

POLICY NOTE

THE BUILDING (MISCELLANEOUS AMENDMENTS) (SCOTLAND) AMENDMENT REGULATIONS 2017

SSI 2017/214

1. The above instrument was made in exercise of the powers conferred by sections 1, 8(8), 33 and 54(2) of the Building (Scotland) Act 2003. The instrument is subject to negative procedure.

Background

2. The SSI amends the Building (Miscellaneous Amendments) (Scotland) Regulations 2017 (SSI 2017/188). This SSI is an amendment to correct omissions in the original drafting of SSI 2017/188.
3. It amends regulation 3(3) of SSI 2017/188 which inserts new paragraph 23A into schedule 3 of the Building (Scotland) Regulations 2004. Paragraph 23A provides that a detached single-storey building used for shelter or sleeping in connection with recreation will not require a building warrant, subject to exceptions. Regulation 2(3) of this instrument amends paragraph 23A to ensure that one of the exceptions is a building within 6 metres of a boundary or of another building.
4. It also amends regulation 2(3) of SSI 2017/188 in respect of an omission drawn to the Government's attention by the Delegated Powers and Legislative Reform Committee. It makes a minor amendment to a definition in new regulation 2A of the Building (Procedure) (Scotland) Regulations 2004 which deals with electronic communications.
5. The Building (Miscellaneous Amendments) (Scotland) Amendment Regulations 2017 will come into force on 30 June 2017 to enable the corrections to be made to SSI 2017/188 before that SSI comes into force the following day.

Policy Objectives

6. The SSI is required to correct the new description of building and work that does not require a building warrant which is included in schedule 3 of the Building (Scotland) Regulations 2004 by SSI 2017/188. One of the purposes of SSI 2017/188 is to provide that a detached single storey building used for shelter or sleeping in connection with recreation will not require a building warrant, subject to exceptions. It was intended that SSI 2017/188 should except buildings constructed within 6 metres of another building and buildings constructed within 6 metres of a boundary ("boundary" being defined in regulation 2 of the Building (Scotland) Regulations 2004 (SSI 2004/406) as meaning a boundary between land on which the building is situated and land in different occupation).

7. However, SSI 2017/188 excepts only buildings within 6 metres of a boundary of another building. It does not make provision to except buildings constructed within 6 metres of each other within the same boundary.
8. This SSI will cure this defect by providing that both (a) buildings constructed within 6 metres of another building and (b) buildings constructed within 6 metres of a boundary fall within the exceptions and therefore require a building warrant. The distance between buildings is a key safeguard to reduce the risk of the spread of fire to other buildings within the same boundary.
9. This SSI will also correct the omission drawn to the Government's attention by the Delegated Powers and Legislative Reform Committee on 8 June 2017.

Consultation

10. To comply with section 1(2) of the Building (Scotland) Act 2003 consultation with interested persons has been previously carried out. The amendment made by this SSI was subject to a previous public consultation from 6 November 2015 to 12 February 2016.
11. The consultations 'Regulatory Concessions for Huts and Bothies' and 'Building Warrant Fees' were notified to over 500 identified organisations and individuals, promoted on the SG Building Standards website and highlighted in the SG Building Standards e-newsletter issued to over 8,000 registered e-news recipients. The notifications included a wide range of professional organisations and institutions, construction research bodies, designers, house builders, technical specialists and those public bodies responsible for the administration and enforcement of the building standards system.
12. The consultation responses report and the lists of those consulted are published on the Scottish Government website.

Impact Assessment

13. Business Regulatory (BRIA), Equality (EQIA) and Strategic Environmental (SEA) impact assessments have all previously been carried out and there are no impact issues.

Financial effects

14. The BRIA previously completed gives a detailed assessment of the financial effects, and it will be necessary to scrutinise the Costs and Benefits sections.

Scottish Government
Local Government and Communities Directorate
20 June 2017