

**The Building (Scotland)  
Regulations 2004**

# Scottish Statutory Instrument 2004 No. 406

## **The Building (Scotland) Regulations 2004**

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**2004 No. 406**

**BUILDING AND BUILDINGS**

**The Building (Scotland) Regulations 2004**

<i>Made</i>	<i>22nd September 2004</i>
<i>Laid before the Scottish Parliament</i>	<i>23rd September 2004</i>
<i>Coming into force</i>	<i>1st May 2005</i>

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

**Citation and commencement**

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

**Interpretation**

**2.** - (1) In these Regulations, unless the context otherwise requires-

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

"agriculture" has the same meaning as in the Agriculture (Scotland) Act 1948[[2](#)] and

"agricultural" shall be construed accordingly;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) a care home service; or

(b) a school care accommodation service,

and for these purposes the expressions mentioned in sub-paragraphs (a) and (b) above have the same meaning as in the Regulation of Care (Scotland) Act 2001<sup>[3]</sup>;

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

"sheltered housing complex" means-

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

(b) two or more dwellings on adjacent sites,

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

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

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

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

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

### **Exempted buildings and services, fittings and equipment**

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

(2) The provision of-

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

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

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

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

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

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

**5.** For the purposes of section 8(8) of the Act, any work which consists solely of a

building or conversion, including the provision of services, fittings or equipment, of a kind specified in Schedule 3, shall meet the standards required by regulations 8 to 12 but shall not, subject to the exceptions and conditions, require a warrant.

#### **Limited life buildings**

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

#### **Measurements**

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

#### **Fitness and durability of materials and workmanship**

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

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

#### **Building standards - construction**

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

#### **Building Standards - demolition**

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

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

(a) immediately graded and cleared; or

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

#### **Building standards -service, fitting or equipment**

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

#### **Building standards - conversion**

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

### **Provision of protective works**

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

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

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

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

(a) providing hoardings, barriers or fences;

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Clearing of footpaths**

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

#### **Securing of unoccupied and partly completed buildings**

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

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

#### **Relaxations**

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

*MARY MULLIGAN*

Authorised to sign by the Scottish Ministers

St Andrew's House, Edinburgh  
22nd September 2004

## SCHEDULE 1

### Regulation 3

#### EXEMPTED BUILDINGS AND SERVICES, FITTINGS AND EQUIPMENT

##### **Buildings or work controlled by other legislation**

1. A detached building the construction of which is subject to the Explosives Acts 1875 and 1923[4].

2. A building erected on a site which is subject to licensing under the Nuclear Installations Act 1965[5]. Except-A dwelling, residential building, office, canteen or visitor centre.

3. A building included in the schedule of monuments maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979[6]. Except-A dwelling or residential building.

##### **Protective Works**

4. Protective works subject to control by regulation 13.

##### **Buildings or work not frequented by people**

5. A building into which people cannot or do not normally go. Except-A building within 6 metres or the equivalent of its height (whichever is the less) of the boundary. A wall or fence. A tank, cable, sewer, drain or other pipe above or below ground for which there is a requirement in these Regulations.

6. Detached fixed plant or machinery or a detached building housing only fixed plant or machinery, the only normal visits to which are intermittent visits to inspect or maintain the fixed plant or machinery. Except-A building within 1 metre of a boundary.

##### **Agricultural and related buildings**

7. An agricultural greenhouse or other building of mainly translucent material used mainly for commercial growing of plants. Except-A building used to any extent for retailing (including storage of goods for retailing) or exhibiting.

8. A single-storey detached building used for any other form of agriculture, fish farming or forestry. Except-A building used to any extent for retailing (including storage for retailing) or exhibiting. A building exceeding 280 square metres in area. A building within 6 metres or the equivalent of its height (whichever is the less) of a boundary. A dwelling, residential building, office, canteen or visitor centre. A dungstead or farm effluent tank.

##### **Works of civil engineering construction**

9. A work of civil engineering construction, including a dock, wharf, harbour, pier, quay, sea defence work, lighthouse, embankment, river work, dam, bridge, tunnel, filter station or bed, inland navigation, reservoir, water works, pipe line, sewage treatment works, gas holder or main, electricity supply line and supports, any bridge

embankment or other support to railway lines and any signalling or power lines and supports, and a fire practice tower. Except-A bridge or tunnel forming part of an escape route or an access route provided to meet a requirement of these regulations. A private sewage treatment works provided to meet a requirement of these regulations.

#### **Buildings of a specialised nature**

**10.** A building essential for the operation of a railway including a locomotive or carriage shed, or for the operation of any other work of civil engineering contained in type 9 and erected within the curtilage of such a railway or work. Except-A signalling and control centre for a railway or dock. A building to which the public is admitted, not being a building exempted by type 11 of this schedule. A dwelling, residential building, office, canteen, or warehouse.

**11.** A single-storey detached road or rail passenger shelter or a telephone kiosk which in so far as it is glazed complies with the requirements of regulation 9 and paragraph 4.8 of Schedule 5. Except-A building having a floor area exceeding 30 square metres. A building containing a fixed combustion appliance installation.

**12.** A caravan or mobile home within the meaning of the Caravan Sites and Control of Development Act 1960[7], or a tent, van or shed within the meaning of section 73 of the Public Health (Scotland) Act 1897[8]. Except-Any wastewater disposal system serving a building of this type.

#### **Small buildings**

**13.** A detached single-storey building having an area not exceeding 8 square metres. Except-A dwelling or residential building. A building ancillary to and within the curtilage of a dwelling. A building within 1 metre of a boundary. A building containing a fixed combustion appliance installation or sanitary facility. A wall or fence.

#### **Construction and development buildings**

**14.** A building used only by people engaged in the construction, demolition or repair of any building or structure during the course of that work. Except-A building containing sleeping accommodation.

**15.** A building used in connection with the letting or sale of any building under construction until such time as the letting or sale of all related buildings is completed. Except-A building containing sleeping accommodation.

#### **Temporary buildings**

**16.** A building which, during any period of 12 months, is either erected or used on a site-

(a) for a period not exceeding 28 consecutive days; or

(b) for a number of days not exceeding 60,

and any alterations to such buildings.

#### **Buildings ancillary to houses.**

**17.** A detached single-storey building ancillary to and within the curtilage of a house. Except-A building exceeding 8 square metres in area. A building within 1 metre of the house unless it is at least 1 metre from any boundary. A building containing sleeping accommodation. A building containing a flue, a fixed combustion appliance installation or sanitary facility. A wall or fence.

**18.** A single-storey building attached to an existing house, which is ancillary to the house and consists of a conservatory or porch which insofar as it is glazed complies with the requirements of regulation 9 and paragraph 4.8 of Schedule 5. Except-A building exceeding 8 square metres in area. A building containing a flue, a fixed combustion appliance installation or sanitary facility. A building within 1 metre of a boundary.

**19.** Any single-storey building which is detached, or is attached to an existing house and which is ancillary to the house and consists of a greenhouse, carport or covered area. Except-A building exceeding 30 square metres in area. A building containing a flue, a fixed combustion appliance installation or sanitary facility.

**Buildings ancillary to flats or maisonettes**

**20.** A detached single-storey building ancillary to and within the curtilage of a flat or maisonette. Except-A building exceeding 8 square metres in area. A building within 3 metres of the flat or maisonette or within 3 metres of any other part of the building containing the flat or maisonette. A building containing a flue, a fixed combustion appliance installation or sanitary facility. A wall or fence.

**Paved areas**

**21.** A paved area or hardstanding. Except-A paved area or hardstanding exceeding 200 square metres in area. A paved area forming part of an access to meet a requirement of these regulations.

## SCHEDULE 2

### Regulation 4

#### CONVERSIONS TO WHICH THE REGULATIONS APPLY

- 1.** Changes in the occupation or use of a building to create a dwelling or dwellings or a part thereof.
- 2.** Changes in the occupation or use of a building ancillary to a dwelling to increase the area of human occupation.
- 3.** Changes in the occupation or use of a building which alters the number of dwellings in the building.
- 4.** Changes in the occupation or use of a domestic building to any other type of building.
- 5.** Changes in the occupation or use of a residential building to any other type of building.
- 6.** Changes in the occupation or use of a residential building which involve a significant alteration of the characteristics of the persons who occupy, or who will occupy, the building, or which significantly increase the number of people occupying, or expected to occupy, the building.
- 7.** Changes in the occupation or use of a building so that it becomes a residential building.
- 8.** Changes in the occupation or use of an exempt building (in terms of Schedule 1) to a building which is not so exempt.
- 9.** Changes in the occupation or use of a building to allow access by the public where previously there was none.
- 10.** Changes in the occupation or use of a building to accommodate parts in different occupation where previously it was not so occupied.

## SCHEDULE 3

### Regulation 5

#### DESCRIPTIONS OF BUILDING AND WORK, INCLUDING THE PROVISION OF SERVICES, FITTINGS AND EQUIPMENT, NOT REQUIRING A WARRANT

**A. On condition that types 1-23 in all respects and/or in the manner of their fitting meet any relevant requirement of the regulations.**

**1.** Any work to or in a house. Except-Any work which increases the floor area of the house. Any demolition or alteration of the roof, external walls or elements of structure. Any work adversely affecting a separating wall. Any change in the wastewater disposal system. Work, not being work of types 3 to 26 below, to a house having a storey, or creating a storey, at a height of more than 4.5 metres.

**2.** Any work to a non-residential building to which the public does not have access. Except- A non-residential building within which there is a domestic or residential building. Any work which increases the floor area of the building. Any demolition or alteration of the roof, external walls or elements of structure. Any work adversely affecting a separating wall. Any change in the wastewater disposal system. Work, not being work of types 3 to 26 below, to a building having a storey, or creating a storey, at a height of more than 7.5 metres.

And, without prejudice to the generality of types 1 and 2 above,

**3.** A detached single-storey building, having an area exceeding 8 square metres but not exceeding 30 square metres. Except-A dwelling or residential building. A building ancillary to, or within the curtilage of, a dwelling. A building within 1 metre of a boundary. A building containing a fixed combustion appliance installation or sanitary facility. A swimming pool deeper than 1.2 metres.

**4.** A detached single-storey building, having an area exceeding 8 square metres but not exceeding 30 square metres, ancillary to and within the curtilage of a house. Except-A building within 1 metre of the house unless it is at least 1 metre from any boundary. A building containing a fixed combustion appliance installation or sanitary facility. A swimming pool deeper than 1.2 metres.

**5.** A detached single-storey building, having an area exceeding 8 square metres but not exceeding 30 square metres, ancillary to and within the curtilage of a flat or maisonette. Except-A building within 3 metres of the flat or maisonette or within 3 metres of any other part of the building containing the flat or maisonette. A building containing a fixed combustion appliance installation or sanitary facility. A swimming pool deeper than 1.2 metres.

**6.** Any work associated with a fixed combustion appliance installation or other part of a heating installation not being work of types 7 or 8 below. Except-Any work associated with a solid fuel appliance having an output rating more than 50kW, an oil-firing appliance with an output rating more than 45kW or a gas-fired appliance having a net input rating more than 70 kW. Any work associated with a chimney, flue pipe or

hearth. An oil storage tank with a capacity of more than 90 litres, including any pipework connecting the tank to a combustion appliance providing space or water heating, or cooking facilities. Any work adversely affecting a separating wall.

**7.** Any work associated with a balanced flue serving a room-sealed appliance. Except-Any work associated with a balanced flue which passes through combustible material.

**8.** Any work associated with pipework, radiators, convector heaters and thermostatic controls for, or associated with, type 6 above.

**9.** Any work associated with installing a flue liner.

**10.** Any work associated with refillable liquefied petroleum gas storage cylinders supplying, via a fixed pipework installation, combustion appliances used principally for providing space heating, water heating, or cooking facilities.

**11.** Any work associated with the provision of a single sanitary facility, together with any relevant branch soil or waste pipe. Except-Any work associated with a water closet, waterless closet or urinal.

**12.** Any work associated with the relocation within the same room or space of any sanitary facility, together with any relevant branch soil or waste pipe.

**13.** Any work associated with the provision of an extractor fan.

**14.** Any work associated with a stairlift within a dwelling.

**15.** Any work associated with the provision of a notice or other fixture for which there is no requirement provided in these regulations.

**16.** Any work associated with an outdoor sign that is subject to the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984<sup>[9]</sup>.

**17.** Any work associated with thermal insulating material to or within a wall, ceiling, roof or floor. Except-Any work associated with the application of thermal insulating material to the outer surface of an external wall.

**18.** A wall not exceeding 1.2 metres in height, or a fence not exceeding 2 metres in height.

**19.** Any work associated with open raised external decking that does not form part of the access provided to comply with the requirement in regulation 9 and paragraph 4.1 of Schedule 5. Except-Any decking at a height of more than 1.2 metres.

**20.** A door, window, or rooflight when the work includes replacing the frame.

**21.** A paved area or hardstanding exceeding 200 square metres in area. A paved area forming part of an access to meet a requirement of these regulations.

22. An electrical installation, including a circuit for telecommunication, alarm purposes or for the transmission of sound, vision or data, which operates at extra-low voltage (not exceeding 50 volts alternating current or 120 volts direct current, measured between conductors or to earth) and which is not connected directly or indirectly to an electricity supply which operates at a voltage higher than either of those specified above.

23. The construction of a ramp not exceeding 5 metres in length.

**B. On condition that this work, service, fitting or equipment is to a standard no worse than at present.**

24. Any work associated with the replacement of a fitting or equipment, in whole or in part, by another of the same general type, including a sanitary facility (together with any relevant branch soil or waste pipe), rainwater gutter or downpipe, solid fuel combustion appliance, electrical fixture, ventilation fan, chimney or flue outlet fitting or terminal, fire hydrant or main, lift or escalator, solid waste chute or container, kitchen fittings or other fitted furniture and ironmongery. Except-Any door, window or rooflight. Any oil firing or gas fired boiler.

25. Any work associated with the replacement in whole or in part, by material of the same general type, of flooring, lining, cladding, covering or rendering either internally or externally.

26. Any work to a door, window or rooflight, including glazing which is not a complete replacement falling within type 20 above.

## SCHEDULE 4

### Regulation 7

## MEASUREMENTS

### **Area**

**1.** Measurement of area shall be taken to the innermost surfaces of enclosing walls or, on any side where there is no enclosing wall, to the outermost edge of the floor on that side.

### **Height and depth**

**2.** The height of-

(a) a building shall be taken to be the height from the surface of the ground to the underside of the ceiling of the topmost storey or, if the topmost storey has no ceiling, one-half of the height of the roof above its lowest part;

(b) a storey above the ground, or the depth of a storey below the ground shall be taken to be the vertical height or depth as the case may be from the ground to the upper surface of the floor of the storey, and the expressions "a storey at a height" and "a storey at a depth" shall be construed accordingly.

**3.** In the measurement of height or depth from ground which is not level the height or depth shall be taken to be the mean height or depth, except that-

(a) for the purpose of types 3, 4, 5, 18 or 19 of Schedule 3; and

(b) for any other purpose where the difference in level is more than 2.5 metres, the height or depth shall be taken to be the greatest height or depth.

### **General**

**4.** Except where the context otherwise requires, measurements shall be horizontal and vertical.

## SCHEDULE 5

### Regulation 9

#### BUILDING STANDARDS APPLICABLE TO DESIGN AND CONSTRUCTION

##### **SECTION 1: STRUCTURE**

###### **Structure**

**1.1** Every building must be designed and constructed in such a way that the loadings that are liable to act on it will not lead to:

- (a) the collapse of the whole or part of the building; or
- (b) deformations which would make the building unfit for its intended use, unsafe, or cause damage to other parts of the building or to fittings or to installed equipment.

###### **Disproportionate collapse**

**1.2** Every building must be designed and constructed in such a way that in the event of damage occurring to any part of the structure of the building the extent of any resultant collapse will not be disproportionate to the original cause.

##### **SECTION 2: FIRE**

###### **Compartmentation**

**2.1** Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, fire and smoke are inhibited from spreading beyond the compartment of origin until any occupants have had the time to leave that compartment and any fire containment measures have been initiated.

###### **Limitation**

This standard does not apply to domestic buildings.

###### **Separation**

**2.2** Every building, which is divided into more than one area of different occupation, must be designed and constructed in such a way that in the event of an outbreak of fire within the building, fire and smoke are inhibited from spreading beyond the area of occupation where the fire originated.

###### **Structural protection**

**2.3** Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the load-bearing capacity of the building will continue to function until all occupants have escaped, or been assisted to escape, from the building and any fire containment measures have been initiated.

###### **Cavities**

**2.4** Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the unseen spread of fire and smoke within concealed spaces in its structure and fabric is inhibited.

### **Internal linings**

**2.5** Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the development of fire and smoke from the surfaces of walls and ceilings within the area of origin is inhibited.

### **Spread to neighbouring buildings**

**2.6** Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the spread of fire to neighbouring buildings is inhibited.

### **Spread on external walls**

**2.7** Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, or from an external source, the spread of fire on the external walls of the building is inhibited.

### **Spread from neighbouring buildings**

**2.8** Every building must be designed and constructed in such a way that in the event of an outbreak of fire in a neighbouring building, the spread of fire to the building is inhibited.

### **Escape**

**2.9** Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the occupants, once alerted to the outbreak of the fire, are provided with the opportunity to escape from the building, before being affected by fire or smoke.

### **Escape lighting**

**2.10** Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, illumination is provided to assist in escape.

### **Communication**

**2.11** Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the occupants are alerted to the outbreak of fire.

### **Limitation**

This standard applies only to a building which-

- (a) is a dwelling;
- (b) is a residential building; or
- (c) is an enclosed shopping centre.

### **Fire service access**

**2.12** Every building must be accessible to fire appliances and fire service personnel.

### **Fire service water supply**

**2.13** Every building must be provided with a water supply for use by the fire

service.

**Limitation**

This standard does not apply to domestic buildings.

**Fire service facilities**

**2.14** Every building must be designed and constructed in such a way that facilities are provided to assist fire-fighting or rescue operations.

**Automatic life safety fire suppression systems**

**2.15** Every building must be designed and constructed in such a way that, in the event of an outbreak of fire within the building, fire and smoke will be inhibited from spreading through the building by the operation of an automatic life safety fire suppression system.

**Limitation**

This standard applies only to a building which-

- (a) is an enclosed shopping centre;
- (b) is a residential care building;
- (c) is a high rise domestic building; or
- (d) forms the whole or part of a sheltered housing complex.

**SECTION 3: ENVIRONMENT**

**Site preparation - harmful and dangerous substances**

**3.1** Every building must be designed and constructed in such a way that there will not be a danger to the building nor a threat to the health of people in and around the building due to the presence of harmful or dangerous substances.

**Limitation**

This standard does not apply to the removal of unsuitable material, including turf, vegetable matter, wood, roots and topsoil on the site of a building (other than a dwelling) intended to have a life not exceeding the period specified in regulation 6.

**Site preparation - protection from radon gas**

**3.2** Every building must be designed and constructed in such a way that there will not be a threat to the health of people in or around the building due to the emission and containment of radon gas.

**Flooding and ground water**

**3.3** Every building must be designed and constructed in such a way that there will not be a threat to the building or the health of the occupants as a result of flooding and the accumulation of ground water.

### **Moisture from the ground**

**3.4** Every building must be designed and constructed in such a way that there will not be a threat to the building or the health of the occupants as a result of moisture penetration from the ground.

### **Existing drains**

**3.5** Every building must not be constructed over an existing drain (including a field drain) that is to remain active.

### **Limitation**

This standard does not apply where it is not reasonably practicable to re-route an existing drain.

### **Surface water drainage**

**3.6** Every building, and hard surface within the curtilage of a building, must be designed and constructed with a surface water drainage system that will-

- (a) ensure the disposal of surface water without threatening the building and the health and safety of the people in and around the building; and
- (b) have facilities for the separation and removal of silt, grit and pollutants.

### **Wastewater drainage**

**3.7** Every wastewater drainage system serving a building must be designed and constructed in such a way as to ensure the removal of wastewater from the building without threatening the health and safety of the people in and around the building, and-

- (a) that facilities for the separation and removal of oil, fat, grease and volatile substances from the system are provided;
- (b) that discharge is to a public sewer or public wastewater treatment plant, where it is reasonably practicable to do so; and
- (c) where discharge to a public sewer or public wastewater treatment plant is not reasonably practicable that discharge is to a private wastewater treatment plant or septic tank.

### **Limitation**

Standard 3.7(a) does not apply to a dwelling.

### **Private wastewater treatment systems - treatment plants**

**3.8** Every private wastewater treatment plant or septic tank serving a building must be designed and constructed in such a way that it will ensure the safe temporary storage and treatment of wastewater prior to discharge.

### **Private wastewater treatment systems - infiltration systems**

**3.9** Every private wastewater treatment system serving a building must be designed and constructed in such a way that the disposal of the wastewater to ground is safe and

is not a threat to the health of the people in and around the building.

### **Precipitation**

**3.10** Every building must be designed and constructed in such a way that there will not be a threat to the building or the health of the occupants as a result of moisture from precipitation penetrating to the inner face of the building.

### **Limitation**

This standard does not apply to a building where penetration of moisture from the outside will result in effects no more harmful than those likely to arise from use of the building.

### **Facilities in a dwelling**

**3.11** Every dwelling must be designed and constructed in such a way that the size of any apartments or kitchens and the access to other rooms does not threaten the health of the occupants.

### **Limitation**

This standard applies only to a dwelling.

### **Sanitary facilities**

**3.12** Every building must be designed and constructed in such a way that sanitary facilities are provided for all occupants of, and visitors to, the building and that there is no threat to the health and safety of occupants or visitors.

### **Heating**

**3.13** Every building must be designed and constructed in such a way that it can be heated.

### **Limitation**

This standard applies only to a dwelling.

### **Ventilation**

**3.14** Every building must be designed and constructed in such a way that the air quality inside the building is not a threat to the health of the occupants or the capability of the building to resist moisture, decay or infestation.

### **Condensation**

**3.15** Every building must be designed and constructed in such a way that there will not be a threat to the building or the health of the occupants as a result of moisture caused by surface or interstitial condensation.

### **Limitation**

This standard applies only to a dwelling.

### **Natural lighting**

**3.16** Every building must be designed and constructed in such a way that natural lighting is provided to ensure that the health of the occupants is not threatened.

**Limitation**

This standard applies only to a dwelling.

**Combustion appliances - safe operation**

**3.17** Every building must be designed and constructed in such a way that each fixed combustion appliance installation operates safely.

**Combustion appliances - protection from products of combustion**

**3.18** Every building must be designed and constructed in such a way that any component part of each fixed combustion appliance installation used for the removal of combustion gases will withstand heat generated as a result of its operation without any structural change that would impair the stability or performance of the installation.

**Combustion appliances - relationship to combustible materials**

**3.19** Every building must be designed and constructed in such a way that any component part of each fixed combustion appliance installation will not cause damage to the building in which it is installed by radiated, convected or conducted heat or from hot embers expelled from the appliance.

**Combustion appliances - removal of products of combustion**

**3.20** Every building must be designed and constructed in such a way that the products of combustion are carried safely to the external air without harm to the health of any person through leakage, spillage, or exhaust nor permit the re-entry of dangerous gases from the combustion process of fuels into the building.

**Combustion appliances - air for combustion**

**3.21** Every building must be designed and constructed in such a way that each fixed combustion appliance installation receives air for combustion and operation of the chimney so that the health of persons within the building is not threatened by the build-up of dangerous gases as a result of incomplete combustion.

**Combustion appliances - air for cooling**

**3.22** Every building must be designed and constructed in such a way that each fixed combustion appliance installation receives air for cooling so that the fixed combustion appliance installation will operate safely without threatening the health and safety of persons within the building.

**Oil storage - protection from fire**

**3.23** Every building must be designed and constructed in such a way that an oil storage installation, incorporating oil storage tanks used solely to serve a fixed combustion appliance installation providing space heating or cooking facilities in a building, will inhibit fire from spreading to the tank and its contents from within, or beyond, the boundary.

**Limitation**

This standard does not apply to portable containers.

**Oil storage - protection from spillage**

**3.24** Every building must be designed and constructed in such a way that an oil storage installation, incorporating oil storage tanks used solely to serve a fixed

combustion appliance installation providing space heating or cooking facilities in a building, will-

- (a) reduce the risk of oil escaping from the installation;
- (b) contain any oil spillage likely to contaminate any water supply, groundwater, watercourse, drain or sewer; and
- (c) permit any spill to be disposed of safely.

**Limitation**

This standard does not apply to portable containers.

**Solid waste storage**

**3.25** Every building must be designed and constructed in such a way that accommodation for solid waste storage is provided which-

- (a) permits access for storage and for the removal of its contents;
- (b) does not threaten the health of people in and around the building; and
- (c) does not contaminate any water supply, ground water or surface water.

**Limitation**

This standard applies only to a dwelling.

**Dungsteads and farm effluent tanks**

**3.26** Every building must be designed and constructed in such a way that there will not be a threat to the health and safety of people from a dungstead and farm effluent tank.

## **SECTION 4: SAFETY**

**Access to buildings**

**4.1** Every building must be designed and constructed in such a way that all occupants and visitors are provided with safe, convenient and unassisted means of access to the building.

**Limitation**

There is no requirement to provide access for wheelchair users to-

- (a) a house, where there are no apartments on the entrance storey;
- (b) a house, where it is not reasonably practicable to construct a level or ramped access route between the point of access to, or from any car parking within, the curtilage of a building and an entrance to the house; or
- (c) a domestic building not served by a lift, where there are no dwellings entered from a common area on the entrance storey.

## **Access within buildings**

**4.2** Every building must be designed and constructed in such a way that-

- (a) in non-domestic buildings, safe, unassisted and convenient means of access is provided throughout the building;
- (b) in domestic buildings, safe and convenient means of access is provided to each dwelling and throughout the common areas;
- (c) in residential buildings, a proportion of the rooms intended to be used as bedrooms must be accessible to wheelchair users;
- (d) in dwellings, safe means of access is provided for occupants throughout the dwelling; and
- (e) in dwellings, safe and unassisted means of access is provided for visitors throughout at least one storey and to sanitary facilities.

## **Limitation**

There is no requirement to provide access suitable for wheelchair users-

- (a) in a non-domestic building not served by a lift, to a room, intended to be used as a bedroom, that is not on an entrance storey; or
- (b) in a domestic building not served by a lift, to common areas, other than on an entrance storey.

## **Stairs and ramps**

**4.3** Every building must be designed and constructed in such a way that every level can be reached safely by stairs or ramps.

## **Pedestrian protective barriers**

**4.4** Every building must be designed and constructed in such a way that every sudden change of level that is accessible in, or around, the building is guarded by the provision of pedestrian protective barriers.

## **Limitation**

This standard does not apply where the provision of pedestrian protective barriers would obstruct the use of areas so guarded.

## **Electrical safety**

**4.5** Every building must be designed and constructed in such a way that the electrical installation does not-

- (a) threaten the health and safety of the people in, and around, the building; and
- (b) become a source of fire.

## **Limitation**

This standard does not apply to an electrical installation-

(a) serving a building or any part of a building to which the Mines and Quarries Act 1954[10] or the Factories Act 1961[11] applies; or

(b) forming part of the works of an undertaker to which regulations for the supply and distribution of electricity made under the Electricity Act 1989[12] apply.

### **Electrical fixtures**

**4.6** Every building must be designed and constructed in such a way that electric lighting points and socket outlets are provided.

#### **Limitation**

This standard applies only to domestic buildings where a supply of electricity is available.

### **Aids to communication**

**4.7** Every building must be designed and constructed in such a way that it is provided with aids to assist those with a hearing impairment.

#### **Limitation**

This standard does not apply to domestic buildings.

### **Danger from accidents**

**4.8** Every building must be designed and constructed in such a way that-

(a) people in and around the building are protected from injury that could result from fixed glazing, projections or moving elements on the building;

(b) fixed glazing in the building is not vulnerable to breakage where there is the possibility of impact by people in, and around, the building;

(c) both faces of a window and rooflight in a building are capable of being cleaned such that there will not be a threat to the cleaner from a fall resulting in severe injury;

(d) a safe and secure means of access is provided to a roof; and

(e) manual controls for windows and roof lights can be operated safely.

#### **Limitation**

Standards 4.8(d) and 4.8(e) do not apply to domestic buildings.

### **Danger from heat**

**4.9** Every building must be designed and constructed in such a way that protection is provided for people in, and around, the building from the danger of severe burns or scalds from the discharge of steam or hot water.

### **Fixed seating**

**4.10** Every building, which contains fixed seating accommodation for an audience or spectators, must be designed and constructed in such a way that a number of level spaces for wheelchairs are provided proportionate to the potential audience or spectators.

**Limitation**

This standard does not apply to domestic buildings.

**Liquefied petroleum gas storage**

**4.11** Every building must be designed and constructed in such a way that each liquefied petroleum gas storage installation, used solely to serve a combustion appliance providing space heating, water heating, or cooking facilities, will-

- (a) be protected from fire spreading to any liquefied petroleum gas container; and
- (b) not permit the contents of any such container to form explosive gas pockets in the vicinity of any container.

**Limitation**

This standard does not apply to a liquefied petroleum gas storage container, or containers, for use with portable appliances.

**Vehicle protective barriers**

**4.12** Every building accessible to vehicular traffic must be designed and constructed in such a way that every change in level is guarded.

**SECTION 5: NOISE****Resisting sound transmission to dwellings using appropriate constructions**

**5.1** Every building must be designed and constructed in such a way that each wall and floor separating one dwelling from another, or one dwelling from another part of the building, or one dwelling from a building other than a dwelling, will limit the transmission of noise to the dwelling to a level that will not threaten the health of the occupants of the dwelling or inconvenience them in the course of normal domestic activities provided the source noise is not in excess of that from normal domestic activities.

**Limitation**

This standard does not apply to-

- (a) fully detached houses; or
- (b) roofs or walkways with access solely for maintenance, or solely for the use, of the residents of the dwelling below.

## SECTION 6: ENERGY

### Policy

**6.1** Every building must be designed and constructed in such a way that provision is made for energy conservation in accordance with the Building Standards Circular on Energy, 2004.

### Building insulation envelope

**6.2** In order to comply with standard 6.1 every building must be designed and constructed in such a way that the insulation envelope resists thermal transfer.

### Limitation

This standard does not apply to-

- (a) buildings, other than dwellings, which will not be heated nor cooled, other than heating provided for the purpose of frost protection; or
- (b) buildings which are ancillary to a dwelling which will not be heated, other than heating provided for the purpose of frost protection.

### Heating system

**6.3** In order to comply with standard 6.1 every building must be designed and constructed in such a way that the heating and hot water service systems are designed, installed, and capable of being controlled to achieve optimum energy efficiency, having regard to the thermal transfer of the insulation envelope.

### Limitation

This standard does not apply to-

- (a) buildings which do not use fuel or power for controlling the temperature of the internal environment;
- (b) buildings, or parts of a building, which will not be heated, other than heating provided for the purpose of frost protection;
- (c) heating provided for the purpose of frost protection; or
- (d) individual, solid-fuel stoves or open-fires, gas or electric fires or room heaters (excluding electric storage and panel heaters) provided in domestic buildings.

### Insulation of pipes, ducts and vessels

**6.4** In order to comply with standard 6.1 every building must be designed and constructed in such a way that temperature loss from heated pipes, ducts and vessels, and temperature gain to cooled pipes and ducts, is resisted.

### Limitation

This standard does not apply to-

- (a) buildings which do not use fuel or power for heating or cooling either the internal environment or water services;
- (b) buildings, or parts of a building, which will not be heated, other than heating provided for the purpose of frost protection;
- (c) pipes, ducts or vessels that form part of an isolated industrial or commercial process; or
- (d) cooled pipes or ducts in domestic buildings.

#### **Artificial and display lighting**

**6.5** In order to comply with standard 6.1 every building must be designed and constructed in such a way that artificial or display lighting must operate and be capable of being controlled to achieve optimum energy efficiency.

#### **Limitation**

This standard does not apply to-

- (a) process and emergency lighting components of a building; or
- (b) domestic buildings.

#### **Mechanical ventilation and air conditioning**

**6.6** In order to comply with standard 6.1 every building must be designed and constructed in such a way that the form and fabric of the building minimises the use of mechanical ventilating or cooling systems for cooling purposes, and the ventilating and cooling systems are designed, installed, and capable of being controlled to achieve optimum energy efficiency.

#### **Limitation**

This standard does not apply to-

- (a) domestic buildings; or
- (b) buildings which do not use fuel or power for ventilating or cooling the internal environment.

#### **Commissioning building services**

**6.7** In order to comply with standard 6.1 every building must be designed and constructed in such a way that services which use fuel or power for heating, lighting, ventilating and cooling the internal environment and heating the water, are commissioned to achieve optimum energy efficiency.

#### **Limitation**

This standard does not apply to-

- (a) the process and emergency lighting components of a building;
- (b) heating provided for the purpose of frost protection; or

(c) lighting, ventilation and cooling systems in a domestic building.

**Written information**

**6.8** In order to comply with standard 6.1 the occupiers must be provided by the owner with written information on the operation and maintenance of the building services and a forecast of the energy consumption of the building.

**Limitation**

This standard does not apply to-

- (a) buildings which do not use fuel or power for heating, lighting, ventilating and cooling the internal environment and heating the water supply services;
- (b) the process and emergency lighting components of a building;
- (c) heating provided for the purpose of frost protection; or
- (d) lighting, ventilation and cooling systems in a domestic building.

## SCHEDULE 6

### Regulation 12

#### BUILDING STANDARDS APPLICABLE TO CONVERSIONS

**1.** Except in relation to the standards specified in paragraph 3 every conversion to which these regulations apply shall meet the requirements of Schedule 5.

**2.** In relation to each of the standards specified in paragraph 3 the building as converted must be improved to as close to the requirement of that standard as is reasonably practicable, and in no case be worse than before the conversion.

**3.** The specified standards are those in section 1 of Schedule 5 and standards 2.2, 2.4, 2.6, 2.7, 2.8, 2.12, 3.1, 3.2, 3.3, 3.4, 3.10, 3.15, 3.16, 3.19, 4.1, 4.2, 4.3, 4.4, 4.8, 4.10, 6.2, 6.3, 6.4, 6.5 and 6.6 of Schedule 5.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations which are made under sections 1, 3(3), 8(8), 54, 56 of, and Schedule 1 to, the Building (Scotland) Act 2003 prescribe functional standards for buildings. These are to be found in Schedule 5 of these Regulations and cover a wide subject area. They are part of the reform of the building standards system as set out in the Building (Scotland) Act 2003.

The Regulations apply to construction, conversion and demolition of buildings and also to the provision of services, fittings and equipment in or in connection with buildings (regulations 9 to 12). There are certain exempted types of buildings and services (regulation 3 and Schedule 1). There are also some descriptions of buildings and services which do not require a warrant (regulation 5 and Schedule 3).

The Regulations also specify a period of five years as the life of a limited life building (regulation 6).

The Regulations also make various provision for protective works for the safety of the public whilst work is being carried out on a building or building site (regulation 13). Supplementary matters regarding the cleaning of footpaths and security of unoccupied and partly completed buildings are also covered (regulations 14 and 15).

The Regulations come into force on 1st May 2005 but do not apply to any application for a warrant for work made before that date (regulation 17).

These Regulations were notified in draft to the European Commission and other Member States in accordance with Directive 98/34/EC, as amended by Directive 98/48/EC.

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### *Notes:*

[1] 2003 asp 8.

[2] 1948 c.45.

[3] 2001 asp 8.

[4] 1875 c.17 and 1923 c.17.

[5] 1965 c.57.

[6] 1979 c.16. Section 1 was amended by the Natural Heritage Act 1983 (c.47) Schedule 4, paragraph 25.

[7] 1960 c.62.

[8] 1897 c.38. Section 73 was amended by the National Health Service (Scotland) Act 1972 (c.58) Schedule 6, paragraph 56.

[9] S.I 1984/467.

[10] 1954 c.70, as extended by the Mines and Quarries (Tips) Act 1969 (c.10) and the Mines Management Act 1971 (c.20).

[11] 1961 c.34.

[12] 1989 c.29.

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