

Status: Point in time view as at 22/09/2004.

Changes to legislation: There are currently no known outstanding effects for the Building (Scotland) Act 2003. (See end of Document for details)

SCHEDULE 1

(introduced by section 1)

BUILDING REGULATIONS

1 This schedule is without prejudice to the generality of section 1(1).

Commencement Information

I1 Sch. 1 para. 1 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

2 Building regulations may be framed to any extent by reference to a document published by or on behalf of the Scottish Ministers or another person, or by reference to the approval or satisfaction of such person as the regulations may specify.

Commencement Information

I2 Sch. 1 para. 2 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

3 Building regulations may make special provision for buildings intended to have a life not exceeding such period as the regulations may specify.

Commencement Information

I3 Sch. 1 para. 3 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

4 Building regulations may exempt such description of—
(a) buildings,
(b) work or conversions, or
(c) services, fittings or equipment,
as the regulations may specify from all or any of the provisions of the regulations.

Commencement Information

I4 Sch. 1 para. 4 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

5 (1) Building regulations may, for any of the purposes specified in section 1(1)—
(a) make provision as to any of the matters specified in sub-paragraph (2),
(b) require things to be provided or done in connection with buildings (as well as regulating the provision or doing of things in connection with buildings),
(c) specify the manner in which work is to be carried out.
(2) The matters referred to in sub-paragraph (1) are—
(a) preparation of sites,
(b) strength and stability (including the safeguarding of adjacent buildings and services),

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- (c) fire precautions (including resistance of structure to the outbreak and spread of fire, the protection of occupants and means of escape in the event of fire and the provision of facilities to assist firefighting),
- (d) resistance to moisture and decay,
- (e) resistance to the transmission of heat,
- (f) resistance to the transmission of sound,
- (g) durability,
- (h) resistance to infestation,
- (i) drainage,
- (j) ventilation (including the provision of open space for it),
- (k) daylighting (including the provision of open space for it),
- (l) heating and artificial lighting,
- (m) services, fittings and equipment (including broadband communication technology and other electronic communications services, fittings and equipment and services, fittings and equipment for the supply or use of gas or electricity),
- (n) measures to ensure that pipes used in connection with the provision of water for domestic purposes are not fitted in a way that may contribute to the concentration of lead in such water exceeding the limit specified in Table B of Schedule 1 to the Water Supply (Water Quality) (Scotland) Regulations 2001 (S.S.I. 2001/207),
- (o) measures affecting the emission of smoke, gases, fumes, grit, dust or other noxious or offensive substances,
- (p) accommodation and ancillary equipment,
- (q) access, including in particular access for disabled persons,
- (r) suitability for use by disabled persons,
- (s) prevention of danger and obstruction,
- (t) security,
- (u) reuse of building materials.

Commencement Information

I5 Sch. 1 para. 5 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

SCHEDULE 2

(introduced by section 7)

VERIFIERS AND CERTIFIERS

VALID FROM 04/11/2004

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| 1 | A verifier or certifier is appointed under section 7(1) for such period, and holds the appointment on such terms, as the appointment may specify. |
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VALID FROM 04/11/2004

- 2 An appointment may be made subject to such limitations as the Scottish Ministers may impose, which may be framed by reference to area, description of building, cost of building or building work or any other factor whatsoever.
- 3 Despite paragraph 1, an appointment may be varied or terminated on such grounds as may be specified in procedure regulations.

Commencement Information

- I6** Sch. 2 para. 3 in force at 22.9.2004 for specified purposes and 4.11.2004 in so far as not already in force by S.S.I. 2004/404, art. 2(2)(3), Schs. 1, 2

VALID FROM 04/11/2004

- 4 A person who is a certifier by virtue of membership of a scheme approved under section 7(2) is entitled to exercise the functions of a certifier subject to—
- (a) such limitations as are imposed in relation to the scheme under section 7(3), and
 - (b) any limitations contained in the scheme.

VALID FROM 01/05/2005

- 5 When the appointment of a verifier (the “former verifier”) terminates, for whatever reason, the Scottish Ministers must direct another verifier (the “successor verifier”) to deal with—
- (a) any application made to the former verifier under section 9 for a building warrant or an amendment to a building warrant, so far as undetermined at the time when the appointment terminated,
 - (b) any completion certificate submitted to the former verifier and not accepted or rejected under section 18 at the time when the appointment terminated, and
 - (c) any completion certificate submitted after the time when the appointment terminated and relating to work or a conversion in respect of which a building warrant was granted by the former verifier;
- and from the date of the direction references in this Act or subordinate legislation made under it to the verifier are to be read as references to the successor verifier.

VALID FROM 01/05/2005

- 6 A verifier is not entitled to exercise any functions as such under this Act in relation to any matter in respect of which it has, as an approved certifier of design or an approved certifier of construction, issued a certificate under section 11(1) or, as the case may be, 19(1).

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VALID FROM 01/05/2005

7 An approved certifier of design is not entitled to issue a certificate under section 11(1) in relation to any matter in respect of which it has exercised or is exercising any function as a verifier under this Act.

VALID FROM 01/05/2005

8 An approved certifier of construction is not entitled to issue a certificate under section 19(1) in relation to any matter in respect of which it has exercised or is exercising any function as a verifier under this Act.

VALID FROM 01/05/2005

9 A verifier is not entitled to exercise any function as such under this Act in relation to a building in which it has an interest unless the Scottish Ministers authorise it to do so by a direction under this paragraph.

VALID FROM 01/05/2005

10 Such a direction may be given to a particular verifier or to verifiers of a particular description and may be given in respect of all the functions of the verifiers to which it applies or such descriptions of those functions (determined by reference to any criteria whatsoever) as the direction may specify.

11 For the purposes of paragraph 9, a verifier has an interest in a building if it is an owner, tenant or occupier of the building or if it has such other interest in or in connection with the building as may be specified in procedure regulations.

Commencement Information

I7 [Sch. 2 para. 11](#) in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), [Sch. 1](#)

12 Such regulations may specify different such interests in relation to different verifiers or different descriptions of verifier.

Commencement Information

I8 [Sch. 2 para. 12](#) in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), [Sch. 1](#)

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SCHEDULE 3

(introduced by section 33)

PROCEDURE REGULATIONS: PARTICULAR MATTERS

- 1 The submission to a verifier along with any application for a building warrant or an amendment to a building warrant of plans, specifications, estimates of costs and other information, and the availability of such documents and information to interested persons.

Commencement Information

- I9** Sch. 3 para. 1 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

- 2 The submission to a verifier along with a completion certificate of documents and information.

Commencement Information

- I10** Sch. 3 para. 2 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

- 3 Consultation by verifiers.

Commencement Information

- I11** Sch. 3 para. 3 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

- 4 The statement by local authorities and verifiers of reasons for their decisions.

Commencement Information

- I12** Sch. 3 para. 4 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

- 5 The maintenance by local authorities and verifiers of records of—
(a) applications (including the plans, other documents and information specified in paragraph 1), and
(b) decisions on applications,
and the availability of such records for public inspection.

Commencement Information

- I13** Sch. 3 para. 5 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

- 6 The duration of the validity of building warrants.

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Commencement Information

I14 Sch. 3 para. 6 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

7 The notification to local authorities and verifiers of the dates of commencement and completion of work carried out in pursuance of building warrants.

Commencement Information

I15 Sch. 3 para. 7 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

8 The maintenance by certifiers of records of certificates issued by them (including any plans relating to the certificates and such other documents or information in relation to the certificates as the regulations may specify).

Commencement Information

I16 Sch. 3 para. 8 in force at 22.9.2004 for specified purposes and 1.5.2005 in so far as not already in force by S.S.I. 2004/404, art. 2(1)(2), Sch. 1

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SCHEDULE 4

(introduced by section 39)

POWERS OF ENTRY, INSPECTION AND TESTING: FURTHER PROVISION

- 1 (1) Entry into any premises by virtue of section 39(1) or (3) may be demanded only at a reasonable time.
- (2) The Scottish Ministers or, as the case may be, the local authority must give 3 days' notice of the intended entry to the occupier and, if the owner is known, the owner of the premises.
- (3) Sub-paragraphs (1) and (2) do not apply where the case is one of urgency.
- 2 (1) If a sheriff or justice of the peace is satisfied, by evidence on oath, that—
- (a) there are reasonable grounds for the exercise in relation to any premises of a power conferred by section 39(1) or (3), and
- (b) one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to those premises,
- the sheriff or justice may by warrant authorise the Scottish Ministers or, as the case may be, the local authority and any person authorised by them or it for the purpose to exercise the power in relation to those premises in accordance with the warrant and, if need be, by force.
- (2) The conditions mentioned in sub-paragraph (1) are—
- (a) that the exercise of the power in relation to the premises has been refused,

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- (b) that such a refusal is reasonably apprehended,
 - (c) that the premises are unoccupied,
 - (d) that the occupier is temporarily absent from the premises,
 - (e) that the case is one of urgency,
 - (f) that an application for admission to the premises would defeat the object of the proposed entry.
- (3) A sheriff or justice must not issue a warrant under this schedule by virtue only of being satisfied that a condition specified in sub-paragraph (2)(a) or (b) is fulfilled unless the sheriff or justice is also satisfied—
- (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises, or
 - (b) that the giving of such notice would defeat the object of the proposed entry.
- (4) A warrant under this schedule continues in force until the purpose for which the warrant was issued has been fulfilled or, if earlier, the expiry of such period as the warrant may specify.
- 3 A person entitled to exercise any power conferred by section 39(1) or (3) must, if required to do so, produce written evidence of that entitlement.
- 4 A person who enters any premises in the exercise of any power conferred by section 39(1) or (3) is entitled, subject in the case of a power exercisable under a warrant to the terms of the warrant, to take on to the premises such other persons and such equipment as may be necessary.
- 5 A person who enters any premises in the exercise of any power conferred by section 39(1) or (3) must leave the premises as effectually secured against unauthorised entry as that person found them.
- 6 A person who enters any premises in the exercise of any power conferred by section 39(1) or (3) and who makes use of or discloses any information obtained by that person on those premises with regard to any manufacturing process or trade secret is guilty of an offence.

VALID FROM 01/05/2005

SCHEDULE 5

(introduced by section 42)

EVACUATION OF BUILDINGS

- 1 This schedule applies for the purpose of securing the removal from a building of any occupant who has failed to remove from a building following a requirement under section 42 to do so.
- 2 The local authority may apply to the sheriff—
- (a) where the requirement was made under subsection (1) or (2) of section 42, at any time,
 - (b) where the requirement was made under subsection (3) or (4) of that section, on the expiry of the period specified in the requirement,

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| | for a warrant for the ejection of any occupants who have not removed from the building. |
| 3 | Such an application must be accompanied by a certificate signed by the local authority and certifying— <ul style="list-style-type: none"> (a) where removal was required under subsection (1) of section 42, that the occupants of the building (whether the dangerous building or an adjacent building) are endangered by the state of the dangerous building, (b) where removal was required under subsection (2)(a) of that section, that the local authority intends to demolish the building, (c) where removal was required under subsection (2)(b) of that section, that the local authority intends to carry out work under section 29(2) or (3) and considers that the occupants may be endangered by the carrying out of the work, (d) where removal was required under subsection (3) of that section, that the building is to be demolished in pursuance of a dangerous building notice, (e) where removal was required under subsection (4) of that section, that the local authority intends to carry out work under a provision specified in paragraph (a) of that subsection and considers that the occupants may be endangered by the carrying out of that work. |
| 4 | On such an application, the sheriff may require— <ul style="list-style-type: none"> (a) in a case referred to in paragraph 2(a), the service of notice, (b) in a case referred to in paragraph 2(b), the service of additional notice, on the occupants. |
| 5 | Except in a case where removal was required under section 42(4), the sheriff must, within the period of 7 days from the date of the application or, if notice (or, as the case may be, additional notice) was required under paragraph 4, the date of service of that notice, grant warrant of ejection. |
| 6 | On an application in a case where removal was required under section 42(4), the sheriff may, if satisfied that it is reasonable to do so, grant warrant of ejection. |
| 7 | The decision of the sheriff on the application is final. |
| 8 | In proceedings under this schedule a certificate— <ul style="list-style-type: none"> (a) referred to in paragraph 3, or (b) signed by the local authority and certifying that any notice required by section 42(5), or any notice or additional notice required under paragraph 4, has been given to all known occupants of the building, is sufficient evidence of the facts stated in the certificate. |
| 9 | If a person removing from a building in compliance with a requirement under section 42 or ejected from a building under this schedule is a tenant of the building the tenancy, if the tenant so chooses, is to be taken not to have terminated, varied or altered by reason of the removal or ejection. |
| 10 | But the tenant is not liable for rent in respect of any period for which the tenant is not in lawful occupation of the building (or the part of it which the tenant previously occupied). |
| 11 | If the tenant resumes lawful occupation, the same terms and conditions apply (except so far as otherwise agreed) in respect of that occupation as applied in respect of the previous occupation. |

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| 12 | In paragraphs 10 and 11, “lawful” occupation means occupation which is not an offence under section 43(1). |
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VALID FROM 01/05/2005

SCHEDULE 6
(introduced by section 58)

MODIFICATION OF ENACTMENTS

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Status:

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