STATUTORY INSTRUMENTS

1981 No. 1522 (S.157)

BUILDING AND BUILDINGS

The Building (Forms) (Scotland) Amendment Regulations 1981

Made - - - -	*20th October* 1981
Laid before Parliament	*9th November* 1981
Coming into Operation	*30th November* 1981

The Secretary of State in exercise of the powers conferred on him by section 24 of the Building (Scotland) Act 1959(a) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Building (Forms) (Scotland) Amendment Regulations 1981, and shall come into operation on 30th November 1981.

(2) In these regulations, unless the context otherwise requires, "the principal regulations" means the Building (Forms) (Scotland) Regulations 1975(b) and any reference in these regulations to a Form shall be construed as a reference to a Form set out in the Schedule to the principal regulations.

Amendment of the Principal Regulations

2. The Schedule to the principal regulations shall be amended as follows:—

(a) the titles of Forms 3 and 7 in the List of Forms, and Forms 3 and 7 shall be omitted;

(b) for Forms 2, 6, 8 and 16 respectively there shall be substituted Forms 2, 6, 8 and 16 respectively set out in Schedule 1 hereto;

(c) in Forms 1, 4, 5, 12, 13, 18, 22, 23 and 26 respectively there shall be made those amendments particularly described in Schedule 2 hereto;

(d) wherever appearing, the words "Building Standards (Scotland) Regulations 1971 to 1975" shall be deleted, and the words "Building Standards (Scotland) Regulations 1971 to 1980"(c) inserted.

George Younger,
One of Her Majesty's Principal Secretaries of State.

New St. Andrew's House,
Edinburgh,
20th October 1981.

(a) 1959 c. 24. (b) S.I. 1975/548.
(c) S.I. 1971/2052, as amended by S.I. 1973/794, 1975/404, 1979/310 and 1980/1772.

Regulation 2(b)

SCHEDULE 1

FORMS TO BE SUBSTITUTED FOR FORMS 2, 6, 8 AND 16 RESPECTIVELY.

FORM 2

RELAXATION OF THE BUILDING STANDARDS REGULATIONS—APPLICATION TO LOCAL AUTHORITY FOR A DIRECTION

BUILDING (SCOTLAND) ACTS 1959 AND 1970

[See Note 1] *The power to relax provisions of the building standards regulations is shared in terms of the Building Standards (Relaxation by Local Authorities) (Scotland) Regulations 1975 between the Secretary of State and the local authority. If you are in doubt as to whom your application should be addressed you should seek advice from the local authority.*

To the regional/district/islands* council as local authority for the purposes of the building (Scotland) Acts 1959 and 1970 for the region/district/islands area*.

Insert here full name(s) and address(es) of applicant(s).

I/We .....

.....

hereby apply under section 4(1)(*a*) of the Building (Scotland) Act 1959 as substituted by section 2(1) of the Building (Scotland) Act 1970 for a direction dispensing with or relaxing those provisions of the Building Standards (Scotland) Regulations 1971 to 1980 set out in the Schedule to this application [and in the accompanying plans, specifications and other information]* in respect of the [proposed] * building at .....

.....

Signature of applicant or agent .....

Date .....

Particulars of agent (if appropriate)

Name .....

Address .....

.....

.....

Telephone No. .....

Profession .....

*Delete as appropriate

SCHEDULE

PART I

Regulation Number	Provision from which dispensation or relaxation is sought	Proposed dispensation or relaxation	Reasons for application

PART II

1. Is the building new or existing? .....
2. What is the use or proposed use of the building? .....
3. In the case of an existing building please state present use. .....
4. Is the work being carried out at the request of the fire authority? .....
5. Has a notice under section 10 of the Building (Scotland) Act 1959 as amended by the Building (Scotland) Act 1970 and the Local Government (Scotland) Act 1973 been served on you? ..... [See Note 3
   If so, give details of notice. .....
6. Has a notice under section 11 of the Building (Scotland) Act 1959 as amended by the Building (Scotland) Act 1970 and the Local Government (Scotland) Act 1973 been served on you? ..... [See Note 3
   If so, give date of notice. .....
7. Has an application for warrant been made? .....
8. Is the building listed under the Town and Country Planning (Scotland) Act 1972 as being of special architectural or historic interest? ..... [See Note 4
   If so, please state category. .....
9. State name and address of owner of building. .....
   .....
   .....

PART III

Particulars of Affected Proprietors (other than Owner) [See Note 2]

Name	Address
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

Notes for Guidance of Applicant

1/4. Notes 1 to 4 appended to this Form should be the same as the Notes 1 to 4 appended to Form 1.

5. Part V of the Building (Procedure) (Scotland) Regulations 1981 deals with appeals under section 4A of the Building (Scotland) Act 1959 as inserted by section 2(1) of the Building (Scotland) Act 1970 and as amended by the Local Government (Scotland) Act 1973 to the Secretary of State against the refusal of the local authority to grant an application for a direction or against any of the conditions specified in the direction given by the local authority. The Part provides—

" .....

Giving notice of appeal

23. Any applicant who desires to appeal—

(a) against the refusal by the local authority of an application to dispense with or relax any provision of the building standards regulations which they have power to dispense with or relax, or

(b) against any conditions subject to which the application was granted

shall give notice of appeal in the prescribed form to the Secretary of State stating the grounds on which the appeal is made within 28 days from the date on which the local authority notify the applicant of their decision, or such longer period as the Secretary of State may at any time allow, and shall send a copy of the notice of appeal to the local authority.

Failure by local authority to give a decision

24. If within 2 months or within such extended period as may at any time be agreed in writing between the applicant and the local authority, the local authority do not notify the applicant of their decision on an application for a direction, the applicant may appeal in accordance with regulation 23 as if the local authority had refused the application and had notified the applicant of the decision on the last day of the said period.

Forwarding of documents to Secretary of State

25.—(1) As soon as may be after the receipt of the copy of a notice of appeal, the local authority shall subject to paragraph (2) of this regulation send to the Secretary of State a copy of the following documents—

(a) the application made to the local authority for a direction,

(b) all relevant plans, drawings and particulars submitted to them,

(c) all representations made with respect to the draft direction,

(d) the notice of the decision or determination if any by the local authority,

(e) the written statement by the local authority setting out their reasons for their decision or determination, including their reasons for attaching any conditions to the direction,

(f) all other relevant correspondence,

(g) a statement containing the observations of the local authority on the application and appeal including the names and addresses of those consulted by the local authority.

(2) If the local authority have within the period of 28 days specified in regulation 23 returned to the applicant any of the documents listed in paragraph (1) of this regulation, the applicant shall send such documents to the local authority along with the copy of the notice of appeal.

Process of consultation

26. The Secretary of State may if he thinks fit send—

(a) to the applicant and the local authority—

(i) notice of his intention to confirm the decision of the local authority, or

(ii) a copy of any draft direction he proposes to make in substitution therefor;

(b) to any other person appearing to him to be interested—

(i) a copy of the application, and

(ii) notice of his intention to confirm the decision of the local authority or a copy of his draft direction as aforesaid,

inviting representations on the said notice of intention or draft direction, as the case may be, and he shall take into account any representations received before confirming the decision of the local authority or making his direction final.

Circumstances in which hearing may be held

27. Before confirming the decision of the local authority or giving a direction the Secretary of State may if he thinks fit afford to the applicant, the local authority and any other person appearing to him to be interested an opportunity of appearing before and being heard by a person appointed by him for the purpose.

Intimating decision and reasons

28. After confirming the decision of the local authority or giving a direction the Secretary of State shall notify the applicant, the local authority and any other person who received notice of his intention to confirm the decision of the local authority or a copy of the draft direction in terms of paragraph (b) of regulation 26, of his determination of the appeal and of his reasons therefor."

[See Note 1]

FORM 6

APPLICATION FOR WARRANT TO ERECT (INCLUDING A BUILDING INTENDED TO HAVE A LIMITED LIFE), ALTER, EXTEND, CHANGE THE USE OF OR DEMOLISH A BUILDING

BUILDING (SCOTLAND) ACTS 1959 AND 1970

To the regional/district/islands* council as local authority for the purposes of the Building (Scotland) Acts 1959 and 1970 for the region/district/islands area*.

Insert here full name(s) and address(es) of applicant(s).

I/We .....
.....
.....
.....

State here the nature of the proposed operations eg erection, alteration, extension, change of use [See Note 2] or demolition of house, shop or other building.

apply under section 6 of the Building (Scotland) Act 1959 as amended by the Building (Scotland) Act 1970 and the Local Government (Scotland) Act 1973 for a warrant for the .....
.....

Insert here address of site or building.

[forming part of the building at]* .....
.....
.....

State interest in building eg owner tenant.

of which I am/we are .....
all in conformity with the plans [sections, elevations and drawings] [and specifications and other statements]* produced herewith [and in accordance with the relevant particulars given in the Schedule hereto]* [such building being intended to have a life of ..... years]*.

[See Note 3]

[See Note 5]

[I/We also apply for permission under section 8 of the Building (Scotland) Act 1959 as amended by the Building (Scotland) Act 1970 and the Local Government (Scotland) Act 1973 to occupy temporarily, for the purpose of depositing materials or otherwise in connection with the operations referred to above, the portion of ..... shown in the said plans and for authority under the said section 8 as amended to erect staging or scaffolding so as to project over the portion of ..... shown in the said plans.]*

Insert name of road which must be adjacent to the building or site.

Signature of applicant or agent .....
Date .....
Particulars of agent (if appropriate)
Name .....
Address .....
.....
.....
Telephone No. .....
Profession .....

*Delete as appropriate

SCHEDULE

Particulars of Application

NOTE: Where the application is in respect of a warrant to demolish, sections 5 and 6 only need be completed. In all other cases sections 1 to 5 should be completed.

1. Has any direction been given by the Secretary of State or the local authority under section 4 of the Building (Scotland) Act 1959 as substituted by section 2(1) of the Building (Scotland) Act 1970?
If so give details including the date and reference number of the direction. .....

2. What is the estimated cost of the operations? Please note that the local authority may wish to verify this figure. .....

3. *(a)* What is
(i) the proposed use, and (i) .....
(ii) (if applicable) the existing use of the [building] [part of the building covered by the application]* (ii) .....
(Where more than one use is proposed state the uses and indicate the part of the building allocated to each use.)

[*(b)* State the provisions of the Building Standards (Scotland) Regulations 1971 to 1980 which will become applicable or will apply more onerously to the building or part thereof by reason of the change of use.] .....

4. Is it intended that a further application will be made to the local authority in respect of any stage or stages in the construction for which particulars are not submitted with this application? [See Note 4
If so please indicate stage(s) .....

5. If the application is in respect of an existing building state whether it is listed under the Town and Country Planning (Scotland) Act 1972 as being of special architectural or historic interest. If so please state category. [See Note 6
.....

6. *Demolitions Only*

Give such particulars as are necessary to show that the operations involved will be conducted in accordance with the Building Operations (Scotland) Regulations 1975 [and any direction issued by the local authority under those regulations]*, so far as such particulars are not shown in the plan produced with the application. .....

*Delete as appropriate

Notes for the Guidance of Applicant

1. Section 6 of the Building (Scotland) Act 1959 as amended by the Building (Scotland) Act 1970 and the Local Government (Scotland) Act 1973 provides:

" .....

(2) A local authority shall, subject to subsection (8) of this section 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.

.....

(8) Notwithstanding anything in this section it shall be competent for—

(*b*) any 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

(*c*) any 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 section 17 of the Restriction of Ribbon Development Act 1935, section 10 of the Clean Air Act 1956,.....(which sections in their application to Scotland relate to the power of local authorities to refuse to grant warrants in certain circumstances).

....."

2. Section 29(1) of the Building (Scotland) Act 1959 provides:—

" .....

'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 ....."

3. Regulation A11 of the Building Standards (Scotland) (Consolidation) Regulations 1971 provides that in relation to a building to be constructed in accordance with the special provisions of those regulations relating to buildings intended to have a limited life, the period of intended life of the building should not exceed 5 years.

4. Regulation 5 of the Building (Procedure) (Scotland) Regulations 1981 prescribes the following stages of construction for the purposes of section 6(3A) of the Act inserted by the Health and Safety at Work etc Act 1974 (which empowers the local authority to grant a warrant for the construction of a building subject to further information being provided in respect of prescribed stages in the construction)—

construction of foundations;
construction of substructure;
construction of underground drainage system;
construction of superstructure, excluding the stages specified below;
construction of external wall cladding or internal walls or their linings;
construction of roof;
installation of a lift, escalator or electrical, ventilation, heating or plumbing system.

5. Section 29(1) of the Building (Scotland) Act 1959 provides:—

" .....

'road' includes street and any pavement, footpath, drain, ditch or verge at the side of a road or street;

....."

6. The planning authority will be able to advise whether a building is included in a list compiled or approved by the Secretary of State under section 52 of the Town and Country Planning (Scotland) Act 1972 as being of special architectural or historic interest or whether it is the subject of a building preservation notice under section 56 of that Act and if so whether a specific listed building consent is required in terms of section 53 of that Act.

NOTE: ANY WARRANT GRANTED IN RESPECT OF THIS APPLICATION WILL COVER APPROVAL UNDER THE BUILDING STANDARDS REGULATIONS ONLY AND WILL NOT EXEMPT THE APPLICANT FROM OBTAINING ANY OTHER PERMISSION WHICH MAY BE REQUIRED, FOR EXAMPLE PERMISSION UNDER THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS.

FORM 8

WARRANT TO ERECT (INCLUDING A BUILDING INTENDED TO HAVE A LIMITED LIFE), ALTER OR EXTEND A BUILDING

BUILDING (SCOTLAND) ACTS 1959 AND 1970

The regional/district/islands* council [as local authority] [acting under section 56 of the Local Government (Scotland) Act 1973 as local authority]* for the purposes of the Building (Scotland) Acts 1959 and 1970 for the region/district/islands area*, having considered the application by ..... dated ..... 19 , hereby grant warrant under section 6 of the Building (Scotland) Act 1959 as amended by the Building (Scotland) Act 1970, the Local Government (Scotland) Act 1973 and the Health and Safety at Work etc Act 1974 for the erection/alteration/extension* of a building at .....[being a building intended to have a limited life of .....years]* subject to the following conditions—

(*a*) that the building shall be erected/altered/extended* in conformity with the plans [sections, elevations and drawings and specifications and other statements]* lodged with the application and in accordance with the particulars given in the application and in the Schedule thereto [and in conformity with such information as is subsequently submitted in terms of condition (*e*) below]*;

(*b*) that the building shall be erected/altered/extended* in accordance with the Building Standards (Scotland) Regulations 1971 to 1980;

[(*c*) that the conditions specified in the direction given by the Secretary of State or the local authority as aforesaid under section 4 of the Building (Scotland) Act 1959 as substituted by section 2(1) of the Building (Scotland) Act 1970 and as amended by the Local Government (Scotland) Act 1973 are observed;]*

[(*d*) on or before the expiration of the period of years from the date on which a certificate of completion is granted under section 9 of the Building (Scotland) Act 1959 the building will be demolished;]*

Insert here stage(s) of construction.

[(*e*) work on .....
.....
.....

shall not proceed until the information specified in the Schedule to this warrant in respect of the said stage(s) of construction has been submitted to the local authority together with an application under section 6(3A) of the Building (Scotland) Act 1959 as inserted by the Health and Safety at Work etc Act 1974 for an amendment of the terms of this warrant authorising the said work to proceed, and the local authority have amended this warrant accordingly].*

A copy of the plans referred to in paragraph (*a*) hereof is returned herewith endorsed in relation to this warrant.

Dated this ..... day of .....19 .

.....
for the local authority.

[SCHEDULE

The information mentioned in condition (e) above is—

.....
.....
.....
.....]*

*Delete as appropriate.

Notes
(to be incorporated in the Warrant and any copies thereof)

1. Regulation 4 of the Building (Procedure) (Scotland) Regulations 1981 provides:—

"Duration of warrant

4. A warrant granted by the local authority shall be valid only—

(*a*) for the period of three years from the date on which it is granted, or

(*b*) for such extended period or periods as may be approved by the local authority on application made to them at any time."

2. Regulation 51 of the Building (Procedure) (Scotland) Regulations 1981 provides:—

"Notices regarding operations

51. Any person carrying out operations in pursuance of a warrant granted under the Act shall give notice to the local authority—

(*a*) of the date on which work is commenced within 7 days of such date,

(*b*) when any drain has been laid and is ready for inspection or test under regulation M4(6)(*a*) of the building standards regulations,

(*c*) when a drain track has been in-filled and the drain is ready for a second inspection or test in accordance with regulation M4(6)(*b*) of the building standards regulations, and

(*d*) of the date on which the operations are completed:

Provided that—

(i) notices under paragraphs (*a*) and (*d*) of this regulation shall be in writing, and

(ii) nothing in this regulation shall require the giving of notice of the date on which operations are completed where application to the local authority for a certificate of completion has been made in the prescribed form."

It is stressed however that a certificate of completion in respect of any building which is the subject of a warrant granted under section 6 of the Building (Scotland) Act 1959 as amended by the Building (Scotland) Act 1970 and the Local Government (Scotland) Act 1973 must always be obtained from the local authority *BEFORE* occupying or using the building. Wilful failure to obtain such a certificate is an offence. The only exceptions to this general rule are where the occupation or use is solely for the purpose of the construction of the building or in certain circumstances where temporary occupation is involved. (For details see section 9(5) and (6) of the Building (Scotland) Act 1959). Within 14 days of application for a certificate of completion the local authority must either grant the certificate or notify the applicant of their refusal to do so. In terms of section 16(1)(*c*) of the Building (Scotland) Act 1959 there is a right of appeal to the sheriff against a decision of a local authority refusing to issue a certificate of completion.

NOTE: THIS WARRANT IS IN RESPECT OF APPROVAL UNDER THE BUILDING STANDARDS REGULATIONS ONLY AND DOES NOT EXEMPT THE APPLICANT FROM OBTAINING ANY OTHER PERMISSIONS WHICH MAY BE REQUIRED, FOR EXAMPLE PERMISSION UNDER THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS.

FORM 16

APPLICATION FOR CERTIFICATE OF COMPLETION

BUILDING (SCOTLAND) ACTS 1959 AND 1970

To the regional/district/islands* council as local authority for the purposes of the Building (Scotland) Acts 1959 and 1970 for the region/district/islands area*

Insert here full name(s) and address(es) of applicant(s).

I/We .....
.....

apply under section 9 of the Building (Scotland) Act 1959 as amended by the Local Government (Scotland) Act 1973 for a certificate of completion in respect of the works of erection/alteration/extension* of the building at .....

Insert here address of building.

.....

which works were—

completed on .....; and

carried out in accordance with the warrant granted on

Insert here date of warrant and of any amendment thereof.

.....
.....

in conformity with the relative plans and specifications and in accordance with the Building Standards (Scotland) Regulations 1971 to 1980 [as relaxed by a direction given on.....by the Secretary of State or the local authority under section 4 of that Act as substituted by section 2(1) of the Building (Scotland) Act 1970 and as amended by the Local Government (Scotland) Act 1973]*, [and I/we attach hereto a certificate granted under section 9(3) of the Building (Scotland) Act 1959 by the person who installed the electrical installation certifying that the installation complies with the conditions on which the said warrant was granted].*

Signature of applicant or agent .....

Date .....

Particulars of agent (if appropriate)

Name .....

Address .....
.....
.....

Telephone No .....

Profession .....

*Delete as appropriate.

Note for Guidance of Applicant

Within 14 days of application for a certificate of completion the local authority must either grant the certificate or notify the applicant of their refusal to do so. In terms of section 16(1)(c) of the Building (Scotland) Act 1959 there is a right of appeal to the sheriff against a decision of a local authority refusing to issue a certificate of completion.

SCHEDULE 2 Regulation 2(c)

AMENDMENTS TO FORMS 1, 4, 5, 12, 13, 18, 22, 23 AND 26

1. In Forms 1 and 5 in the address of the Scottish Development Department for the words "125 George Street Edinburgh EH2 4LE" there shall be substituted the words "New St Andrew's House Edinburgh EH1 3SZ".

2. In Form 1 in Note 2 for the words "Regulation 5 of the Building (Procedure) (Scotland) Regulations 1975" there shall be substituted the words "Regulation 3 of the Building (Procedure) (Scotland) Regulations 1981"(a).

3. In Form 4—

(i) for the words "Building (Procedure) (Scotland) Regulations 1975" there shall be substituted the words "Building (Procedure) (Scotland) Regulations 1981";

(ii) in the Note for the words "Note 9" there shall be substituted the words "Note 5".

4. In Form 5 in the Note for the words "Note 9" there shall be substituted the words "Note 5".

5. In Forms 12 and 13 the words "The Docquets of Service and Statement attached to this Form should be the same as those attached to Form 6" shall be deleted.

6. In Form 18 in Note 2 and in Form 22 in Note 5 for the words "one hundred pounds" and "ten pounds" there shall be substituted respectively the words "£400" and "£50".

7. In Form 23 in the Note—

(i) for the word "Note" which comprises the heading there shall be substituted the word "Notes";

(ii) before the words "Section 11 of the....." of the Note there shall be inserted "1";

(iii) after Note 1 there shall be inserted the following—

"2. Where the owner of a building has been ordered under section 11(4) of the Building (Scotland) Act 1959 to make the building conform to a provision of the building standards regulations requiring the provision of suitable and sufficient sanitary conveniences therein, section 6(2) of the Chronically Sick and Disabled Persons Act 1970 provides that the owner of the building shall in complying with that order make provision, in so far as it is in the circumstances both practicable and reasonable, for the needs of persons frequenting that building who are disabled. Where such provision is made section 7 of the 1970 Act requires that a notice or sign indicating that provision is made for the disabled shall be displayed outside the building or so as to be visible from outside it, and that notices or signs shall be displayed in the building indicating the places where such provision is made and appropriate routes for persons who are disabled to get to those places. The British Standards Institution Code of Practice for Access for the Disabled to Buildings (BS 5810: 1979) contains guidance on the design of sanitary conveniences suitable for the disabled."

8. In Form 26 in Note 2—

(i) for the words "Regulation 52 of the Building (Procedure) (Scotland) Regulations 1975" there shall be substituted the words "Regulations 44 of the Building (Procedure) (Scotland) Regulations 1981" and thereafter for "52" there shall be substituted "44";

(ii) in the proviso to paragraph (5) of the quoted regulation 44 after the word "under" there shall be inserted the words "paragraph (2) of".

(a) S.I. 1981/1499.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Building (Forms) (Scotland) Regulations 1975. Certain of the existing Forms have been re-written and minor and drafting amendments have been made to other Forms, mainly in consequence of changes made by the Building (Procedure) (Scotland) Regulations 1981.

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