
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 188

**The Building (Miscellaneous
Amendments) (Scotland) Regulations 2017**

Amendment of the Building (Procedure) (Scotland) Regulations 2004

2.—(1) The Building (Procedure) (Scotland) Regulations 2004⁽¹⁾ are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation) omit paragraphs (3) to (5).

(3) After regulation 2 insert—

“Electronic communication

2A.—(1) Where the criteria in paragraph (2) are met, any document required or authorised to be sent by these Regulations may be sent by electronic communication and any requirement in these Regulations that any document is to be in writing is fulfilled.

(2) The criteria are that—

(a) the recipient consents, or is deemed to have agreed under paragraph (3), to receive it electronically; and

(b) the document sent by the electronic communication is—

(i) capable of being accessed by the recipient;

(ii) legible in all material respects; and

(iii) sufficiently permanent to be used for subsequent reference.

(3) Any person sending a document using electronic communication is deemed to have agreed—

(a) to the use of such communication for all purposes under these Regulations which are capable of being carried out electronically; and

(b) that the address for the purpose of such communication is the address incorporated into, or otherwise logically associated with, that communication.

(4) Deemed agreement under paragraph (3) subsists until that person gives notice to revoke the agreement.

(5) Notice of withdrawal of consent to the use of electronic communication or of revocation of agreement under paragraph (4) takes effect on a date specified by the person in the notice, but not less than 7 days after the date on which the notice is given.

(6) Any requirement in these Regulations for a document to be signed is satisfied by an electronic signature, and “electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000⁽²⁾.

(7) In this regulation—

(1) S.S.I. 2004/428. To which there are amendments not relevant to these Regulations.

(2) 2000 c.7. Section 7(2) was amended by S.I. 2016/696.

“address” includes any number or address used for the purpose of such communication or storage;

“document” includes any notice, consent, application, decision, direction, representation, statement, list, report, form, plan, certificate or other information or communication;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(3);

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if or given by means of a document in printed form; and

“sent” includes, submitted, notified or given and cognate expressions are to be construed accordingly.”.

(4) In regulation 56 (decisions of verifiers and local authorities)—

(a) in paragraph (5) after “submitted” insert “, other than those submitted by the use of electronic communication,”; and

(b) after paragraph (5) insert—

“(6) The requirement in paragraph (4) to send a building warrant and a copy of the relevant plans (“the documents”) to the applicant may be satisfied by sending that applicant a notice—

(a) stating that the documents are available for viewing and downloading on a website;

(b) specifying the address of that website together with any password necessary to view and download the documents from that site; and

(c) containing a statement that the person to whom notice is sent may request a hard copy of the documents and specifying a telephone number, e-mail address and postal address which may be used to request a hard copy.

(7) Where a notice under paragraph (6) is sent, the documents must—

(a) be available on the website for a period of no less than 42 days beginning with the date on which the notice was sent; and

(b) be in such a format as to enable them to be downloaded from the website within a reasonable time of an electronic request being made for them to be downloaded.”.

(5) In Schedule 2 (information to be submitted with specific applications) in—

(a) section B (application for warrant to extend a building), in paragraph 3(2) omit “be coloured or shaded to the extent necessary to”; and

(b) section C (application for warrant to alter or convert a building or to provide services, fittings and equipment in or in connection with a building), in paragraph 4(2) omit “be coloured or shaded to the extent necessary to”.

(3) The definition of “electronic communication” was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c.21).