

These questions and answers are intended to help readers who are unfamiliar with the Building Standards system in Scotland. If you propose to erect a new building, to alter or extend an existing building, to convert a building or to demolish a building, you will normally require permission from a Verifier. At present, the Verifier is the Building Standards Service of the Local Authority where the work is to be carried out.

This guidance deals only with the Building Standards system and you should be aware that other statutory requirements may also apply to the work proposed, such as Planning Permission, Fire Certificates, Licensing, Scottish Water and Scottish Environmental Protection Agency approvals. Planning Permission is a separate matter and further guidance may be obtained from the Planning Service.

1. WHAT IS A BUILDING WARRANT?

A Building Warrant is the legal permission granted by verifiers to commence building work, alter, convert or demolish a building. Verifiers are responsible for issuing building warrants. In assessing your application for a warrant, the verifier must apply the standards set by the Building (Scotland) Regulations 2004. Permission is granted in the form of a building warrant, which must be obtained before starting any work. A warrant will be granted if the work you propose meets the Building (Scotland) Regulations 2004. It is an offence to begin work for which a warrant is required before first obtaining the warrant. If a warrant is not obtained, this could lead to additional costs with the processing of a completion certificate that will normally be required when selling your property.

2. WHAT ARE THE BUILDING REGULATIONS?

The Building regulations are legal requirements laid down by the Scottish Parliament that are intended to provide reasonable standards for the purpose of securing the health, safety, welfare and convenience of people in and around buildings, for conserving fuel and power, providing access and for furthering the achievement of sustainable development. The requirements are set by the Building (Scotland) Regulations 2004. The guidance contained in the Technical Handbooks, for domestic and non-domestic buildings will assist you to comply with the Regulations.

Building Standards responsibilities evolve from the Building (Scotland) Act 2003, which covers all type of domestic and non-domestic buildings. As a result of the 2003 act, Local Authorities have been appointed as sole Verifiers of the Building Standards function for their geographical area. Verifiers carry the responsibility of ensuring that building standards are met. Verifiers can choose to ensure compliance by a variety of means, these include:

- Pre application advice
- Desktop appraisal of an application submission
- Confirmation of compliance of elements via Approved Certifiers of Design and /or Construction
- Consultations with third party agencies (such as Scottish Environmental Protection Agency (SEPA), Environmental Health, Fire and Rescue Service etc)
- Periodic inspection of the works on site

Generally, these issues are carried out by Building Standards Surveyors assessing proposals and works both through the architectural plans submitted with the application and on site fulfil the minimum requirements of the "Building Standards" for design and construction.

The Building Standards are supported by the Technical Standards which relate to aspects such as Structural Design, Fire Safety, Energy Conservation, Drainage, Space Standards and the access and provision of facilities for Disabled Persons. Any building work, coming within the scope of the Building (Scotland) Act, requires the preparation of architectural plans and an application to East Ayrshire Council for a Building Warrant, and work should not commence until that application is approved.

Therefore, a building warrant is the permission confirming that the architectural plans, specifications and certification submitted with the warrant application comply with the Building Regulations prescribed within the Building Standards. East Ayrshire Building Standards Service deals with over 1700 Building Warrant and Amendment applications each year with an estimated value of works exceeding £116 Million.

3. WHERE CAN I GET A COPY OF THE BUILDING (SCOTLAND) REGULATIONS 2004 AND THE TECHNICAL HANDBOOKS?

You may view or download the Technical Handbooks on the Scottish Government website free of charge by visiting www.gov.scot. For larger projects you will require to use an architect or other suitably qualified person who will be conversant with the guidance in the Handbooks. For a small project the verifier will be able to explain what impact the mandatory standards contained within the Handbook are likely to have on your proposals and you may not need to obtain a copy. However, it is essential that the proposals are designed in accordance with the building standards otherwise this will cause a delay when your application is assessed.

4. HOW DO I OBTAIN A BUILDING WARRANT?

You are required to apply to East Ayrshire Council Building Standards Service who are the Verifier for the East Ayrshire area. If you have appointed an architect, or other suitably qualified person to prepare plans, the procedures should be known by your appointed building professional who you can ask them to act as your duly appointed agent to apply on your behalf. This is recommended as the best course for people not experienced in building work. You should note however if you do appoint an Agent, your Building Warrant package will be issued to them.

If you are applying yourself, the application forms can be downloaded from the application forms section of the Council's [website](#), or you can collect forms from our offices at: **The Johnnie Walker Bond, 15 Strand Street, Kilmarnock, KA1 1HU.**

5. WHAT KIND OF BUILDING WORKS ARE COVERED BY THE BUILDING (SCOTLAND) REGULATIONS 2004?

The Building (Scotland) Regulations 2004 apply to the construction of new buildings, alterations and extensions to existing buildings, demolition of buildings and to the conversion of buildings. Some of the work you intend to undertake, such as apparently simple alterations to internal walls, may not appear to require a building warrant but could lead to a contravention of the building regulations or could have implications for an adjacent property. It is therefore always advisable to seek professional advice and to consult the Building Standards Service before going ahead with any proposal affecting your property. To establish whether your proposals require a Building Warrant or not you should contact us.

6. WHAT IS A CONVERSION?

A conversion is a specified change of occupation or use of a building which will cause the Building (Scotland) Regulations 2004 to apply, for example changing a loft space from storage use to an apartment or a garage into a bedroom. For anything more complex it is likely that professional advice will be required and Schedule 2 in section 0 of the Technical Handbooks lists 10 specific types of work defined as a conversion. If you are in doubt you should seek advice from the Building Standards Service who will upon a written request confirm whether the works that you propose require a building warrant or not. Please note that a building warrant is required for a conversion even if no building work is carried out.

7. IS THERE ANY BUILDING WORK THAT IS EXEMPTED FROM THE REQUIREMENTS OF THE BUILDING (SCOTLAND) REGULATIONS 2004?

Yes. Certain broad categories of buildings are exempt, and the full list is included in schedule 1 in section 0 of the Technical Handbooks. If you are not sure, you should seek advice from the Building Standards Service. The following is a summarised section covering small scale buildings and building work associated with houses, flats or maisonettes that are exempt from the building regulations.

- a) A detached single-storey building, with a floor area not more than 8 m², ancillary to and within the curtilage of a house, that:
 - * is more than 1m from the house unless it is at least 1 m from any boundary,
 - * does not contain sleeping accommodation,
 - * does not contain a flue, fixed solid fuel, oil or gas appliance installation or a sanitary facility;

- b) A detached single-storey building, with a floor area not more than 8 m², ancillary to and within the curtilage of a flat or maisonette that:
 - * is more than 3 m from the flat or maisonette or any other part of a building containing a flat or maisonette,
 - * does not contain a flue, fixed solid fuel, oil or gas appliance installation, or a sanitary facility;

- c) A single-storey conservatory or porch with a floor area of not more than 8 m² that is attached to an existing house, and:
 - * is more than 1 m from a boundary,
 - * does not contain a fixed solid fuel, oil or gas appliance installation, or a sanitary facility,
 - * meets the regulations on safety glazing;
- d) A single-storey greenhouse, carport or covered area each with a floor area not more than 30 m² that is detached or attached to an existing house and:
 - * does not contain a fixed solid fuel, oil or gas appliance installation or part,
 - * does not contain a sanitary facility;
- e) A paved area or hard standing not more than 200 m² in area that:
 - * is not part of any access route required by the regulations.

8. IS THERE ANY TYPE OF BUILDING WORK THAT DOES NOT NEED A WARRANT?

Yes. Provided that the regulations are complied with, the following building work does not require a warrant (the full list is in schedule 3 in section 0 of the Technical Handbook):

- Any building work to or in a house, that does not involve: the increase of floor area, demolition or alteration of roof, external wall, loadbearing structure, adversely affecting a separating wall, or change in the method of wastewater disposal. Any work to a house having a storey, or creating a storey, at a height of more than 4.5 metres. For example: the alteration and refit of an existing kitchen or bathroom however the installation of a wet floor shower or new toilet/shower-room will require a Building Warrant.
- A detached single-storey building having an area exceeding 8 square metres but not exceeding 30 square metres, ancillary to and within the curtilage of a house, (note, different standards apply for a flat), that does not involve: a building within 1 metre of the house unless it is at least 1 metre from any boundary. A building containing a fixed combustion appliance or sanitary facility. This could allow for example: the construction of a detached shed, detached carport, or detached garage.
- A detached single-storey building having an area exceeding 8 square metres but not exceeding 30 square metres, ancillary to and within the curtilage of a flat or maisonette that does not involve: a building within 3 metres of the flat or maisonette or within 3 metres of any other part of the building containing the flat or maisonette. A building containing a fixed combustion appliance or sanitary facility. For example: the construction or installation of a detached conservatory, detached carport, or detached garage.
- Any building work associated with a domestic scale combustion appliance or other part of a heating installation that does not include work associated with a chimney, flue pipe or hearth. For example the replacement of an oil or gas fuelled combustion appliance.

- Any building work associated with a balanced flue serving a room- sealed appliance that does not include: work associated with a balanced flue that passes through combustible material.
- Any building work associated with the installation of a flue liner.
- Any building work associated with refillable liquefied petroleum gas storage cylinders supplying, via a fixed pipework installation, combustion appliances use principally for providing space heating, water heating, or cooking facilities.
- Other minor work such as the provision of a single sanitary facility, installation of an extractor fan or installation of a stairlift in a dwelling.
- Additional insulation (other than insulation applied to the outer surface of an external wall).
- The construction of walls not exceeding 1.2 metres in height.
- Fences not exceeding 2.0 metres in height.
- Raised external decking at a height of no more than 1.2 metres.
- Paved areas not exceeding 200 square metres in area.
- Replacement doors, windows, and rooflights.

The following work also does not require a warrant provided that the existing standard is maintained. In other words the replacement or repair work does not make the service fitting or equipment worse than it was before:

- Work associated with the replacement of a fixture, material or equipment by another of the same general type, including a sanitary appliance or sink and branch soil or waste pipe, rainwater gutter or downpipe, solid fuel combustion appliance, electrical fixture, ventilation fan, chimney or flue outlet fitting or terminal, solid waste chute or container, kitchen fitments or other fitted furniture, ironmongery, flooring, lining, cladding, and covering or rendering either internally or externally. The repair to a door, window or rooflight, including glazing.

9. DO I NEED TO INFORM MY NEIGHBOURS WHEN I MAKE APPLICATION FOR WARRANT AND DO THEY HAVE THE RIGHT TO OBJECT TO THE WORKS SHOWN IN MY APPLICATION?

No. However, a warrant only shows compliance with the Building (Scotland) Regulations 2004. Where the proposed building work is likely to affect or involve a mutual part of a building, or a boundary wall you may have other legal obligations. It is advisable to inform any affected party.

Note also that if you need planning permission for the work (which is separate from the building warrant) neighbour notification is required. The Planning Service can advise you on planning matters.

10. WHAT SHOULD BE SHOWN ON THE PLANS SUPPORTING MY WARRANT APPLICATION?

The plans should give sufficient information to indicate clearly the location and nature of your proposals and how they relate to any adjoining or existing building including site and block plans. The type of materials and products being used, the size of rooms, the position of appliances proposed, and drainage details are needed. Structural certification and an energy rating may also be required.

Information on precautions being taken for the safety of the public during building or demolition works, and keeping a building site secure, may also be required. It is important to note that the drawings should be to a recognised scale and measurements in metric as detailed in the "Notes for Guidance when applying for a Building Warrant."

The information required can be complex and it is advisable to use the services of qualified building professional such as an Architect, Architectnologist, Building Surveyor or Structural Engineer.

11. IS A CHARGE MADE FOR THE WARRANT SERVICE?

Yes. The level of fee is based on the estimated value of the work you propose at market values. The Building Standards Service will advise you of the required fee, alternatively the table of statutory fees can be viewed or downloaded from our website. Please note that the fee is for the application and not for the issue of warrant. The Building Standards Service will review the value of the work for the project to establish whether the estimate falls within the Building Costs Information Service indices of building costs issued by the Royal Institute of Chartered Surveyors (RICS). This records what it normally costs to build different types of building in different areas. (Discounts or refunds apply if you use an approved certifier: see 24. What is an Approved Certifier?)

Where the works have started or have been completed prior to the application having been made the fee applicable is increased by an additional 25%. This relates to all retrospective applications in the form of a Late Building Warrant or Late Completion Certificate (see 22 below).

There is no fee for works to alter or extend the dwelling of a disabled person provided the works are solely for the benefit of that person. Note a fee will be required where the proposed works are not for the benefit of the disabled person and the exemption does not include construction works to erect a dwellinghouse.

12. WHAT HAPPENS AFTER I HAVE SUBMITTED MY WARRANT APPLICATION TO THE BUILDING STANDARDS SERVICE?

Once the application is received it shall be assessed for validation purposes, recorded for inclusion within the Building Standards Register and allocated to a Building Standards Surveyors for assessment. Where the validation process identifies that the fee is incorrect, fee submitted is low as verified against the BCIS guide issued by the Royal Institution of Chartered Surveyors or there are inaccuracies in the application form, the duly appointed agent and/or applicant will be advised in writing of the issues preventing the registration of the application.

Once the application is registered the plans are checked for compliance with the Building Standards (Scotland) Regulation 2004, including any consultations undertaken with Environmental Health, Scottish Environmental Protection Agency (SEPA), the Fire Service etc. If there are no deficiencies, a Building Warrant will be issued along with a docketed set of plans. Where the Building Standards Surveyor has established that certain areas of the design do not comply with the Building Standards or clarification is required, a letter will be issued to the applicant and, where applicable, the agent detailing the outstanding information. The average time to process an application from the date it is registered as valid is around four weeks. Once the applicant or agent correctly revises the plans to illustrate compliance with the Building Standards, the Building Warrant will be Approved.

The timescale for determination of an application relies heavily on the content of information submitted along with the application. Therefore it cannot be stressed enough that the person making the application submission must review the architectural drawings, specification etc against the Building Regulations prior to the application being made to the Building Standards Service. Where this has not been carried out the application process can be delayed due to lack of information to allow the application to be approved. If any adjustment is required to be made to your proposals the Building Standards Surveyor assigned to your application will produce an assessment of where your submission does not comply. If you are not able to answer all the matters raised, the Building Standards Surveyor may be able to clarify matters, or you may require to seek advice from building specialists, depending upon the nature of your proposals. After your plans have been adjusted or amended to comply with the assessment, they will be re-assessed. If the plans comply with the regulations, the warrant will be approved.

If you do not amend your plans your application cannot be processed further and the Building Standards Service will consider formal refusal. Before an application is refused you will be given the opportunity to resolve any outstanding matters. If there is genuine doubt over whether an application will comply, you may, with the agreement of the Building Standards Service, seek a view from SBSA (see 13. How do I obtain a view from the Scottish Ministers?). The Building Standards Service must have due regard to that view. However, if your building warrant is refused by the Building Standards Service, you can appeal against this decision to the Sheriff Court.

13. HOW DO I OBTAIN A VIEW FROM THE SCOTTISH MINISTERS?

Definitive interpretation of the Building (Scotland) Regulations 2004 is the responsibility of the Building Standards Service and ultimately a matter for the Courts to decide. However, the Scottish Ministers can give a view on the extent to which proposed building work complies with the regulations.

Either the applicant or the Building Standards Service may choose to request a formal view. The Ministers will only give a view if they 'think it fit'. They will not usually give a view if only one party seeks to approach the SBSA (which acts on behalf of the Scottish Ministers). This process is not an unofficial appeal system, but to clarify a genuine doubt about compliance with the regulations.

A referral for a view should be emailed or faxed to the SBSA. The agency will reply stating whether or not they are prepared to give a view, what the fee is and when a response will be given. The referral need only provide minimum information and drawings, further details may be requested if necessary.

A view is sent to both the Building Standards Service and applicant and the Building Standards Service is required to have regard to view. The Building Standards Service is invoiced for the fee where appropriate. If it considers it useful, the agency may publish views on the website.

14. HOW DO I MEET THE REQUIREMENTS OF THE BUILDING (SCOTLAND) REGULATIONS 2004?

The new system differs from the previous one in that the number of mandatory requirements have been drastically reduced and are written in a way that allows more flexibility in interpretation of the Building (Scotland) Regulations 2004. The Technical Handbooks provide extensive guidance on ways to comply that will be suitable for most building projects. It is the responsibility of the Building Standards Service to interpret the requirements of the regulations, and if you have any doubts regarding your application for a building warrant you should discuss them with the Building Standards Surveyor for your area by arranging an appointment.

15. FOR HOW LONG IS A WARRANT VALID?

A warrant is valid for three years from the date of issue. If you have started but not completed the work within that time you can apply to the Building Standards Service for an extension to the warrant period. The application for extension must be made before the expiry of your warrant. The application form is required to be submitted along with the appropriate fee which are detailed on the fee summary which can be viewed on the applications forms webpage.

16. WHAT HAPPENS AFTER THE WARRANT HAS BEEN ISSUED?

Immediately after the warrant has been issued and all other permissions are in place you may start work. You are required to let the Building Standards Service know when you are starting work. You will need to inform the Building Standards Surveyor at certain stages of construction to allow the Surveyor the option of inspecting or attending tests, such as at drainage installation. You must inform the verifier when all the work is completed (see 20. What happens when my building work is finished?).

17. IS MY BUILDING WORK SUBJECT TO INSPECTION WHILST IN PROGRESS?

Once the approval has been issued the applicant must inform Building Standards when works are due to commence and periodic inspections will be undertaken including relevant tests, e.g. drainage, while work is in progress to check that the warrant is being complied with. The number and type of inspections will depend on the nature of the works. Any defects are noted to the agent/applicant and, where applicable the contractor so that steps can be taken to remedy them.

However, East Ayrshire Council is not responsible for checking the quality of work carried out or supervising the builders employed. Supervision of the building work is the responsibility of your architect or other person appointed by you for that purpose. The Verifier does not inspect work that is to be covered by an approved certifier of construction (see 24. What is an Approved Certifier?). It should be noted that all Building Standards Surveyors carry appropriate East Ayrshire Council identification which will be accessible to view during the site visit.

18. WHAT HAPPENS IF I DEPART FROM THE PLANS APPROVED?

You should discuss in advance with the Building Standards Surveyor any changes to your warrant proposals before carrying these out. A formal amendment to your warrant can be sought at any time during the period of the validity of the warrant. An amendment application follows the same procedures as the initial application. The architectural plans require to show the changes you wish to make. Once approved, you can proceed on site with the change to your proposals. A fee is payable for an application for amendment of warrant and the Surveyor will advise you of the amount. Alternatively, the fee summary guidance can be viewed on the applications forms web page.

If any part of the original application is certified by an Approved Certifier of Design, you must ask the certifier to check the changes and re-certify if they comply with the regulations (see 24. What is an Approved Certifier?).

19. WHAT HAPPENS IF I CONTRAVENE THE REGULATIONS?

You are committing an offence if you start work, without a warrant, on work that requires a building warrant. It is also an offence to contravene the requirements of Building (Scotland) Regulations 2004.

You are committing an offence if you occupy or use a new building without first having submitted a completion certificate and it being accepted by the Building Standards Service. The exception is if you receive permission from the Building Standards Service for the temporary occupation or use of the building for a specified time.

The local authority can take enforcement action in each instance. Contravention of the regulations can incur a maximum fine and an additional daily fine if the offence continues (£5,000 with an additional fine of £50 per day as at 18 October 2004).

20. WHAT HAPPENS WHEN MY BUILDING WORK IS FINISHED?

It is your responsibility (as the relevant person) to submit a completion certificate on the appropriate form. A completion certificate is needed to confirm that a building has been constructed, altered or converted in accordance with the warrant and the Building (Scotland) Regulations 2004. It is an offence to submit a false completion certificate or to occupy a building without a completion certificate being accepted by the Building Standards Service.

The Building Standards Service must make reasonable inquiry to establish that the work complies with the warrant. If satisfied that the work complies, the Building Standards Service must accept a completion certificate. The Building Standards Service must give acceptance, or refusal (with reasons) within 14 days.

21. IF WORK HAS BEEN CARRIED OUT TO MY PROPERTY AT SOME TIME IN THE PAST, HOW DO I KNOW IF A BUILDING WARRANT HAS BEEN ISSUED?

From 1st May 2005 local authorities must keep a Building Standards Register for its geographical area. The register contains information freely available to all on:

- applications for warrants and amendments to warrants
- decisions on applications
- submissions on completion certificates
- decisions on acceptance or refusal

Any certificates from approved certifiers of design or construction submitted with warrants and completion certificates, any conditions relating to the issue of warrants, and any continuing requirements (see 23. Does the local authority and verifier have any other responsibilities?) imposed by warrant must be kept as a permanent record.

Other records such as the principal drawings and specifications, enforcement notices, and other relevant documentation are kept normally for 25 years.

Note that for warrants issued prior to 1st May 2005 East Ayrshire Council have Registers that can be made available to you to view. Alternatively you can request the Building Standards Service to undertake this review on your behalf by completing a Building Warrant Search Application Form and sending it to this office along with a fee of £60 which is set for this service. Copies of Building warrant Approval and Completion Certificates can be provided subject to a copy charge of £60.

22. IF WORK HAS BEEN CARRIED OUT TO MY PROPERTY AND I DO NOT HAVE A BUILDING WARRANT, WHAT SHOULD I DO?

Where work for which a warrant is required has started without a warrant, an application for a warrant may be made at any time before a completion certificate has been accepted for the building. This is a way of regularising the situation, but it does not remove the fact that an offence has been committed. Importantly, the standards that apply to a late application are those at the time of application, not when the works started, so changes may be required even to complete the work if it does not meet the relevant standards. Full drawings are required, as for a normal warrant application. If construction is well advanced, the Building Standards Service may request parts to be exposed so that adequate checks can be made, and a higher fee is charged to cover such circumstances. This process is not intended to be a penalty (which would arise from any action in relation to the offence) but is necessary to allow proper consideration of the work.

If however you are selling your property and have been asked to produce a completion certificate, you will have to submit one. The certificate may only be accepted if it confirms that the work complies with the standards as they apply at the time of the submission of the certificate. Such submissions must provide architectural plans and specification details equivalent to those for a warrant application so that Building Standards can adequately assess whether to accept the completion certificate. A fee will also be levied equivalent to a late application for a building warrant.

Note: The former process of Letter of Comfort for this type of work has been superseded in lieu of the need for a Building Warrant or Late Completion Certificate.

23. DOES THE LOCAL AUTHORITY AND VERIFIER HAVE ANY OTHER RESPONSIBILITIES?

Yes. The local authority has powers to protect the safety of the public and persons frequenting buildings. If a building is found to be dangerous, or reported to the local authority as being dangerous, the local authority can immediately take appropriate action to safeguard the occupants and passers-by.

Repairs may be enforced by the local authority where faults are likely to cause deterioration to a building or adjacent building(s). On occasion, in order to be satisfied that the purpose of Building (Scotland) Regulations 2004 will not be frustrated, for example by some change that is liable to happen unless care is taken to prevent it, a Verifier will impose some continuing requirement, for example when issuing a warrant or accepting a completion certificate. Such a requirement imposes on the building owner a duty that must be fulfilled after the building is complete. A typical example is where the acceptance of a moveable platform for cleaning windows requires that adequate access continues to be provided. Generally continuing requirements relate to activities or actions happening to a building element, not the building element itself.

24. WHAT IS AN APPROVED CERTIFIER?

Approved certifiers have government approval to certify that the design or construction complies with the Building (Scotland) Regulations 2004.

When you use an approved certifier to certify design or construction you will get the reassurance that your application or completion certificate complies with building regulations. The application should take less time to process because the Verifier only needs to confirm the approved certifier's registration details. You will also be eligible for a discount on the warrant fee if you use an approved certifier of design, but the certifier will charge you for the certificate. You will also get a small refund if you use an approved certifier of construction to certify work for the completion certificate, provided you notify the verifier before the start of work on site. A discount is applicable when the Design Certificate is lodged with the Building Warrant application. A Refund is applicable when the Certificate of Construction is notified to Building Standards prior to the work commencing on site.

A register of approved certifiers is kept by the BSD and can be accessed on the agency website via www.gov.scot. The register contains details of the matters which the certifiers are authorised to deal with.

25. CAN I GET GENERAL ADVICE ON BUILDING MATTERS FROM THE BUILDING STANDARDS SERVICE?

It is suggested that you contact your Building Standards Service for help and advice on matters concerning the condition of your building or changes you wish to consider making to your building. To discuss any Building Standards issue with the Surveyor for the area of your enquiry select Building Standards Contacts below or use the contact numbers and addresses below.

East Ayrshire Council (Planning and Economic Development)
The Johnnie Walker Bond
15 Strand Street
Kilmarnock
KA1 1HU
Tel: 01563 576778 OR 01563 576781
e-mail: BuildingStandards@east-ayrshire.gov.uk