

## **POLICY NOTE**

### **THE BUILDING (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2017**

#### **SSI 2017/188**

1. The above instrument was made in exercise of the powers conferred by sections 1, 8(8), 33, 36, 38 and 54(2) of the Building (Scotland) Act 2003. The instrument is subject to negative procedure.

#### **Background**

2. The SSI amends the Building (Scotland) Regulations 2004 which prescribe functional standards to apply to the design, construction or demolition of a building, the provision of services, fittings or equipment in or in connection with a building, and the conversion of a building.
3. The SSI also makes amendments to the Building (Procedure) (Scotland) Regulations 2004, the Building (Fees) (Scotland) Regulations 2004 and the Building (Forms) (Scotland) Regulations 2005.
4. The Building (Miscellaneous Amendments) (Scotland) Regulations 2017 will come into force on 1 July 2017.

#### **Policy Objectives**

5. The SSI is required to implement changes to building standards procedures for the digital processing of building warrant applications and completion certificate submissions. This includes allowing documents to be transferred by downloading from a website.
6. The SSI is required to include a new description of building and work that does not require a building warrant into schedule 3 to regulation 5 of building regulations. New Type 23A covers detached single-storey buildings used for shelter or sleeping in connection with recreation. The type has a number of limitations which include a maximum floor area of 30 square metres, minimum distance to a boundary or other buildings, and maximum floor area of any gallery or galleries. A building warrant would be required if the limitations are not met.
7. Although the new Type 23A does not require a building warrant, construction must meet the requirements of standards 1.1, 3.17 to 3.22 and 4.4 of schedule 5 as provided for by changes to regulation 9 of the building regulations. These cover building structure, combustion appliances and pedestrian protective barriers at changes in level.
8. The SSI is required to implement changes to building warrant related fees. These include increases to fixed fees and the incremental fee steps that relate to the value of the work, and fees for work or a conversion done without a building warrant. Also increases to the discounts that apply when using an approved certifier of design or construction.
9. The changes should generate £3.5 million additional fee income. The key features are –

<b>Application type</b>	<b>Change to Fee</b>
<b>Application for building warrant with a minimum value of up to £5,000</b>	Increase the minimum fee from £100 to £150.
<b>Application for building warrant with a value of £5,001 and up to £10,000</b>	Increase the incremental step by £4 (£15 to £19).
<b>Application for building warrant with a value of £10,001 or more up to £20,000</b>	Increase the incremental step by £4 (£15 to £19).
<b>Application for building warrant with a value of £20,001 or more up to £100,000</b>	Increase the incremental step by £3 (£60 to £63).
<b>Application for building warrant with a value of £100,001 or more up to £500,000</b>	Increase the incremental step by £3 (£100 to £103).
<b>Application for building warrant with a value of £500,001 or more up to £1,000,000</b>	Increase the incremental step by £3 (£175 to £178).
<b>Application for building warrant with a value of £1000,001 or more</b>	Increase the incremental step by £3 (£250 to £253).
<b>Application for a conversion only</b>	Increase the fixed fee from £100 to £150.
<b>Application to extend the validity of a building warrant (beyond 3 years)</b>	Increase the fixed fee from £50 to £100.
<b>Application for amendment to building warrant (value of additional work up to £5,000)</b>	Increase the minimum fee from £50 to £100.
<b>Application for amendment to building warrant for conversion or demolition only</b>	Increase the fixed fee from £50 to £100.
<b>Application for a building warrant to demolish only</b>	Increase the fixed fee from £100 to £150.
<b>Applications for late building warrants</b>	Increase fee from 125% to 200% of the normal BW fee.
<b>Application for late warrant for demolitions only</b>	Increase fee from £125 to £200.
<b>Submission of a completion certificate where no warrant was obtained for construction of a building or the provision of services, fittings or equipment</b>	Increase fee from 125% to 300% of the normal BW fee.
<b>Submission of a completion certificate where no warrant was obtained for demolition or conversion</b>	Increase fee from £125 to £300.

10. A building warrant applicant is entitled to a discount if they provide a certificate from an approved certifier of design with their application. The SSI implements a change to allow the discount when the applicant advises in writing that they intend to submit a certificate after they have made their application but before the building warrant is granted.

<b>Certificates</b>	<b>Change to Discounts</b>
<b>Certifiers of design</b>	Discount retained at 10%, with discounts for up to £100,000 value of work increased by introducing minimum fixed amounts.
<b>Certifiers of construction</b>	Discount increased from 1% to 3% with discounts for up to £100,000 value of work increased by introducing minimum fixed amounts.

11. The SSI is also required to implement changes to forms regulations for the digitisation of building warrant and completion certificate processes and other minor textual changes.

## Consultation

12. To comply with section 1(2) of the Building (Scotland) Act 2003 consultation with interested persons has been carried out. The amendments made by the Regulations were the subjects of separate public consultations. The first from 6 November 2015 to 12 February 2016 and the second from 15 November 2016 to 9 January 2017.
13. The consultations ‘Regulatory Concessions for Huts and Bothies’ and ‘Building Warrant Fees’ were notified to over 500 identified organisations and individuals, promoted on the SG Building Standards website and highlighted in the SG Building Standards newsletter issued to over 8,000 registered e-news recipients. The notifications included a wide range of professional organisations and institutions, construction research bodies, designers, house builders, technical specialists and those public bodies responsible for the administration and enforcement of the building standards system.
14. The consultation responses reports and the lists of those consulted are published on the Scottish Government website.

## Impact Assessment

15. Business Regulatory (BRIA), Equality (EQIA) and Strategic Environmental (SEA) impact assessments have been carried out and there are no impact issues.

## Financial effects

16. The BRIAs have been completed and for a detailed assessment of the financial effects, it will be necessary to scrutinise the Costs and Benefits sections within each one.

<b>Examples of Changes to Building Warrant Fees (undiscounted and fully discounted)</b>			
<b>Value of Work</b>	<b>Project Type</b>	<b>Pre-2017 Fee</b>	<b>2017 Fee</b>
<b>£5,000</b>	<b>Alterations (house)</b>	<b>£100</b>	<b>£150</b>
	(If certified under current schemes)	(£78)	(£60)
<b>£20,000</b>	<b>Extension (small)</b>	<b>£400</b>	<b>£530</b>
	(If certified under current schemes)	(£312)	(£350)
<b>£50,000</b>	<b>Extension (large)</b>	<b>£580</b>	<b>£719</b>
	(If certified under current schemes)	(£452)	(£449)
<b>£120,000</b>	<b>House (small)</b>	<b>£980</b>	<b>£1,137</b>
	(If certified under current schemes)	(£764)	(£841)
<b>£500,000</b>	<b>House (large)</b>	<b>£2,880</b>	<b>£3,094</b>
	(If certified under current schemes)	(£2,246)	(£2,290)
<b>£1,000,000</b>	<b>Commercial</b>	<b>£4,630</b>	<b>£4,874</b>
	(If certified under current schemes)	(£3,611)	(£3,607)
<b>£3,000,000</b>	<b>Commercial (large)</b>	<b>£9,630</b>	<b>£9,934</b>
	(If certified under current schemes)	(£7,511)	(£7,351)

**Scottish Government**  
**Local Government and Communities Directorate**  
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