SCOTTISH STATUTORY INSTRUMENTS

2004 No. 508

BUILDING AND BUILDINGS

The Building (Fees) (Scotland) Regulations 2004

Made - - - -	*25th November 2004*
Laid before the Scottish Parliament - - - -	*26th November 2004*
Coming into force - -	*1st May 2005*

The Scottish Ministers, in exercise of the powers conferred by section 38 and 54(2) of the Building (Scotland) Act 2003(**1**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Building (Fees) (Scotland) Regulations 2004 and shall come into force on 1st May 2005.

2.—(1) In these Regulations–

"the Act" means the Building (Scotland) Act 2003;

"disabled person" means a person with a physical, hearing or sight impairment which affects that person's mobility or use of buildings;

"dwelling" has the same meaning as in the Building (Scotland) Regulations 2004(**2**);

"value of the work" means the expenditure, before VAT is incurred, which the applicant would incur were the works carried out for the applicant by a third party in the course of an ordinary commercial transaction; and

(2) In these Regulations, unless the context otherwise requires a reference to a numbered regulation is a reference to the regulation in these Regulations bearing that number, and a reference in a regulation to a numbered paragraph is a reference to the paragraph in that regulation bearing that number and a reference to the Schedule is a reference to the Schedule to these Regulations.

Fees for applications for building warrants and completion certificates

3.—(1) Subject to regulations 4 and 5 where–

(**1**) 2003 asp 8.
(**2**) S.S.I. 2004/406.

(a) an application of a description referred to in Part 1 of the Schedule is made to a verifier, a fee shall be payable by the applicant to that verifier and the amount of any such fee shall be that calculated in accordance with the paragraph or, as the case may be, sub paragraph of Part 1 of the Schedule which applies to that application; or

(b) submission of a completion certificate of a description referred to in Part 2 of the Schedule is made to a verifier, a fee shall be payable by the person submitting the completion certificate to that verifier and the amount of any such fee shall be that calculated in accordance with the paragraph or, as the case may be, sub paragraph of Part 2 of the Schedule which applies to the submitted completion certificate.

(2) In any case where the Scottish Ministers exercise the functions of a verifier, the fee payable under paragraphs (1)(a) or (b) shall be–

(a) payable to; or

(b) where it has already been paid to a verifier, remitted by that verifier to,

the Scottish Ministers.

Exceptions

4. No fee shall be payable where the purpose of the work to which the application relates is to alter or extend a dwelling so that it is made suitable as a dwelling for a disabled person.

Discounts

5.—(1) The fee payable in respect of–

(a) an application for a building warrant or for amendment of a building warrant; or

(b) submission of a completion certificate where no building warrant has been obtained,

shall, in any case where one or more certificates from an approved certifier of design are presented, be discounted in accordance with paragraphs (2) and (3).

(2) Where one or more such certificates are presented the fee which would otherwise be payable shall be discounted by–

(a) 10% for each certificate that covers the whole of any section set out in Schedule 5 to the Building (Scotland) Regulations 2004(**3**); and

(b) by 1% for each certificate covering a single item in any such section, up to a maximum of 5% for any one section.

(3) In no case shall the combined discounts applicable by virtue of this regulation exceed 60% of the fee which would otherwise be payable in respect of the application or submission as the case may be.

(4) In this regulation "certificate" has the same meaning as in section 11(5) of the Act.

Refunds

6.—(1) This regulation has effect where one or more certificates from an approved certifier of construction are presented to the verifier with a completion certificate.

(2) Where a completion certificate relates to an application for a building warrant then the applicant in relation to that building warrant shall be entitled to a refund of the fee payable for the building warrant the amount of which shall be calculated in accordance with paragraphs (4) or (5).

(**3**) S.S.I. 2004/406.

(3) Where a completion certificate is submitted as provided for in regulation 3(1)(b) the person presenting the completion certificate shall be entitled to a refund of the fee payable upon submission of the completion certificate the amount of which refund shall be calculated in accordance with paragraphs (4) or (5).

(4) Except as provided for in paragraph (5), the amount of the refund payable shall be an amount equivalent to 1% of the fee payable for each such certificate or £20 whichever is the greater.

(5) The amount of such refund shall be an amount equivalent to 20% of the fee payable where–

(a) 20 or more such certificates are presented; or

(b) a single certificate is presented covering the construction of the entire building.

(6) This regulation shall apply to the extent that, and only where, the applicant, or the person presenting the completion certificate as the case may be, has informed the verifier in writing before the commencement of that part of the construction to which the certificate from an approved certifier of construction would relate that it is the applicant's or the person's intention to provide one or more such certificates.

(7) For the purposes of this regulation "fee payable" means the fee payable before applying any discount in terms of regulation 5.

(8) In this regulation "certificate" and "construction" shall have the same meaning as in section 19(5) of the Act.

Fees to be paid to the Scottish Ministers

7. Subject to regulation 3(2), the fee payable to the Scottish Ministers in respect of the performance of any of their functions under the Act and the amount of such fee and the person by whom it is payable shall be determined by the Scottish Ministers and in making any such determination the Scottish Ministers shall have regard to any relevant guidance issued by them.

Building Standards Register

8. Where a request is made to a local authority by any person for the provision of any copy of any entry or document contained in Part II of the building standards register, a fee shall be payable by that person to the local authority at a level determined by the local authority from time to time.

JOHANN M LAMONT
Authorised to sign on behalf of the Scottish Ministers

St Andrew's House, Edinburgh
25th November 2004