POLICY NOTE

THE BUILDING (SCOTLAND) AMENDMENT REGULATIONS 2019

SSI 2019/210

The above instrument is made in exercise of the powers conferred by sections 1 and 54(2) of, and Schedule 5 to, The Building (Scotland) Act 2003. The instrument is subject to negative procedure.

Purpose of the Instrument

These Regulations amend the Building (Scotland) Regulations 2004 which set out functional standards for buildings. The purpose of this instrument is to clarify the application of mandatory functional standard 2.4 which requires buildings to be constructed and designed to prevent and inhibit the spread of fire.

Background

Section 1 of the Building (Scotland) Act 2003 allows Ministers to make regulations with respect to the design, construction, demolition and conversion of buildings and the provision of services, fittings and equipment in or in connection with buildings for purposes including securing the health, safety and welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings.

This SSI comes into force on 1 October 2019 and amends Schedule 5 to the Building (Scotland) Regulations 2004 which set out functional standards for buildings. The S.S.I. amends existing standard 2.4 to provide that buildings are to be designed and constructed in such a way that in the event of an outbreak of fire within the building the spread of fire and smoke within cavities in the structure and fabric of the building is inhibited.

Policy Objectives

The policy objective of this amendment is to improve fire safety in buildings where building work is undertaken. Amendment of the current paragraph 2.4 to Schedule 5 (building standards applicable to design and construction) of the regulations gives greater clarity on the need to address the spread of fire and smoke in cavities within building construction. This forms part of wider change, led by an expert Review Panel, on how fire safety issues are addressed by the building standards system through updates to the Building Standards Division Technical Handbooks and published guidance on matters within the current scope of paragraphs 2.1 to 2.7, 2.9 & 2.14 of schedule 5.

There have been technical questions over the years on the need for fire resisting cavity barriers behind, for example, ventilated cladding. This was based upon a view by some developers that if the fire and smoke spread could be ‘seen’ from outside the building then there was no need to provide cavity barriers to control fire spread in the cavity. The Grenfell Tower fire on the 14 June 2017 is a stark reminder of the value and need for cavity barriers even where the fire can be seen from outside the building. The expert Review Panel were of the view that the word ‘unseen’ should be removed from mandatory Standard 2.4 at the earliest opportunity. The

Panel were also of the view that the word 'cavity' should replace the words 'concealed space' for two reasons. Firstly, some cladding systems may not be considered as having a 'concealed space' if the cladding panels have gaps around their edges. Secondly, the term 'cavity' is widely understood and already clearly defined in introduction text to standard 2.4 within the published Technical Handbooks.

This change and further provisions addressed through published guidance are made in response to enquiries and consultation following the Grenfell Tower tragedy. Changes address provisions for the fire performance of external cladding systems on taller domestic buildings and higher risk non-domestic buildings and the provision for means of escape, evacuation alert systems and floor/dwelling identification signs in high-rise domestic buildings.

Consultation

To comply with section 1(2) of the Building (Scotland) Act 2003 consultation with interested persons has been carried out.

The amendment made by this SSI and related changes to provisions for fire safety were the subject of a public consultation that ran from 4 July 2018 to 26 September 2018. This included four workshop events that took place over the summer in Edinburgh, Glasgow, Stirling and Aberdeen, attended by over 240 stakeholders. .

The consultation was promoted on 'CitizenSpace', the SG Building Standards website and in the SG Building Standards e-newsletter which is issued to over 8,000 registered recipients. The notifications included a wide range of professional organisations and institutions, interest groups, construction research bodies, designers, house builders, technical specialists and those public bodies responsible for the administration and enforcement of the building standards system, with 222 responses received.

The consultation proposals, responses and report are published on the Scottish Government website at: https://consult.gov.scot/local-government-and-communities/compliance-and-enforcement-and-fire-safety/

Impact Assessments

A pre-screening notification was undertaken for the Strategic Environmental Assessment. This is published at https://www2.gov.scot/seag/publicsearch.aspx as reference PRE\00967. This established that the policy will result in 'no or minimum environmental effects' and that under section 7 of the Environmental Assessment (Scotland) Act 2005, no further assessment is required.

The need for both an Equality Impact Assessment and Children's Rights and Welfare Impact Assessment was considered. The 'Equalities Impact Assessment – Results' report is published on the consultation page noted above.

Financial Effects

The subject of this instrument and amendment of paragraph 2.4 to schedule 5 of The Regulations has no defined financial impact on those who elect to carry out building work.

Scottish Government
Directorate for Local Government and Communities
June 2019