

**1981 No. 1499 (S. 152)****BUILDING AND BUILDINGS****The Building (Procedure) (Scotland) Regulations 1981**

*Made* - - - - - 20th October 1981

*Laid before Parliament* 9th November 1981

*Coming into Operation* 30th November 1981

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The Secretary of State in exercise of the powers conferred on him by sections 2(4), 4(8), 4A, 6(2) and (3A), 6A(7), 6B(3), 9(1), 20(1) and 24 of and Schedule 3 to the Building (Scotland) Act 1959(a), and of all other powers enabling him in that behalf, hereby makes the following regulations—

## PART I

## GENERAL

*Citation and commencement*

1. These regulations may be cited as the Building (Procedure) (Scotland) Regulations 1981 and shall come into operation on 30th November 1981.

*Revocation and savings*

2.—(1) The Building (Procedure) (Scotland) Regulations 1975(b) and the Building (Procedure) (Scotland) Amendment Regulations 1980(c) are, subject to paragraph (2) below, hereby revoked.

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(a) 1959 c. 24; section 2(4) was substituted by section 134 of and Schedule 15 paragraph 3(b) to the Local Government (Scotland) Act 1973 (c. 65); section 4(8) was substituted by and sections 4A, 6A(7) and 6B(3) were inserted by sections 2 and 4 of the Building (Scotland) Act 1970 (c. 38); section 6(2) was amended by section 6(1) of and Schedule 1 Part I paragraph 1(a) to the Building (Scotland) Act 1970; and section 6(3A) was inserted by section 75 of and Schedule 7 paragraph 4(a) to the Health and Safety at Work etc Act 1974 (c. 37); references to "local authority" were substituted for references to "buildings authority" by section 134 of and Schedule 15 paragraph 1 to the Local Government (Scotland) Act 1973.

(b) S.I. 1975/550.

(c) S.I. 1980/1756.

(2) Any application, appeal, reference or other procedure commenced under any regulation revoked by these regulations and which is outstanding at the coming into operation of these regulations shall, in so far as these regulations contain a corresponding provision, have effect as if commenced and be determined under the corresponding provision of these regulations:

Provided that where an application for a warrant or for a direction has been made to a local authority before the date of coming into operation of these regulations any such application shall be treated in relation to its determination as if regulations 14 and 15 or regulations 26 to 29 of the Building (Procedure) (Scotland) Regulations 1975 applied instead of regulation 10 or regulations 20 and 21 of these regulations.

#### *Interpretation*

3.—(1) In these regulations, unless the context otherwise requires—

“the Act” means the Building (Scotland) Act 1959;

“affected proprietor” in relation to a building includes any person who is—

- (a) an owner of the building or of the site thereof,
- (b) an owner of the conterminous land, but only if any part of such land is within 90 metres of any part of the building or of the site thereof, and
- (c) an owner of land part of which is within 4 metres of any part of the building or site thereof;

“application for a direction” means an application under section 4(1) of the Act(a) to the Secretary of State or to the local authority, as the case may be, for a direction dispensing with or relaxing a provision of the building standards regulations;

“application for a warrant” includes an application for amendment of a warrant;

“building standards regulations” means the Building Standards (Scotland) Regulations 1971 to 1980(b).

“direction” means a direction under section 4(1) of the Act by the Secretary of State or by the local authority, as the case may be, dispensing with or relaxing a provision of the building standards regulations, given either unconditionally or subject to such conditions specified in the direction as appear to the Secretary of State or to the local authority, as the case may be, to be required as a direct result of the dispensation or relaxation and includes—

- (a) a direction given on the determination of an appeal to the Secretary of State under section 4A of the Act(c);
- (b) a direction given under section 4(5)(b) of the Act(d) varying or revoking a direction under section 4(1)(b) of the Act; and
- (c) except in the case of an application for a direction under section 4(1)(b) of the Act, a refusal to grant an application for a direction, with the substitution for any reference to giving a direction of a reference to a refusal to give a direction, and with the substitution for

(a) Section 4(1) was substituted by section 2 of the Building (Scotland) Act 1970.

(b) S.I. 1971/2052, as amended by S.I. 1973/794, 1975/404, 1979/310 and 1980/1772.

(c) Section 4A was inserted by section 2 of the Building (Scotland) Act 1970.

(d) Section 4(5)(b) was substituted by section 75 of and Schedule 7 paragraph 2(a) to the Health and Safety at Work etc Act 1974.

any reference to a draft direction of a reference to a statement of intention to refuse an application for a direction;

“draft direction” means a draft of the direction as proposed to be given by the Secretary of State or the local authority, as the case may be;

“fire authority” means the fire authority established under section 36 of the Fire Services Act 1947(a);

“highway authority” means a highway authority as defined in section 50(1) of the Roads (Scotland) Act 1970(b);

“plan” includes section, elevation, drawing and block plan, and any specification or other written or figured statement submitted to the Secretary of State or the local authority as relative to a plan, section, elevation or drawing;

“prescribed form” means a form prescribed by regulations made under section 24 of the Act;

“site” in relation to a building means the area of ground covered or to be covered by the building, including its foundations;

and other expressions have respectively the same meanings for the purpose of these regulations as they have for the purpose of the Act.

(2) Any reference in these regulations to a Part, regulation or Schedule shall, unless the context otherwise requires, be construed as a reference to a Part or regulation of or a Schedule to these regulations.

(3) Any reference in these regulations to an application or statement being lodged with the local authority shall include a reference to the sending of the application or statement to the local authority by post.

#### *Duration of warrant*

4. A warrant granted by the local authority shall be valid only—

- (a) for the period of three years from the date on which it is granted, or
- (b) for such extended period or periods as may be approved by the local authority on application made to them at any time.

#### *Stages of construction*

5. For the purposes of section 6(3A) of the Act(c) (which empowers the local authority to grant a warrant for the construction of a building subject to further information being provided in respect of prescribed stages in the construction) there are prescribed the following stages—

- construction of foundations;
- construction of substructure;
- construction of underground drainage system;
- construction of superstructure, excluding the stages specified below;
- construction of external wall cladding or internal walls or their linings;
- construction of roof;
- installation of a lift, escalator or electrical, ventilation, heating or plumbing system.

(a) 1947 c. 41; section 36 was amended by section 147 of the Local Government (Scotland) Act 1973.

(b) 1970 c. 20; section 50(1) was amended by section 133 of and Schedule 14 paragraph 79(a) to the Local Government (Scotland) Act 1973.

(c) Section 6(3A) was inserted by section 75 of and Schedule 7 paragraph 4(a) to the Health and Safety at Work etc Act 1974.

*Certificate of completion*

6. For the purposes of section 9(1) of the Act (which requires the local authority within such period as may be prescribed either to grant the certificate of completion or notify the applicant of their refusal to do so) there is prescribed a period of 14 days.

*Fees*

7. For the purposes of section 20 of the Act (which authorises the local authority to charge such fees as may be prescribed) there are prescribed the fees specified in Schedule 2 in relation to the business of a local authority specified therein.

## PART II

## APPLICATION TO LOCAL AUTHORITY FOR WARRANT

*Application of this Part*

8. The provisions of this Part shall apply to an application for a warrant under section 6 of the Act(a):

Provided that nothing in this Part shall apply to the extent that the application is referred to the Secretary of State under section 6A of the Act (b).

*Making application for warrant*

9.—(1) Application for a warrant shall be made by lodging with the local authority—

- (a) an application in writing in the prescribed form signed by the applicant or his duly authorised agent, and
- (b) the principal and a copy of each of the plans specified—
  - (i) in the case of a warrant to erect a building, in Section A of Schedule 1,
  - (ii) in the case of a warrant to alter a building, in Section B of Schedule 1,
  - (iii) in the case of a warrant for the extension of a building, in Section C of Schedule 1,
  - (iv) in the case of a warrant for the change of use of a building, in Section D of Schedule 1,
  - (v) in the case of a warrant to demolish a building, in Section E of Schedule 1,
  - (vi) in the case of an amendment of a warrant under section 6(3A) of the Act, in Section F of Schedule 1,
  - (vii) in the case of an amendment of a warrant under section 6(7) of the Act, in Section G of Schedule 1, and
- (c) details of any direction which has been given by the Secretary of State or by the local authority as the case may be in relation to the particular building which is the subject of the application:

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(a) Section 6(2)(3) and (8) were amended by section 6(1) of and Schedule 1 Part I paragraph 1 to the Building (Scotland) Act 1970: section 6(3A) was inserted and (10) amended by section 75 of and Schedule 7 paragraph 4(a) and (b) to the Health and Safety at Work etc Act 1974: section 6(8)(a) and (9)(b) were repealed by section 237 of and Schedule 29 to the Local Government (Scotland) Act 1973: section 6(8)(b) and (c) were substituted for section 6(8)(b) by section 3 of the Building (Scotland) Act 1970.

(b) Section 6A was inserted by section 4 of the Building (Scotland) Act 1970.

Provided that nothing in this paragraph shall require the submission of the plans specified in Schedule 1—

- (a) in the case of an application for a warrant for the construction of a building, in so far as the said plans relate to such stage in the construction, being a stage specified in regulation 5, as the local authority determine may in terms of section 6(3A) of the Act be the subject of a subsequent application under that subsection for an amendment to the terms of any warrant granted, or
  - (b) in the case of an application for a warrant for the construction of a building, not being an application for amendment of a warrant, if the local authority are satisfied that the nature of the proposed works is sufficiently apparent from the application together with such plans as may accompany it, or
  - (c) in the case of an application for amendment of a warrant under section 6(7) of the Act, if the local authority are satisfied that the nature of the proposed amendment is sufficiently apparent from the application together with the warrant proposed to be amended.
- (2) The applicant shall if required by the local authority at any stage in the proceedings submit to the local authority—
- (a) such further information or additional plans, or
  - (b) such further copies (not exceeding 2) of the application or of the plans lodged with the application,
- as the local authority may direct.
- (3) The provisions of Section H of Schedule 1 shall have effect for the purposes of this regulation.

*Determination of application*

10. On receipt of an application the local authority shall proceed forthwith to consider and determine the application but shall not refuse it on any ground without first giving the applicant notification of the proposed ground of refusal and an opportunity of being heard and of making written representations, and the local authority shall in any such case consider any oral and written representations so made by or on behalf of the applicant before finally determining the application.

PART III

REFERENCE TO SECRETARY OF STATE OF APPLICATIONS FOR WARRANT

*Application of this Part*

11.—(1) The provisions of this Part shall apply to the reference to the Secretary of State under section 6A of the Act of applications for a warrant.

(2) For the purposes of this Part an application for a warrant shall include an application for a warrant for the construction or change of use of a building, an application for the amendment of the terms of a warrant for the construction of a building, and an application for an extension of the period specified in a warrant for the construction of a building intended to have a limited life, but shall not include an application for a warrant for the demolition of a building.

(3) The provisions of this Part shall apply to an application for a warrant to the extent that the Secretary of State has given notice to the local authority

under section 6A(4) of the Act or to the extent that the Secretary of State can determine the application under section 6A(8) of the Act.

*Forwarding of documents by local authority*

**12.** Where an application for a warrant to which a direction under section 6A(1) or section 6A(8) of the Act relates is to be referred to the Secretary of State, the local authority shall send the application to the Secretary of State together with—

- (a) the plans lodged with the application,
- (b) any observations by the local authority on the application,
- (c) a note by the local authority to the effect that they are satisfied that the application has been duly made in the manner prescribed by Part II of these regulations, and
- (d) a copy of any previous warrant, but only in the case of a direction under section 6A(8) of the Act.

*Notifying applicant of reference*

**13.—(1)** At the same time as the documents are being forwarded under regulation 12 the local authority shall notify the applicant that the application has been referred to the Secretary of State under section 6A of the Act.

(2) As soon as the Secretary of State has given notice to the local authority under section 6A(4) of the Act the local authority shall notify the applicant of the terms of the notice.

*Consultation in event of additional requirements*

**14.** Where the Secretary of State intends under section 6A(7) of the Act to impose requirements additional to or more onerous than those contained in the building standards regulations he shall consult—

- (a) the applicant,
- (b) the local authority,
- (c) the Building Standards Advisory Committee, and
- (d) any other person appearing to him to be interested.

*Consideration of representations against proposed relaxation*

**15.** Where the Secretary of State intends either on an application made to him under section 4(1)(a) of the Act or of his own accord to dispense with or relax any provision of the building standards regulations he shall notify the applicant, the local authority and any other person appearing to him to be interested of his intention to dispense with or relax these provisions, and shall consider any representations received by him within 21 days of the notification of his intentions.

*Circumstances in which hearing may be held*

**16.** Before determining an application for a warrant the Secretary of State may if he thinks fit afford to the applicant, the local authority and any other person appearing to him to be interested an opportunity of appearing before and being heard by a person appointed by him for the purpose.

*Intimating decision and reasons*

**17.** After the Secretary of State has intimated his decision to the local authority, the local authority shall notify the applicant and any other person



appearing to the local authority to be interested in the application to the extent that it has been considered by the Secretary of State, of the determination by the Secretary of State and of the reasons given by the Secretary of State for his determination.

#### PART IV

##### APPLICATION TO LOCAL AUTHORITY FOR DIRECTION

###### *Application of this Part*

**18.** The provisions of this Part shall apply to an application for a direction under section 4(1)(a) of the Act to the local authority by whom power to give a direction is exercisable under regulations made by the Secretary of State under section 4(2) of the Act:

Provided that nothing in this Part shall apply where the application for a warrant in respect of the proposed operations to which the application to the local authority for a direction also relates is referred to the Secretary of State under section 6A of the Act.

###### *Making application for direction*

**19.—(1)** Application for a direction shall be made by lodging with the local authority—

- (a) an application in writing in the prescribed form signed by the applicant or his duly authorised agent, and
- (b) the principal and a copy of each of the plans specified in Section A of Schedule 1 but only so far as necessary to show the direction subject to which it is proposed that the building standards regulations should apply and the relationship of the direction to the building as a whole:

Provided that nothing in this paragraph shall require the submission of plans if the local authority are satisfied that the nature of the proposed direction is sufficiently apparent from an application for a warrant and the plans submitted therewith.

(2) The applicant shall if required by the local authority at any stage in the proceedings submit to the local authority—

- (a) such further information or additional plans, or
- (b) such further copies (not exceeding 2) of the application or of the plans lodged with the application,

as the local authority may direct.

(3) The provisions of Section H of Schedule 1 shall have effect for the purposes of this regulation.

###### *Preparation of draft direction*

**20.—(1)** The local authority shall as soon as may be after receipt of the application prepare a draft direction.

(2) The local authority shall send—

- (a) a copy of the draft direction to the applicant, and
- (b) a copy of the application and of the draft direction—
  - (i) to the owner if not the applicant, and

- (ii) where the application relates to matters prescribed in Parts D, E or F of the building standards regulations or in Part S thereof so far as that Part relates to exit stairs and their associated landings or balconies, the firemaster of the fire authority, and
- (iii) to any other person appearing to the local authority to have an interest,

stating where the plans and other particulars relating to the application or to an application for a warrant may be examined and intimating that any representation with respect to the draft direction should be sent in writing to the local authority before the expiry of 14 days from the date of the issue of the draft direction.

(3) Any representation with respect to the draft direction shall state—

- (a) the interest (if not that of the applicant) by reason of which the person makes representation,
- (b) the grounds on which he makes representation, and
- (c) an address at which documents may be served upon him,

and a copy of the representation (where not made by the applicant) shall be served by the person making representation on the applicant:

Provided that the local authority may if they think fit accept any representation from any person notwithstanding that he has not complied with this paragraph.

(4) Any representation made under paragraph (3) of this regulation may be withdrawn by the person who made it, by his giving to the local authority and (where the said person is not the applicant) the applicant written intimation to that effect.

#### *Determination of application*

21.—(1) If during the period mentioned in paragraph (2) of regulation 20 no representation is made with respect to the draft direction by any of the persons mentioned therein or if before the determination of the application every representation so made has been withdrawn, the local authority may determine the application at any time after the expiry of the said period or after the date of last withdrawal as the case may be:

Provided that if the local authority propose to make any material departure from the terms of the draft direction they shall issue a revised draft direction in accordance with regulation 20(2) above, and paragraphs (3) and (4) of the said regulation and this regulation shall apply accordingly in relation to the revised draft direction.

(2) Where any one or more representations have been made with respect to the draft direction the application shall be put out for a hearing by the local authority to be held on a date not less than 7 days after the receipt of the last such representation and the local authority shall serve notice of the date, time and place of the hearing on all persons to whom a copy of the draft direction was sent in terms of regulation 20(2).

(3) Subject to paragraph (4) of this regulation the local authority shall as soon as may be after the hearing of an application proceed to determine the application:

Provided that if they propose to make any material departure from the terms of the draft direction they shall issue a revised draft direction in accordance with regulation 20(2) above, and paragraphs (3) and (4) of the said regulation

and this regulation shall apply accordingly in relation to the revised draft direction;

But the proviso hereinbefore described shall not apply—

- (a) where the proposed departure would result neither in relaxation of any provision of the building standards regulations not previously proposed to be relaxed nor in a greater degree of relaxation of any provision of the said regulations than was previously proposed, so long as the applicant on being informed of the proposed departure has confirmed that he does not wish to have an opportunity of representing in writing with respect thereto;
  - (b) where the proposed departure would result either in relaxation of a provision of the building standards regulations not previously proposed to be relaxed or in a greater degree of relaxation of any provision of the said regulations than was previously proposed, so long as the applicant and every other person who was sent a copy of the draft direction were present or represented at the hearing and on being informed at the hearing of the proposed departure all confirmed that they did not wish to have an opportunity of representing in writing with respect thereto.
- (4) Where the applicant or any person who has made representation with respect to the draft direction neither attends nor is represented at the hearing, the local authority may continue the hearing or proceed to determine the application:

Provided that where the local authority decide to determine the application they shall take into account any representation made by any such person and any representation or statement made by the applicant in relation to the application, the draft direction or any representation.

## PART V

### APPEAL TO SECRETARY OF STATE AGAINST DECISION BY LOCAL AUTHORITY ON APPLICATION FOR DIRECTION

#### *Application of this Part*

22. The provisions of this Part shall apply to an appeal under section 4A of the Act to the Secretary of State against the refusal of the local authority to grant an application for a direction or against any of the conditions specified in the direction given by the local authority.

#### *Giving notice of appeal*

23. Any applicant who desires to appeal—

- (a) against the refusal by the local authority of an application to dispense with or relax any provision of the building standards regulations which they have power to dispense with or relax, or
  - (b) against any conditions subject to which the application was granted,
- shall give notice of appeal in the prescribed form to the Secretary of State stating the grounds on which the appeal is made within 28 days from the date on which the local authority notify the applicant of their decision, or such longer period as the Secretary of State may at any time allow, and shall send a copy of the notice of appeal to the local authority.

*Failure of local authority to give a decision*

**24.** If within 2 months or within such extended period as may at any time be agreed in writing between the applicant and the local authority the local authority do not notify the applicant of their decision on an application for a direction, the applicant may appeal in accordance with regulation 23 as if the local authority had refused the application and had notified the applicant of the decision on the last day of the said period.

*Forwarding of documents to Secretary of State*

**25.—**(1) As soon as may be after the receipt of the copy of a notice of appeal, the local authority shall subject to paragraph (2) of this regulation send to the Secretary of State a copy of the following documents—

- (a) the application made to the local authority for a direction,
- (b) all relevant plans, drawings and particulars submitted to them,
- (c) all representations made with respect to the draft direction,
- (d) the notice of the decision or determination if any by the local authority,
- (e) the written statement by the local authority setting out their reasons for their decision or determination, including their reasons for attaching any conditions to the direction,
- (f) all other relevant correspondence,
- (g) a statement containing the observations of the local authority on the application and appeal including the names and addresses of those consulted by the local authority.

(2) If the local authority have within the period of 28 days specified in regulation 23 returned to the applicant any of the documents listed in paragraph (1) of this regulation, the applicant shall send such documents to the local authority along with the copy of the notice of appeal.

*Process of consultation*

**26.** The Secretary of State may if he thinks fit send—

- (a) to the applicant and the local authority—
  - (i) notice of his intention to confirm the decision of the local authority, or
  - (ii) a copy of any draft direction he proposes to make in substitution therefor;
- (b) to any other person appearing to him to be interested—
  - (i) a copy of the application, and
  - (ii) notice of his intention to confirm the decision of the local authority or a copy of his draft direction as aforesaid,

inviting representations on the said notice of intention or draft direction, as the case may be, and he shall take into account any representations received before confirming the decision of the local authority or making his direction final.

*Circumstances in which hearing may be held*

**27.** Before confirming the decision of the local authority or giving a direction the Secretary of State may if he thinks fit afford to the applicant, the local authority and any other person appearing to him to be interested an opportunity of appearing before and being heard by a person appointed by him for the purpose.

*Intimating decision and reasons*

28. After confirming the decision of the local authority or giving a direction the Secretary of State shall notify the applicant, the local authority and any other person who received notice of his intention to confirm the decision of the local authority or a copy of the draft direction in terms of paragraph (b) of regulation 26, of his determination of the appeal and of his reasons therefor.

## PART VI

APPLICATION TO SECRETARY OF STATE FOR DIRECTION  
IN RESPECT OF A PARTICULAR BUILDING*Application of this Part*

29. The provisions of this Part shall apply to an application under section 4(1)(a) of the Act to the Secretary of State for a direction in relation to a particular building, including a particular building to which the application for a warrant referred to the Secretary of State under section 6A of the Act relates notwithstanding that the power to give a direction is for the time being exercisable by the local authority.

*Making application for direction*

30.—(1) Application for a direction shall be made by lodging with the Secretary of State an application in writing in the prescribed form signed by the applicant or his duly authorised agent and accompanied by such plans as are necessary to show the direction subject to which it is proposed the building standards regulations should apply and the relationship of the direction to the building as a whole.

(2) A copy of the application and of the accompanying plans shall be forwarded at the same time by the applicant to the local authority.

*Forwarding of any application for warrant*

31. Where the building to which the application relates is the subject of an application for a warrant under section 6 of the Act the Secretary of State may require the local authority to send to him a copy of the application for a warrant and of the plans lodged therewith for purposes of inspection only.

*Process of consultation*

32. The Secretary of State may if he thinks fit send—

- (a) to the applicant a copy of his draft direction, and
- (b) to any other person or body appearing to him to be interested a copy of the application and of his draft direction,

inviting comment on the draft direction, and he shall take into account any comments received before making his direction final.

*Circumstances in which hearing may be held*

33. Before giving a direction the Secretary of State may if he thinks fit afford to the applicant, the local authority and any other person appearing to him to be interested an opportunity of appearing before and being heard by a person appointed by him for the purpose.

*Intimating decision and reasons*

34. After giving a direction the Secretary of State shall notify the applicant and any other person who received a copy of the draft direction in terms of paragraph (b) of regulation 32 of the direction and of his reasons therefor.

## PART VII

APPLICATION TO SECRETARY OF STATE  
FOR DIRECTION IN RESPECT OF A CLASS OF BUILDING*Application of this Part*

35. The provisions of this Part shall apply—

- (a) to an application under section 4(1)(b) of the Act to the Secretary of State for a direction in relation to a class of building, and
- (b) in relation to the giving of such a direction by the Secretary of State, whether on an application made to him or of his own accord, and
- (c) in relation to the giving of a subsequent direction under section 4(5)(b) of the Act varying or revoking such a direction.

*Making application for direction*

36. An application shall be in writing accompanied by such plans as are necessary to show the direction subject to which it is proposed the building standards regulations should apply and the relationship of the direction to the building as a whole.

*Process of consultation*

37. Before giving a direction, the Secretary of State shall consult the Building Standards Advisory Committee and such other bodies as appear to him to be representative of the interests concerned.

*Circumstances in which hearing may be held*

38. Before giving a direction the Secretary of State may if he thinks fit afford to the applicant if any and any other person appearing to him to be interested an opportunity of appearing before and being heard by a person appointed by him for the purpose.

*Intimating decision and reasons*

39.—(1) After giving a direction the Secretary of State shall notify the applicant if any, all local authorities and any other body appearing to him to be interested of the direction and of his reasons therefor.

(2) A copy of the direction shall be made available on request to any local authority without charge.

## PART VIII

## OTHER APPLICATIONS TO LOCAL AUTHORITY

*Applications under section 8*

40.—(1) An application under section 8 of the Act(a) for permission to occupy temporarily, for the purpose of depositing materials or otherwise in

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(a) Section 8(2A) and (4) to (8) were inserted by section 5(a) and (b) of the Building (Scotland) Act 1970.

connection with operations for the construction, repair, maintenance or demolition of any building, a portion of any road adjoining the building, may be made either—

- (a) by conjoining it with an application for a warrant, or
  - (b) by lodging with the local authority—
    - (i) an application in the prescribed form, signed by the applicant or his duly authorised agent, and
    - (ii) the principal and a copy of a block plan to a scale of not less than 1:500 to show the site of the building and the portion of the road proposed to be occupied.
- (2) Before granting permission under this regulation the local authority shall consult the appropriate highway authority.

*Other applications*

41. Subject to the provisions of section 9(3) of the Act(a) and regulation 44, any other application to the local authority shall be made by lodging with the local authority an application in the prescribed form, or if no form is prescribed, an application in writing signed by the applicant or his duly authorised agent.

*Procedure*

42. The provisions of regulations 9 and 10 shall, subject to any necessary modifications, apply to any application to the local authority other than an application for a warrant as they apply to an application for a warrant:

Provided that subject to the provisions of paragraph (1) of regulation 40 nothing in this regulation shall require the submission of plans with such an application unless the local authority so direct.

## PART IX

### ORDERS MADE BY LOCAL AUTHORITIES

*Orders in relation to buildings constructed without warrant or in contravention of conditions of warrant*

43.—(1) Any person on whom a notice has been served under section 10 of the Act may within the period specified in the notice or such extended period provided for under section 10(1A) of the Act(b) lodge with the local authority a statement in writing (hereafter in this regulation referred to as “the statement”) showing cause why he should not be required to execute such operations as are specified in the notice, and stating the grounds on which he intends to rely.

(2) On receipt of the statement the matter shall be put out for a hearing by the local authority to be held on a date not less than 7 days after such receipt and the local authority shall serve notice of the date, time and place of the hearing on the person lodging the statement.

(3) The local authority may require the person lodging the statement to lodge a further statement in writing in supplement thereof.

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(a) Section 9(3) was amended by section 75 of and Schedule 7 paragraph 5(b) to the Health and Safety at Work etc Act 1974.

(b) Section 10(1A) was inserted by section 6(1) of and Schedule 1 Part I paragraph 3(b) to the Building (Scotland) Act 1970.

(4) Where a person lodging a statement under paragraph (1) of this regulation fails to attend either in person or by a representative in response to a notice under paragraph (2) of this regulation, the local authority may proceed to determine the matter, so however that they shall take into account any grounds set forth in any statement so lodged.

(5) Where any person on whom notice has been served under section 10 of the Act fails within the period specified in the notice or such extended period provided for under section 10(1A) of the Act to submit to the local authority a statement under paragraph (1) of this regulation, the local authority may make an order under section 10 of the Act forthwith.

*Orders relating to dangerous buildings*

**44.—**(1) Where a local authority intend to make an order under section 13(2) of the Act<sup>(a)</sup> they shall notify—

- (a) the owner of the building,
- (b) every other affected proprietor, and
- (c) any other person appearing to the local authority to have an interest, of their intention to make the order.

(2) Any person to whom notification has been given under paragraph (1) of this regulation may, at any time before the expiry of a period of 7 days after the date of such notification, by a statement in writing lodged with the local authority object to the making of the order and apply to be heard by the local authority (which statement is hereafter in this regulation referred to as an “objection”).

(3) Any objection shall state—

- (a) the interest by reason of which the person objecting claims to be entitled to be heard,
  - (b) the grounds of objection, and
  - (c) an address at which documents may be served upon him,
- and where the person objecting is not the owner of the building in respect of which the order is intended to be made he shall serve a copy of the objection on the owner:

Provided that the local authority may if they think fit hear any person who has applied to be heard under this regulation notwithstanding that he has not complied with the provisions of this paragraph.

(4) If during the period mentioned in paragraph (2) of this regulation no objection is lodged by any of the persons mentioned therein the local authority may make the order forthwith.

(5) Where an objection is lodged under paragraph (2) of this regulation the matter shall be put out for a hearing by the local authority to be held on a date not less than 7 days after receipt of the objection, and the local authority shall give notice of the date, time and place of the hearing to the person objecting and, where that person is not the owner, to the owner:

Provided that where more than one objection is lodged under paragraph (2) of this regulation the matter shall not be put out for a hearing earlier than 7 days after the date of receipt of the later or latest objection.

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<sup>(a)</sup> Section 13(2) was amended by section 134 of and Schedule 15 paragraph 10(b) to the Local Government (Scotland) Act 1973.



(6) Notwithstanding that the owner or any other person fails to attend or be represented at a hearing of which he has had notice under paragraph (5) of this regulation the local authority shall before reaching a decision on the making of the order take into account any objection lodged by him under paragraph (2) of this regulation or otherwise.

## PART X

### GENERAL PROCEDURE OF LOCAL AUTHORITIES

#### *Application of this Part*

**45.** The provisions of this Part shall apply generally to the business of local authorities, including applications for a warrant under Part II, applications for a direction under Part IV, other applications under Part VIII and orders under Part IX.

#### *Procedure at hearing*

**46.—(1)** At any hearing before the local authority any party may appear and be heard either in person or by counsel or solicitor or by any other representative.

(2) Subject to the provisions of the Act and of these regulations the procedure at any hearing before the local authority shall be such as the local authority may determine.

#### *Assessors*

**47.** If it appears to the local authority that any case coming before them calls for special knowledge and that it would be desirable for the local authority to sit with assessors the local authority shall hear the proceedings with the aid of such assessor or assessors as the local authority may after consulting such persons if any as they may think fit appoint.

#### *Decisions of local authority*

**48.—(1)** Where an application to a local authority is—

- (a) refused, or
- (b) in the case of an application for a direction in relation to which representations have been made, granted, or
- (c) in the case of an application for a direction or an application under section 8 of the Act, granted subject to conditions,

the local authority shall include in their decision a statement of their reasons therefor including their reasons for any conditions attached thereto.

(2) The decision of the local authority on any application made to them shall be notified in writing by the local authority to the applicant and to any person who has made representations in relation thereto, and in the case of an application for a direction, to any other person to whom the local authority sent a copy of a draft direction.

(3) In any other proceedings before the local authority the decision of the local authority and the reasons therefor shall be notified by the local authority in writing to the parties to the proceedings.

(4) Where the local authority have on an application for a warrant decided to grant a warrant, the warrant shall be sent by the local authority to the

applicant accompanied by the copy of the relative plans duly signed on behalf of the local authority with reference to the grant of warrant.

(5) Where the local authority have on an application for a warrant or on an application for a direction decided to refuse the application they shall without delay return to the applicant the plans lodged with reference to the application unless they have obtained the consent of the applicant to the retention of the plans.

#### *Maintenance of records*

**49.**—(1) The local authority shall keep a register of applications in which they shall, as soon as received, record particulars of all applications and, as soon as may be, the manner in which such applications have been dealt with.

(2) Any application—

(a) for a warrant which has been referred to the Secretary of State under section 6A of the Act, and

(b) relating to buildings intended to have a limited life,

shall be specially designated in the register.

(3) Where an application for a warrant, a direction or a permission under section 8 of the Act is granted the local authority shall retain the principal plans lodged with reference to the application.

#### *Inspection of records and applications*

**50.**—(1) The register maintained by the local authority under regulation 49 shall be available for inspection by the public at all reasonable hours.

(2) Where an application has been lodged with the local authority but no decision has yet been taken thereon, any person claiming to have an interest may at any reasonable hour inspect the application and any plans lodged with reference thereto.

(3) Where a decision has been taken on any application lodged with the local authority, any person showing reasonable cause may at any reasonable hour inspect the application and any plans lodged with reference thereto.

#### *Notices regarding operations*

**51.** Any person carrying out operations in pursuance of a warrant granted under the Act shall give notice to the local authority—

(a) of the date on which work is commenced within 7 days of such date,

(b) when any drain has been laid and is ready for inspection or test under regulation M4(6)(a) of the building standards regulations,

(c) when a drain track has been in-filled and the drain is ready for a second inspection or test in accordance with regulation M4(6)(b) of the building standards regulations, and

(d) of the date on which the operations are completed:

Provided that—

(i) notices under paragraphs (a) and (d) of this regulation shall be in writing, and

(ii) nothing in this regulation shall require the giving of notice of the date on which operations are completed where application to the

local authority for a certificate of completion has been made in the prescribed form.

*George Younger,*  
One of Her Majesty's Principal  
Secretaries of State.

New St. Andrew's House,  
Edinburgh.  
20th October 1981.

Regulations 9 and 19

# SCHEDULE 1

## PLANS TO BE SUBMITTED WITH APPLICATION

### SECTION A

*Application for warrant to erect a building or application for direction*

1. (a) A plan of the foundations of the building, each floor and the roof,  
(b) sections through the building,  
(c) an elevation of each face of the building,  
which plan section and elevation shall show the relevant particulars set out in the following table and be to a scale of not less than 1: 100 except in the case of head 9 of the table;  
(d) detailed drawings to a larger scale as are necessary and relevant to determine the application.

TABLE OF PARTICULARS

Buildings to which applicable	Particulars
All buildings.	<ol style="list-style-type: none"> <li>1. The level of (a) site of the building, (b) lowest floor, (c) adjacent ground (including any road) in relation to one another and some known datum.</li> <li>2. The position, materials and dimensions of (a) foundations, (b) walls, (c) windows including opening area and direction of openings, (d) doors showing direction of opening, (e) floors, (f) roofs, (g) chimneys and flues, (h) ventilators and ventilation ducts, (i) stairways, landings and balconies, (j) other parts of the building whether above or below ground level.</li> <li>3. Details of construction and in particular details of any framework and size and position of reinforcing material.</li> <li>4. Details of calculation of loading and strength.</li> <li>5. Indication of fire and separating walls and details of fire stopping.</li> <li>6. Position, materials and dimensions (and weight) of any damp-proof course or other moisture barrier.</li> </ol>

Buildings to which applicable	Particulars
	<p>7. Position and dimensions of any bath, wash-hand basin, sink, tub or other built-in equipment or sanitary appliance for which standards are prescribed in the building standards regulations.</p> <p>8. Position, materials, dimensions and form of any soil, soil-waste, waste or rain water and ventilating pipes.</p> <p>9. Position, materials, line, depth, inclination and dimensions of every drain and means of ventilation thereof and the relationship and level to any sewer, sewage treatment works or other outlet into which drains are to discharge (the scale of this drawing may be to a smaller scale than 1: 100 at the discretion of the local authority).</p> <p>10. Position, form and dimensions of traps, manholes and access openings.</p> <p>11. Such particulars as are necessary to show that the operations involved will be conducted in accordance with the building operations regulations.</p>
Buildings referred to in regulations E19 and Q4 of the building standards regulations.	12. The position and dimensions of the lift well, the lift car and machine room.
Buildings to which Part E of the building standards regulations applies.	<p>13. (a) The exits available as a means of escape from fire and their dimensions.</p> <p>(b) The position of hydrants where required by regulation E18 of the building standards regulations.</p>
Buildings in occupancy sub-groups A1 and A2 according to Schedule 2 of the building standards regulations.	<p>14. The position and dimensions of any larder or other storage accommodation and laundry facilities. Drying facilities may be shown on block plans if external to the building.</p> <p>15. The number of power points required by regulation Q17 of the building standards regulations and the rooms in which they are fitted.</p> <p>16. The furniture layout to show how the room fulfils its functions where the house has been designed in accordance with the recommendations of the New Scottish Housing Handbook: Bulletin 1: Metric Space Standards, 1968, as amplified by Supplementary Note: Metric Dimensional Framework, 1970.</p>
Buildings to which Part N of the building standards regulations applies.	17. A schematic diagram of electrical wiring showing the main distribution system, the controls and the proposed rating.

2. Block plan (to a scale of not less than 1: 1250) which shall show—

- (a) the size and position of the building and any external drying green where applicable,
- (b) the size and position of any adjoining building as it affects the proposal,
- (c) a north point,
- (d) the position, width and level (in relation to some known datum) of any road,

court or footway adjoining the building, or from which there is access to the building,

- (e) the boundaries with land in different occupation,
- (f) the portion of any road in respect of which—
  - (i) permission is sought under section 8 of the Act to occupy temporarily for the purpose of depositing materials or otherwise in connection with the building operations, or
  - (ii) authority is applied for under the said section for permission to erect staging or scaffolding so as to project over that portion of the road.

3. Where the site is not identifiable from the block plan referred to in paragraph 2 of this Schedule, a location plan showing the position of the site to a scale of not less than 1: 2500 and on which shall be shown the north point.

#### SECTION B

##### *Application for warrant to alter a building*

4. Plans, sections, elevations, drawings and block plans as set forth in paragraphs 1 and 2 of this Schedule but only so far as necessary to show that the proposed alteration or fixture will comply with the building standards regulations subject to section 6(8)(c) of the Act.

5. Where the site of the building is not identifiable from the block plan referred to in paragraph 2 of this Schedule a location plan as set forth in paragraph 3 of this Schedule.

#### SECTION C

##### *Application for warrant for the extension of a building*

6. Plans, sections, elevations, drawings and block plans of the building as set forth in paragraphs 1 and 2 of this Schedule—

- (a) of the building so far as affected by the extension,
- (b) of the extension, as if the extension were itself a building.

7. Where the site is not identifiable from the block plan referred to in paragraph 2 of this Schedule a location plan as set forth in paragraph 3 of this Schedule.

#### SECTION D

##### *Application for warrant for the change of use of a building*

8. Block plan (to a scale of not less than 1: 1250) showing the size and position of the building whose use is to be changed and the relationship of the building to adjoining buildings.

9. Plans, sections, elevations and drawings as set forth in paragraph 1 of this Schedule, but only if and so far as necessary to show that the building after the proposed change of use will comply with the additional or more onerous provisions of the building standards regulations which will apply following such change of use.

#### SECTION E

##### *Application for warrant to demolish a building*

10. Block plan (to a scale of not less than 1: 500) showing—

- (a) the size and position of the building proposed to be demolished and its relationship to adjoining buildings,

- (b) the boundaries with land in different occupation,
- (c) particulars appropriate to show that the operations involved will be conducted in accordance with the building operations regulations.

#### SECTION F

##### *Application for amendment of warrant under section 6(3A) of the Act*

11. Such plans and particulars as are specified in the condition of warrant relating to the stage of construction in respect of which application for amendment of the warrant is made.

#### SECTION G

##### *Application for amendment of warrant under section 6(7) of the Act*

12. Plans, sections, elevations, drawings and block plans of the building as set forth in paragraphs 1 and 2 of this Schedule but only so far as necessary to show the proposed deviation.

#### SECTION H

##### *Supplemental*

13.—(1) Where appropriate, any particulars required by the foregoing provisions of this Schedule may be submitted in the form of a specification or other written or figured statement signed by the applicant as relative to a plan, section, elevation or drawing as the case may be.

(2) Notwithstanding the provisions of paragraph 17 of this Schedule only one copy of such a statement need be submitted unless the local authority otherwise direct under regulation 9(2).

14.—(1) Any requirement in this Schedule to show a dimension shall be construed as a requirement to show a figured dimension.

(2) Except in so far as the context otherwise requires expressions used in this Schedule and in the building standards regulations shall have the same meanings in this Schedule as in those regulations.

15. Nothing in any of the Sections B to G of this Schedule shall require the submission of any particular plan required by that Section in relation to a building if an identical plan is already held by a local authority in connection with a prior application for warrant relating to that building.

16. Where in relation to any application under the Act, the local authority are satisfied that there are special circumstances which would make it onerous to require a plan of the scale specified in this Schedule they may at the request of the applicant accept a plan of a scale other than that prescribed.

17. Plans submitted along with an application to which these regulations relate shall—

- (a) in every case, be signed by the applicant or his duly authorised agent,
- (b) in every case, be drawn or reproduced in a clear and intelligible manner and in a permanent form and have indicated thereon the scale to which it is drawn, and
- (c) (i) in the case of the principal, be on such durable material as may be acceptable to the local authority, and  
(ii) in the case of a copy, be certified by the applicant or his duly authorised agent as a true copy of the principal.

## Regulation 7

## SCHEDULE 2

## TABLE OF FEES

	£
1. Application for warrant (including issue of warrant) for—	
(a) erection, alteration or extension of a building (whether or not combined with application for warrant for change of use)—	
(i) where the estimated cost of the operations does not exceed £500 .....	5
(ii) where the estimated cost of the operations exceeds £500 but does not exceed £1,000 .....	10
(iii) where the estimated cost of the operations exceeds £1,000 but does not exceed £10,000—	
(a) the sum of .....	10
plus (b) for every £500 or part thereof exceeding £1,000— .....	4
(iv) where the estimated cost of the operations exceeds £10,000 but does not exceed £20,000—	
(a) the sum of .....	82
plus (b) for every £1,000 or part thereof exceeding £10,000— .....	5
(v) where the estimated cost of the operations exceeds £20,000 but does not exceed £100,000—	
(a) the sum of .....	132
plus (b) for every £5,000 or part thereof exceeding £20,000— .....	10
(vi) where the estimated cost of the operations exceeds £100,000 but does not exceed £500,000—	
(a) the sum of .....	292
plus (b) for every £50,000 or part thereof exceeding £100,000— .....	75
(vii) where the estimated cost of the operations exceeds £500,000 but does not exceed £1,000,000—	
(a) the sum of .....	892
plus (b) for every £100,000 or part thereof exceeding £500,000— .....	100
(viii) where the estimated cost of the operations exceeds £1,000,000—	
(a) the sum of .....	1,392
plus (b) for every £200,000 or part thereof exceeding £1,000,000— .....	150
(b) change of use only .....	6
(c) demolition of a building .....	6
2. Application for amendment of warrant—	
(a) for additional operations where the estimated cost of the additional operations falls within any of the sub-paragraphs detailed in paragraph 1(a) of this Schedule—	
fee in accordance with appropriate sub-paragraph of paragraph 1(a) hereof .....	
(b) where no additional operations are involved .....	4

	£
3. Application for extension of a period of a warrant for a building intended to have a limited life .....	5
4. Application for permission to occupy streets where not combined with an application for warrant .....	4

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations, which are made under the Building (Scotland) Acts 1959 and 1970 as amended by the Local Government (Scotland) Act 1973 and the Health and Safety at Work etc Act 1974, revoke and re-enact with certain amendments the Building (Procedure) (Scotland) Regulations 1975 and 1980. The main effect of the amendments is to remove the requirement formerly placed on an applicant for a warrant under section 6 of the 1959 Act to notify adjoining proprietors of the application. In consequence, procedures for making and hearing objections to an application for a warrant are no longer laid down in Part II of the regulations. These changes are consequential on the introduction of extended arrangements for notification of planning applications in the Town and Country Planning (General Development) (Scotland) Order 1981 (S.I. 1981/830). A simpler procedure is also introduced (in Part IV) for making and dealing with an application to a local authority for a direction dispensing with or relaxing a provision of the building standards regulations.

The remaining provisions of the regulations are substantially unchanged. These include procedures in relation to other applications under the 1959 Act to a local authority (Part VIII) and certain orders made by an authority (Part IX), and the general procedure of local authorities (Part X). Procedures are also prescribed for the reference to the Secretary of State of applications for a warrant (Part III), for appeal to him against a decision by a local authority on an application for a direction (Part V) and for the making of application to him for a direction dispensing with or relaxing a provision of the building standards regulations either in respect of a particular building or a class of building (Parts VI and VII).

Schedule 1 to the regulations specifies the plans to be submitted to local authorities with applications and Schedule 2 sets out a table of fees (unchanged from those prescribed in the Building (Procedure) (Scotland) Amendment Regulations 1980).





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