

BUILDING (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT - AN OVERVIEW

Part 1: Building Regulations

Section 1: Building regulations

9. *Section 1* establishes the power of the Scottish Ministers to make building regulations. *Subsection (1)* sets out the broad purposes for which regulations may be made and also the matters for which the regulations may provide. Those purposes include, for example, accessibility and usability of buildings. Schedule 1 makes further provision about the matters for which building regulations may provide.
10. *Section 1* makes it easier for the Scottish Ministers to meet their obligations under the EC Construction Products Directive in relation to recognition of harmonised European standards. Under the 1959 Act, the technical standards (the equivalent of guidance documents under section 4 of the Act) which accompany building standards regulations also have mandatory force and this severely restricts the ability of Ministers to update regulations and technical standards as each new harmonised European standard is produced, within the timescales set out in the Directive. Under the 2003 Act, it is only building regulations which have mandatory force and not the guidance which might accompany them (see sections 4 and 5). This will enable European standards to be specified in the guidance without having to go through the formal procedures of consultation and parliamentary process for each new European standard required under the 1959 Act.
11. *Subsection (2)* places a duty on Ministers to consult before making building regulations or an order under subsection (4) modifying paragraph 5(2) of schedule 1. They must consult the Building Standards Advisory Committee, which was established by the 1959 Act and the continuation of which is provided for by section 31 of the Act. They must also consult other persons appearing to them to have an interest.
12. *Subsection (4)* gives Ministers the power by order to alter paragraph 5(2) of schedule 1, which lists particular matters for which building regulations may provide.
13. *Subsection (5)* gives Ministers the power to modify any enactment (whether in an Act or in subordinate legislation) which makes provisions which are inconsistent with a specific building regulation. Such enactments may also be modified if they become unnecessary or require alteration as a result of a building regulation.
14. The parliamentary procedures for building regulations and for orders under subsections (4) and (5) are set out in section 54.