

SCHEDULE 1

(introduced by section 1)

BUILDING REGULATIONS

- 1 This schedule is without prejudice to the generality of section 1(1).
- 2 Building regulations may be framed to any extent by reference to a document published by or on behalf of the Scottish Ministers or another person, or by reference to the approval or satisfaction of such person as the regulations may specify.
- 3 Building regulations may make special provision for buildings intended to have a life not exceeding such period as the regulations may specify.
- 4 Building regulations may exempt such description of—
 - (a) buildings,
 - (b) work or conversions, or
 - (c) services, fittings or equipment,as the regulations may specify from all or any of the provisions of the regulations.
- 5 (1) Building regulations may, for any of the purposes specified in section 1(1)—
 - (a) make provision as to any of the matters specified in sub-paragraph (2),
 - (b) require things to be provided or done in connection with buildings (as well as regulating the provision or doing of things in connection with buildings),
 - (c) specify the manner in which work is to be carried out.(2) The matters referred to in sub-paragraph (1) are—
 - (a) preparation of sites,
 - (b) strength and stability (including the safeguarding of adjacent buildings and services),
 - (c) fire precautions (including resistance of structure to the outbreak and spread of fire, the protection of occupants and means of escape in the event of fire and the provision of facilities to assist firefighting),
 - (d) resistance to moisture and decay,
 - (e) resistance to the transmission of heat,
 - (f) resistance to the transmission of sound,
 - (g) durability,
 - (h) resistance to infestation,
 - (i) drainage,
 - (j) ventilation (including the provision of open space for it),
 - (k) daylighting (including the provision of open space for it),
 - (l) heating and artificial lighting,
 - (m) services, fittings and equipment (including broadband communication technology and other electronic communications services, fittings and equipment and services, fittings and equipment for the supply or use of gas or electricity),
 - (n) measures to ensure that pipes used in connection with the provision of water for domestic purposes are not fitted in a way that may contribute to the concentration of lead in such water exceeding the limit specified in Table B of Schedule 1 to the Water Supply (Water Quality) (Scotland) Regulations 2001 ([S.S.I. 2001/207](#)),

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- (o) measures affecting the emission of smoke, gases, fumes, grit, dust or other noxious or offensive substances,
- (p) accommodation and ancillary equipment,
- (q) access, including in particular access for disabled persons,
- (r) suitability for use by disabled persons,
- (s) prevention of danger and obstruction,
- (t) security,
- (u) reuse of building materials.

SCHEDULE 2

(introduced by section 7)

VERIFIERS AND CERTIFIERS

- 1 A verifier or certifier is appointed under section 7(1) for such period, and holds the appointment on such terms, as the appointment may specify.
- 2 An appointment may be made subject to such limitations as the Scottish Ministers may impose, which may be framed by reference to area, description of building, cost of building or building work or any other factor whatsoever.
- 3 Despite paragraph 1, an appointment may be varied or terminated on such grounds as may be specified in procedure regulations.
- 4 A person who is a certifier by virtue of membership of a scheme approved under section 7(2) is entitled to exercise the functions of a certifier subject to—
- (a) such limitations as are imposed in relation to the scheme under section 7(3), and
 - (b) any limitations contained in the scheme.
- 5 When the appointment of a verifier (the “former verifier”) terminates, for whatever reason, the Scottish Ministers must direct another verifier (the “successor verifier”) to deal with—
- (a) any application made to the former verifier under section 9 for a building warrant or an amendment to a building warrant, so far as undetermined at the time when the appointment terminated,
 - (b) any completion certificate submitted to the former verifier and not accepted or rejected under section 18 at the time when the appointment terminated, and
 - (c) any completion certificate submitted after the time when the appointment terminated and relating to work or a conversion in respect of which a building warrant was granted by the former verifier;
- and from the date of the direction references in this Act or subordinate legislation made under it to the verifier are to be read as references to the successor verifier.
- 6 A verifier is not entitled to exercise any functions as such under this Act in relation to any matter in respect of which it has, as an approved certifier of design or an approved certifier of construction, issued a certificate under section 11(1) or, as the case may be, 19(1).
- 7 An approved certifier of design is not entitled to issue a certificate under section 11(1) in relation to any matter in respect of which it has exercised or is exercising any function as a verifier under this Act.

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- 8 An approved certifier of construction is not entitled to issue a certificate under section 19(1) in relation to any matter in respect of which it has exercised or is exercising any function as a verifier under this Act.
- 9 A verifier is not entitled to exercise any function as such under this Act in relation to a building in which it has an interest unless the Scottish Ministers authorise it to do so by a direction under this paragraph.
- 10 Such a direction may be given to a particular verifier or to verifiers of a particular description and may be given in respect of all the functions of the verifiers to which it applies or such descriptions of those functions (determined by reference to any criteria whatsoever) as the direction may specify.
- 11 For the purposes of paragraph 9, a verifier has an interest in a building if it is an owner, tenant or occupier of the building or if it has such other interest in or in connection with the building as may be specified in procedure regulations.
- 12 Such regulations may specify different such interests in relation to different verifiers or different descriptions of verifier.

SCHEDULE 3

(introduced by section 33)

PROCEDURE REGULATIONS: PARTICULAR MATTERS

- 1 The submission to a verifier along with any application for a building warrant or an amendment to a building warrant of plans, specifications, estimates of costs and other information, and the availability of such documents and information to interested persons.
- 2 The submission to a verifier along with a completion certificate of documents and information.
- 3 Consultation by verifiers.
- 4 The statement by local authorities and verifiers of reasons for their decisions.
- 5 The maintenance by local authorities and verifiers of records of—
(a) applications (including the plans, other documents and information specified in paragraph 1), and
(b) decisions on applications,
and the availability of such records for public inspection.
- 6 The duration of the validity of building warrants.
- 7 The notification to local authorities and verifiers of the dates of commencement and completion of work carried out in pursuance of building warrants.
- 8 The maintenance by certifiers of records of certificates issued by them (including any plans relating to the certificates and such other documents or information in relation to the certificates as the regulations may specify).

SCHEDULE 4

(introduced by section 39)

POWERS OF ENTRY, INSPECTION AND TESTING: FURTHER PROVISION

Time and notice of entry

- 1 (1) Entry into any premises by virtue of section 39(1) or (3) may be demanded only at a reasonable time.
- (2) The Scottish Ministers or, as the case may be, the local authority must give 3 days' notice of the intended entry to the occupier and, if the owner is known, the owner of the premises.
- (3) Sub-paragraphs (1) and (2) do not apply where the case is one of urgency.

Warrant to exercise power

- 2 (1) If a sheriff or justice of the peace is satisfied, by evidence on oath, that—
- (a) there are reasonable grounds for the exercise in relation to any premises of a power conferred by section 39(1) or (3), and
 - (b) one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to those premises,
- the sheriff or justice may by warrant authorise the Scottish Ministers or, as the case may be, the local authority and any person authorised by them or it for the purpose to exercise the power in relation to those premises in accordance with the warrant and, if need be, by force.
- (2) The conditions mentioned in sub-paragraph (1) are—
- (a) that the exercise of the power in relation to the premises has been refused,
 - (b) that such a refusal is reasonably apprehended,
 - (c) that the premises are unoccupied,
 - (d) that the occupier is temporarily absent from the premises,
 - (e) that the case is one of urgency,
 - (f) that an application for admission to the premises would defeat the object of the proposed entry.
- (3) A sheriff or justice must not issue a warrant under this schedule by virtue only of being satisfied that a condition specified in sub-paragraph (2)(a) or (b) is fulfilled unless the sheriff or justice is also satisfied—
- (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises, or
 - (b) that the giving of such notice would defeat the object of the proposed entry.
- (4) A warrant under this schedule continues in force until the purpose for which the warrant was issued has been fulfilled or, if earlier, the expiry of such period as the warrant may specify.

Evidence of authority

- 3 A person entitled to exercise any power conferred by section 39(1) or (3) must, if required to do so, produce written evidence of that entitlement.

Supplementary powers

- 4 A person who enters any premises in the exercise of any power conferred by section 39(1) or (3) is entitled, subject in the case of a power exercisable under a warrant to the terms of the warrant, to take on to the premises such other persons and such equipment as may be necessary.

Duty to secure premises

- 5 A person who enters any premises in the exercise of any power conferred by section 39(1) or (3) must leave the premises as effectually secured against unauthorised entry as that person found them.

Commercially confidential information

- 6 A person who enters any premises in the exercise of any power conferred by section 39(1) or (3) and who makes use of or discloses any information obtained by that person on those premises with regard to any manufacturing process or trade secret is guilty of an offence.

SCHEDULE 5

(introduced by section 42)

EVACUATION OF BUILDINGS

- 1 This schedule applies for the purpose of securing the removal from a building of any occupant who has failed to remove from a building following a requirement under section 42 to do so.
- 2 The local authority may apply to the sheriff—
- (a) where the requirement was made under subsection (1) or (2) of section 42, at any time,
 - (b) where the requirement was made under subsection (3) or (4) of that section, on the expiry of the period specified in the requirement,
- for a warrant for the ejection of any occupants who have not removed from the building.
- 3 Such an application must be accompanied by a certificate signed by the local authority and certifying—
- (a) where removal was required under subsection (1) of section 42, that the occupants of the building (whether the dangerous building or an adjacent building) are endangered by the state of the dangerous building,
 - (b) where removal was required under subsection (2)(a) of that section, that the local authority intends to demolish the building,
 - (c) where removal was required under subsection (2)(b) of that section, that the local authority intends to carry out work under section 29(2) or (3) and considers that the occupants may be endangered by the carrying out of the work,
 - (d) where removal was required under subsection (3) of that section, that the building is to be demolished in pursuance of a dangerous building notice,
 - (e) where removal was required under subsection (4) of that section, that the local authority intends to carry out work under a provision specified in

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- paragraph (a) of that subsection and considers that the occupants may be endangered by the carrying out of that work.
- 4 On such an application, the sheriff may require—
- (a) in a case referred to in paragraph 2(a), the service of notice,
- (b) in a case referred to in paragraph 2(b), the service of additional notice,
- on the occupants.
- 5 Except in a case where removal was required under section 42(4), the sheriff must, within the period of 7 days from the date of the application or, if notice (or, as the case may be, additional notice) was required under paragraph 4, the date of service of that notice, grant warrant of ejection.
- 6 On an application in a case where removal was required under section 42(4), the sheriff may, if satisfied that it is reasonable to do so, grant warrant of ejection.
- 7 The decision of the sheriff on the application is final.
- 8 In proceedings under this schedule a certificate—
- (a) referred to in paragraph 3, or
- (b) signed by the local authority and certifying that any notice required by section 42(5), or any notice or additional notice required under paragraph 4, has been given to all known occupants of the building,
- is sufficient evidence of the facts stated in the certificate.
- 9 If a person removing from a building in compliance with a requirement under section 42 or ejected from a building under this schedule is a tenant of the building the tenancy, if the tenant so chooses, is to be taken not to have terminated, varied or altered by reason of the removal or ejection.
- 10 But the tenant is not liable for rent in respect of any period for which the tenant is not in lawful occupation of the building (or the part of it which the tenant previously occupied).
- 11 If the tenant resumes lawful occupation, the same terms and conditions apply (except so far as otherwise agreed) in respect of that occupation as applied in respect of the previous occupation.
- 12 In paragraphs 10 and 11, “lawful” occupation means occupation which is not an offence under section 43(1).

SCHEDULE 6

(introduced by section 58)

MODIFICATION OF ENACTMENTS

Building (Scotland) Act 1959 (c. 24)

- 1 The Building (Scotland) Act 1959 is repealed.

Sewerage (Scotland) Act 1968 (c. 47)

- 2 In section 21(3) (definition of “building”) of the Sewerage (Scotland) Act 1968, for “29(1) of the Building (Scotland) Act 1959” substitute “55(1) and (2) of the Building (Scotland) Act 2003 (asp 8)”.

Mines and Quarries (Tips) Act 1969 (c. 10)

- 3 In the Mines and Quarries (Tips) Act 1969, in section 34(3) (application of certain enactments)—
- (a) after “authority” in the first place where it occurs insert “and, in the case of section 37(3) of the Building (Scotland) Act 2003 (asp 8), the reference to “any such person””,
 - (b) in paragraph (a), for the words from “25(2)” to “councils” substitute “37(3) and (4) of the Building (Scotland) Act 2003 (power”.

Building (Scotland) Act 1970 (c. 38)

- 4 The Building (Scotland) Act 1970 is repealed.

Chronically Sick and Disabled Persons Act 1970 (c. 44)

- 5 In the Chronically Sick and Disabled Persons Act 1970, in section 6(2) (provision of sanitary conveniences at certain premises open to the public)—
- (a) for the words from “who” in the first place where it occurs to “conform to” substitute “on whom a building regulations compliance notice has been served under section 25(3) of the Building (Scotland) Act 2003 (asp 8) requiring the owner to secure that the building complies with”,
 - (b) the word “standards” is repealed,
 - (c) for “section 3” substitute “section 1”,
 - (d) for “order” substitute “notice”.

Fire Precautions Act 1971 (c. 40)

- 6 (1) The Fire Precautions Act 1971 is amended as follows.
- (2) In section 17(1) (duty of fire authorities to consult other authorities before requiring alterations to buildings), in paragraph (ii), for “1959” substitute “2003 (asp 8)”.

Land Compensation (Scotland) Act 1973 (c. 56)

- 7 (1) The Land Compensation (Scotland) Act 1973 is amended as follows.
- (2) In section 27(1) (right to home loss payment where person displaced from dwelling), in paragraph (e)—
- (a) for “section 13” substitute “section 29”,
 - (b) for “1959” substitute “2003 (asp 8)”.
- (3) In section 34(1) (disturbance payments for persons without compensatable interests), in paragraph (e)—
- (a) for “section 13” substitute “section 29”,
 - (b) for “1959” substitute “2003 (asp 8)”.
- (4) In section 36(1) (duty to rehouse residential occupiers), in paragraph (d)—
- (a) for “section 13” substitute “section 29”,
 - (b) for “1959” substitute “2003 (asp 8)”.

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Local Government (Scotland) Act 1973 (c. 65)

8 In the Local Government (Scotland) Act 1973, Part I of Schedule 15 is repealed.

Health and Safety at Work etc. Act 1974 (c. 37)

9 In the Health and Safety at Work etc. Act 1974, section 75 and Schedule 7 are repealed.

Control of Pollution Act 1974 (c. 40)

10 In the Control of Pollution Act 1974, in section 61(2) (which requires applications for consent under section 61 to be made at the same time as or after any application for a building control approval)—

- (a) for “warrant” in both places where it occurs substitute “building warrant”,
- (b) for “section 6” substitute “section 9”,
- (c) for “1959”—
 - (i) in the first place where it occurs substitute “2003 (asp 8)”,
 - (ii) in the second place where it occurs substitute “2003”.

Safety of Sports Grounds Act 1975 (c. 52)

11 In the Safety of Sports Grounds Act 1975, in section 17(1) (interpretation), in the definition of “building authority”, in paragraph (b), for “1959” substitute “2003 (asp 8)”.

Licensing (Scotland) Act 1976 (c. 66)

12 (1) In the Licensing (Scotland) Act 1976, section 23 (special provisions relating to applications for new licences) is amended as follows.

(2) In each of subsections (1), (3) and (6), for “control” substitute “standards”.

(3) In subsection (3)—

- (a) for sub-paragraphs (i) and (ii) of paragraph (a) substitute—
 - “(i) either that a building warrant for the construction of the premises has been granted under section 9 of the Building (Scotland) Act 2003 (asp 8) and a completion certificate has been accepted under section 18 of that Act, or that no building warrant for construction of the premises is required; and
 - (ii) either that a building warrant for the conversion of the premises has been granted under section 9 of that Act or that no such warrant is required;”
- (b) for sub-paragraphs (i) and (ii) of paragraph (b) substitute—
 - “(i) that a building warrant for the construction of the premises has been granted under section 9 of that Act; and
 - (ii) either that a building warrant for the conversion of the premises has been granted under section 9 of that Act, or that on completion of construction of the premises in accordance with the warrant

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- a building warrant for the conversion of the premises will be granted, or that no such warrant is required.”,
- (c) for “said Act of 1959” in the second place where those words occur substitute “that Act”.

Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

- 13 In the Ancient Monuments and Archaeological Areas Act 1979, in Schedule 4, paragraph 6 is repealed.

Civic Government (Scotland) Act 1982 (c. 45)

- 14 (1) The Civic Government (Scotland) Act 1982 is amended as follows.
- (2) In section 87 (local authorities' powers in relation to buildings in need of repair)—
- (a) subsection (1) is repealed,
- (b) in subsection (5), for “subsection (1) above” substitute “section 28 of the Building (Scotland) Act 2003 (asp 8)”.
- (3) In section 89 (safety of platforms etc.), in subsection (7), for the words from “the construction” to the end of the subsection substitute “work for construction or for conversion of a building granted under section 9 of the Building (Scotland) Act 2003 (asp 8)”.

Roads (Scotland) Act 1984 (c. 54)

- 15 In the Roads (Scotland) Act 1984, in Schedule 9, paragraph 51 is repealed.

Housing (Scotland) Act 1986 (c. 65)

- 16 In the Housing (Scotland) Act 1986, section 19 and paragraph 1 of Schedule 2 are repealed.

Housing (Scotland) Act 1987 (c. 26)

- 17 In the Housing (Scotland) Act 1987, in Schedule 23, paragraph 8 is repealed.

Fire Safety and Safety of Places of Sport Act 1987 (c. 27)

- 18 In the Fire Safety and Safety of Places of Sport Act 1987, in section 41 (interpretation of Part III), in the definition of “the building authority”, in paragraph (b), for “1959” substitute “2003 (asp 8)”.

Local Government Act 1988 (c. 9)

- 19 In the Local Government Act 1988, in section 17(5) (which specifies certain matters as non-commercial matters for the purposes of section 17), in paragraph (h), for “1959” substitute “2003 (asp 8)”.

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Clean Air Act 1993 (c. 11)

- 20 In the Clean Air Act 1993, in section 16(5) (which modifies section 16 (height of certain chimneys) as it applies to Scotland)—
- (a) in paragraph (a), for the words from “warrant” to “1959” substitute “building warrant under section 9 of the Building (Scotland) Act 2003 (asp 8)”,
 - (b) in paragraph (b), for “local authority” in the second place where those words occur substitute “verifier”,
 - (c) in paragraph (c), for “warrant under section 6” substitute “building warrant under section 9”.

Local Government etc. (Scotland) Act 1994 (c. 39)

- 21 In the Local Government etc. (Scotland) Act 1994, in Schedule 13, paragraph 52 is repealed.

Criminal Procedure (Scotland) Act 1995 (c. 46)

- 22 In the Criminal Procedure (Scotland) Act 1995, in Schedule 9 (certificates as to proof of certain routine matters)—
- (a) the entry relating to the Building (Scotland) Act 1959 (c. 24) is repealed,
 - (b) at the end, insert the following entry—

“The Building (Scotland)
 Act 2003 (asp 8)

Section 8(1) and (2)
 (prohibition of work
 for construction or
 demolition of, or
 provision of services,
 fittings or equipment for,
 building, or conversion of
 building, without warrant)

An officer of a local
 authority authorised to do
 so by the authority

In relation to a building
 specified in the
 certificate, that on a date
 so specified, the local
 authority had not—

- (a) granted a warrant
 under section 9
 for the work or, as
 the case may be,
 conversion, or
- (b) received a copy
 of such a warrant
 granted by a verifier
 other than the
 authority

Section 21(5) (offence of
 occupying building when
 no completion certificate
 has been accepted)

An officer of a local
 authority authorised to do
 so by the authority

That, on a date specified
 in the certificate, the local
 authority had not—

- (a) accepted under
 section 18(1)
 a completion
 certificate in respect
 of construction
 or conversion in
 relation to a building
 so specified,

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		(b) received a copy of such a certificate accepted under section 18(1) by a verifier other than the authority, or
		(c) received a copy of a permission for temporary occupation or use of the building so specified granted under section 21(3)
Section 43(1) (offence of occupying building, following evacuation, without notice from local authority)	An officer of a local authority authorised to do so by the authority	That, on a date specified in the certificate, the local authority had not given a person notice under section 42(7)”

Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11)

- 23 In the Planning (Consequential Provisions) (Scotland) Act 1997, in Schedule 2, paragraph 6 is repealed.

The Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (S.I. 1999/1820)

- 24 In the Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999, in Schedule 2, paragraph 29 is revoked.

Local Government in Scotland Act 2003 (asp 1)

- 25 In section 7(3) of the Local Government in Scotland Act 2003 (section 17(5)(h) of the Local Government Act 1988 not to apply to local authorities), for “1959 (c. 24)” substitute “2003 (asp 8)”.