

BUILDING (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT - AN OVERVIEW

Part 1: Building Regulations

Section 3: Relaxation of building regulations

18. This section allows the Scottish Ministers to dispense with or relax any provision of building regulations in relation to a particular building or description of building where they think that its application is unreasonable. For example the requirement to provide access for a fire engine might be waived on a remote island where there is no fire engine.
19. *Subsection (2)(a)* provides that Ministers may give a direction dispensing with or relaxing building regulations in relation to a particular building where any person makes an application to them. Applications are not restricted to owners, so, for example, a prospective buyer may apply for such a direction. In this case, the direction applies only to the specific building. *Subsection (6)* provides that Ministers must send a copy of any such direction (or any direction varying or revoking such a direction) to the relevant local authority and to all verifiers authorised to exercise functions in relation to that building or other buildings of that description in the area of the relevant local authority.
20. Under *subsection (2)(b)*, even if an application has not been made, Ministers may give a direction. In this case, the direction applies to a description of building. This is the equivalent to the provisions of the 1959 Act allowing Ministers to grant class relaxations, which deal with products or building types which are suitable for general use but, for whatever reason, do not comply with the existing standards.
21. *Subsection (3)* provides for the possibility that regulations under the Act may restrict the Scottish Ministers' ability to give directions dispensing with or relaxing a provision of building regulations. Where such regulations state that, in relation to a provision of building regulations, a direction dispensing with or relaxing that provision is not competent, no such direction may be given.
22. Before giving, varying or revoking a direction in relation to a description of building, Ministers must consult the Building Standards Advisory Committee and other interested persons, e.g. fire authorities (*subsection (5)*). *Subsection (7)* provides that Ministers must provide a copy of such directions to all local authorities and all verifiers.
23. *Subsection (8)* makes provision for the case where a direction ceases to have effect, or is varied or revoked, while an application for a building warrant is pending.
24. *Subsection (9)* provides that when dealing with a building or description of buildings in relation to which regulations have been relaxed under this section, references in legislation to regulations mean the relaxed regulations.