

Local Government, Housing and Planning Committee

23rd Meeting, 2021 (Session 6)

Tuesday 27 September 2022

SSI cover note for: SSI 2022/209 Building (Scotland) Amendment (Amendment) Regulations 2022 (SSI 2022/209)

Title of Instrument: SSI 2022/209 Building (Scotland) Amendment (Amendment) Regulations 2022

Type of Instrument: Negative

Laid Date: 17 June 2022

Circulated to Members: 23 June 2022

Meeting Date: 13 September 2022

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee? No

Reporting deadline: 26 September 2022

Introduction

1. The Committee is invited to consider any issues which it wishes to raise on this instrument.

2. An electronic copy of the instrument is available at: <https://www.legislation.gov.uk/ssi/2022/209/contents/made>

3. Copies of the Scottish Government’s Explanatory and Policy Notes are included in **Annexe A**.

Purpose

4. The Policy Note states that—

“These Regulations amend The Building (Scotland) Amendment Regulations 2022 (the “2022 Regulations”) which introduced new mandatory energy and environmental standards for buildings and building work. The purpose of this instrument is to amend the date on which Part 3 of the 2022 Regulations comes into force from 1 October 2022 to 1 December 2022.”

5. The Policy Note explains that “this change is required to provide a longer period for the development of supporting third-party resources used to demonstrate compliance with the building standards introduced in Part 3.”

Delegated Powers and Law Reform Committee consideration

6. At its meeting on 28 June 2022, the DPLR Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit. Its report can be found via the following link: [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 28 June 2022 \(azureedge.net\)](https://www.azureedge.net/subordinate-legislation-considered-by-the-delegated-powers-and-law-reform-committee-on-28-june-2022)

Procedure for Negative Instruments

7. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

8. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

Clerks

Local Government, Housing and Planning Committee

Annexe A

Scottish Government Policy Note

The above instrument was made in exercise of the powers conferred by sections 1 and 54(2) and schedule 1 of the Building (Scotland) Act 2003. The instrument is subject to negative parliamentary procedure.

Policy Objectives

Section 1 of the Building (Scotland) Act 2003 (the Act) allows Ministers to make regulations (building regulations) with respect to the design, construction, demolition and conversion of buildings and the provision of services, fittings and equipment in or in connection with buildings for purposes including securing the health, safety, welfare and convenience of persons in or about buildings, furthering the conservation of fuel and power, and furthering the achievement of sustainable development.

The policy objectives are to improve the emission and energy performance of buildings and to reduce the risk to health from overheating in new residential buildings. This is achieved through amendment of The Building (Scotland) Regulations 2004 (the “2004 Regulations”), made under the Act, which set minimum standards for the function and performance of buildings and building work. The mandatory standards applicable to building design and construction are set out in regulation 9 and schedule 5 of the 2004 Regulations.

This instrument amends the date on which provisions within Part 3 of the 2022 Regulations come into force from 1 October 2022 to 1 December 2022. This change is required to provide a longer period for the development of supporting third-party resources used to demonstrate compliance with the building standards introduced in Part 3. These Regulations also make changes to the transitional provision in regulation 11 of the 2022 Regulations and to headings in those regulations, where reference is made to an into force date of 1 October 2022.

Consultation

No consultation was needed for this amending instrument.

Impact Assessments

No impact assessments are required for this amending instrument.

Financial Effects

This instrument has no financial effects.

Scottish Government Explanatory Note

These Regulations amend the Building (Scotland) Amendment Regulations 2022 (the “2022 Regulations”) and come into force on 30 September 2022.

Regulation 2(2) of these Regulations amends regulation 1(3) of the 2022 Regulations to change the date on which Part 3 of the 2022 Regulations comes into force from 1 October 2022 to 1 December 2022.

Regulation 2(3) amends the heading of Part 3 and regulation 2(4) amends the heading of regulation 7 of the 2022 Regulations to reflect the change in date on which Part 3 comes into force.

Regulation 2(5) amends the transitional provision for the regulations in Part 3 of the 2022 Regulations so that the regulations in that Part will not apply to work which does not require a building warrant which is completed before 1 December 2022 or not completed before that date where the contract for the work is entered into before 1 December 2022 and the work is completed on or before 31 March 2023.