



# Building (Scotland) Act 1959 (repealed)

1959 CHAPTER 24 7 and 8 Eliz 2

## PART I

### BUILDINGS AUTHORITIES

1 .....<sup>F1</sup>

#### Textual Amendments

**F1** Ss. 1, 2(1)—(3), 6(8)(a)(9)(b), 9(7)(8), 18(2), 21, 27, 29(6)(7)(9), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

2 **General provisions relating to [<sup>F2</sup>local authorities.]**

(1) .....<sup>F3</sup>

[<sup>F4</sup>(4) The Secretary of State may by regulations make provision with respect to the procedure of local authorities in the exercise of their jurisdiction and functions under this Act; and such regulations may in particular provide for the matters specified in Schedule 3 to this Act.]

(5) Regulations made under this section may provide for a combination in one document of—

- (a) any application required or authorised under this Act to be made, and
- (b) any application such as is mentioned in subsection (2) of section ninety-eight of the <sup>M1</sup>Town and Country Planning (Scotland) Act, 1947;

for the making of such combined application in such form and manner, and to such authority, as may be prescribed by the regulations; and for the transmission of copies of the application by that authority to such other authorities or persons as may be so prescribed.

*Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Building (Scotland) Act 1959 (repealed). (See end of Document for details)*

- (6) Subsections (3) and (4) of the said section ninety-eight shall have effect in relation to regulations made under the last foregoing subsection as they have effect in relation to regulations made under subsection (2) of the said section ninety-eight.

#### Textual Amendments

- F2** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 15 para. 1**
- F3** [Ss. 1, 2\(1\)—\(3\), 6\(8\)\(a\)\(9\)\(b\), 9\(7\)\(8\), 18\(2\), 21, 27, 29\(6\)\(7\)\(9\)](#), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F4** [S. 2\(4\)](#) substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 15 para. 3(b)**

#### Marginal Citations

- M1** 1947 c. 53.

## PART II

### BUILDING STANDARDS AND BUILDING OPERATIONS

#### 3 Building standards regulations.

- (1) For the purposes of this Act the Secretary of State may (subject to the subsequent provisions of this Act) by regulations prescribe standards (expressed in terms of performance, types of material, methods of construction or otherwise) in relation to any or all of the matters specified in the Fourth Schedule to this Act, and such other matters relating to buildings as appear to him after consultation with the Building Standards Advisory Committee to be relevant to the said purposes.

Regulations made under this subsection are in this Act referred to as “building standards regulations”, and references to the building standards regulations in relation to a building of any particular class are references to so much of the regulations as apply to a building of that class.

- (2) The standards prescribed under the foregoing subsection shall be such as in the opinion of the Secretary of State can reasonably be expected to be attained in buildings of the classes to which they relate, having regard to the need for securing the health, safety [<sup>F5</sup>welfare] and convenience of the persons who will inhabit or frequent such buildings and the safety of the public generally [<sup>F6</sup>and for furthering the conservation of fuel and power.]
- (3) Without prejudice to the generality of the foregoing provisions of this section building standards regulations may—
- (a) prescribe different standards for buildings of different classes;
  - (b) make special provision for buildings intended to have a life not exceeding such period, being a period of ten years or less, as may be specified in the regulations;
  - (c) provide for buildings constructed with materials of such types or by such methods of construction as may be specified in the regulations to be deemed to satisfy such standards as may be so specified in relation to those types of material, or, as the case may be, those methods of construction.

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- [<sup>F7</sup>(d) be framed to any extent by reference to a document published by or on behalf of the Secretary of State or any other person.]
- (4) Building standards regulations shall not apply to—
- (a) buildings belonging to, or in the occupation of, the United Kingdom Atomic Energy Authority, being buildings other than dwelling houses or offices; or
  - (b) buildings of such other classes as may be specified in the regulations as exempted classes [<sup>F8</sup>, to such extent as may be specified in the regulations].
- (5) For the purposes of this Act and any regulations made thereunder buildings may be classified by reference to size, description, design, purpose, location or any other characteristic whatsoever.
- [<sup>F9</sup>(6) Before making regulations under this section (except regulations to be made for the purpose only of consolidating other regulations revoked thereby) 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.]
- [<sup>F10</sup>(7) The Secretary of State may by order made by statutory instrument repeal or modify any enactment to which this subsection applies if it appears to him that the enactment is inconsistent with, or is unnecessary or requires alteration in consequence of, any provision contained in the building standards regulations.
- This subsection applies to any enactment contained in any Act passed before or in the same Session as the <sup>M2</sup>Health and Safety at Work etc. Act 1974 other than an enactment contained in the Building (Scotland) Act 1959.]

#### Textual Amendments

- F5** Words inserted by Health and Safety at Work etc. Act 1974 (c. 37), **Sch. 7 para. 6**
- F6** Words added by Health and Safety at Work etc. Act 1974 (c. 37), **Sch. 7 para. 1(a)**
- F7** S. 3(3)(d) added by Health and Safety at Work etc. Act 1974 (c. 37), **Sch. 7 para. 1(b)**
- F8** Words inserted by Housing (Scotland) Act 1986 (c. 65, SIF 61), **s. 19(2)**
- F9** S. 3(6) substituted by Building (Scotland) Act 1970 (c. 38), **s. 1**
- F10** S. 3(7) added by Health and Safety at Work etc. Act 1974 (c. 37), **Sch. 7 para. 1(c)**

#### Modifications etc. (not altering text)

- C1** S. 3(3)(b) amended (1.4.1991) by S.I. 1990/2179, **reg. 5**

#### Marginal Citations

- M2** 1974 c. 37.

#### [<sup>F11</sup>4 **Relaxation of building standards regulations.**

- (1) Subject to the provisions of this section, if in relation to any particular building or any class of building it appears to the Secretary of State that it is unreasonable that any provision of the building standards regulations (being a provision which apart from this section applies, or by reason of a proposed change of use will apply, to that building or class of building) should apply to the building or class of building, or should so apply without relaxation, he may—
- (a) in the case of a particular building, on an application made to him in that behalf give a direction dispensing with or relaxing that provision in relation to that building;

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- (b) in the case of a class of building, either on an application made to him in that behalf or of his own accord give a direction dispensing with or relaxing that provision generally in relation to that class of building.
- (2) If the Secretary of State by regulations so provides as regards any provision of the building standards regulations, the power to dispense with or relax that provision under subsection (1)(a) above shall be exercisable by buildings authorities instead of by the Secretary of State:  
 Provided that any regulations made by virtue of this subsection [<sup>F12</sup>may except applications of any description.]
- (3) A direction under this section shall not be given in respect of any provision of the building standards regulations which is described in those regulations as not being subject to a direction under this section.
- (4) Subject to subsection (5) below, a direction under this section may be given either unconditionally or subject to such conditions specified in the direction as appear to the Secretary of State or, as the case may be, the buildings authority to be required as a direct result of the dispensation or relaxation, not being conditions by virtue of which the direction is to cease to have effect in whole or in part, or an obligation to carry out any operations is to arise for any person, either—
- (a) on a fixed date, or
  - (b) on, or on a date fixed by reference to, the occurrence of any event.
- [ A direction under subsection (1)(b) above—
- <sup>F13</sup>(5) (a) shall, if it so provides, cease to have effect at the end of such period as may be specified in the direction;
- (b) may be varied or revoked by a subsequent direction of the Secretary of State.
- (5A) If at any time a direction under subsection (1)(b) above ceases to have effect by virtue of subsection (5)(a) above or is varied or revoked under subsection (5)(b) above, that fact shall not affect the continued operation of the direction (with any conditions specified therein) in any case in which before that time an application for a warrant in connection with the construction or change of use of a building, part or all of which is of the class to which the direction relates, was, in accordance with regulations made under section 2 of this Act, lodged with a buildings authority.]
- (6) Before giving a direction under subsection (1)(b) [<sup>F14</sup>or (5)(b)] above the Secretary of State shall consult the Building Standards Advisory Committee.
- (7) The Secretary of State shall notify all [<sup>F15</sup>local authorities] of the giving of a direction under subsection (1)(b) [<sup>F14</sup>or (5)(b)] above and shall at the request of any [<sup>F15</sup>local authority] make available to the authority a copy of any such direction without charge.
- [ A person making an application under subsection (1)(b) above shall pay to the
- <sup>F16</sup>(7A) Secretary of State such fee as may be prescribed; and regulations made by virtue of this subsection may prescribe different fees for different cases:  
 Provided that the Secretary of State may in any particular case remit the whole or part of any fee payable by virtue of this subsection.]
- (8) The Secretary of State may make regulations with respect to the procedure to be followed in connection with applications and directions under this section and with appeals under section 4A of this Act.

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- (9) Unless the context otherwise requires, references in this or any other enactment (whether passed or made before or after the passing of this Act) to building standards regulations shall, in relation to any building or class of building with respect to which a direction under this section or section 4A(3) of this Act is for the time being in force, be construed as references to the said regulations as, subject to that direction, they apply to that building or class of building.]

#### Textual Amendments

- F11** Ss. 4, 4A substituted for s. 4 by Building (Scotland) Act 1970 (c. 38), s. 2
- F12** Words substituted by Local Government (Scotland) Act 1973 (c. 65), Sch. 15 para. 4
- F13** S. 4(5), (5A) substituted for s. 4(5) by Health and Safety at Work etc. Act 1974 (c. 37), Sch. 7 para. 2(a)
- F14** Words inserted by Health and Safety at Work etc. Act 1974 (c. 37), Sch. 7 para. 2(b)
- F15** Words substituted by Local Government (Scotland) Act 1973 (c. 65), Sch. 15 para. 1
- F16** S. 4(7A) added (prosp.) by Health and Safety at Work etc. Act 1974 (c. 37), s. 85(2), Sch. 7 para. 2(c)

#### 4A Appeal against decision of [F17]local authority] in application for relaxation of building standards regulations.

- (1) If a [F17]local authority]—
- refuse an application to dispense with or relax any provision of the building standards regulations which they have power to dispense with or relax, or
  - grant such an application subject to conditions,
- the applicant may, within such period from the date on which the [F17]local authority] notify him of their decision as may be prescribed by regulations made under section 4(8) of this Act, appeal to the Secretary of State against the refusal or, as the case may be, against any of the said conditions.
- (2) If within such period as may be prescribed by regulations made under the said section 4(8), or within such extended period as may at any time be agreed in writing between the applicant and the [F17]local authority], the [F17]local authority] do not notify the applicant of their decision on the application, subsection (1) above shall apply in relation to the application as if the [F17]local authority] had refused the application and notified the applicant of their decision on the last day of the said period.
- (3) On any appeal under this section, the Secretary of State may either—
- confirm the decision of the [F17]local authority], or
  - substitute for that decision such other decision as seems to him proper, and for that purpose give any such direction as he might have given if the [F17]local authority] had not had power to dispense with or relax the provision in question and the application had been made to him under section 4(1)(a) of this Act.

#### Textual Amendments

- F17** Words substituted by Local Government (Scotland) Act 1973 (c. 65), Sch. 15 para. 1

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**[<sup>F18</sup>4B Class warrants.**

- (1) The following provisions of this section shall have effect with a view to enabling the Secretary of State, on an application being made to him under this section, to issue a certificate (to be known as a “class warrant”) that a particular design (including specification of materials) of building conforms, either generally or in any class of case, to particular provisions of the building standards regulations.
- (2) A person intending to apply for a class warrant under this section shall send a copy of the prospective application in the prescribed manner to a body designated by the Secretary of State which, if it is satisfied that the design in respect of which the warrant is sought conforms to the building standards regulations, shall recommend that the class warrant be issued.
- (3) An application to the Secretary of State for a class warrant under this section shall be made in the prescribed manner and shall be accompanied by a relevant recommendation made under subsection (2) above.
- (4) The Secretary of State may, where a recommendation under subsection (2) above is made in respect of a design of building, issue a class warrant in respect of that design; and a class warrant so issued shall be accepted by a local authority as conclusive of the matters stated therein.
- (5) A body designated under subsection (2) above may charge such a fee for considering a design in respect of which a copy application has been sent to it under that subsection as may be agreed between the applicant and the body.
- (6) A class warrant shall, if it so provides, cease to have effect at the end of such period as may be specified in it.
- (7) The Secretary of State may at any time vary or revoke a class warrant; but before doing so he shall give the person on whose application it was issued reasonable notice that he proposes so to do.
- (8) Where the Secretary of State varies or revokes a class warrant he shall publish notice of that fact in such manner as he thinks fit.
- (9) There may be prescribed—
  - (a) the type, part or parts of building to which the provisions of this section shall apply;
  - (b) the terms and conditions on which a class warrant may be issued;
  - (c) procedures incidental to any provisions of this section;
  - (d) the fee, if any, to be charged for issuing a class warrant;
  - (e) any variations in the design of building which will be permitted.
- (10) Where a fee is chargeable by virtue of subsection (9)(d) above, the regulations under which it is chargeable may make different provision (which, without prejudice to the generality of this subsection, may include provision for remission of the fee in whole or in part) for—
  - (a) different cases or classes of case; or
  - (b) different circumstances or classes of circumstances,(difference being determined by reference to any factor or factors whatsoever).]

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### Textual Amendments

**F18** S. 4B substituted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\), s. 19\(3\)](#)

## 5 Building operations regulations.

- (1) The Secretary of State may make such regulations (in this Act referred to as “building operations regulations”) for the conduct of operations for the construction, repair, maintenance or demolition of buildings as he considers expedient to secure the safety of the public; and regulations under this subsection may make different provision for different classes of operations.
- (2) Any person who contravenes any provision of the building operations regulations shall be guilty of an offence against this Act.

## 6 Application of building standards regulations and building operations regulations to construction or demolition, and to change of use, of buildings.

- (1) No person shall—
  - (a) in any place conduct any operations for the construction or demolition of a building of a class to which the building standards regulations apply, or
  - (b) change the use of any building.unless there has been obtained from the [<sup>F19</sup>local authority] a warrant for the construction, demolition or change of use, as the case may be, and any person who contravenes this subsection shall be guilty of an offence against this Act:  
Provided that nothing in this subsection shall apply to any operations for the alteration of a building which consist solely of the fitting of a fixture of any such kind as may be prescribed for the purposes of this subsection.
- (2) A [<sup>F19</sup>local authority] shall, subject to subsection (8) of this section, [<sup>F20</sup>and to section 6A of this Act] grant a warrant such as is mentioned in the foregoing subsection on application being made therefor in the prescribed manner—
  - (a) in the case of a warrant for the construction or demolition of a building, if, but only if, they are satisfied that the operations involved will be conducted in accordance with the building operations regulations, and (in the case of operations for the construction of a building) that nothing in any plan, specification or other information submitted with the application shows that the building when constructed will fail to conform to the building standards regulations; and
  - (b) in the case of a warrant for the change of use of a building, if, but only if, they are satisfied that after the change of use the building will conform to so much of the building standards regulations as will become applicable, or will apply more onerously, to the building by reason of the change of use.
- (3) A warrant for the construction of a building shall be subject to the condition that the building shall be constructed as described in the warrant (including any relative plans and specifications) and in accordance with the building standards regulations, and, in a case where a direction has been given [<sup>F21</sup>under—
  - (a) section 4 or 4A(3) of this Act, subject also to the condition that such conditions, if any, as are specified in the direction are observed;

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- (b) section 6A(7) of this Act, subject also to the condition that such requirements as are specified in the direction are complied with.]

[<sup>F22</sup>(3A) Notwithstanding that a [<sup>F19</sup>local authority] are not satisfied that the information submitted to them with an application for a warrant for the construction of a building is sufficient in respect of such stage in the construction as may be prescribed to show that the building when constructed will not fail to conform to the building standards regulations, they may grant a warrant for the construction of the building but subject to the condition that work on such prescribed stage shall not be proceeded with until such further information relating to that stage as they may require is submitted to them and until they have made an amendment to the terms of the warrant authorising such work to proceed:

Provided that they shall, subject to subsection (8) of this section, make such an amendment on application being made therefor in the prescribed manner only if they are satisfied that nothing in the information submitted to them in respect of the prescribed stage shows that that stage when constructed will fail to conform to the building standards regulations.]

- (4) In relation to a building to be constructed in accordance with any special provisions of the building standards regulations relating to buildings intended to have a limited life (as mentioned in paragraph (b) of subsection (3) of section three of this Act) any application for a warrant shall state the period of intended life of the building (being not greater than that specified in the said provisions of the building standards regulations) and, without prejudice to the last foregoing subsection and subject to the next following subsection, the warrant shall be subject to the condition that the building will be demolished on or before the expiration of the period so stated.
- (5) Where a warrant contains such a condition as is mentioned in the last foregoing subsection application may be made to the [<sup>F19</sup>local authority], before the expiration of the period specified in the warrant, for an extension of the said period and the authority may, if they are satisfied that it is proper to do so, having regard to the special provisions mentioned in the last foregoing subsection, extend the period, and further extend it from time to time, so however that no such extension by itself shall exceed the period for the time being specified in the said provisions in the building standards regulations.
- (6) A warrant for the demolition of a building shall be subject to the condition that the demolition shall be completed within such period from the commencement of the operations for the demolition as may be specified in the warrant.
- (7) If, after a warrant has been granted for the construction of a building and before any certificate of completion has been granted in respect of the building, the person holding the warrant desires to deviate from any plans or specifications to which he is required by the warrant to adhere he may apply to the [<sup>F19</sup>local authority] for an amendment of the terms of the warrant to cover the proposed deviation, and that authority shall then (subject to the next following subsection) make the amendment if, but only if, they are satisfied that the proposed deviation is in conformity with the building standards regulations.
- (8) Notwithstanding anything in this section it shall be competent for—
- (a) . . . . <sup>F23</sup>
- [<sup>F24</sup>(b) any [<sup>F19</sup>local authority] to refuse to grant a warrant (or an amendment of the terms of a warrant) if the application for it has not been duly made in the prescribed manner, or



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- (c) any [<sup>F19</sup>local authority] to refuse to grant a warrant (or an amendment of the terms of a warrant), where the application relates to an extension to, or alteration of, a building, if they consider—
- (i) in the case of a building which at the time of the application conformed to the building standards regulations, that as a direct result of the extension or, as the case may be, the alteration the building as extended or altered will fail to conform to the said regulations, or
  - (ii) in the case of a building which at the time of the application failed to conform to the building standards regulations, that as a direct result of the extension or, as the case may be, the alteration, the building as extended or altered will fail to conform to the said regulations to a greater degree than that to which it failed to conform at the time of the application.]

and nothing in this section shall be taken to prejudice the operation of . . .  
<sup>F25</sup><sup>F26</sup>section 33 of the <sup>M3</sup>Civil Defence Act 1939, section 10 of the <sup>M4</sup>Clean Air Act 1956] or sections two, three, or six of the <sup>M5</sup>Thermal Insulation (Industrial Buildings) Act 1957 (which sections in their application to Scotland relate to the power of [<sup>F19</sup>local authorities] to refuse to grant warrants in certain circumstances).

- (9) Where under any provision of this Act or any other enactment a person is required or authorised—
- (a) by a [<sup>F19</sup>local authority] to carry out any operations for the construction or demolition of any building, . . . <sup>F27</sup>
  - (b) . . . . <sup>F23</sup>
- a warrant shall be deemed to have been granted in respect of the construction or, as the case may be, the demolition.
- (10) For avoidance of doubt it is hereby declared that, in respect of any building, subsection (1) of this section applies to any such deviation as is mentioned in subsection (7) of this section as it applies to the construction of the building.

#### Textual Amendments

- F19** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 1](#)
- F20** Words inserted by [Building \(Scotland\) Act 1970 \(c. 38\), Sch. 1 Pt. I para. 1\(a\)](#)
- F21** Words substituted by [Building \(Scotland\) Act 1970 \(c. 38\), Sch. 1 Pt. I para. 1\(b\)](#)
- F22** [S. 6\(3A\)](#) added by [Health and Safety at Work etc. Act 1974 \(c. 37\), Sch. 7, para. 4\(a\)](#)
- F23** [Ss. 1, 2\(1\)—\(3\), 6\(8\)\(a\)\(9\)\(b\), 9\(7\)\(8\), 18\(2\), 21, 27, 29\(6\)\(7\)\(9\)](#), [Schs. 1, 2, 8, 9 paras. 2, 3](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F24** [S. 6\(8\)\(b\)\(c\)](#) substituted for [s. 6\(8\)\(b\)](#) by [Building \(Scotland\) Act 1970 \(c. 38\), s. 3](#)
- F25** Words repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. VII](#)
- F26** Words inserted by [Building \(Scotland\) Act 1970 \(c. 38\), Sch. 1 Pt. I para. 1\(c\)](#)
- F27** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

#### Modifications etc. (not altering text)

- C2** [S. 6](#) applied with modification by [Control of Pollution Act 1974 \(c. 40\), s. 61\(2\)](#)
- C3** The proviso to [section 6\(1\)](#) amended (1.4.1991) by [S.I. 1990/2179, reg. 4](#)

#### Marginal Citations

- M3** [1939 c. 31.](#)
- M4** [1956 c. 52.](#)

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**M5** 1957 c. 40.

**[<sup>F28</sup>6AA Self-certification of design.**

- (1) On making an application for a warrant under section 6 of this Act, an applicant may submit a certificate issued under this section certifying that the design (including the specification of material to be used) of the building complies with building standards regulations prescribed under paragraph (a) of subsection (2) below; and in determining whether to issue the warrant, the local authority shall accept the certificate as conclusive of the facts to which it relates.
- (2) There may be prescribed—
  - (a) the part or parts of the building standards regulations in relation to which a certificate under this section may be submitted and different provision may be made in respect of different parts of the regulations and in respect of different types of building;
  - (b) whether or not by reference to specific criteria, such person or persons as shall be entitled to issue such certificate;
  - (c) the form of such certificate;
  - (d) the drawings, plans, specifications or other material which shall be submitted with the certificate.]

**Textual Amendments**

**F28** S. 6AA inserted after s. 6 by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 19(4)

**[<sup>F29</sup>6A Reference to Secretary of State of applications for warrant under s. 6.**

- (1) The Secretary of State may give directions requiring applications under section 6 of this Act for a warrant for the construction or change of use of a building, or for the amendment of the terms of a warrant for the construction of a building, to be referred to him.
- (2) A direction under subsection (1) above—
  - (a) may be given either to a particular [<sup>F30</sup>local authority] or to [<sup>F30</sup>local authorities] generally, and
  - (b) may relate either to a particular application or to applications of a class specified in the direction.
- (3) Any application to which a direction under subsection (1) above relates shall be referred to the Secretary of State accordingly:  
 Provided that, if any such application has not been duly made in the prescribed manner, the [<sup>F30</sup>local authority] may refuse the application without referring it to the Secretary of State, and for the purposes of section 6(8)(b) of this Act any application referred to the Secretary of State under this subsection shall be deemed to have been duly made in the prescribed manner.
- (4) Where an application is referred to the Secretary of State under subsection (3) above he shall give notice to the [<sup>F30</sup>local authority] either—

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- (a) that he does not propose to deal with the application, in which case it shall be considered and decided by the [F30]local authority] in accordance with the provisions of section 6 of this Act; or
  - (b) that he proposes to consider and determine, in relation to the application, such of the questions mentioned in subsection (5) below as he may specify in the notice, in which case the application shall, subject to subsection (6) below, be considered and decided by the [F30]local authority] as aforesaid; or
  - (c) that he proposes to consider the question whether, having regard to the need to secure the health or safety of the persons who will inhabit or frequent the building to which the application relates or the safety of the public generally, it is reasonable to impose in relation to that building requirements additional to or more onerous than those contained in the building standards regulations, in which case the application shall, subject to subsection (7) below, be considered and decided by the [F30]local authority] as aforesaid; or
  - (d) to the effect mentioned in paragraph (b) above and also to the effect mentioned in paragraph (c) above, in which case the application shall, subject to subsections (6) and (7) below, be considered and decided by the [F30]local authority] as aforesaid.
- (5) The questions referred to in subsection (4) above are—
- (a) in the case of an application for a warrant for the construction of a building or for the amendment of the terms of such a warrant, the question whether anything in any plans, specifications or other information submitted with the application shows that the building when constructed will fail to conform to the building standards regulations or to such part of those regulations as the Secretary of State may specify in the notice given by him under subsection (4) above in relation to that application;
  - (b) where such an application as is mentioned in paragraph (a) above relates to an extension to, or alteration of, a building, the following additional questions, namely—
    - (i) whether at the time of the application the building conformed to the building standards regulations or to such part of those regulations as the Secretary of State may specify as aforesaid;
    - (ii) if the building so conformed, whether as a direct result of the extension or, as the case may be, the alteration the building as extended or altered will fail to conform to the building standards regulations or, as the case may be, to the part thereof so specified;
    - (iii) if the building failed to conform as mentioned in sub-paragraph (i) above, whether as a direct result of the extension or, as the case may be, the alteration the building as extended or altered will fail to conform to the building standards regulations or, as the case may be, to the part thereof so specified to a greater degree than that to which it failed to conform at the time of the application;
  - (c) in the case of an application for a warrant for the change of use of a building, the question whether after the change of use the building will conform to so much of the building standards regulations, or to so much of such part of those regulations as the Secretary of State may specify as aforesaid, as will become applicable, or as will apply more onerously, to the building by reason of the change of use.
- (6) Where in pursuance of paragraph (b) or paragraph (d) of subsection (4) above, the Secretary of State gives to a [F30]local authority] a notice to the effect mentioned in the

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said paragraph (b), he shall consider and determine, in relation to the application to which the notice relates, the questions specified in the notice and shall intimate his determination to the [F30local authority], and in considering the application the [F30local authority] shall treat that determination as conclusive of the said questions and shall decide the application accordingly under section 6 of this Act:

Provided that, for the purposes of such a decision, subsection (8) of the said section 6 shall have effect as if it imposed a duty on the [F30local authority] to refuse to grant a warrant in the circumstances mentioned in paragraph (c) of that subsection.

- (7) Where in pursuance of paragraph (c) or paragraph (d) of subsection (4) above, the Secretary of State gives to a [F30local authority] a notice to the effect mentioned in the said paragraph (c), he shall consider the question mentioned in the said paragraph (c), and if after consulting the Building Standards Advisory Committee and such other persons as may be specified in regulations made under section 6B(3) of this Act he considers that it is reasonable to impose in relation to the building to which the application relates requirements additional to or more onerous than those contained in the building standards regulations, he shall give a direction that, if the warrant applied for is granted, that warrant shall be subject to the condition that such additional or more onerous requirements as may be specified in the direction are complied with, and shall intimate that direction to the [F30local authority.]
- (8) The Secretary of State may give directions requiring applications under section 6(5) of this Act for an extension of the period specified in a warrant for the construction of a building intended to have a limited life to be referred to him; and where any such application is so referred to him, the Secretary of State shall—
- (a) consider and determine the question whether, having regard to the special provisions of the building standards regulations mentioned in section 6(4) of this Act, it is proper to extend the said period and, if so, by how much, and
  - (b) intimate his determination to the [F30local authority,]
- and the [F30local authority] in deciding the application shall give effect to that determination.

Subsections (2) and (3) above shall apply for the purposes of this subsection as if directions under this subsection were directions under subsection (1) above.]

#### Textual Amendments

**F29** Ss. 6A, 6B added by [Building \(Scotland\) Act 1970 \(c. 38\), s. 4](#)

**F30** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 1](#)

#### [F31]6B Provisions supplementary to s. 6A.

- (1) Where an application is referred to the Secretary of State under section 6A(3) of this Act, the power to give a direction under section 4(1)(a) of this Act dispensing with or relaxing any provision of the building standards regulations in relation to the building to which the said application relates shall be exercisable by the Secretary of State—
- (a) either on an application made to him in that behalf or of his own accord;
  - (b) notwithstanding that the power to dispense with or relax that provision under the said section 4(1)(a) is for the time being exercisable by the [F32local authority] by virtue of regulations made under section 4(2) of this Act.
- (2) It shall not be competent to appeal—

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- (a) under section 16(1)(a) of this Act against a decision of a [<sup>F32</sup>local authority] refusing to grant a warrant for the construction or change of use of a building, in so far as the reasons for that decision include a determination intimated to the authority by the Secretary of State in pursuance of section 6A(6) of this Act;
  - (b) under section 16(1)(b) of this Act against a decision of a [<sup>F32</sup>local authority] refusing to extend a period relating to a building intended to have a limited life, if the reason for that decision is a determination intimated to the authority by the Secretary of State in pursuance of section 6A(8) of this Act.
- (3) The Secretary of State may make regulations with respect to the procedure to be followed in connection with the reference to him of applications by virtue of section 6A of this Act and the consideration and disposal of applications so referred.]

**Textual Amendments**

**F31** Ss. 6A, 6B added by Building (Scotland) Act 1970 (c. 38), s. 4

**F32** Words substituted by Local Government (Scotland) Act 1973 (c. 65), Sch. 15 para. 1

7 ..... <sup>F33</sup>

**Textual Amendments**

**F33** S. 7 repealed by Local Government (Scotland) Act 1973 (c. 65), s. 237(1), Sch. 29

8 ..... <sup>F34</sup>

**Textual Amendments**

**F34** S. 8 repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), Sch. 11

**9 Certificates of completion.**

- (1) After the completion of the construction of any building in respect of which a warrant has been granted by a [<sup>F35</sup>local authority] any person having an interest to do so may apply to the [<sup>F35</sup>local authority] for a certificate under this section (in this Act referred to as a “certificate of completion”), and within such period as may be prescribed the [<sup>F35</sup>local authority] shall, in accordance with the following provisions of this section, either grant the certificate or notify the applicant of their refusal to do so.
  - (2) A buildings authority shall grant a certificate of completion in respect of any building if, [<sup>F36</sup>so far as they are able to ascertain after taking all reasonable steps in that behalf,] the building complies with the conditions on which the relative warrant was granted.
- [<sup>F37</sup>(2A) Where the Secretary of State has issued a relevant class warrant, a local authority shall grant a certificate of completion in respect of any building unless—
- (i) the approved design (or an approved variation) has not been complied with whether by reason of faulty workmanship or otherwise; or

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- (ii) the building standards regulations in relation to any part of the building to which section 4B of this Act does not apply have not been complied with.]
- (3) In respect of so much of a building as consists of an electrical installation a building authority shall not <sup>F36</sup>grant a certificate of completion] unless there is produced to them a certificate granted by the person who installed the installation certifying that the installation complies with such of the said conditions as relate to it:  
Provided that this subsection shall not apply in a case where it is shown to the satisfaction of the <sup>F35</sup>local authority] that for some reasonable cause such a certificate cannot be produced.
- <sup>F38</sup>(3A) In respect of so much of a building as consists of such an installation as may be prescribed, not being an electrical installation, a <sup>F35</sup>local authority] shall not grant a certificate of completion unless there is produced to them a certificate granted by a person of such class as may be prescribed certifying that the installation complies with such of the said conditions as relate to it:  
Provided that this subsection shall not apply in a case where it is shown to the satisfaction of the <sup>F35</sup>local authority] that for some reasonable cause such a certificate cannot be produced.]
- (4) If any person, for the purpose of procuring the grant of a certificate of completion, grants or produces under <sup>F39</sup>subsection (3) or (3A) above] a certificate which he knows to be false or misleading in a material particular, or recklessly grants or produces such a certificate which is false or misleading in a material particular, he shall be guilty of an offence against this Act.
- (5) Subject to the next following subsection, no person shall occupy or use a building (being a building which has been constructed by virtue of a warrant granted under this Act) before a certificate of completion in respect of the building has been issued by the <sup>F35</sup>local authority], and any person who wilfully contravenes this subsection shall be guilty of an offence against this Act:  
Provided that nothing in this subsection shall apply to any occupation or use which is solely for the purpose of the construction of the building.
- (6) Where on application made to them it appears to a <sup>F35</sup>local authority] that, because of exceptional circumstances, it is reasonable that a building to which the last foregoing subsection applies should be temporarily occupied or used before a certificate of completion in respect of it has been issued they may (whether or not the construction of the building has been completed) grant written permission for such occupation or use during such period as may be specified in the permission (which period may be extended from time to time by a like permission); and while any permission under this subsection is in force in relation to any building the last foregoing subsection shall not have effect in relation to that building.

(7) ..... F40

(8) ..... F40

**Textual Amendments**

- F35** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 1](#)
- F36** Words substituted by Health and Safety at [Work etc. Act 1974 \(c. 37\), Sch. 7 para. 5\(a\)\(b\)](#)
- F37** [S. 9\(2A\)](#) inserted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\), s. 19\(5\)](#)
- F38** [S. 9\(3A\)](#) added by Health and Safety at [Work etc. Act 1974 \(c. 37\), Sch. 7 para. 5\(c\)](#)
- F39** Words substituted by Health and Safety at [Work etc. Act 1974 \(c. 37\), Sch. 7 para. 5\(d\)](#)

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**F40** Ss. 1, 2(1)—(3), 6(8)(a)(9)(b), 9(7)(8), 18(2), 21, 27, 29(6)(7)(9), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by Local Government (Scotland) Act 1973 (c. 65), Sch. 29

## 10 Powers in relation to buildings constructed without warrant or in contravention of conditions of warrant, and buildings whose life has expired.

(1) If it appears to the <sup>F41</sup>local authority] that any building of a class to which the building standards regulations apply—

- (a) has been or is being constructed without a warrant in respect of the construction having been obtained, or in contravention of the conditions on which a warrant was obtained, or
- (b) remains in existence after the expiration of any period limited for it by the conditions on which the warrant for its construction was obtained,

<sup>F42</sup>they] may serve upon—

- (i) the person by whom, or on whose behalf, the building has been or is being constructed, or
- (ii) if that person no longer has an interest in the building, any other person who at the material time is entitled to the interest in the building which that person formerly had, or, if at the material time there is no such other person, the owner of the building,

a notice requiring him within such period as may be specified in the notice, being a period of not less than twenty-one days from the service of the notice, to show cause to the <sup>F43</sup>local authority] why he should not be required to execute such operations as may be specified in the notice, being operations for the removal of the building or operations necessary to make the building conform to the building standards regulations . . . <sup>F44</sup>

<sup>F45</sup>(1A) In any case falling within paragraph (a) of subsection (1) above, if within the period specified in the notice mentioned in that subsection the person upon whom that notice was served applies for a direction under section 4 of this Act in respect of the building and (if the application is made to the Secretary of State) notifies the <sup>F43</sup>local authority] that he has done so, the said period shall be deemed to be extended so as to expire—

- (a) where the direction applied for is given, at the end of the period of twenty-one days from the date of the giving of the direction;
- (b) where the direction is refused by the Secretary of State, at the end of the period of twenty-one days from the date of the refusal to give the direction;
- (c) where the direction is refused by the <sup>F43</sup>local authority] or is granted by the authority subject to conditions—
  - (i) if no appeal is made within the period within which an appeal can be made to the Secretary of State under section 4A of this Act, at the end of that period,
  - (ii) if an appeal is made to the Secretary of State under the said section 4A, at the end of the period of twenty-one days from the date on which the appeal is determined or abandoned;

and any reference in the following provisions of this section to the operations specified in the notice shall, in a case where the building standards regulations are relaxed by any such direction, be construed as a reference to those operations in so far as they are necessary to make the building conform to the said regulations as so relaxed.

(1B) If within the period specified in the notice mentioned in subsection (1) above (or, in a case falling within subsection (1A) above, that period as extended by virtue of that

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subsection) the person upon whom the notice has been served fails to show cause to the satisfaction of the [F43local authority] why he should not be required to execute the operations specified in the notice, the [F43local authority] may order him within such period as may be specified in the order, being a period of not less than twenty-eight days from the date when the order becomes operative, to execute the operations aforesaid or such other operations for the same purpose as may be specified in the order.]

- (2) Subject to the provisions of section seventeen of this Act, if on the expiration of the period specified in the order mentioned in [F46subsection (1B) above] the person against whom the order has been made has not complied therewith, he shall be guilty of an offence against this Act, and the [F47local authority may] execute the operations which the said person has failed to execute; . . . F48 and any expenses thereby incurred by them shall be recoverable from the said person as a debt.
- (3) The provisions of the Sixth Schedule to this Act shall have effect for the purpose of securing the recovery by a local authority of any expenses recoverable by them under the last foregoing subsection from any person, if that person is the owner of the building.
- (4) An order served under [F49subsection (1B)] of this section shall become operative only in accordance with subsection (4) of section sixteen of this Act.
- (5) A [F41local authority] may include in a notice served by [F50them] under subsection (1) of this section in respect of a building which is being constructed a requirement that the person on whom the notice is served shall cause the work thereon to be suspended until the matters raised in the notice have been determined, or until the expiration of the period of one month from the date of service of the notice, whichever first occurs.
- (6) References in this section to the period limited for a building by the conditions on which the warrant for its construction was obtained are references to that period together with any extension thereof authorised by virtue of subsection (5) of section six of this Act.
- (7) This section shall apply in relation to a part of a building, being a fixture the fitting of which is excluded from the operation of subsection (1) of section six of this Act by virtue of the proviso thereto, which—
  - (a) has been fitted, and
  - (b) either in itself or in the manner of its fitting fails to conform to the building standards regulations,
 as it applies to a building which has been constructed as mentioned in paragraph (a) of subsection (1) of this section.
- (8) For avoidance of doubt it is hereby declared that, in respect of any building, this section applies to any such deviation as is mentioned in subsection (7) of section six of this Act as it applies to the construction of the building.

#### Textual Amendments

- F41** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 9\(a\)](#)
- F42** Word substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 9\(a\)](#)
- F43** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 1](#)
- F44** Words repealed by [Building \(Scotland\) Act 1970 \(c. 38\), Sch. 2](#)
- F45** [S. 10\(1A\)\(1B\)](#) added by [Building \(Scotland\) Act 1970 \(c. 38\), Sch. 1 Pt. 1 para. 3\(b\)](#)



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- F46** Words substituted by Building (Scotland) Act 1970 (c. 38), Sch. 1 Pt. I para. 3(c)
- F47** Words substituted by Local Government (Scotland) Act 1973 (c. 65), sch. 15 para. 9(b)
- F48** Words repealed by Local Government (Scotland) Act 1973 (c. 65), Sch. 29
- F49** Words substituted by Building (Scotland) Act 1970 (c. 38), Sch. 1 Pt. I para. 3(d)
- F50** Word substituted by virtue of Local Government (Scotland) Act 1973 (c. 65), Sch. 15 para. 9(a)

## 11 Power of local authorities to require buildings to conform to building standards regulations.

- (1) The following provisions of this section shall have effect in relation to a building in the area of a local authority, being a building of a class to which the building standards regulations apply, where—
  - (a) the building does not conform to a provision of the building standards regulations;
  - (b) the local authority consider that the building ought, having regard to the need for securing the health, safety [<sup>F51</sup>welfare] and convenience of the persons who will inhabit or frequent it and the safety of the public generally [<sup>F51</sup>and for furthering the conservation of fuel and power], to be made to conform to that provision; and
  - (c) it is reasonably practicable to make the building conform to that provision.
- (2) The local authority may serve on the owner of the building a notice specifying the provision to which they consider that the building ought to conform (in this section referred to as “the specified provision”) and requiring the owner within such period as may be specified in the notice, being a period of not less than twenty-eight days from the service of the notice, to show cause why the building should not conform to the specified provision.
- (3) If within the period specified in the notice mentioned in the last foregoing subsection the owner of the building applies . . . <sup>F52</sup> for a direction under section four of this Act in respect of the building and notifies the local authority that he has done so, the said period shall be deemed to be extended so as to expire
  - <sup>F53</sup>(a) where the direction applied for is given, at the end of the period of twenty-eight days from the date of the giving of the direction;
  - (b) where the direction is refused by the Secretary of State, at the end of the period of twenty-eight days from the date of the refusal to give the direction;
  - (c) where the direction is refused by the [<sup>F54</sup>local authority] or is granted by the [<sup>F54</sup>local authority] subject to conditions—
    - (i) if no appeal is made within the period within which an appeal can be made to the Secretary of State under section 4A of this Act, at the end of that period,
    - (ii) if an appeal is made to the Secretary of State under the said section 4A, at the end of the period of twenty-eight days from the date on which the appeal is determined or abandoned;and any reference in the subsequent provisions of this section to the specified provision shall, in a case where the specified provision is relaxed by any such direction, be construed as a reference to the specified provision as so relaxed.]
- (4) If within the period specified in the notice mentioned in subsection (2) of this section (or, in a case falling within the last foregoing subsection, that period as extended by virtue of that subsection) the owner fails to show cause to the satisfaction of the local authority why the building should not be made to conform to the specified provision,

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the local authority may order the owner to make the building conform to the specified provision within such period as may be specified in the order, being a period of not less than twenty-eight days from the date when the order becomes operative.

- (5) Subject to the provisions of section seventeen of this Act, if on the expiration of the period specified in the order mentioned in the last foregoing subsection the owner of the building has not complied therewith, he shall be guilty of an offence against this Act, and the local authority may themselves execute the operations necessary to make the building conform to the specified provision; and any expenses thereby incurred by them shall be recoverable from the owner of the building as a debt.
- (6) The provisions of the Sixth Schedule to this Act shall have effect for the purpose of securing the recovery by a local authority of any expenses recoverable by them under the last foregoing subsection.
- (7) No notice served under this section shall specify any provision of the building standards regulations which is described in the regulations as not being subject to specification in such a notice.
- (8) An order under subsection (4) of this section shall not become operative—
  - (a) except in accordance with subsection (4) of section sixteen of this Act;
  - (b) before the disposal of any application for a warrant in respect of the operations which are the subject of the order, including the disposal of any appeal under section sixteen of this Act against a decision of the [<sup>F54</sup>local authority] refusing to grant a warrant.
- (9) In this section “reasonably practicable” means reasonably practicable having regard to all the circumstances, including the expense involved in executing the operations necessary to make the building conform to the specified provision.

#### Textual Amendments

- F51** Words inserted by Health and Safety at Work etc. Act 1974 (c. 37), **Sch. 7 para. 6**
- F52** Words repealed by Building (Scotland) Act 1970 (c. 38), **Sch. 2**
- F53** Words substituted by Building (Scotland) Act 1970 (c. 38), **Sch. 1 Pt. I para. 4(b)**
- F54** Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 15 para. 1**

## 12 Building Standards Advisory Committee.

- (1) The Secretary of State shall, after consultation with such bodies as appear to him to be representative of the interests concerned, appoint a committee, in this Act referred to as the Building Standards Advisory Committee, for the purpose of—
  - (a) advising the Secretary of State on the exercise of his functions under section three of this Act;
  - (b) keeping under review the operation of, and making to the Secretary of State such recommendations as they think desirable in connection with, the building standards regulations; and
  - (c) advising the Secretary of State on any question relating to any of his functions under this Part of this Act which he may refer to them.
- (2) The Secretary of State may by regulations make provision with respect to the constitution and procedure of the Building Standards Advisory Committee and for the submission to him at intervals of not more than five years of reports from the

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Committee as to the exercise of thier functions under paragraph (b) of subsection (1) of this section.

- (3) The Secretary of State may pay to the members of the Building Standards Advisory Committee, and to persons attending meetings at the request of the Committee, such allowances as he may, with the approval of [<sup>F55</sup>the Minister for the Civil Service], determine in respect of travelling and subsistence expenses and in respect of other expenses (if any) necessarily incurred by them for the purpose of enabling them to discharge their functions as members of the Committee, or to attend such meetings, as the case may be.

#### Textual Amendments

**F55** Words substituted by virtue of S.I. 1968/1656

### PART III

#### DANGEROUS BUILDINGS

#### 13 Action to be taken in respect of buildings found to be dangerous.

- (1) If it appears to the [<sup>F56</sup>local authority] that any building is dangerous to persons inhabiting or frequenting it or adjacent buildings or places or to the public generally [<sup>F57</sup>they] shall forthwith—
- (a) require any occupants of the building in question, and of any adjacent building, being persons whom [<sup>F57</sup>they consider] to be endangered by the state of the building in question, to remove immediately from those buildings;
  - (b) cause to be executed such operations (including, if necessary, demolition operations) as in [<sup>F57</sup>their] opinion are necessary for preventing access to the building and any adjacent parts of any road or public place which appear to [<sup>F57</sup>them] to be dangerous by reason of the state of the building and otherwise for the protection of the public and of persons and property on the land adjacent to the building; and
  - (c) serve on the owner of the building a notice requiring him within a period of seven days from the service of the notice to begin, and within such further period as may be specified in the notice, being a period of not less than twenty-one days from the expiration of the first mentioned period, to complete to the satisfaction of the [<sup>F56</sup>local authority], such operations for the repair, securing or demolition of the building as may be so specified, being operations necessary in the opinion of the [<sup>F56</sup>local authority] to remove the danger.
- (2) If on the expiration of the period of seven days referred to in paragraph (c) of the foregoing subsection the owner of the building has not begun, or if on the expiration of the period of not less than twenty-one days so referred to he has not completed, the operations required by a notice given under that paragraph [<sup>F58</sup>the local authority, after giving the owner and any other person appearing to them to have an interest an opportunity to be heard, may make an order requiring the owner to execute the said operations within such period as shall be stated in the order.];
- (3) An order under the foregoing subsection shall become operative only in accordance with subsection (4) of section sixteen of this Act.

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- [<sup>F59</sup>(4) If an order under subsection (2) above is not duly complied with, the local authority may execute the operations which the owner has failed to execute or demolish the building.]
- (5) Any expenses incurred by a local authority [<sup>F58</sup>in executing their functions] under this section in respect of any building, shall, subject to the provisions of section seventeen of this Act, be recoverable by the local authority from the owner of the building as a debt; and the provisions of the Sixth Schedule to this Act shall have effect for the purpose of securing the recovery by a local authority of any expenses recoverable by them under this section.
- (6) The provisions of the Seventh Schedule to this Act shall have effect for the purpose of securing the removal—
- (a) from a building, of any occupant who, on being required under paragraph (a) of subsection (1) of this section to remove from the building in the circumstances mentioned in that subsection, fails to do so; and
  - (b) from a building which is the subject of an order under this section requiring it to be demolished, of the occupants thereof.

#### Textual Amendments

- F56** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 10\(a\)](#)
- F57** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 10\(a\)](#)
- F58** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 10\(b\)\(d\)](#)
- F59** [S. 13\(4\)](#) substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 10\(c\)](#)

## 14 Power of local authorities to sell materials from demolished buildings.

If a building is demolished by a [<sup>F60</sup>local authority acting under section 13(1)(b) or (4) of this Act, they may] sell any building material that arises from such demolition, and if they do so they may set off the proceeds of the sale against any sums recoverable by them from the owner under the foregoing provisions of this Part of this Act, and shall account to the owner for any amount by which the proceeds exceed the aggregate of the sums so recoverable.

#### Textual Amendments

- F60** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 11](#)

## 15 Power of local authorities to purchase buildings and sites where owner cannot be found.

- (1) If in relation to any building a local authority have, acting under subsection (4) of section thirteen of this Act, executed any operations such as are referred to in that subsection or demolished the building, and the expenses thereby incurred by them cannot be recovered by reason of the fact that the owner of the building cannot be found, the local authority may be authorised by the Secretary of State to purchase the building and its site compulsorily.
- (2) The provisions of the <sup>M6</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply in relation to a compulsory purchase of land under the

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foregoing subsection as if that subsection had been in force immediately before the commencement of that Act.

- (3) The local authority shall be entitled to deduct from the compensation payable on the compulsory purchase of land under this section the amount of the expenses referred to in subsection (1) of this section so far as not otherwise recovered.

#### Marginal Citations

M6 1947 c. 42.

## PART IV

### SUPPLEMENTARY

#### 16 Appeals.

- (1) Any person aggrieved by—
- (a) any decision of a [<sup>F61</sup>local authority] refusing to grant warrant for the construction or demolition of a building or for a change of use of a building,
  - (b) any decision of a [<sup>F61</sup>local authority] under subsection (5) of section six of this Act refusing to extend a period relating to a building intended to have a limited life,
  - (c) any decision of a [<sup>F61</sup>local authority] refusing to issue a certificate of completion,
  - (d) any order made by a [<sup>F61</sup>local authority] under [<sup>F62</sup>subsection (1B)] of section ten of this Act requiring the execution of operations,
  - (e) any order under section eleven of this Act by a local authority requiring a building to be made to conform to any provision of the building standards regulations,
  - (f) any order of a [<sup>F61</sup>local authority] under subsection (2) of section thirteen of this Act requiring the execution of operations, or
  - (g) any charging order made under the Sixth Schedule to this Act,
- may [<sup>F63</sup>(except as provided in section 6B(2) of this Act)] appeal to the sheriff by giving notice of appeal within twenty-one days after the date of the decision or the making of the order, as the case may be:
- Provided that on any appeal in a case falling under paragraph (g) of this subsection no question shall be raised which might have been raised on an appeal against the original order requiring the execution of the operations concerned.
- (2) The procedure on any appeal to the sheriff under this section shall be such as the Court of Session may by act of sederunt determine; and the powers of the Court of Session under this subsection shall include power to make provision as to expenses and as to the sitting with the sheriff of technical assessors.
- (3) On any appeal under this section the sheriff may—
- (a) if the appeal is in a case falling within paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section, either confirm the decision or direct the substitution of such other decision as seems to him proper, having

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regard to the provisions of this Act and of any other Act relevant to the decision in question;

- (b) if the appeal is in a case falling within any other provision of subsection (1) of this section, confirm, vary or quash the order as he thinks just and make such order in the matter as he considers equitable;

and the determination of the sheriff on any such appeal shall be binding on all parties, and shall be final:

Provided that the sheriff may, at any stage of the proceedings on the appeal, and shall whether before or after the conclusion of the proceedings if so directed by the Court of Session, state a case for the opinion of that Court on any question of law arising in connection with the appeal; and an appeal shall lie, with the leave of the Court of Session or of the House of Lords, from any decision of the Court of Session under this section, which leave may be given on such terms as to costs or otherwise as the Court of Session or the House of Lords may determine.

- (4) Any order as respects which an appeal to the sheriff might be brought under this section shall not become operative until either the time within which an appeal can be made under this section has elapsed without an appeal being made, or, in a case where an appeal is made, the appeal (including any further proceedings under the last foregoing subsection) is determined or abandoned.
- (5) The sheriff may, before considering any appeal which may be made to him under this section, require the appellant to deposit such sum to cover the expenses of the appeal as may be fixed by the act of sederunt made by the Court of Session in pursuance of subsection (2) of this section.
- (6) . . . . . F64

#### Textual Amendments

**F61** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 15 para. 1**

**F62** Words substituted by [Building \(Scotland\) Act 1970 \(c. 38\)](#), **Sch. 1 Pt. I para. 5(a)**

**F63** Words inserted by [Building \(Scotland\) Act 1970 \(c. 38\)](#), **Sch. 1 Pt. I para. 5(b)**

**F64** [S. 16\(6\)](#) repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1966 \(c. 19\)](#), **Sch. Pt. I**

#### Modifications etc. (not altering text)

**C4** [S. 16](#) applied by [Agriculture Act 1967 \(c. 22\)](#), **Sch. 3 para. 11**

## 17 Supplementary provisions as to operations required to be carried out.

- (1) The provisions of this section shall have effect where a person is required by any order or notice under section ten, eleven or thirteen of this Act (in this section referred to as a “requirement”) to demolish, or carry out operations in relation to, a building.
- (2) If the building is—
- [<sup>F65</sup>(a) a building which is for the time being included in the Schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979]
- [<sup>F66</sup>(b) subject to a building preservation notice under section 56 of the <sup>M7</sup>Town and Country Planning (Scotland) Act 1972]
- [<sup>F67</sup>(bb) a building to which section 262A of the said Act of 1972 (control of demolition in conservation areas) applies;]

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(c) included in a list of buildings of special architectural or historic interest, being a list compiled or approved under [F68]section 52 of the said Act of 1972], or

(d) .....

the requirement shall have effect only in so far as it is not inconsistent with any provision of [F70]the said Act of 1979 or[[F71]the said Act of 1972] the said Act of 1947 . . . F72relating to the execution or carrying out of works or operations on or in relation to the building.

(3) If the person is not in occupation of the building he shall nevertheless, on giving to the occupier such notice as is reasonable in the circumstances, be entitled, notwithstanding any term to the contrary in any lease or other contract, to enter on the building, and any land adjacent thereto and held in connection therewith, for the purpose of complying with the requirement.

(4) Where, in pursuance of any provision of the said section ten, eleven or thirteen, the local authority seek to recover from the person any expenses incurred by them in carrying out operations in relation to the building, then, if the person proves—

(a) that he has no interest in the building except in the capacity of a trustee, tutor, curator, judicial factor or liquidator of a company, and

(b) that he has not, and since the date of the service on him of a demand for payment of the expenses aforesaid has not had, in his hands in that capacity sufficient funds, rents and other assets to discharge the whole demand of the authority,

his liability shall, notwithstanding anything in the said section ten, eleven or thirteen, be limited to the total amount of the funds, rents and other assets which he has, or has had, in his hands as aforesaid.

(5) In the case of a requirement being an order under the said section ten, or the said section eleven, it shall be a defence to any complaint charging the person with failure to comply with the requirement to prove that at the date of the making of the requirement—

(a) the person had no interest in the building except in the capacity of a trustee, tutor, curator, judicial factor or liquidator of a company, and

(b) the amount of the funds, rents and other assets in his possession in that capacity was less than the amount of the expenses which would have been incurred if the requirement had been complied with.

(6) If a person alleges that the whole or any part of the expenses incurred or to be incurred in complying with the requirement ought to be borne by any other person having an interest in the building, he may apply to the sheriff, and the sheriff may make such order concerning the expenses or their apportionment as appears to him, having regard to all the circumstances of the case, including the terms of any contract between the parties, to be equitable.

(7) The provisions of subsection (3) of the last foregoing section relating to the determination of the sheriff on an appeal under subsection (1) of that section shall apply to the order of the sheriff in an application under the last foregoing subsection as they apply to such a determination, with the substitution for any reference to the appeal under the said subsection (1) of a reference to the application.

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### Textual Amendments

- F65** S. 17(2)(a) substituted by [Ancient Monuments and Archaeological Areas Act 1979](#) (c. 46, SIF 3), s. 64(2), [Sch. 4 para. 6](#)
- F66** S. 17(2)(b) substituted by [Town and Country Planning \(Scotland\) Act 1972](#) (c. 52), [Sch. 21](#), Pt. II
- F67** S. 17(bb) inserted by [Housing \(Scotland\) Act 1986](#) (c. 65, SIF 61), s. 25(1), [Sch. 2 para. 1](#)
- F68** Words substituted by [Town and Country Planning \(Scotland\) Act 1972](#) (c. 52), [Sch. 21 Pt. II](#)
- F69** S. 17(d) repealed by [Ancient Monuments and Archaeological Areas Act 1979](#) (c. 46, SIF 3), s. 64(3), [Sch. 5](#) (except in relation to a monument to which paragraph 1(1) of Schedule 3 to the 1979 Act applies)
- F70** Words substituted by [Ancient Monuments and Archaeological Areas Act 1979](#) (c. 46, SIF 3), s. 64(2), [Sch. 4 para 6\(c\)](#)
- F71** Words inserted by [Town and Country Planning \(Scotland\) Act 1972](#) (c. 52), [Sch. 21 Pt. II](#)
- F72** Words repealed by [Ancient Monuments and Archaeological Areas Act 1979](#) (c. 46, SIF 3), s. 64(3), [Sch. 5](#) (except in relation to a monument to which paragraph 1(1) of Sch. 3 to the 1979 Act applies)

### Marginal Citations

- M7** 1972 c. 52.

## 18 Inspection and tests.

- (1) Subject to the provisions of subsection (3) of this section [<sup>F73</sup>any person authorised in writing by a local authority] on exhibiting his authority if requested to do so, may at all reasonable times enter any premises for the purpose of—
- (a) inspecting buildings which are in course of construction, or which have been constructed but for which no certificate of completion has been issued, or the sites of buildings in respect of which applications for directions under section four, or warrants under section six, of this Act have been made;
  - (b) applying any reasonable tests to determine the quality and strength of any material used or proposed to be used in the construction of any building such as is mentioned in the foregoing paragraph;
  - (c) inspecting any buildings as to which the [<sup>F73</sup>local authority] has reasonable cause to believe that a change of use is proposed or has taken place;
  - (d) inspecting any building which the [<sup>F73</sup>local authority] has reasonable cause to believe is dangerous to persons inhabiting or frequenting it or adjacent buildings or places or to the public generally; or
  - [<sup>F74</sup>(e) inspecting any building which the local authority consider should be examined in order to determine whether to exercise their powers under section 11 of this Act; or
  - (f) executing any operations under section 10, 11 or 13 of this Act.]
- and may execute any of the said purposes.
- (2) . . . . . <sup>F75</sup>
- (3) No person shall be entitled to enter any premises by virtue of subsection (1) of this section for the purposes specified in paragraph (c) [<sup>F76</sup>(e) or (f) thereof] unless he has given three days' notice of his intention to do so to the occupier, and (unless the owner is unknown) also to the owner, of the premises.
- (4) If a justice of the peace (not being a justice of the peace who is a member of . . . <sup>F77</sup> the local authority) on sworn information in writing—



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- (a) is satisfied that there are reasonable grounds for entering into any premises for any such purpose as is mentioned in subsection (1) . . . <sup>F77</sup> of this section, and
- (b) is also satisfied either—
- (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier, or
  - (ii) that an application for admission, or the giving of such notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,
- the justice of the peace may, notwithstanding anything in subsection (3) of this section, by warrant under his hand authorise the [<sup>F76</sup>local authority] by any authorised officer, to enter the premises, if need be by force.
- (5) A person entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as he found them.
- (6) Every warrant granted under this section shall continue in force for a period of one month.
- (7) A person who wilfully obstructs any person acting in the execution of any of the purposes mentioned in subsection (1) . . . <sup>F77</sup> of this section shall be guilty of an offence against this Act.
- (8) If any person who, by virtue of the provisions of this section, or of a warrant issued thereunder, enters a factory or work-place, discloses to any other person any information obtained by him in the factory or work-place with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be guilty of an offence against this Act.
- (9) In this section any reference to premises includes a reference to sites and buildings, and any reference to a justice of the peace includes a reference to the sheriff.
- (10) The [<sup>F78</sup>local authority] or any person authorised by [<sup>F78</sup>them] may require—
- (a) any person who has made an application for a direction under section four of this Act, or for a warrant, in respect of a building, or
  - (b) any person by whom, or on whose behalf, a building is being or has been constructed in pursuance of a warrant,
- to cause to be carried out such reasonable test of materials forming part of the building, or used or proposed to be used in the construction of the building, as may be specified in the requirement; and the expense of carrying out any test to be carried out under this subsection shall be met by the person so required:
- [<sup>F79</sup>Provided that the local authority, on application made to them, may if they think fit meet the expense of carrying out any such test as aforesaid or any part of that expense.]

#### Textual Amendments

**F73** Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 15 para. 12(a)(i)(ii)**

**F74** S. 18(1)(e)(f) substituted for s. 18(1)(e) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 15 para. 12(a)(iii)**

**F75** Ss. 1, 2(1)—(3), 6(8)(a)(9)(b), 9(7)(8), 18(2), 21, 27, 29(6)(7)(9), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

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- F76** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 134\(2\), Sch. 15 para. 12\(c\)\(d\)](#)  
**F77** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)  
**F78** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 12\(f\)](#)  
**F79** Proviso substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 12\(f\)](#)

## 19 Penalties.

- (1) Any person guilty of an offence under subsection (7) of section eighteen or subsection (3) of section twenty-five of this Act shall be liable on summary conviction to a fine not exceeding [<sup>F80</sup>level 3 on the standard scale]
- (2) Any person guilty of an offence against this Act, except as specified in the foregoing subsection, shall be liable on summary conviction to a fine not exceeding [<sup>F80</sup>level 5 on the standard scale]; and, in the case of a continuing offence, to a further fine not exceeding [<sup>F81</sup>£50] for every day during which the offence is continued.

### Textual Amendments

- F80** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#)  
**F81** Words “£50” substituted by Health and Safety at [Work etc. Act 1974 \(c. 37\), Sch. 7 para. 7](#)

PROSPECTIVE

## <sup>F82</sup>19A Civil liability.

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### Textual Amendments

- F82** Act repealed (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\), s. 59\(1\), Sch. 6 para. 1 \(with s. 53\); S.S.I. 2004/404, art. 2\(1\) \(with art. 4\)](#)

## [<sup>F83</sup>20 Fees chargeable by local authorities.

- (1) A local authority may in respect of the performance of their functions under this Act charge such fees as may be prescribed; but there may also be prescribed cases or classes of case for which, or circumstances or classes of circumstances where, no fee shall be chargeable.
- (2) Where a fee is chargeable by virtue of subsection (1) above, the regulations under which it is so chargeable may make different provision (which, without prejudice to the generality of this subsection, may include provision for remission of the fee in whole or in part) for—
  - (a) different cases or classes of case;
  - (b) different circumstances or classes of circumstances;
  - (c) different items or classes of business,
 (difference being determined by reference to any factor or factors whatsoever).]

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**Textual Amendments**

**F83** S. 20 substituted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 19(6)

**21** ..... <sup>F84</sup>

**Textual Amendments**

**F84** Ss. 1, 2(1)—(3), 6(8)(a)(9)(b), 9(7)(8), 18(2), 21, 27, 29(6)(7)(9), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

**22 Information.**

Every [<sup>F85</sup>local authority] shall make to the Secretary of State such reports and returns, and give him such information with respect to their functions, as the Secretary of State may require.

**Textual Amendments**

**F85** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 15 para. 1](#)

**23 Inquiries.**

(1) ..... <sup>F86</sup> the Secretary of State may, for the purposes of any of his functions under this Act, direct the holding of such public inquiries as he may think fit.

[<sup>F87</sup>(2) Subsections (2) to (8) of section 210 of the [Local Government \(Scotland\) Act 1973](#) shall apply to any inquiry held under this section as they apply to the inquiries specified in the said section 210.]

**Textual Amendments**

**F86** Words repealed by [Building \(Scotland\) Act 1970 \(c. 38\)](#), [Sch. 2](#)

**F87** S. 23(2) substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 15 para. 15](#)

**24 Regulations.**

- (1) Without prejudice to any power conferred by any other provision of this Act to make regulations the Secretary of State may make regulations prescribing—
- (a) the form of any notice or other document which is required or authorised to be used under or for the purposes of this Act, and
  - (b) any other thing which by this Act is required or authorised to be prescribed.
- (2) The forms prescribed under the foregoing subsection, or forms as near thereto as circumstances admit, shall be used in all cases in which those forms are applicable.

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- (3) Any power conferred by any provision of this Act, including this section, to make regulations shall be exercisable by statutory instrument, and the statutory instrument by which any such power is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 25 Service of notices, etc.

- (1) The provisions of section [F88]192 of the M8 Local Government (Scotland) Act 1973] (which relates to the service of certain notices, orders and other documents) shall apply to the service of any notice, order or other document required by any provision of this Act, or of any regulations made under this Act, to be served as they apply to the service of the notices, orders and other documents referred to in that section.
- (2) . . . . . F89 a local authority may, for the purpose of enabling them to serve any notice which they are by this Act authorised or required to serve, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein.
- (3) If any person, having been required by . . . F89 a local authority in pursuance of the last foregoing subsection to give to them any information, fails to give that information, or makes in respect thereof any statement which he knows to be false or misleading in a material particular, or recklessly makes in respect thereof any statement which is false or misleading in a material particular, he shall be guilty of an offence against this Act.

### Textual Amendments

F88 Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15, para. 16\(a\)](#)

F89 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

### Modifications etc. (not altering text)

C5 [S. 25\(2\)\(3\)](#) extended by [Mines and Quarries \(Tips\) Act 1969 \(c. 10\), s. 34\(3\)](#)

### Marginal Citations

M8 [1973 c. 65.](#)

## 26 Crown rights.

- (1) Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and [F90]subject to the provisions of this section] nothing in this Act, or in any regulations or order made, or notice given, under this Act, shall affect any Crown building:

Provided that—

- (a) in relation to a Crown building, subsection (1) of section six of this Act shall apply—
- (i) to the conduct of any operations such as are mentioned in that subsection, and
  - (ii) to any change of use,

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- which is not effected by, or on behalf of, the Crown Estate Commissioners or a government department, or approved for the purposes of this section by the appropriate authority;
- (b) in relation to a Crown building, the appropriate authority may direct that such provisions of section ten, section eleven and Part III of this Act as may be specified in the direction shall apply to the building as if it were not a Crown building, and may revoke any such direction;
- (c) nothing in this section shall affect the operation of the building operations regulations in relation to operations carried out in connection with a Crown building otherwise than by servants of the Crown acting under the direction of the appropriate authority or another government department.
- (2) Except with the consent of the appropriate authority nothing in this Act, or in any regulations made, or warrant granted, under this Act, shall authorise the entry of any person into a Crown building or on to land occupied with a Crown building.
- [<sup>F91</sup>(2A) The building standards regulations shall, except in so far as they otherwise prescribe, apply to a Crown building as they would apply if the building were not a Crown building.
- (2B) A Crown building to which the building standards regulations apply shall be constructed in accordance with those regulations.
- (2C) Any extension to or alteration of a Crown building to which the building standards regulations apply or would apply on the extension or alteration of the building shall not cause the building as extended or altered, as a direct result of the extension or, as the case may be, the alteration—
- (a) if it conformed to the building standards regulations immediately before the date of commencement of the operations, to fail to conform to them; or
- (b) if it failed to conform to the building standards regulations immediately before that date, to fail to conform to them to a greater degree than that to which it failed to conform immediately before that date;
- and any change of use of a Crown building shall not cause the building after the change of use to fail to conform to so much of the building standards regulations as will become applicable, or will apply more onerously, to the building by reason of the change of use.
- (2D) Section 19A of this Act shall apply to a Crown building as it applies to a building other than a Crown building, but as if for subsection (2) there were substituted the following subsection:—
- “(2) A breach to which this section applies is a failure to comply with subsection (2B) or (2C) of section 26 of this Act or a contravention of any provision of the building operations regulations”
- (2E) Without prejudice to any case to which proviso (a) to subsection (1) above is applicable, the Secretary of State shall have the like powers of dispensing with or relaxing the provisions of the building standards regulations in relation to a Crown building as he has under section 4(1) of this Act in relation to a building other than a Crown building; and subsections (3), (4), (5), (5A) and (9) of the said section 4 shall apply for the purposes of this section as if—
- (a) in subsection (4), the words “or, as the case may be, the [<sup>F92</sup>local authority]” were omitted;

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- (b) in subsection (5A), for the words from “an application” to the end there were substituted the words “the construction or change of use of a building, part or all of which is of the class to which the direction relates, was begun”;
- (c) in subsection (9), the words “or section 4A(3) of this Act” were omitted.
- (2F) Without prejudice to any case to which the said proviso is applicable, in the application of section 4B of this Act to a Crown building, subsection (10) shall have effect as if for the words from “an application” to the end there were substituted the words “the construction of a building, part or all of which is of the type to which the certificate relates, was begun.]
- (3) In this section the expression “Crown building” means a building an interest in which belongs to Her Majesty in right of the Crown or to a government department, or is held in trust for Her Majesty for the purposes of a government department, or of which the [<sup>F93</sup>Secretary of State] is guardian under the <sup>M9</sup>Ancient Monuments Consolidation and Amendment Act, 1913; and, in relation to a Crown building, the expression “appropriate authority” means—
- (a) in the case of a building an interest in which belongs to Her Majesty in right of the Crown, the Crown Estate Commissioners or any government department having the management of that building;
- (b) in the case of a building an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department;
- (c) in the case of a building of which the [<sup>F93</sup>Secretary of State] is guardian as aforesaid, that [<sup>F93</sup>Secretary of State;]
- and, if any question arises as to the authority which is the appropriate authority in relation to any building, the question shall be determined by the Treasury.

#### Textual Amendments

- F90** Words inserted (prosp.) by Health and Safety at Work etc. Act 1974 (c. 37), **Sch. 7 para. 9(a)**
- F91** S. 26(2A)-(2F) added (prosp.) by Health and Safety at Work etc. Act 1974 (c. 37), s. 85(2), **Sch. 7 para. 9(b)**
- F92** Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 15 para. 1**
- F93** Words substituted by virtue of S.I. 1962/1549 and 1970/1681

#### Modifications etc. (not altering text)

- C6** S. 26 modified (6.5.1999) by S.I. 1999/677, **art. 4**

#### Marginal Citations

- M9** 1913 c. 32.

#### Textual Amendments

- F94** Ss. 1, 2(1)—(3), 6(8)(a)(9)(b), 9(7)(8), 18(2), 21, 27, 29(6)(7)(9), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

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## 28 Financial provisions.

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State in consequence of this Act, and
- (b) any increase attributable to this Act in sums payable out of moneys so provided under any other enactment.

## 29 Interpretation.

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively—

“building” means any structure or erection of what kind or nature soever, whether temporary or permanent, and every part thereof including any fixture affixed thereto, not being a structure or erection or part thereof consisting of, or ancillary to,—

- (a) any road, whether public or private, including in the case of a public road (but not in the case of a private road) any bridge on which the road is carried;
- (b) any sewer or water main which is, or is to be, vested in a public authority;
- (c) any aerodrome runway;
- (d) any railway line;
- (e) any large reservoir within the meaning of the <sup>M10</sup>Reservoirs (Safety Provisions) Act, 1930; or
- (f) any telegraphic line as defined in section two of the <sup>M11</sup>Telegraph Act, 1878;

.....<sup>F95</sup>

“building operations regulations” has the meaning assigned to it by section five of this Act;

“Building Standards Advisory Committee” has the meaning assigned to it by section twelve of this Act;

“building standards regulations” has the meaning assigned to it by section three [<sup>F96</sup>as read with section 4(9)] of this Act;

.....<sup>F95</sup>

“certificate of completion” has the meaning assigned to it by section nine of this Act;

“change of use” in relation to a building means such change in the use or occupation of the building as will bring it within a class of building to which the building standards regulations apply, or, if it is already within such a class, within a class to which additional or more onerous provisions of the building standards regulations apply, and “change the use” shall be construed accordingly;

“construct” includes alter, erect, extend and fit, and “construction” shall be construed accordingly;

“contravene” in relation to a provision, includes fail to comply with the provision;

[<sup>F97</sup>“enactment” includes an order, regulation or other instrument having effect by virtue of an Act;]

“government department” includes a Minister of the Crown;

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F95

“local Act” includes a decret-arbital, provisional order or other instrument ratified or confirmed by a Parliament of Scotland or of the United Kingdom;

[<sup>F98</sup>“local authority” means the council of an islands area or district, except that in the case of a district situated within the Highland, Borders or Dumfries and Galloway region it means the council of that region;]

F95

“operations” includes operations carried out in relation to the enclosure and preparation of the site of a building;

“prescribed” means prescribed by the Secretary of State by regulations made under this Act;

[<sup>F99</sup> “road” has the same meaning as in section 151(1) of the Roads (Scotland) Act 1984 except that it also includes any drain or ditch at the side of a road;]

“warrant” (except in subsections (4), (5), (6) and (8) of section eighteen and subsection (2) of section twenty-six of this Act) means a warrant under section six of this Act, including (in the case of a warrant which has been granted) any conditions to which it is subject, and any amendment which has been made to it.

- (2) Any reference in this Act to a building shall, unless the context otherwise requires, be construed as including a reference to a prospective building; and, in relation to the extension, alteration or change of use of a building, the expression “building” shall in this Act, unless the context otherwise requires, be construed as a reference only to so much of the building as is comprised in the extension or is the subject of the alteration or change of use, as the case may be.
- (3) Any reference in this Act to the owner of any land or buildings shall, unless the context otherwise requires, be construed as including a reference to any person who, under the Lands Clauses Acts, would be enabled to sell and convey the land or buildings to the promoters of an undertaking.
- (4) Any reference in this Act to a public road shall be construed as a reference to a road maintainable by the Secretary of State, [<sup>F100</sup>or a local [<sup>F101</sup>roads] authority]; and any reference to a private road shall be construed as a reference to a road not so maintainable, whether it comprises a public right of way or not.
- (5) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended, applied or extended by or under any other enactment including this Act.
- (6) ..... <sup>F102</sup>
- (7) ..... <sup>F102</sup>
- (8) Any building which extends into the areas of . . . <sup>F103</sup> two or more local authorities, shall be treated for the purposes of this Act as being wholly within the area of . . . <sup>F103</sup>, such one of those local authorities, as may from time to time be agreed by the authorities concerned, or, in default of agreement, determined by the Secretary of State.
- (9) ..... <sup>F102</sup>



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#### Textual Amendments

- F95** Definitions repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 15 para. 18\(a\)](#), [Sch. 29](#)
- F96** Words inserted by [Building \(Scotland\) Act 1970 \(c. 38\)](#), [Sch. 1 Pt. I para. 7\(a\)](#)
- F97** Definition added by [Building \(Scotland\) Act 1970 \(c. 38\)](#), [Sch. 1 Pt. I para. 7\(b\)](#)
- F98** Definition substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 15 para. 18\(a\)](#)
- F99** Definition substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 51\(a\)](#)
- F100** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 15 para. 18\(b\)](#)
- F101** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 51\(b\)](#)
- F102** [Ss. 1, 2\(1\)–\(3\), 6\(8\)\(a\)\(9\)\(b\), 9\(7\)\(8\), 18\(2\), 21, 27, 29\(6\)\(7\)\(9\)](#), [Schs. 1, 2, 8, 9 paras. 2, 3](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)
- F103** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

#### Marginal Citations

- M10** [1930 c. 51](#).
- M11** [1878 c. 78](#).

### 30 Local Act provisions.

- (1) Subject to the next following subsection, where any local Act contains any provision providing for any matter which is also provided for by any provision of this Act, or of any regulations having effect by virtue of this Act, the provision of this Act, or, as the case may be, of those regulations, shall have effect in substitution for the provision of the local Act, and the provision of the local Act shall cease to have effect:

.....  
F104  
.....

- (2) The Secretary of State may by order made by statutory instrument except from the operation of the foregoing subsection such provisions of any local Act as may be specified in the order (being provisions to which apart from the order that subsection would apply) and direct that the corresponding provisions of this Act or of any regulations having effect by virtue of this Act (which provisions shall be specified in the order) shall not have effect in the areas in which the specified provisions of the local Act have effect:

Provided that no order under this subsection shall be made in relation to a provision (being a provision of a local Act) which has ceased to have effect.

- (3) If it appears to the Secretary of State that any provision of any local Act, not being a provision which has ceased to have effect by virtue of subsection (1) of this section, is inconsistent with any provision of this Act or is no longer required, or requires to be amended, having regard to any provision of this Act, he may by order repeal or amend the provision of the local Act as he may consider appropriate.
- (4) The power of making orders conferred by the last foregoing subsection shall be exercisable by statutory instrument and any order made under that subsection shall be subject to special parliamentary procedure.

#### Textual Amendments

- F104** Proviso repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

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**31 Minor and consequential amendments and repeals.**

(1) The enactments specified in the Ninth Schedule to this Act shall have effect subject to the amendments, being amendments consequential on the provisions of this Act or of a minor nature, specified in relation thereto in that Schedule.

(2) ..... **F105**

.....

**Textual Amendments**

**F105** S. 31(2), Sch. 10 repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

.....

**Modifications etc. (not altering text)**

**C7** The text of s. 31(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**32 Short title, extent and commencement.**

(1) This Act may be cited as the Building (Scotland) Act 1959.

(2) This Act shall extend to Scotland only.

(3) This Act, except sections three, five, twelve, twenty-three, twenty-four and twenty-eight and subsections (2) to (4) of section thirty thereof, and paragraph 5 of the First Schedule thereto, shall come into operation on such day as the Secretary of State may by order, made by statutory instrument, appoint, and those provisions shall come into operation on the passing of this Act; and for the purposes of this Act and of the application thereto of section thirty-seven of the <sup>M12</sup>Interpretation Act, 1889 (which relates to the exercise of statutory powers between the passing and the commencement of an Act) references to the commencement of this Act shall, notwithstanding the provisions of section thirty-six of the said Act of 1889 with respect to the construction of the expression “commencement”, be construed as references to the time at which this Act, except the provisions of this Act specified in this section, comes into operation.

.....

**Modifications etc. (not altering text)**

**C8** 15.6.1964 appointed under s. 32(3) by S.I. 1963/1896

.....

**Marginal Citations**

**M12** 1889 c. 63.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Building (Scotland) Act 1959 (repealed).