the businesses consulted had an involvement with all of the topics considered within this BRIA, whilst others were only concerned with one or two aspects.

Protective Barriers

Nine of the businesses' outlined in clause 3.3 above were consulted on this topic. The plumbing / heating engineers and bathroom supply companies were not consulted due to the protective barriers being unrelated to their business.

Those that were consulted confirmed that the proposals would not affect their businesses' ability to compete.

In relation to any additional costs as a consequence of the proposed guidance seven of the firms expressed no concerns in this regard. One of the property developers considered that any additional cost would not be significant and the protective barrier manufacturer indicated there may be additional cost but through time this would be negligible.

The construction company and one of the property developers emphasised that the proposal would limit the design freedom for protective barriers for some building types, such as offices.

Carbon Monoxide Detection

Nine of the businesses outlined in clause 3.3 above were consulted on this topic. The bathroom supply companies and protective barrier manufacturer were not consulted due to this topic being unrelated to their business.

Those that were consulted confirmed that the proposals would not affect their businesses' ability to compete. However, one of the plumbing / heating engineer companies stated that he regularly installed CO detectors at a cost of £20. However, he also frequently fitted them free of charge as he recognised the importance of their provision. He is aware of other installers that do not place the same importance on protecting their customers and this new requirement would address this discrepancy.

In relation to any additional costs as a consequence of the proposed guidance two property developers advised the costs of these units would be in the region of £50. Both businesses' considered these costs as not significant, however one of them suggested that it may be significant to their clients if multiple units are needed, for example in a multi plot housing site. One of the plumbing / heating engineering companies stated that the costs associated with the supply and fitting of battery operated CO detectors were insignificant. The other six businesses had no concerns with the costs associated with this proposal.

Water Efficiency

Eleven of the businesses' outlined in clause 3.3 above were consulted on this topic. The protective barrier manufacturer was not consulted due to this topic being unrelated to their business.

Ten of these businesses confirmed that the proposals would not affect their ability to compete. The remaining bathroom supplier did not comment on this issue, however, he did wish to make it clear that he did not support these proposals.

A plumbing / heating engineering company suggested that the water efficient WCs may be perceived by some occupants as not being fit for purpose as a consequence of not fully appreciating how the dual flush WC should be operated.

Three of the businesses consulted considered that the water efficiency proposals should not be restricted to dwellings buildings but also apply to other building types.

Ten businesses expressed no concern around the costs related to this new requirement however the construction company stated that their clients involved with larger scale domestic developments may be more concerned. One of the bathroom suppliers confirmed that this requirement will be a cost to both the manufacturers and merchants as well as causing an inconvenience to the installers. One of the property developers, who had indicated no concerns in relation to the costs of this requirement, did believe that there would be additional administrative tasks / research necessary as a consequence of identifying if the products specified by the clients met the new water efficient requirements.

Refuse Storage Provision

Six businesses were consulted on this topic with all of them confirming that the proposals would not affect their ability to compete and that they had no concerns around any costs associated with this proposal.

6.1 Competition Assessment

As the proposals will form part of national building regulations they will be implemented uniformly throughout the country. It is not envisaged that any of the four aspects identified in clause 2.3 of this assessment will impact on competition between companies.

Having reviewed the four competition filter questions provided within the Office of Fair Trading guidelines for policy makers on competition assessment we are satisfied that the proposed changes to the building standards and guidance will not impact on competition within the market place.

6.2 Test Run of Business Forms

There will be no need to amend the existing forms or develop new forms forming part of the building warrant process as a result of these proposals.

7.0 LEGAL AID IMPACT TEST

It is not envisaged that there will be any additional 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 were consulted on these proposals and have confirmed that they do not foresee any issues arising out of this BRIA.

8.0 ENFORCEMENT, SANCTIONS AND MONITORING

8.1 Background

The proposed changes will form part of the Scottish Building Standards Technical Handbooks. These documents give guidance on compliance with the Building (Scotland) Regulations 2004.

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 the 32 Scottish local authorities, appointed as verifiers under the Act, and the Building Standards Division.

8.2 Enforcement and sanctions

Generally, work subject to the Building (Scotland) Regulations 2004 requires to be the subject of a building warrant before work commences and to have a completion certificate accepted once works are finished. Exclusions are set out under Schedule 3 to Regulation 5 of the Regulations.

Where a building warrant is required, proposals are subject to the scrutiny of verifiers (local authority building standards departments) who have enforcement powers under the Act to ensure compliance with the Regulations.

8.3 Monitoring

The Building Standards Division will review the implementation of any changes made to building standards legislation to monitor the effectiveness of said changes and to ensure that subsequent reviews can be made on an informed basis. Any implemented changes will be subject to a review within a 10-year period.

9.0 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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