

BUILDING (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT - AN OVERVIEW

Part 3: Compliance and Enforcement

Section 25: Building regulations compliance

71. *Subsection (2)* makes provision for the Scottish Ministers to direct local authorities to secure that buildings of a particular description comply with a particular provision of the building regulations. They may issue such directions for the purposes set out in *subsection (1)* (which are the same as the purposes in section 1(1) in relation to the making of building regulations). To comply with a direction, local authorities may serve a building regulations compliance notice, and must do so if the direction so requires (*subsection (3)*). Except where a direction is mandatory, local authorities are free to decide how to comply with the direction. They could, for example, choose to encourage owners of the type of building in question to improve their buildings voluntarily, perhaps by offering financial incentive schemes.
72. *Subsection (4)* provides that a building warrant is required for work to comply with a building regulations compliance notice if it would normally be required for that work under section 8. *Subsection (5)* provides that where the local authority issuing such a notice is a verifier, the notice may require any relevant building warrant application or completion certificate to be submitted to that local authority, as opposed to any other verifier. *Subsection (6)* provides that a later date for complying with the notice may be substituted once a building warrant application has been made.
73. *Subsection (7)* creates an offence where the owner has not complied with the notice by the set date and in such cases allows local authorities to carry out the work specified in the notice and to recover the costs from the owner of carrying out that work.
74. *Subsection (8)* provides that a local authority does not have to apply for a building warrant where it is carrying out work to comply with a building regulations compliance notice because the owner has not done so by the set date. The authority must, however, register a completion certificate in the building standards register to certify that the building complies with the provision of the building regulations specified in the notice.
75. *Subsection (9)* makes provision for a local authority to withdraw or amend a building regulations compliance notice before or after it has taken effect. *Subsection (10)* provides that a local authority may issue a further such notice even if it has already withdrawn one.