

2023 No. 177

BUILDING AND BUILDINGS

The Building (Scotland) Amendment Regulations 2023

Made - - - - *6th June 2023*

Laid before the Scottish Parliament *8th June 2023*

Coming into force - - *1st April 2024*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1 and 54(2) and schedule 1 of the Building (Scotland) Act 2003(a), and all other powers enabling them to do so.

In accordance with section 1(2) of that Act they have consulted with such persons as appear to them to be representative of the interests concerned.

Citation and commencement

1. These Regulations may be cited as the Building (Scotland) Amendment Regulations 2023 and come into force on 1 April 2024.

Amendment of the Building (Scotland) Regulations 2004

2. Subject to regulation 6, the Building (Scotland) Regulations 2004(b) are amended in accordance with regulations 3 to 5.

Amendment of regulation 2 - interpretation

3. In regulation 2(1) (interpretation)—

(a) for the definition of “direct emission heating system” substitute—

““direct emission heating system”, in relation to a building, means a fixed combustion appliance installation (other than a fixed combustion appliance installation which is a source of production from which thermal energy is distributed by a heat network) the purpose of which is to produce thermal energy by which space within the building is heated or cooled, or by which hot water is made available in the building, and which—

(a) is located within the building, or curtilage of the building, and

(b) during normal operation produces more than a negligible level of greenhouse gas emissions at the point of production of that thermal energy,”

(a) 2003 asp 8. Section 1 was amended by section 6(2) of the Public Services Reform (Scotland) Act 2010 (asp 8). Paragraph 5(2) of schedule 1 was amended by S.S.I. 2014/364.

(b) S.S.I. 2004/406. Paragraph 7.1 of schedule 5 was inserted by S.S.I. 2011/120. Schedule 6 was substituted by S.S.I. 2006/534, resulting in the removal of paragraph 3. The new paragraph inserted by S.S.I. 2022/349 is accordingly numbered paragraph 2A. There are subsequent amendments to schedule 6 which are not relevant to these Regulations.

- (b) after the definition of “maisonette” insert—
 - ““pre-2024 building” means a building—
 - (a) originally constructed before 1 April 2024, or
 - (b) constructed after that date in accordance with a building warrant granted (whether before or after that date) in respect of an application for a building warrant made before that date,”.

Amendment of schedule 5 – building standards applicable to design and construction

- 4.** In schedule 5 (building standards applicable to design and construction)—
 - (a) in paragraph 6.1 (energy demand and carbon dioxide emissions)—
 - (i) in the heading, omit “and carbon dioxide emissions”,
 - (ii) omit sub-paragraph (b),
 - (iii) in the limitation to the standard, omit paragraph (1),
 - (b) after paragraph 6.10 (metering) insert—

“Heating and hot water – direct emission heating system

6.11. Every building must be designed and constructed in such a way that the means by which space within the building is heated or cooled and by which hot water is made available in the building is not by means of a direct emission heating system.

Limitation

This standard does not apply to—

- (a) alterations to, or extension of, a pre-2024 building,
- (b) emergency heating,
- (c) heating provided solely for the purpose of frost protection.

Interpretation of this standard

In this standard, “emergency heating” means a fixed combustion appliance installation which is installed to be used only in the event of the failure of the heating or hot water service system which is designed and installed for use during normal operation of the building.”.

Amendment of schedule 6 – building standards applicable to conversions

- 5.** In schedule 6 (building standards applicable to conversions) after paragraph 2A(a) insert—
 - “**2B.** Every conversion, to which these regulations apply, must meet the requirements of standard 6.11 (heating and hot water – direct emission heating system) in section 6, energy, of schedule 5 but conversion of a pre-2024 building must meet those requirements only—
 - (a) if the conversion involves a change in occupation or use of the part of the building in which an existing direct emission heating system is located, and
 - (b) in so far as it is reasonably practicable to do so.”.

(a) Paragraph 2A is inserted by S.S.I. 2022/349, as amended by S.S.I. 2023/65, on 5 June 2023.

Transitional provision

6. The amendments made by these Regulations do not apply to work which, by virtue of regulation 5 and schedule 3 of the Building (Scotland) Regulations 2004, does not require a building warrant provided that the work is—

- (a) completed before 1 April 2024, or
- (b) not completed before that date and—
 - (i) the contract for the work is entered into before 1 April 2024, and
 - (ii) the work is completed on or before 1 July 2024.

St Andrew's House,
Edinburgh
6th June 2023

PATRICK HARVIE
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building (Scotland) Regulations 2004 (the “2004 Regulations”) and come into force on 1 April 2024.

Regulation 3 amends regulation 2 of the 2004 Regulations to insert new definitions of “direct emission heating system” and “pre-2024 building”. Regulation 4 amends schedule 5 of the 2004 Regulations to introduce new standard 6.11 which creates restrictions on the installation of direct emissions heating systems. Regulation 5 applies new standard 6.11 to conversions with particular provision made for conversion of buildings constructed before 1 April 2024 or after that date if constructed in accordance with a building warrant granted in respect of an application made before that date. Regulation 6 makes transitional provision the effect of which is that the amended 2004 Regulations will not apply to work which does not require a building warrant and which is completed before 1 April 2024 or work which is not completed before that date where the contract for the work is entered into before that date and the work is completed before 1 July 2024.

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