Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Building (Scotland) Regulations 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2004 No. 406

BUILDING AND BUILDINGS

The Building (Scotland) Regulations 2004

Made - - - -	*22nd September 2004*
Laid before the Scottish Parliament - - - -	*23rd September 2004*
Coming into force - -	*1st May 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 1, 3(3), 8(8), 54, 56 of and Schedule 1 to, the Building (Scotland) Act 2003 [F1] and of all other powers enabling them in that behalf, and having consulted the Building Standards Advisory Committee and such other persons as appear to them to be representative of the interests concerned, in accordance with section 1(2) of that Act, hereby make the following Regulations:

F1 2003 asp 8.

Citation and commencement

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

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires–

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

"agriculture" has the same meaning as in the Agriculture (Scotland) Act 1948 [F2] and "agricultural" shall be construed accordingly;

"boundary" means a boundary between land on which the building is situated and land in different occupation, so however that–

(a) in relation to any road, whether public or private, public access way or public right of way, river, stream, canal, loch, pond, common land or a public open space it should be taken to mean the centre line thereof; and

(b) the sea and its foreshore should not be regarded as land in different occupation;

"building site" means any area of land on which work is, or is to be, carried out;

"different occupation" in relation to two adjoining buildings or parts of one building, means occupation of those buildings by different persons;

"domestic building" means a dwelling or dwellings and any common areas associated with the dwelling;

"dwelling" means a unit of residential accommodation occupied (whether or not as a sole or main residence)–

(a) by an individual or by individuals living together as a family; or

(b) by not more than six individuals living together as a single household (including a household where care is provided for residents),

and includes any surgeries, consulting rooms, offices or other accommodation, of a floor area not exceeding in the aggregate 50 square metres, forming part of a dwelling and used by an occupant of the dwelling in a professional or business capacity;

"flat" means a dwelling on one storey, forming part of a building from some other part of which it is divided horizontally, and includes a dwelling of which the main entrance door and associated hall are on a different storey from the remainder of the dwelling;

"high rise domestic building" means a domestic building with any storey at a height of more than 18 metres above the ground;

"house" means a dwelling on one or more storeys, either detached or forming part of a building from all other parts of which it is divided only vertically;

"maisonette" means a dwelling on more than one storey, forming part of a building from some other part of which it is divided horizontally;

"residential building" means a building, other than a domestic building, having sleeping accommodation;

"residential care building" means a building used, or to be used, for the provision of–

(a) a care home service; or

(b) a school care accommodation service,

and for these purposes the expressions mentioned in sub-paragraphs (a) and (b) above have the same meaning as in the Regulation of Care (Scotland) Act 2001 [F3];

"sanitary facility" includes washbasin, sink, bath, shower, urinal, or watercloset, and in dwellings only, includes a waterless closet;

"sheltered housing complex" means–

(a) two or more dwellings in the same building; or

(b) two or more dwellings on adjacent sites,

where those dwellings are, in each case, designed and constructed for the purpose of providing residential accommodation for people who receive, or who are to receive, a support service; and, for these purposes, "support service" has the same meaning as in the Regulation of Care (Scotland) Act 2001;

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

"storey" means that part of a building which is situated between the top of any floor being the lowest floor level within the storey and the top of the floor next above it being the highest floor level within the storey or, if there is no floor above it, between the top of the floor and the ceiling above it or, if there is no ceiling above it, the internal surface of the roof; and for this purpose a gallery or catwalk, or an open walk floor or storage racking, shall be considered to be part of the storey in which it is situated.

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

(3) In determining what is reasonably practicable for the purposes of these Regulations regard may be had to all the circumstances including the expense involved in carrying out the work.

F2 1948 c. 45.
F3 2001 asp 8.

Exempted buildings and services, fittings and equipment

3.—(1) Regulations 8 to 12 shall not apply to any building or any services, fittings and equipment the whole of which falls into any one or more of the exempted types described in Schedule 1.

(2) The provision of–

(a) services, fittings and equipment to, or the demolition or removal of, exempted buildings is exempt;

(b) services, fittings and equipment to, or the demolition of, exempted services, fittings and equipment is exempt.

(3) For the purposes of this regulation, for the avoidance of doubt, each such exempted type does not include any of the exceptions expressed in relation to that type.

Changes in the occupation or use of a building which cause the regulations to apply

4. For the purposes of section 56 (1) of the Act and these Regulations, the changes in occupation or use of buildings set out in Schedule 2 shall be conversions to the extent specified by regulation 12.

Descriptions of building and work, including the provision of services, fittings and equipment, not requiring a warrant

5. For the purposes of section 8(8) of the Act, any work which consists solely of a building or conversion, including the provision of services, fittings or equipment, of a kind specified in Schedule 3, shall meet the standards required by regulations 8 to 12 but shall not, subject to the exceptions and conditions, require a warrant.

Limited life buildings

6. For the purposes of paragraph 3 of Schedule 1 of the Act (which enables special provision to be made for buildings intended to have a limited life) a period of five years is hereby specified.

Measurements

7. For the purposes of these Regulations, measurements shall be made or calculated in accordance with Schedule 4.

Fitness and durability of materials and workmanship

8.—(1) Work to every building designed, constructed and provided with services, fittings and equipment to meet a requirement of regulations 9 to 12 must be carried out in a technically proper and workmanlike manner, and the materials used must be durable and fit for their intended purpose.

(2) All materials, services, fittings and equipment used to comply with a requirement of regulations 9 to 12 must, so far as reasonably practicable, be sufficiently accessible to enable any necessary maintenance or repair work to be carried out.

Building standards – construction

9. Construction shall be carried out so that the work complies with the applicable requirements of Schedule 5.

Building Standards – demolition

10.—(1) Every building to be demolished must be demolished in such a way that all service connections to the building are properly closed off and any neighbouring building is left stable and watertight.

(2) When demolition work has been completed and, where no further work is to commence immediately, the person who carried out that work shall ensure that the site is–

(a) immediately graded and cleared; or

(b) provided with such fences, protective barriers or hoardings as will prevent access thereto.

Building standards –service, fitting or equipment

11. Every service, fitting or piece of equipment provided so as to serve a purpose of these regulations shall be so provided in such a way as to further those purposes.

Building standards – conversion

12. Conversion shall be carried out so that the building as converted complies with the applicable requirements of Schedule 6.

Provision of protective works

13.—(1) No person shall carry out work unless the following provisions of this regulation are complied with.

(2) Subject to paragraph (3), where work is to be carried out on any building site or building which is within 3.6 metres of any part of a road or other place to which members of the public have access (whether or not on payment of a fee or charge) there shall, prior to commencement of the work, be erected protective works so as to separate the building site or building or that part of the building site or building on which work is to be carried out from that road or other place.

(3) Nothing in paragraph (2) shall require the provision of protective works in any case where the local authority is satisfied that no danger to the public is caused, or is likely to be caused, by the work.

(4) The protective works referred to in the preceding paragraphs are all or any of–

(a) providing hoardings, barriers or fences;

(b) subject to paragraph (5), where necessary to prevent danger, providing footpaths outside such hoardings, barriers or fences with safe and convenient platforms, handrails, steps or ramps, and substantial overhead coverings;

(c) any other protective works which in the opinion of the local authority are necessary to ensure the safety of the public,

all of such description, material and dimensions and in such position as the local authority may direct.

(5) Nothing in paragraph (4)(b) shall require the provision of a platform, handrail, step or ramp–

(a) where no part of the existing footpath is occupied by the protective works or in connection with the work; or

(b) where that part of an existing footpath remaining unoccupied affords a safe means of passage for people, and is of a width of not less than 1.2 metres or such greater width as the local authority may direct.

(6) Any protective works shall be so erected as to cause no danger to the public and shall be maintained to the satisfaction of the local authority.

(7) Subject to paragraph (8) any protective works shall be removed–

(a) in the case of a building which has been constructed by virtue of a warrant, not more than 14 days or such longer period as the local authority may direct from the date of acceptance of the certificate of completion; and

(b) in any other case, on completion of the work.

(8) Nothing in paragraphs (1) to (7) of this regulation shall prohibit the removal of the protective works or any part thereof prior to the completion of the work where the local authority is satisfied that no danger to the public is caused or is likely to be caused as a result of their removal.

(9) Any protective works shall be illuminated, and any such works which project on to or over that part of a road which is not a pavement or footpath shall be provided with such markings, as in the opinion of the local authority are necessary to secure the safety of the public.

(10) Where work has been carried out without the provision of protective works, or where work on a building site has stopped or a building site has been abandoned, a local authority may require the site owner to carry out protective works.

Clearing of footpaths

14. Where any work is being carried out on a building site or building, any neighbouring footpath (including any footpath provided so as to form part of the protective works) shall be regularly cleaned and kept free of building debris and related materials by the person carrying out the work, to the satisfaction of the local authority.

Securing of unoccupied and partly completed buildings

15.—(1) Subject to paragraph (2) a person carrying on work shall ensure that any building which is partly constructed or partly demolished or which has been completed but not yet occupied is, so far as reasonably practicable, properly secured or closed against unauthorised entry at all times when work thereon is not in progress.

(2) Nothing in paragraph (1) shall apply to any work where the local authority is satisfied that adequate supervision of the building is being or will be maintained for the purpose of securing the building.

Relaxations

16. No direction may be given under section 3(2) of the Act in relation to regulations 1 to 3, 5 and 7.

St Andrew's House, Edinburgh
22nd September 2004

MARY MULLIGAN
Authorised to sign by the Scottish Ministers