STATUTORY INSTRUMENTS

1971 No. 746 (S.104)

BUILDING AND BUILDINGS

The Building (Procedure) (Scotland) Regulations 1971

Made - - -	*29th April* 1971
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In exercise of the powers conferred on me by sections 2(4), 6, 7(1), 9(1), 20(1) and 24 of, and Schedule 3 to, the Building (Scotland) Act 1959(a) and section 4(8) of that Act as substituted by and sections 4A, 6A(7) and 6B(3) of that Act as inserted by the Building (Scotland) Act 1970(b), and of all other powers enabling me in that behalf I hereby make the following regulations—

PART I

GENERAL

Citation and commencement

1. These regulations, which may be cited as the Building (Procedure) (Scotland) Regulations 1971, shall come into operation on 15th June 1971.

Revocation and general savings

2.—(1) The Building (Scotland) Act 1959 (Procedure) Regulations 1964(c) are hereby revoked.

(2) Anything whatsoever done under or by virtue of any regulation revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provision of these regulations and anything whatsoever begun under any such regulation may be continued under these regulations as if begun under these regulations.

(a) 1959 c.24. (b) 1970 c.38.
(c) S.I. 1964/712 (1964 II, p.1432).

(3) So much of any document, drawing or plan as refers expressly to any regulation revoked by these regulations shall, if and so far as the context permits, be construed as referring to the corresponding provision of these regulations.

(4) Nothing in paragraphs (2) and (3) of this regulation shall be taken as affecting the general application by regulation 3(6) of these regulations of the rules for the construction of Acts of Parliament contained in section 38 of the Interpretation Act 1889(a) (effect of repeal) with regard to the effect of revocations.

Interpretation

3.—(1) Where in these regulations any meaning is assigned to an expression such meaning shall have effect for the purposes of these regulations only where the context does not otherwise require.

(2) Any reference in these regulations to a Part, regulation or Schedule shall, unless the context otherwise requires, be construed as a reference to a Part or regulation of or a Schedule to these regulations.

(3) Any reference in these regulations to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended applied or extended by or under any subsequent enactment.

(4) Any reference in these regulations to an application or statement being lodged with the clerk to the buildings authority shall be taken to include a reference to the sending of the application or statement to the clerk by post.

(5) Any provision in these regulations requiring service of an application on an owner of land or buildings as an affected proprietor shall be deemed to have been complied with if the application is served on all the persons appearing from the valuation roll or otherwise known to the applicant to be an owner of the land or buildings.

(6) The Interpretation Act 1889 shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Definitions

4. In these regulations—

"the Act" means the Building (Scotland) Act 1959 as read with the Building (Scotland) Act 1970;

"affected proprietor" has the meaning assigned to it by regulation 6;

"application for a direction" means an application under section 4(1) of the Act to the Secretary of State or to the buildings authority as the case may be for a direction dispensing with or relaxing a provision of the building standards regulations;

"application for a warrant" includes an application for amendment of a warrant and an application for a warrant for minor works;

"building" has the meaning assigned to it by section 29 of the Act;

"buildings authority" has the meaning assigned to it by section 1 of the Act, and in relation to any function of the buildings authority which has been delegated to a committee, includes that committee;

"Building Standards Advisory Committee" means the Building Standards Advisory Committee appointed under section 12 of the Act;

"building standards regulations" means the Building Standards (Scotland) (Consolidation) Regulations 1970(b);

(a) 1889 c. 63.

(b) S.I. 1970/1137 (1970 II, p. 3635).

"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 ;

"certificate of completion" has the meaning assigned to it by section 9 of the Act with the period prescribed by regulation 8 ;

"direction" means a direction under section 4(4) of the Act by the Secretary of State or the buildings authority as the case may be dispensing with or relaxing a provision of the building standards regulations, given either unconditionally or subject to such conditions specified in the direction as appear to the Secretary of State or the buildings authority as the case may be to be required as a direct result of the dispensation or relaxation and includes—

(*a*) a direction given on the determination of an appeal to the Secretary of State under section 4A of the Act, and

(*b*) a refusal to grant the application for a direction with the substitution for any reference to giving a direction of a reference to the refusal to give a direction, and with the substitution for any reference to a copy of the draft direction of a reference to a statement of intention to refuse an application for a direction ;

"draft direction" means a draft of the direction as proposed to be given by the Secretary of State or the buildings authority as the case may be ;

"fire authority" means the fire authority established under section 36 of the Fire Services Act 1947(**a**) ;

"highway authority" means the highway authority within the meaning of section 50(1) of the Roads (Scotland) Act 1970(**b**) ;

"master of works" means a master of works appointed under section 21 of the Act and, in relation to any building, means the master of works so appointed for the burgh or, as the case may be, the landward area of the county, in which the building is, or will be, situated ;

"minor works" refers to construction of a minor character prescribed by regulation 5 ;

"objections" means objections in relation to an application for a warrant ;

"owner" in relation to any land or building includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking ;

"plan" includes section, elevation, drawing and block plan and any specification or other written or figured statement submitted to the Secretary of State or the buildings authority as relative to a plan, section, elevation or drawing ;

"prescribed form" means a form prescribed by the Building (Forms) (Scotland) Regulations 1971(**c**) ;

"representations" means representations in relation to an application for a direction or to any conditions subject to which a direction may be given ;

"service copy" in relation to an application to the buildings authority means a copy of the application in the prescribed form for service on an affected proprietor ;

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

(**a**) 1947 c. 41. (**b**) 1970 c. 20.
(**c**) S.I. 1971/747 (1971 II, p. 2097).

"warrant" means a warrant under section 6 of the Act.

Minor works

5.—(1) For the purposes of section 7 of the Act (which makes special provision in relation to such construction of buildings as may be prescribed, being construction of a minor character) there is prescribed any construction—

(*a*) the cubic capacity of which does not in the case of the erection or extension of a building exceed 120 cubic metres, and

(*b*) the estimated cost of which does not in any case exceed £2,500.

(2) The reference in the last foregoing paragraph to cubic capacity shall be taken to be a reference to a cubic capacity calculated or measured in accordance with provisions of Schedule 1 to the building standards regulations.

Affected proprietor

6. For the purposes of these regulations "affected proprietor" in relation to a building includes any person who is—

(*a*) an owner of the building or of the site thereof,

(*b*) an owner of the conterminous land, but only if any part of such land is within 90 metres of any part of the building or of the site thereof, and

(*c*) an owner of land part of which is within 4 metres of any part of the building or site thereof.

Duration of warrant

7. A warrant granted by the buildings 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 buildings authority on application made to them at any time.

Certificate of completion

8. For the purposes of section 9(1) of the Act (which requires the buildings authority within such period as may be prescribed either to grant the certificate of completion or notify the applicant of their refusal to do so) there is prescribed a period of 14 days.

Fees

9. For the purposes of section 20 of the Act (which authorises the buildings authority to charge such fees as may be prescribed) there are prescribed the fees specified in Schedule 2 in relation to the business of a buildings authority specified therein.

Failure to comply with regulations

10. Any failure on the part of any person to comply with the provisions of these regulations shall not render the proceedings or anything done in pursuance thereof invalid unless the Secretary of State or the buildings authority as the case may be so directs.

PART II

APPLICATION TO BUILDINGS AUTHORITY FOR WARRANT

Application of this Part

11. The provisions of this Part shall apply to an application for a warrant under section 6 of the Act :

Provided that nothing in this Part shall apply to the extent that the application is referred to the Secretary of State under section 6A of the Act.

Making application for warrant

12.—(1) Application for a warrant shall be made by lodging with the clerk to the buildings authority—

(*a*) an application in writing in the prescribed form signed by the applicant or his duly authorised agent, and

(*b*) the principal and a copy of each of the plans specified—

(i) in the case of a warrant to erect a building, in Section A of Schedule 1,

(ii) in the case of a warrant to alter a building, in Section B of Schedule 1,

(iii) in the case of a warrant for the extension of a building, in Section C of Schedule 1,

(iv) in the case of a warrant for the change of use of a building, in Section D of Schedule 1,

(v) in the case of a warrant to demolish a building, in Section E of Schedule 1,

(vi) in the case of an amendment of a warrant, in Section F of Schedule 1, and

(*c*) details of any direction which has been given by the Secretary of State or by the buildings authority as the case may be in relation to the particular building which is the subject of the application :

Provided that nothing in this paragraph shall require the submission of the plans specified in Schedule 1—

(*a*) in the case of an application for a warrant for minor works if the clerk to the buildings authority or the master of works as the case may be is satisfied that the nature of the proposed works is sufficiently apparent from the application together with such plans as may accompany it, or

(*b*) in the case of an application for amendment of a warrant if the buildings authority or in the case of minor works the clerk to the buildings authority or the master of works are satisfied that the nature of the proposed amendment is sufficiently apparent from the application together with the warrant proposed to be amended.

(2) The applicant shall if required by the buildings authority at any stage in the proceedings submit to the buildings authority—

(*a*) such further information or additional plans, or

(*b*) such further copies (not exceeding 2) of the application or of the plans lodged with the application,

as the buildings authority may direct.

(3) The provisions of Section G of Schedule 1 shall have effect for the purposes of this regulation.

Service of application

13.—(1) An applicant for a warrant shall before lodging the application with the clerk to the buildings authority serve a service copy of the application on every other affected proprietor and on the master of works:

Provided that nothing in this paragraph shall require service of a service copy of the application—

(*a*) on any person who has signed the form of application as dispensing with formal service thereof, or

(*b*) on any affected proprietor in the case of proposed operations which are within a building which is completely detached and which is owned and occupied by the same person.

(2) The buildings authority may at any time require the applicant to serve a service copy of the application on such other person as they may direct.

(3) Any service of a service copy of an application required by this regulation may be effected on behalf of an applicant by the clerk to the buildings authority and where so effected shall for the purposes of this regulation be taken to have been effected prior to the lodging of the application.

Opposed applications

14.—(1) At any time before the expiry of 14 days after the date of making of the application for a warrant—

(*a*) any affected proprietor not being an affected proprietor who has signed the form of application as having no objection to the carrying out of the proposed operations,

(*b*) the master of works, or

(*c*) any other person claiming to have an interest in the subject matter of the application

may by a statement in writing, lodged with the clerk to the buildings authority, object to the granting of the application and apply to be heard by the buildings authority.

(2) Any such objection shall state—

(*a*) the interest by reason of which the person objecting claims to be entitled to be heard in the application,

(*b*) the grounds of objection, and

(*c*) an address at which documents may be served upon him,

and a copy of the objection shall be served by the person objecting on the applicant and if the person objecting is not the master of works on the master of works:

Provided that the buildings authority may if they think fit hear any person who has applied to be heard under this regulation notwithstanding that he has not complied with this paragraph.

(3) Subject to paragraph (1) of regulation 15, on receipt of an objection the application shall be put out for hearing at a meeting of the buildings authority occurring not less than 7 days after such receipt and the clerk to the buildings authority shall serve notice of the date time and place of the meeting of the buildings authority on the person objecting on the applicant and if the master of works is not the person objecting on the master of works :

Provided that where more than one objection is lodged under this regulation the application shall not be put out for hearing earlier than 7 days after the date of the receipt of the later or latest objection.

(4) If any person who has lodged an objection to the granting of an application appears before the buildings authority at a hearing of the application, the buildings authority may require that person to lodge a further statement of objections in writing in supplement of any statement already lodged, at the same time serving a copy of such further statement on the applicant and if the person objecting is not the master of works on the master of works.

(5) Where at the hearing of an application the applicant or any person who has lodged an objection neither attends nor is represented the buildings authority may continue the hearing or determine the application so however that they shall take into account any objection and any statement by the applicant in relation to any objection :

Provided that in no case shall the buildings authority dismiss the application on the grounds of an objection the details of which have not been made known to the applicant.

(6) Where in the case of an application for a warrant for minor works the applicant is aggrieved by the refusal of the clerk to the buildings authority or the master of works to grant warrant, he may by lodging a motion in the prescribed form require his application to be referred to and dealt with by the buildings authority and the provisions of this regulation shall then apply to the application as if the refusal were an objection lodged under paragraph (1) of this regulation by the clerk or the master of works as the case may be.

(7) Any objection lodged under paragraph (1) of this regulation may be withdrawn by the person objecting, by giving to the clerk to the buildings authority, the applicant and the master of works a written intimation to that effect ; and the provisions of paragraphs (4) and (5) of this regulation shall not apply to such an objection.

Unopposed applications

15.—(1) If during the period mentioned in paragraph (1) of regulation 14 no objection is lodged by any of the persons mentioned therein, or if before the determination of the application every objection so lodged has been withdrawn, the buildings authority may grant the application at any meeting of the buildings authority after the expiry of the said period or after the date of withdrawal as the case may be, notwithstanding that the applicant is not present or represented before them :

Provided that the buildings authority shall not dismiss the application on any ground without giving to the applicant an opportunity of being heard.

(2) If, in the case of an application for a warrant for minor works—

(*a*) the affected proprietors, and

(*b*) where the delegation under section 7 of the Act has been made to the clerk to the buildings authority, the master of works

have signed the form of application as having no objection to the granting of the application, the clerk to the buildings authority or the master of works as the case may be may grant the application after the expiry of the period mentioned in paragraph (1) of regulation 14.

PART III

REFERENCE TO SECRETARY OF STATE OF APPLICATIONS FOR WARRANT

Application of this Part

16.—(1) The provisions of this Part shall apply to the reference to the Secretary of State under section 6A of the Act of applications for a warrant.

(2) For the purposes of this Part an application for a warrant shall include an application for a warrant for the construction or change of use of a building, an application for the amendment of the terms of a warrant for the construction of a building, and an application for an extension of the period specified in a warrant for the construction of a building intended to have a limited life, but shall not include an application for a warrant for the demolition of a building.

(3) The provisions of this Part shall apply to an application for a warrant to the extent that the Secretary of State has given notice to the buildings authority under section 6A(4) of the Act or to the extent that the Secretary of State can determine the application under section 6A(8) of the Act.

Forwarding of documents by buildings authority

17. Where an application for a warrant to which a direction under section 6A(1) or section 6A(8) of the Act relates is to be referred to the Secretary of State, the buildings authority shall send the application to the Secretary of State together with—

(*a*) the plans lodged with the application,

(*b*) any objections received by the buildings authority,

(*c*) a note by the buildings authority to the effect that they are satisfied that the application has been duly made in the manner prescribed by Part II of these regulations, and

(*d*) a copy of any previous warrant, but only in the case of a direction under section 6A(8) of the Act.

Notifying applicant of reference

18.—(1) At the same time as the documents are being forwarded under regulation 17 the buildings authority shall notify the applicant that the application has been referred to the Secretary of State under section 6A of the Act.

(2) As soon as the Secretary of State has given notice to the buildings authority under section 6A(4) of the Act the buildings authority shall notify the applicant of the terms of the notice.

Consultation in event of additional requirements

19. Where the Secretary of State intends under section 6A(7) of the Act to impose requirements additional to or more onerous than those contained in the building standards regulations he shall consult—

(*a*) the applicant,

(*b*) the buildings authority,

(*c*) the Building Standards Advisory Committee, and

(*d*) any other person appearing to him to be interested.

Consideration of representations against proposed relaxation

20. Where the Secretary of State intends either on an application made to him under section 4(1)(*a*) of the Act or of his own accord to dispense with or relax any provision of the building standards regulations he shall notify the applicant, the buildings authority and any other person appearing to him to be interested of his intention to dispense with or relax these provisions, and shall consider any representations received by him within 21 days of the notification of his intentions.

Circumstances in which hearing may be held

21. Before determining an application for a warrant the Secretary of State may if he thinks fit afford to the applicant, any persons who have lodged objections to the granting of the application 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 but only in so far as he decides that the objections relate to the questions which he is to consider under section 6A(4)(*b*), (*c*) or (*d*) of the Act.

Intimating decision and reasons

22. After the Secretary of State has intimated his decision to the buildings authority, the buildings authority shall notify the applicant and any other person appearing to the buildings authority to be interested in the application to the extent that it has been considered by the Secretary of State, of the determination by the Secretary of State and of the reasons given by the Secretary of State for his determination.

PART IV

APPLICATION TO BUILDINGS AUTHORITY FOR DIRECTION

Application of this Part

23. The provisions of this Part shall apply to an application for a direction under section 4(1)(*a*) of the Act to the buildings authority by whom power to give a direction is exercisable under the Building Standards (Relaxation by Buildings Authorities) (Scotland) Regulations 1971(**a**):

Provided that nothing in this Part shall apply where the application for a warrant in respect of the proposed operations to which the application to the buildings authority for a direction also relates is referred to the Secretary of State under section 6A of the Act.

S.I. 1971/745(1971 II, p. 2067).

Making Application

24.—(1) Application for a direction shall be made by lodging with the clerk to the buildings authority—

(*a*) an application in writing in the prescribed form signed by the applicant or his duly authorised agent, and

(*b*) the principal and a copy of each of the plans specified in Section A of Schedule 1 but only so far as necessary to show the direction subject to which it is proposed that the building standards regulations should apply and the relationship of the direction to the building as a whole:

Provided that nothing in this paragraph shall require the submission of plans if the buildings authority are satisfied that the nature of the proposed direction is sufficiently apparent from an application for a warrant and the plans submitted therewith.

(2) The applicant shall if required by the buildings authority at any stage in the proceedings submit to the buildings authority—

(*a*) such further information or additional plans, or

(*b*) such further copies (not exceeding 2) of the application or of the plans lodged with the application,

as the buildings authority may direct.

(3) The provisions of Section G of Schedule 1 shall have effect for the purposes of this regulation.

Service of application

25.—(1) An applicant for a direction shall before lodging the application with the clerk to the buildings authority serve a service copy of the application on every other affected proprietor and on the master of works and also, in applications in relation to Parts D, E or F of the building standards regulations, on the firemaster of the fire authority :

Provided that nothing in this paragraph shall require service of a service copy of the application—

(*a*) on any person who has signed the form of application as dispensing with formal service thereof, or

(*b*) on any affected proprietor in the case of proposed operations which are within a building which is completely detached and which is owned and occupied by the same person.

(2) The buildings authority may at any time require the applicant to serve a service copy of the application on such other persons as they may direct.

(3) Any service of a service copy of an application required by this regulation may be effected on behalf of an applicant by the clerk to the buildings authority and where so effected shall for the purposes of this regulation be taken to have been effected prior to the lodging of the application.

Making representations against application

26.—(1) At any time before the expiry of 14 days after the date of the making of the application—

(*a*) any affected proprietor not being an affected proprietor who has signed the form of application as not wishing to make any representations to the carrying out of the proposed operations,

(*b*) the master of works,

(*c*) the firemaster of the fire authority on whom a service copy of the application has been served in terms of paragraph (1) of regulation 25, or

(*d*) any other person claiming to have an interest in the subject matter of the application

may by a statement in writing lodged with the clerk to the buildings authority make representations to the granting of the application.

(2) Any such representation shall state—

(*a*) the interest by reason of which the person making representations claims to be entitled to make representations,

(*b*) the grounds on which he makes his representations, and

(*c*) an address at which documents may be served upon him,

and a copy of the representations shall be served by the person making representations on the applicant and if the person making representations is not the master of works on the master of works:

Provided that the buildings authority may if they think fit accept any representations from any person notwithstanding that he has not complied with this paragraph.

(3) Any representation made under paragraph (1) of this regulation may be withdrawn by the person making the representation, by giving to the clerk to the buildings authority the applicant and the master of works a written intimation to that effect.

Preparation of draft direction

27.—(1) At any time after the expiry of the period mentioned in paragraph (1) of regulation 26 the buildings authority shall after having considered any representations made in terms of regulation 26 prepare a draft direction:

Provided that where no representations have been made to the granting of the application in terms of regulation 26 and the buildings authority intend to grant the application for a direction unconditionally, the buildings authority shall not be required to prepare a draft direction before so granting the application.

(2) A copy of the draft direction shall forthwith be sent to the applicant, any person who made representations in terms of regulation 26 and any other person appearing to the buildings authority to be interested with an intimation that any representations with respect thereto shall be sent in writing to the buildings authority at any time before the expiry of 14 days from the date of the issue of the draft direction.

Procedure where no representations are made

28. If during the period mentioned in paragraph (2) of regulation 27 no representations are made with respect to the draft direction by any of the persons mentioned therein and no representations have been made to the granting of the application in terms of regulation 26 or if before the determination of the application every representation so made with respect to the draft direction and to the granting of the application has been withdrawn, the buildings authority may determine the application at any meeting of the buildings authority after the expiry of the said period or after the date of withdrawal as the case may be notwithstanding that the applicant is not present or represented before them:

Provided that the buildings authority shall not refuse the application on any ground without giving to the applicant an opportunity of being heard.

Procedure where representations are made

29.—(1) Where—

(*a*) representations have been made to the granting of the application in terms of regulation 26, or

(*b*) representations have been made with respect to the draft direction in terms of regulation 27, or

(*c*) representations have been made to the granting of the application and with respect to the draft direction in terms of regulations 26 and 27 respectively,

the application shall be put out for hearing at a meeting of the buildings authority occurring not less than 7 days after the receipt of such representations with respect to the draft direction and the clerk to the buildings authority shall serve notice of the date time and place of the meeting of the buildings authority on the person making the representations on the applicant and if the master of works is not the person making representations on the master of works.

(2) Where at the hearing of an application the applicant or any person who has made representations neither attends nor is represented the buildings authority may continue the hearing or determine the application provided that where the buildings authority decide to determine the application they shall take into account any representations made by any person and any statement by the applicant in relation to the application and any such representations:

Provided that the buildings authority shall not refuse the application on the ground of any representations which have not been made known to the applicant.

PART V

APPEAL TO SECRETARY OF STATE AGAINST DECISION BY BUILDINGS AUTHORITY ON APPLICATION FOR DIRECTION

Application of this Part

30. The provisions of this Part shall apply to an appeal under section 4A of the Act to the Secretary of State against the refusal of the buildings authority to grant an application for a direction or against any of the conditions specified in the direction given by the buildings authority.

Giving notice of appeal

31. Any applicant who desires to appeal—

(*a*) against the refusal by the buildings 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 buildings authority notify the applicant of their decision and shall send a copy of the notice of appeal to the buildings authority.

Failure by buildings authority to give a decision

32. If within 2 months or within such extended period as may at any time be agreed in writing between the applicant and the buildings authority the buildings authority do not notify the applicant of their decision on an application for a direction, the applicant may appeal in accordance with regulation 31 as if the buildings 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

33.—(1) As soon as may be after the receipt of the copy of a notice of appeal, the buildings 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 buildings authority for a direction,

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

(*c*) all representations made to the granting of the application and with respect to the draft direction,

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

(*e*) the written statement by the buildings 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 buildings authority on the application and appeal including the names and addresses of those consulted by the buildings authority.

(2) If the buildings authority have within the period of 28 days specified in regulation 31 returned to the applicant any of the documents listed in paragraph (1) of this regulation, the applicant shall forward such documents to the buildings authority along with the copy of the notice of appeal.

Process of consultation

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

(*a*) to the applicant a copy of his draft direction, and

(*b*) to any other person appearing to him to be interested a copy of the application and of his draft direction,

inviting comment on the draft direction and he shall take into account any comments received before making his direction final.

Circumstances in which hearing may be held

35. Before giving a direction the Secretary of State may if he thinks fit afford to the applicant the buildings 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

36. After giving a direction the Secretary of State shall notify the applicant and any other person who received a copy of the draft direction in terms of paragraph (*b*) of regulation 34 of his determination of the appeal and of his reasons therefor.

PART VI

APPLICATION TO SECRETARY OF STATE FOR DIRECTION IN RESPECT OF A PARTICULAR BUILDING

Application of this Part

37. The provisions of this Part shall apply to an application under section 4(1)(*a*) of the Act to the Secretary of State for a direction in relation to a particular building, including a particular building to which the application for a warrant referred to the Secretary of State under section 6A of the Act relates notwithstanding that the power to give a direction is for the time being exercisable by the buildings authority.

Making application for direction

38.—(1) Application for a direction shall be made by lodging with the Secretary of State an application in writing in the prescribed form signed by the applicant or his duly authorised agent and accompanied by such plans as are necessary to show the direction subject to which it is proposed the building standards regulations should apply and the relationship of the direction to the building as a whole.

(2) A copy of the application and of the accompanying plans shall be forwarded at the same time by the applicant to the buildings authority.

Forwarding of any application for warrant

39. Where the building to which the application relates is the subject of an application for a warrant under section 6 of the Act the Secretary of State may require the buildings authority to send to him a copy of the application for a warrant and of the plans lodged therewith for purposes of inspection only.

Process of consultation

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

(*a*) to the applicant a copy of his draft direction, and

(*b*) to any other person or body appearing to him to be interested a copy of the application and of his draft direction,

inviting comment on the draft direction, and he shall take into account any comments received before making his direction final.

Circumstances in which hearing may be held

41. Before giving a direction the Secretary of State may if he thinks fit afford to the applicant the buildings 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

42. After giving a direction the Secretary of State shall notify the applicant and any other person who received a copy of the draft direction in terms of paragraph (*b*) of regulation 40 of the direction and of his reasons therefor.

PART VII

APPLICATION TO SECRETARY OF STATE FOR DIRECTION IN RESPECT OF A CLASS OF BUILDING

Application of this Part

43.—(1) The provisions of this Part shall apply to an application under section 4(1)(*b*) of the Act to the Secretary of State for a direction in relation to a class of building.

(2) In this Part "direction" includes a direction given by the Secretary of State on application made to him or of his own accord.

Making application for direction

44. An application shall be in writing accompanied by such plans as are necessary to show the direction subject to which it is proposed the building standards regulations should apply and the relationship of the direction to the building as a whole.

Process of consultation

45. Before giving any direction either on application made to him under regulation 44 or of his own accord, 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.

Circumstances in which hearing may be held

46. Before giving a direction the Secretary of State may if he thinks fit afford to the applicant if any 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

47.—(1) After giving a direction the Secretary of State shall notify the applicant if any, all buildings authorities and any other body appearing to him to be interested of the direction and of his reasons therefor.

(2) A copy of the direction shall be made available on request to any buildings authority without charge.

PART VIII

OTHER APPLICATIONS TO BUILDINGS AUTHORITY

Applications under section 8

48.—(1) An application under section 8 of the Act for permission to occupy temporarily, for the purpose of depositing materials or otherwise in connection with operations for the construction, repair, maintenance or demolition of any building, a portion of any road adjoining the building, may be made either—

(*a*) by conjoining it with an application for a warrant, or

(*b*) by lodging with the clerk to the buildings authority—

(i) an application in the prescribed form, signed by the applicant or his duly authorised agent, and

(ii) the principal and a copy of a block plan to a scale of not less than 1 to 500 to show the site of the building and the portion of the road proposed to be occupied.

(2) Before granting permission under this regulation the buildings authority shall consult the appropriate highway authority.

Other applications

49. Subject to the provisions of section 9(3) of the Act and regulation 52, any other application to the buildings authority shall be made by lodging with the clerk to the buildings authority an application in the prescribed form, or if no form is prescribed, an application in writing signed by the applicant or his duly authorised agent.

Procedure

50. The provisions of regulations 12 to 15 and 57 shall, subject to any necessary modifications, apply to any application to the buildings authority other than an application for a warrant as they apply to an application for a warrant:

Provided that subject to the provisions of paragraph 1 of regulation 48 nothing in this regulation shall require the submission of plans with such an application or the service of such application on an affected proprietor unless the buildings authority so direct.

PART IX

ORDERS MADE BY BUILDINGS AUTHORITIES

Orders in relation to buildings constructed without warrant or in contravention of conditions of warrant

51.—(1) Any person on whom a notice has been served under section 10 of the Act may within the period specified in the notice or such extended period provided for under section 10(1A) of the Act lodge with the clerk to the buildings authority a statement in writing (hereafter in this regulation referred to as "the statement") showing cause why he should not be required to execute such operations as are specified in the notice.

(2) The statement shall state the grounds on which the person making the statement intends to rely and the person lodging the statement shall serve a copy thereof on the master of works.

(3) On receipt of the statement the matter shall be put out for hearing at a meeting of the buildings authority occurring not less than 7 days after such receipt and the clerk ot the buildings authority shall serve notice of the date time and place of the meeting of the buildings authority on the person lodging the statement and on the master of works.

(4) The buildings authority may require the person lodging the statement to lodge a further statement in writing in supplement thereof.

(5) Where a person lodging a statement under paragraph (1) of this regulation fails to attend either in person or by a representative in response to a notice under paragraph (3) of this regulation, the buildings authority may determine the matter in his absence, so, however, that they shall take into account any grounds set forth in any statement so lodged.

(6) Where any person on whom notice has been served under section 10 of the Act fails within the period specified in the notice or such extended period provided for under section 10(1A) of the Act to submit to the buildings authority a statement under paragraph (1) of this regulation, the buildings authority may grant an order under section 10 of the Act forthwith.

Orders relating to dangerous buildings

52.—(1) The master of works shall before lodging with the clerk to the buildings authority any application for an order under section 13(2) of the Act serve a service copy of the application on—

(*a*) the owner of the building, and

(*b*) every other affected proprietor, and

(*c*) any other person appearing to the master of works to have an interest.

(2) At any time before the expiry of the period of 7 days after the date of lodging of the application any person on whom a service copy of the application has been served may by a statement in writing lodged with the clerk to the buildings authority object to the granting of the application and apply to be heard by the buildings authority (which statement is hereafter in this regulation referred to as an "objection").

(3) Any objection shall state—

(*a*) the interest by reason of which the person objecting claims to be entitled to be heard in the application, and

(*b*) the grounds of objection, and

(*c*) an address at which documents may be served upon him,

and a copy of the objection shall be served by the person making the objection on the master of works and where the objector is not the owner on the owner:

Provided that the buildings authority may if they think fit hear any person who has applied to be heard under this regulation notwithstanding that he has not complied with the provisions of this paragraph.

(4)(*a*) On receipt of an objection lodged under paragraph (2) of this regulation, or

(*b*) if no such objection has been lodged, on the expiry of the period of 7 days mentioned in paragraph (2) of this regulation,

the application shall be put out for hearing at a meeting of the buildings authority occurring not less than 7 days after such receipt or expiry as the case may be, and the clerk to the buildings authority shall give notice of the date time and place of the meeting of the buildings authority to the owner the master of works and any other person appearing to the buildings authority to have an interest.

(5) Where the owner or any other person fails to attend or be represented at a hearing of which he has had notice under paragraph (4) of this regulation, the buildings authority may determine the application in his absence, so, however, that they shall take into account any objection lodged by him under paragraph (2) of this regulation or otherwise.

PART X

GENERAL PROCEDURE OF BUILDINGS AUTHORITIES

Application of this Part

53. The provisions of this Part shall apply generally to the business of buildings authorities, including applications for a warrant under Part II, applications for a direction under Part IV, other applications under Part VIII and orders under Part IX.

Meetings of buildings authority

54. Every meeting of the buildings authority shall take place in public.

Procedure at hearing

55.—(1) At any hearing before the buildings authority any party may appear and be heard either in person or by counsel or solicitor or by any other representative.

(2) Subject to the provisions of the Act and of these regulations the procedure at any hearing before the buildings authority shall be such as they may determine.

Assessors

56. If it appears to the buildings authority that any case coming before them calls for special knowledge and that it would be desirable for the buildings authority to sit with assessors the buildings authority shall hear the proceedings with the aid of such assessor or assessors as the buildings authority may after consulting such persons if any as they may think fit appoint.

Conjoined proceedings

57. Where in the course of an application for a warrant made to a buildings authority which is a dean of guild court any matters come before them under the Act and otherwise than under the Act, the buildings authority may on the motion of any party to the application or of their own motion deal with the matters in conjunction.

Decisions of buildings authority

58.—(1) The decision of the buildings authority on any matter shall be stated at the meeting of the buildings authority at which the matter has been considered or at a subsequent meeting as soon as may be thereafter.

(2) Where an application is—

(*a*) dismissed or refused, or

(*b*) in the case of an application in relation to which objections have been lodged or representations made, granted, or

(*c*) in the case of an application for a direction or an application under section 8 of the Act, granted subject to conditions,

the buildings authority shall at the same time as they state their decision state their reasons for their decision, including their reasons for any conditions attached thereto.

(3) The decision of the buildings authority accompanied in any case to which paragraph (2) of this regulation applies by a statement of the reasons therefor shall at the same time as they state their decision or as soon as may be thereafter be notified in writing by the buildings authority to the applicant, the master of works and any person who has lodged objections or made representations in relation to the application.

(4) In any other proceedings before the buildings authority the decision of the buildings authority and the reasons therefor, shall at the same time as they state their decision or as soon as maybe thereafter, be notified by the buildings authority in writing to the parties to the proceedings.

(5) Where the buildings authority have on an application for a warrant or on an application for a direction decided to grant a warrant or give a direction, the warrant or the direction shall at the same time or as soon as may be thereafter be sent by the buildings authority to the applicant accompanied by the copy of the relative plans duly signed on behalf of the buildings authority with reference to the grant of warrant or the giving of a direction.

(6) Where the buildings authority have on an application for a warrant or on an application for a direction decided to dismiss or refuse the application they shall without delay return to the applicant the plans lodged with reference to the application unless they have obtained the consent of the applicant to the retention of the plans.

Maintenance of records

59.—(1) The buildings authority shall keep a register of applications in which they shall, as soon as received, record particulars of all applications and, as soon as may be, the manner in which such applications have been dealt with.

(2) Any application—

(*a*) for a warrant which has been referred to the Secretary of State under section 6A of the Act, and

(*b*) relating to buildings intended to have a limited life

shall be specially designated in the register.

(3) Where an application for a warrant a direction or a permission under section 8 of the Act is granted the buildings authority shall retain the principal plans lodged with reference to the applications.

Inspection of records and applications

60.—(1) Any register maintained by the buildings authority under regulation 59 shall be availabe for inspection by the public at all reasonable hours.

(2) Where an application has been lodged with the buildings authority but no decision has yet been taken thereon, any person claiming to have an interest may at any reasonable hour inspect the application and any plans lodged with reference thereto.

(3) Where a decision has been taken on any application lodged with the buildings authority, any person showing reasonable cause may at any reasonable hour inspect the application and any plans lodged with reference thereto.

Notices regarding operations

61. Any person carrying out operations in pursuance of a warrant granted under the Act shall give notice to the master of works—

(*a*) of the date on which work is commenced,

(*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 buildings authority for a certificate of completion has been made in the prescribed form.

Gordon Campbell,

One of Her Majesty's Principal Secretaries of State.

St Andrew's House,
Edinburgh.

29th April 1971.

Regulations 12 and 24

SCHEDULE 1

PLANS TO BE SUBMITTED WITH APPLICATION

SECTION A

Application for warrant to erect a building or application for direction

1. (*a*) A plan of the foundations of the building, each floor and the roof;

(*b*) sections through the building;

(*c*) an elevation of each face of the building;

which plan section and elevation shall show the relevant particulars set out in the following table and be to a scale of 1:100 except in the case of head 9 of the table.

(*d*) detailed drawings to a larger scale as are necessary and relevant to determine the application.

TABLE OF PARTICULARS

Buildings to which applicable	Particulars
All buildings.	1. The level of (*a*) site of the building, (*b*) lowest floor, (*c*) adjacent ground (including any road) in relation to one another and some known datum. 2. The position, materials and dimensions of (*a*) foundations, (*b*) walls, (*c*) windows including opening area and direction of opening, (*d*) doors showing direction of opening, (*e*) floors, (*f*) roofs, (*g*) chimneys and flues, (*h*) ventilators and ventilation ducts, (*i*) stairways, landings and balconies, (*j*) other parts of the building whether above or below ground level. 3. Details of construction and in particular details of any framework and size and position of reinforcing material. 4. Details of calculation of loading and strength. 5. Indication of fire and separating walls and floors and details of fire stopping. 6. Position, materials and dimensions (and weight) of any damp-proof course or other moisture barrier. 7. Position and dimensions of any bath, wash-hand basin, sink, tub or other built-in equipment or sanitary appliance for which standards are prescribed in the building standards regulations. 8. Position, materials, dimensions and form of any soil, soil-waste, waste or rain water and ventilating pipes. 9. Position, materials, line, depth, inclination and dimensions of every drain and means of ventilation thereof and the relationship and level to any sewer, sewage treatment works or other outlet into which drains are to discharge (the scale of this drawing may be to a smaller scale than 1:100 at the discretion of the master of works).

Buildings to which applicable	Particulars
	10. Position, form and dimensions of traps, manholes and access openings.
	11. Such particulars as are necessary to show that the operations involved will be conducted in accordance with the Building Operations (Scotland) Regulations 1963(a)
Buildings referred to in regulations E20 and Q6 of the building standards regulations.	12. The position and dimensions of the lift well, the lift car and machine room.
Buildings to which Part E of the building standards regulations apply.	13. (*a*) The exits available as a means of escape from fire and their dimensions. (*b*) Position of hydrants where required by regulation E19 of the building standards regulations.
Buildings in occupancy subgroups A1 and A2 according to Schedule 2 of the building standards regulations.	14. The position, dimensions and level (in relation to some known datum) of external obstructions in relation to daylighting windows.
	15. The position and dimensions of any larder or other storage accommodation and laundry facilities. Drying facilities may be shown on block plans if external to the building.
	16. The number of power points required by regulation Q19 of the building standards regulations and the rooms in which they are fitted.
	17. The furniture layout to show how the room fulfils its functions where the house has been designed in accordance with the recommendations of the New Scottish Housing Handbook: Bulletin 1: Metric Space Standards, 1968, as amplified by Supplementary Note: Metric Dimensional Framework, 1970.
2. Buildings to which Part N of the building standards regulations apply.	A schematic diagram of electrical wiring showing the main distribution system, the controls and the proposed rating.

3. Block plan (to a scale of not less than 1:1250) which shall show—
   (*a*) the size and position of the building and any external drying green where applicable,
   (*b*) the size and position of any adjoining building as it affects the proposal,
   (*c*) a north point,
   (*d*) the position, width and level (in relation to some known datum) of any road, court or footway adjoining the building, or from which there is access to the building,
   (*e*) the boundaries with land in different occupation showing in the case of each boundary the name of any affected proprietor,

(a) S.I. 1963/1959 (1963 III, p. 3824).

(*f*) the portion of any road in respect of which—

(i) permission is sought under section 8 of the Act to occupy temporarily for the purpose of depositing materials or otherwise in connection with the building operations or,

(ii) authority is applied for under the said section for permission to erect staging or scaffolding so as to project over that portion of the road.

4. Where the site is not identifiable from the block plan referred to in paragraph 3 of this Schedule, a location plan showing the position of the site to a scale of not less than—

(*a*) if the site is in the landward area of a county, 1:10,000,

(*b*) in any other case, 1:2500,

and on which shall be shown the north point.

SECTION B

Application for warrant to alter a building

5. Plans, sections, elevations, drawings and block plans as set forth in paragraphs 1 to 3 of this Schedule but only so far as necessary to show that the proposed alteration or fixture will comply with the building standards regulations subject to section 6(8)(*c*) of the Act.

6. Where the site of the building is not identifiable from the block plan referred to in paragraph 3 of this Schedule a location plan as set forth in paragraph 4 of this Schedule.

SECTION C

Application for warrant for the extension of a building

7. Plans, sections, elevations, drawings and block plans of the building as set forth in paragraphs 1 to 3 of this Schedule—

(*a*) of the building so far as affected by the extension,

(*b*) of the extension, as if the extension were itself a building.

8. Where the site is not identifiable from the block plan referred to in paragraph 3 of this Schedule a location plan as set forth in paragraph 4 of this Schedule.

SECTION D

Application for warrant for the change of use of a building

9. Block plan (to a scale of not less than 1 to 1250) showing the size and position of the building whose use is to be changed and the relationship of the building to adjoining buildings.

10. Plans, sections, elevations and drawings as set forth in paragraphs 1 and 2 of this Schedule, but only if, and so far as, necessary to show that the building after the proposed change of use will comply with the additional or more onerous provisions of the building standards regulations which will apply following such change of use.

SECTION E

Application for warrant to demolish a building

11. Block plan (to a scale of not less than 1 to 500) showing—

(*a*) the size and position of the building proposed to be demolished and its relationship to adjoining buildings,

(*b*) the boundaries with land in different occupation and in the case of each boundary the name of any affected proprietor,

(*c*) particulars appropriate to show that the operations involved will be conducted in accordance with the Building Operations (Scotland) Regulations 1963.

SECTION F

Application for amendment of warrant

12. Plans, sections, elevations, drawings and block plans of the building as set forth in paragraphs 1 to 3 of this Schedule but only so far as necessary to show the proposed deviation.

SECTION G

Supplemental

13.—(1) Where appropriate, any particulars required by the foregoing provisions of this Schedule may be submitted in the form of a specification or other written or figured statement signed by the applicant as relative to a plan, section, elevation or drawing as the case may be.

(2) Notwithstanding the provisions of paragraph 17 of this Schedule only one copy of such a statement need be submitted unless the buildings authority otherwise direct under regulation 12(2).

14.—(1) Any requirement in this Schedule to show a dimension shall be construed as a requirement to show a figured dimension.

(2) Except in so far as the context otherwise requires expressions used in this Schedule and in the building standards regulations shall have the same meanings in this Schedule as in those regulations.

15. Nothing in any of the Sections B to F of this Schedule shall require the submission of any particular plan required by that Section in relation to a building if an identical plan is already held by a buildings authority in connection with a prior application for warrant relating to that building.

16. Where in relation to any application under the Act, the master of works is satisfied that there are special circumstances which would make it onerous to require a plan of the scale specified in this Schedule, he may at the request of the applicant, accept on behalf of the buildings authority a plan of a scale other than that prescribed.

17. Plans submitted along with an application to which these regulations relate shall—

(*a*) in every case, be signed by the applicant or his duly authorised agent,

(*b*) in every case, be drawn or reproduced in a clear and intelligible manner and in a permanent form and have indicated thereon the scale to which it is drawn, and

(*c*) (i) in the case of the principal, be on linen, except in the case of minor works where the plan may be on such other durable material as may be acceptable to the clerk to the buildings authority or the master of works, and

(ii) in the case of a copy, be certified by the applicant or his duly authorised agent as a true copy of the principal.

Regulation 9

SCHEDULE 2

TABLE OF FEES

	£
1. Application for warrant (including issue of warrant) for—	
(*a*) erection, alteration or extension of a building (whether or not combined with application for warrant for change of use)—	
(i) where the estimated cost of the operations does not exceed £500	1·60
(ii) where the estimated cost of the operations exceeds £500 but does not exceed £1,000	2·10
(iii) where the estimated cost of the operations exceeds £1,000 but does not exceed £2,500	2·60
(iv) where the estimated cost of the operations exceeds £2,500 but does not exceed £5,000	4·50
(v) where the estimated cost of the operations exceeds £5,000 but does not exceed £10,000	6·50
(vi) where the estimated cost of the operations exceeds £10,000 but does not exceed £15,000	8·50
(vii) where the estimated cost of the operations exceeds £15,000 but does not exceed £20,000	10·50
(viii) where the estimated cost of the operations exceeds £20,000 but does not exceed £25,000	12·50
(ix) where the estimated cost of the operations exceeds £25,000 but does not exceed £30,000	14·50
(x) where the estimated cost of the operations exceeds £30,000 but does not exceed £35,000	16·50
(xi) where the estimated cost of the operations exceeds £35,000 but does not exceed £40,000	18·50
(xii) where the estimated cost of the operations exceeds £40,000 but does not exceed £45,000	20·50
(xiii) where the estimated cost of the operations exceeds £45,000 but does not exceed £50,000	22·50
(xiv) where the estimated cost of the operations exceeds £50,000...	24·50
(*b*) change of use only	1·00
(*c*) demolition of a building	1·00
2. Application for amendment of warrant—	
(*a*) where additional operations are involved, the estimated cost of the additional operations as in paragraph 1(*a*) of this Schedule	
(*b*) where no additional operations are involved ...	0·50
3. Application for extension of a period of a warrant for a building intended to have a limited life	0·75
4. Application for permission to occupy streets where not combined with an application for warrant	0·50
5. Lodging objections to granting warrant	0·50
6. Search fee for plans—per year	0·05
7. Inspection of application for warrant or amendment of warrant (not being an inspection prior to the decision on the application by a person having an interest)	0·25
(NOTE: This fee includes inspection of the plans lodged with the application, the warrant following thereon and any application for amendment of the warrant and plans relative thereto).	

	£
8. Extracts of decisions from records—per sheet	0·13
9. Service by clerk to the buildings authority—	
for first copy	0·25
for second and subsequent copies	0·13
Mileage charge—	
for officer	0·07
for witness	0·05
10. Forms of application, if supplied by buildings authority—	
Principal	0·05
Service Copy	0·03

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Parts I, II, VIII, IX and X of these regulations, which are made under the Building (Scotland) Act 1959 as amended by the Building (Scotland) Act 1970 revoke and re-enact with certain amendments the Building (Scotland) Act 1959 (Procedure) Regulations 1964. The procedures specified in Parts III, IV, V and VII of these regulations take account of the new powers of buildings authorities and of the Secretary of State under the 1970 Act.

In particular the regulations prescribe procedures to be followed in connection with the business of buildings authorities as regards applications for a warrant (Part II), applications for a direction dispensing with or relaxing a provision of the building standards regulations (Part IV), other applications (Part VIII), certain orders made by them (Part IX) and their general procedure (Part X). In relation to the functions of the Secretary of State procedures are prescribed for the making of an appeal to him against a decision by a buildings authority on an application for a direction (Part V) and the making of an application to him for a direction dispensing with or relaxing a provision of the building standards regulations either in respect of a particular building or in respect of a class of building (Part VI and Part VII).

Procedures are also prescribed for the reference to the Secretary of State of applications for a warrant (Part III), and in addition Schedule 1 deals with plans to be submitted to buildings authorities with applications and Schedule 2 with fees.