



Building (Scotland) Act 1959

1959 CHAPTER 24

PART II

BUILDING STANDARDS AND BUILDING OPERATIONS

3 Building standards regulations

- (1) For the purposes of this Act the Secretary of State may (subject to the subsequent provisions of this Act) by regulations prescribe standards (expressed in terms of performance, types of material, methods of construction or otherwise) in relation to any or all of the matters specified in the Fourth Schedule to this Act, and such other matters relating to buildings as appear to him after consultation with the Building Standards Advisory Committee to be relevant to the said purposes.

Regulations made under this subsection are in this Act referred to as " building standards regulations ", and references to the building standards regulations in relation to a building of any particular class are references to so much of the regulations as apply to a building of that class.

- (2) The standards prescribed under the foregoing subsection shall be such as in the opinion of the Secretary of State can reasonably be expected to be attained in buildings of the classes to which they relate, having regard to the need for securing the health, safety and convenience of the persons who will inhabit or frequent such buildings and the safety of the public generally.
- (3) Without prejudice to the generality of the foregoing provisions of this section building standards regulations may—
- (a) prescribe different standards for buildings of different classes;
 - (b) make special provision for buildings intended to have a life not exceeding such period, being a period of ten years or less, as may be specified in the regulations;
 - (c) provide for buildings constructed with materials of such types or by such methods of construction as may be specified in the regulations to be deemed to satisfy such standards as may be so specified in relation to those types of material, or, as the case may be, those methods of construction.

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- (4) Building standards regulations shall not apply to—
- (a) buildings belonging to, or in the occupation of, the United Kingdom Atomic Energy Authority, being buildings other than dwelling houses or offices; or
 - (b) buildings of such other classes as may be specified in the regulations as exempted classes.
- (5) For the purposes of this Act and any regulations made thereunder buildings may be classified by reference to size, description, design, purpose, location or any other characteristic whatsoever.
- (6) Before making any regulations under this section the Secretary of State shall—
- (a) consult the Building Standards Advisory Committee as to the contents of the proposed regulations;
 - (b) publish in such manner as he thinks expedient a draft of the proposed regulations, together with a notice stating that representations as to the draft may be lodged with him in such manner and within such time as may be stated in the notice;
 - (c) if required by any person who has duly lodged representations with him under the last foregoing paragraph, direct the holding of a public inquiry with respect to any representations so lodged;
 - (d) consider and representations duly lodged under paragraph (b) of this subsection, and the report of the person holding the inquiry, if any, under paragraph (c) of this subsection ; and
 - (e) consult the Building Standards Advisory Committee as to any alteration that he may propose to the said draft.

4 Relaxation of building standards regulations in particular cases

- (1) If it appears to the Secretary of State, on application made to him in the prescribed manner in relation to any particular building, that it is unreasonable that any provision of the building standards regulations (being a provision which apart from this section applies, or by reason of a proposed change of use will apply, to that building) should apply to the building, or apply to it without modification, he may, subject to the next following subsection, direct that the provision shall not apply to that building or, as the case may be, shall so apply subject to such modifications as may be specified in the direction.
- (2) No direction under the foregoing subsection shall be given in respect of any provision of the building standards regulations which is described in the regulations as not being subject to a direction under this section.
- (3) A direction given under this section may be given either unconditionally or subject to such conditions as may be specified in the direction.
- (4) The provisions of the Fifth Schedule to this Act shall have effect as respects the procedure to be followed in connection with directions under this section.

5 Building operations regulations

- (1) The Secretary of State may make such regulations (in this Act referred to as "building operations regulations") for the conduct of operations for the construction, repair, maintenance or demolition of buildings as he considers expedient to secure the safety

of the public; and regulations under this subsection may make different provision for different classes of operations.

- (2) Any person who contravenes any provision of the building operations regulations shall be guilty of an offence against this Act.

6 Application of building standards regulations and building operations regulations to construction or demolition, and to change of use, of buildings

- (1) No person shall—
- (a) in any place conduct any operations for the construction or demolition of a building of a class to which the building standards regulations apply, or
 - (b) change the use of any building,
- unless there has been obtained from the buildings authority a warrant for the construction, demolition or change of use, as the case may be, and any person who contravenes this subsection shall be guilty of an offence against this Act:

Provided that nothing in this subsection shall apply to any operations for the alteration of a building which consist solely of the fitting of a fixture of any such kind as may be prescribed for the purposes of this subsection.

- (2) A buildings authority shall, subject to subsection (8) of this section, grant a warrant such as is mentioned in the foregoing subsection on application being made therefor in the prescribed manner—
- (a) in the case of a warrant for the construction or demolition of a building, if, but only if, they are satisfied that the operations involved will be conducted in accordance with the building operations regulations, and (in the case of operations for the construction of a building) that nothing in any plan, specification or other information submitted with the application shows that the building when constructed will fail to conform to the building standards regulations ; and
 - (b) in the case of a warrant for the change of use of a building, if, but only if, they are satisfied that after the change of use the building will conform to so much of the building standards regulations as will become applicable, or will apply more onerously, to the building by reason of the change of use.
- (3) A warrant for the construction of a building shall be subject to the condition that the building shall be constructed as described in the warrant (including any relative plans and specifications) and in accordance with the building standards regulations, and, in a case where a direction has been given under section four of this Act, subject also to the condition that such conditions, if any, as are specified in the direction are observed.
- (4) In relation to a building to be constructed in accordance with any special provisions of the building standards regulations relating to buildings intended to have a limited life (as mentioned in paragraph (b) of subsection (3) of section three of this Act) any application for a warrant shall state the period of intended life of the building (being not greater than that specified in the said provisions of the building standards regulations) and, without prejudice to the last foregoing subsection and subject to the next following subsection, the warrant shall be subject to the condition that the building will be demolished on or before the expiration of the period so stated.
- (5) Where a warrant contains such a condition as is mentioned in the last foregoing subsection application may be made to the buildings authority, before the expiration of the period specified in the warrant, for an extension of the said period and the

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authority may, if they are satisfied that it is proper to do so, having regard to the special provisions mentioned in the last foregoing subsection, extend the period, and further extend it from time to time, so however that no such extension by itself shall exceed the period for the time being specified in the said provisions in the building standards regulations.

- (6) A warrant for the demolition of a building shall be subject to the condition that the demolition shall be completed within such period from the commencement of the operations for the demolition as may be specified in the warrant.
- (7) If, after a warrant has been granted for the construction of a building and before any certificate of completion has been granted in respect of the building, the person holding the warrant desires to deviate from any plans or specifications to which he is required by the warrant to adhere he may apply to the buildings authority for an amendment of the terms of the warrant to cover the proposed deviation, and that authority shall then (subject to the next following subsection) make the amendment if, but only if, they are satisfied that the proposed deviation is in conformity with the building standards regulations.
- (8) Notwithstanding anything in this section it shall be competent for—
- (a) a buildings authority which is a dean of guild court to refuse to grant a warrant (or an amendment of the terms of a warrant) if in the exercise of any jurisdiction exercisable by them apart from this Act they have determined that the operations or change of use in respect of which the warrant or amendment has been applied for would result in an infringement of a private right or otherwise be contrary to law, or
 - (b) any buildings authority to refuse to grant a warrant (or an amendment of the terms of a warrant) if the application for it has not been duly made in the prescribed manner, or if, where the application relates to an extension to, or alteration of, a building, they consider that, as a direct result of the extension or, as the case may be, the alteration, the building as extended or altered will fail to conform with the building standards regulations;

and nothing in this section shall be taken to prejudice the operation of section seventeen of the Restriction of Ribbon Development Act, 1935, or sections two, three or six of the Thermal Insulation (Industrial Buildings) Act, 1957 (which sections in their application to Scotland relate to the power of buildings authorities to refuse to grant warrants in certain circumstances).

- (9) Where under any provision of this Act or any other enactment a person is required or authorised—
- (a) by a buildings authority to carry out any operations for the construction or demolition of any building, or
 - (b) by a local authority to demolish any building,

a warrant shall be deemed to have been granted in respect of the construction or, as the case may be, the demolition.

- (10) For avoidance of doubt it is hereby declared that, in respect of any building, subsection (1) of this section applies to any such deviation as is mentioned in subsection (7) of this section as it applies to the construction of the building.

7 Minor works

- (1) In relation to such construction of buildings as may be prescribed, being construction of a minor character, a buildings authority shall, subject to the provisions of this section, delegate their functions under the last foregoing section—
 - (a) to their clerk, or
 - (b) with the consent of the local authority, to the master of works appointed by the local authority.
- (2) An application shall not be dealt with under a delegation made by virtue of the foregoing subsection unless it is shown in the prescribed manner that there is no objection to the granting of the application—
 - (a) in a case where the delegation has been made to the clerk of the buildings authority, on the part of the master of works, and
 - (b) in any case, on the part of any person other than the master of works on whom the application is required by regulations made under section two of this Act to be served;and in any case where it is not so shown the application shall be dealt with as if this section had not passed.
- (3) If any person is aggrieved by a refusal of the clerk of a buildings authority or a master of works to grant a warrant applied for by him he may require his application to be referred to, and dealt with by, the buildings authority.
- (4) Regulations made under section two of this Act may include provision for procedural matters in connection with applications which could be dealt with under a delegation made by virtue of this section, including the making of reports to the buildings authority by the clerk or, as the case may be, the master of works as to any applications dealt with under such a delegation.

8 Occupation of parts of roads for deposit of materials, etc.

- (1) A buildings authority, on application made to them, may grant permission in writing to any person conducting operations for the construction, repair, maintenance or demolition of any building to occupy temporarily, for the purpose of depositing materials or otherwise in connection with those operations, such portion of any road, whether public or private, adjoining the building as may be specified in the permission, and may by such permission authorise the erection of staging or scaffolding so as to project over that portion of the road or such other portion of the road as may be so specified; and notwithstanding anything in any enactment or rule of law, any person who complies with any permission granted under this section (including any conditions to which the permission is subject by virtue of the next following subsection) shall not thereby be guilty of an offence.
- (2) Any permission granted under this section may be granted either unconditionally or subject to such conditions as may be specified in the permission.
- (3) A buildings authority may delegate their functions under this section, as respects such cases and subject to such conditions as they may determine.—
 - (a) to their clerk, or
 - (b) with the consent of the local authority, to the master of works appointed by the local authority:

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Provided that where by virtue of any regulations made under section two of this Act an application for permission under this section is combined with an application for a warrant the application for permission under this section shall be dealt with by the same authority (whether the buildings authority, the clerk or the master of works) as the application for the warrant.

9 Certificates of completion

- (1) After the completion of the construction of any building in respect of which a warrant has been granted by a buildings authority any person having an interest to do so may apply to the buildings authority for a certificate under this section (in this Act referred to as a "certificate of completion"), and within such period as may be prescribed the buildings authority shall, in accordance with the following provisions of this section, either grant the certificate or notify the applicant of their refusal to do so.
- (2) A buildings authority shall grant a certificate of completion in respect of any building if, but only if, they are satisfied that the building complies with the conditions on which the relative warrant was granted.
- (3) In respect of so much of a building as consists of an electrical installation a buildings authority shall not be satisfied as mentioned in the last foregoing subsection unless there is produced to them a certificate granted by the person who installed the installation certifying that the installation complies with such of the said conditions as relate to it:

Provided that this subsection shall not apply in a case where it is shown to the satisfaction of the buildings authority that for some reasonable cause such a certificate cannot be produced.

- (4) If any person, for the purpose of procuring the grant of a certificate of completion, grants or produces under the last foregoing subsection a certificate which he knows to be false or misleading in a material particular, or recklessly grants or produces such a certificate which is false or misleading in a material particular, he shall be guilty of an offence against this Act.
- (5) Subject to the next following subsection, no person shall occupy or use a building (being a building which has been constructed by virtue of a warrant granted under this Act) before a certificate of completion in respect of the building has been issued by the buildings authority, and any person who wilfully contravenes this subsection shall be guilty of an offence against this Act:

Provided that nothing in this subsection shall apply to any occupation or use which is solely for the purpose of the construction of the building.

- (6) Where on application made to them it appears to a buildings authority that, because of exceptional circumstances, it is reasonable that a building to which the last foregoing subsection applies should be temporarily occupied or used before a certificate of completion in respect of it has been issued they may (whether or not the construction of the building has been completed) grant written permission for such occupation or use during such period as may be specified in the permission (which period may be extended from time to time by a like permission); and while any permission under this subsection is in force in relation to any building the last foregoing subsection shall not have effect in relation to that building.

- (7) A buildings authority shall, subject to the provisions of this section, delegate their functions under this section—
- (a) to their clerk, or
 - (b) with the consent of the -local authority, to the master of works appointed by the local authority.
- (8) Subsections (2) to (4) of section seven of this Act shall have effect in relation to a delegation made by virtue of the last foregoing subsection as they have effect in relation to delegations made by virtue of that section.

10 Powers in relation to buildings constructed without warrant or in contravention of conditions of warrant, and buildings whose life has expired

- (1) If it appears to the master of works that any building of a class to which the building standards regulations apply—
- (a) has been or is being constructed without a warrant in respect of the construction having been obtained, or in contravention of the conditions on which a warrant was obtained, or
 - (b) remains in existence after the expiration of any period limited for it by the conditions on which the warrant for its construction was obtained,

he may serve upon—

- (i) the person by whom, or on whose behalf, the building has been or is being constructed, or
- (ii) if that person no longer has an interest in the building any other person who at the material time is entitled to the interest in the building which that person formerly had, or, if at the material time there is no such other person, the owner of the building,

a notice requiring him within such period as may be specified in the notice, being a period of not less than twenty-one days from the service of the notice, to show cause to the buildings authority why he should not be required to execute such operations as may be specified in the notice, being operations for the removal of the building or operations necessary to make the building conform to the building standards regulations ; and if the person upon whom the notice has been served fails to show cause as aforesaid to the satisfaction of the buildings authority they may order him within such period as may be specified in the order, being a period of not less than twenty-eight days from the date when the order becomes operative, to execute the operations aforesaid or such other operations for the same purpose as may be specified in the order.

- (2) Subject to the provisions of section seventeen of this Act, if on the expiration of the period specified in the order mentioned in the foregoing subsection the person against whom the order has been made has not complied therewith, he shall be guilty of an offence against this Act, and the buildings authority may authorise the local authority to execute the operations which the said person has failed to execute; and the local authority shall thereupon be entitled to act accordingly and any expenses thereby incurred by them shall be recoverable from the said person as a debt.
- (3) The provisions of the Sixth Schedule to this Act shall have effect for the purpose of securing the recovery by a local authority of any expenses recoverable by them under the last foregoing subsection from any person, if that person is the owner of the building.

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- (4) An order served under subsection (1) of this section shall become operative only in accordance with subsection (4) of section sixteen of this Act.
- (5) A master of works may include in a notice served by him under subsection (1) of this section in respect of a building which is being constructed a requirement that the person on whom the notice is served shall cause the work thereon to be suspended until the matters raised in the notice have been determined, or until the expiration of the period of one month from the date of service of the notice, whichever first occurs.
- (6) References in this section to the period limited for a building by the conditions on which the warrant for its construction was obtained are references to that period together with any extension thereof authorised by virtue of subsection (5) of section six of this Act.
- (7) This section shall apply in relation to a part of a building, being a fixture the fitting of which is excluded from the operation of subsection (1) of section six of this Act by virtue of the proviso thereto, which—
 - (a) has been fitted, and
 - (b) either in itself or in the manner of its fitting fails to conform to the building standards regulations,as it applies to a building which has been constructed as mentioned in paragraph (a) of subsection (1) of this section.
- (8) For avoidance of doubt it is hereby declared that, in respect of any building, this section applies to any such deviation as is mentioned in subsection (7) of section six of this Act as it applies to the construction of the building.

11 Power of local authorities to require buildings to conform to building standards regulations

- (1) The following provisions of this section shall have effect in relation to a building in the area of a local authority, being a building of a class to which the building standards regulations apply, where—
 - (a) the building does not conform to a provision of the building standards regulations;
 - (b) the local authority consider that the building ought, having regard to the need for securing the health, safety and convenience of the persons who will inhabit or frequent it and the safety of the public generally, to be made to conform to that provision ; and
 - (c) it is reasonably practicable to make the building conform to that provision.
- (2) The local authority may serve on the owner of the building a notice specifying the provision to which they consider that the building ought to conform (in this section referred to as " the specified provision ") and requiring the owner within such period as may be specified in the notice, being a period of not less than twenty-eight days from the service of the notice, to show cause why the building should not conform to the specified provision.
- (3) If within the period specified in the notice mentioned in the last foregoing subsection the owner of the building applies to the Secretary of State for a direction under section four of this Act in respect of the building and notifies the local authority that he has done so, the said period shall be deemed to be extended so as to expire at the end of the period of twenty-eight days from the date of the giving of the direction or, as the case

may be, the refusal to give a direction; and any reference in the subsequent provisions of this section to the specified provision shall, in a case where the specified provision is modified by any such direction, be construed as a reference to the specified provision as so modified.

- (4) If within the period specified in the notice mentioned in subsection (2) of this section (or, in a case falling within the last foregoing subsection, that period as extended by virtue of that subsection) the owner fails to show cause to the satisfaction of the local authority why the building should not be made to conform to the specified provision, the local authority may order the owner to make the building conform to the specified provision within such period as may be specified in the order, being a period of not less than twenty-eight days from the date when the order becomes operative.
- (5) Subject to the provisions of section seventeen of this Act, if on the expiration of the period specified in the order mentioned in the last foregoing subsection the owner of the building has not complied therewith, he shall be guilty of an offence against this Act, and the local authority may themselves execute the operations necessary to make the building conform to the specified provision; and any expenses thereby incurred by them shall be recoverable from the owner of the building as a debt.
- (6) The provisions of the Sixth Schedule to this Act shall have effect for the purpose of securing the recovery by a local authority of any expenses recoverable by them under the last foregoing subsection.
- (7) No notice served under this section shall specify any provision of the building standards regulations which is described in the regulations as not being subject to specification in such a notice.
- (8) An order under subsection (4) of this section shall not become operative—
 - (a) except in accordance with subsection (4) of section sixteen of this Act;
 - (b) before the disposal of any application for a warrant in respect of the operations which are the subject of the order, including the disposal of any appeal under section sixteen of this Act against a decision of the buildings authority refusing to grant a warrant.
- (9) In this section " reasonably practicable " means reasonably practicable having regard to all the circumstances, including the expense involved in executing the operations necessary to make the building conform to the specified provision.

12 Building Standards Advisory Committee

- (1) The Secretary of State shall, after consultation with such bodies as appear to him to be representative of the interests concerned, appoint a committee, in this Act referred to as the Building Standards Advisory Committee, for the purpose of—
 - (a) advising the Secretary of State on the exercise of his functions under section three of this Act;
 - (b) keeping under review the operation of, and making to the Secretary of State such recommendations as they think desirable in connection with, the building standards regulations; and
 - (c) advising the Secretary of State on any question relating to any of his functions under this Part of this Act which he may refer to them.
- (2) The Secretary of State may by regulations make provision with respect to the constitution and procedure of the Building Standards Advisory Committee and for

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the submission to him at intervals of not more than five years of reports from the Committee as to the exercise of their functions under paragraph (b) of subsection (1) of this section.

- (3) The Secretary of State may pay to the members of the Building Standards Advisory Committee, and to persons attending meetings at the request of the Committee, such allowances as he may, with the approval of the Treasury, determine in respect of travelling and subsistence expenses and in respect of other expenses (if any) necessarily incurred by them for the purpose of enabling them to discharge their functions as members of the Committee, or to attend such meetings, as the case may be.