# **Building Warrant Issues**

# **Frequently Asked Questions**

# Introduction

This section is intended to help anyone who is unfamiliar with the building standards system in Scotland. The information contained in it relates to the new building standards system that came into force on 1 May 2005. A list of local authority Building Standards Offices, where assistance and further information may be obtained if required, is available <u>here</u>.

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 law (<u>www.infoscotland.com/firelaw</u>) or licensing. Planning permission is a separate matter and further guidance may be obtained from your local authority or from the <u>Scottish Executive planning</u> website.

These questions and answers are not designed to provide specific guidance on particular projects, however, advice on lessening the environmental impact of home improvements, including how to reduce carbon dioxide emissions and save money on energy, is available <u>here.</u>

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 department of the local authority where the work is to be done.

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, as currently amended.

It is an offence to begin work for which a warrant is required without a warrant. If a warrant is not obtained this will lead to additional costs for the processing of a completion certificate that will normally be required when selling your property. The verifier may also require work to be opened up to show that compliance with the regulations has been achieved.

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## **GETTING A BUILDING WARRANT**

### 1. What is a building warrant?

A building warrant is the legal permission to start building work, or to convert or demolish a building. If you carry out work that requires building warrant without first obtaining a warrant you are committing an offence.

Verifiers are responsible for issuing building warrants. In assessing your application for a warrant, they must apply the standards set by the building regulations at the date of your application.

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### 2. How do I obtain a building warrant?

Apply to a verifier, at present that is your local authority building standards department.

If you have appointed an architect, or other suitably qualified person to prepare plans, the procedures should be known by them, and you can ask them to act as your agent to apply on your behalf. This is recommended as the best course for people not experienced in building work.

If you are applying yourself, the application forms can be obtained from your verifier.

The form is the same whether you wish to alter, erect, extend, demolish or convert. Appropriate plans must also be submitted (see <u>Question 4</u>. *What should be shown on the plans supporting my warrant application?*).

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# 3. 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 any part of another building, 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 may be required. Your local authority can advise you on planning matters.

### 4. What should be shown on the plans supporting my warrant application?

The plans should clearly show the location and nature of your proposals and how they relate to any adjoining or existing building. The type of materials and products being used, the size of rooms, the position of appliances proposed, and drainage details are needed. Structural design certification or calculations and an energy rating may 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.

The information required can be complex and it may be advisable to contact your verifier who, on having your proposals explained to them, will be able to give you full advice on the requirements applicable. An indication of the detail required is given in the Procedural Handbook, available <u>here</u>.

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### 5. Do I have to get an Architect to draw my plans?

No. The plans may be drawn by any competent person but they must be legible and clearly indicate the proposals. The means of complying with the building regulations should be clear and the materials and methods of construction specified. Full details of the drawings and additional information required to accompany a building warrant application is provided in the Procedural Handbook. (see also <u>Question 4</u>. What should be shown on the plans supporting my warrant application?).

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#### 6. Is a charge made for the warrant service?

Yes. The level of fee is based on the estimated value of the work you propose, not the cost of the work. The verifier can advise you of the required fee. An indication of the fee is shown in the table of fees in the Procedural Handbook available <u>here</u>. Please note that the fee is for the application and not just for the issue of warrant; it is not usually refundable.

(Certain discounts and refunds may apply if you use an approved certifier: see <u>Question 27</u>. *What is an Approved Certifier?*)

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.

The verifier may wish to have the value of the work checked or confirmed. If so, it is likely that reference would be made to established indices of building costs, for example those provided by the Royal Institute of Chartered Surveyors (RICS). This records what it normally costs to build different types of building in different areas.

### 7. What happens after I have submitted my warrant application to the verifier?

Firstly your application is recorded on the building standards register. This allows the verifier or any interested party to chart its course through the warrant process.

Your application will then be assessed against the requirements of the Building (Scotland) Regulations 2004. The guidance contained in the Technical Handbooks will help the assessment of your plans.

The verifier will produce an assessment of where your application does not comply. If you are not able to make adjustments or answer all the matters raised, the verifier may be able to help, or you may require to seek advice from building specialists, depending upon the nature of your proposals.

The procedures for the adjustment of plans may differ between verifiers but, generally speaking, you will be able to discuss the assessment with your verifier and arrange to have the plans amended.

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 granted.

If you do not amend your plans your application cannot be processed further and the verifier will require to consider formal refusal. Before a verifier refuses an application you will be given the opportunity to resolve any outstanding matters. If there is genuine doubt over an aspect of compliance, you may, with the agreement of the verifier, seek a view from SBSA (see <u>Question 23</u>. *How do I obtain a view from the Scottish Ministers?*). The verifier must have due regard to that view. However, if your building warrant is refused by the verifier, you can appeal against this decision to the Sheriff Court.

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### 8. How long does it take to get a building warrant?

This depends on the workload of the verifier and the extent and quality of the drawings and details included with your application. Your verifier should be able to give you an idea of the first response time, however, it should be remembered that, if the verifier requires additional information, the time taken to grant a warrant will depend to some extent on the time taken to get the additional information to them. It should also be remembered that Spring and early Summer tend to be busy periods, therefore, response times may not be as quick as other times of the year. (see also Question 7 What happens after I have submitted my warrant application to the verifier?)

# AFTER A BUILDING WARRANT IS GRANTED

### 9. For how long is a warrant valid?

A warrant is valid for three years from the date of issue and it is expected that all works covered by the warrant would be completed within this time. However, the time period may be extended by applying to the verifier before the expiry of the warrant. If the building works have not commenced before the warrant expires the verifier would not normally extend the warrant.

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### 10. What happens after the warrant has been granted?

Immediately after the warrant has been granted you may start work. You are required to let the verifier know when you are starting work. You will need to inform the verifier at certain stages of construction to allow the verifier the option of inspecting or attending tests, such as at drainage installation. You must inform the verifier when all the work is completed (see <u>Question 14</u>. *What happens when my building work is finished?*).

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### 11. Is my building work subject to inspection whilst in progress?

Your verifier may inspect while work is in progress to check that the warrant is being complied with. However, the verifier is not responsible for checking the quality of work done or supervising the builders employed. Supervision of the building work should be the responsibility of whichever person is appointed by you for that purpose.

The verifier does not inspect work that is covered by an Approved Certifier of Construction (see <u>Question 27</u>. *What is an Approved Certifier?*).

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### 12. What happens if the works on site differ from the approved plans?

You are committing an offence if you carry out work that differs from the approved plans issued as part of the building warrant. You should discuss in advance with the verifier 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 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 verifier will advise you of the amount.

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, if necessary, re-certify that all

works comply with the regulations (see <u>Question 27</u>. What is an Approved Certifier?). <u>Back to Index</u>

### 13. 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, or extension to an existing building, without first having submitted a completion certificate and it being accepted by the verifier. The exception is if you receive permission from the verifier 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 of £5,000.

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### 14. 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 verifier (see <u>Question 13</u>. *What happens if I contravene the Building (Scotland) Regulations 2004?*).

The verifier must make reasonable inquiry to establish that the work complies with the warrant. If satisfied that the work complies, a verifier must accept the completion certificate. The verifier must accept or reject (with reasons) the submission within 14 days.

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### **BUILDING REGULATIONS**

### 15. What are the building regulations?

They are legal requirements laid down by the Scottish Parliament. They 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 and for furthering the achievement of sustainable development. The requirements are set out in the <u>Building (Scotland) Regulations 2004</u>, as currently amended. The guidance contained in the Technical Handbooks, for domestic and non-domestic buildings will assist you to comply with the Regulations.

# 16. Where can I get a copy of the Building (Scotland) Regulations 2004 and the Technical Handbooks?

Paper copies are available from The Stationary Office (an order form may be downloaded <u>here</u>) or may be available for inspection in main libraries. You may also view or download the Regulations and Technical Handbooks on this <u>website</u> free of charge. The Regulations are also accessible on the website of the <u>Office of Public</u> <u>Sector Information</u>.

For your project you will probably 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 are likely to have on your building proposal and you may not need to obtain a copy. Simple guidance and leaflets on common domestic work are available from verifiers and on this website.

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## 17. What kind of building works are covered by the building regulations?

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. A conversion is a particular change in occupation or use of a building (see <u>Question 19</u>. *What is a conversion?*).

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 adjacent property. It is therefore always advisable to seek professional advice and to consult the verifier before going ahead with any proposal affecting your property.

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### 18. How do I meet the requirements of the building regulations?

The new system differs from the previous one in that the number of mandatory requirements have been 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 verifier 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 verifier.

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### 19. 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 other than a simple conversion it is likely that professional advice will be required. 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 verifier.

Please note that a building warrant is required for a conversion even if no building work is carried out.

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## WORKS THAT DON'T REQUIRE A WARRANT

# 20. 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. Some examples covering the small buildings associated with houses, flats or maisonettes that are exempt from the building regulations are given below. If you are not sure, you should seek advice from a professional or the verifier.

- a) A detached single-storey building, with a floor area not more than 8 square metres, within the garden of a **house**, that:
  - is at least 1 metre from the house or is closer than 1 metre to the house but is at least 1 metre from any boundary,
  - does not contain sleeping accommodation,
  - does not contain a flue; a fixed solid fuel, oil or gas appliance;
  - does not contain a sanitary fitting;
- b) A detached single-storey building, with a floor area not more than 8 square metres, within the garden of a **flat or maisonette** that:
  - is at least 1 metre from the flat or maisonette or 3 metres from any other part of the building containing a flat or maisonette,
  - is at least 1 metre from any boundary,
  - does not contain a flue, fixed solid fuel, oil or gas appliance,
  - does not contain a sanitary fitting;
- c) A single-storey conservatory or porch with a floor area of not more than 8 square metres that is attached to an existing **house**, and:
  - is at least 1 metre from a boundary,
  - does not contain a fixed solid fuel, oil or gas appliance,
  - does not contain a sanitary fitting,
  - meets the regulations on safety glazing;
- d) A single-storey greenhouse, carport or covered area, each with a floor area not more than 30 square metres, that is detached or attached to an existing **house** and:
  - does not contain a flue, fixed solid fuel, oil or gas appliance,
  - does not contain a sanitary fitting;
- e) A paved area or hardstanding not more than 200 square metres in area that:
  - is not part of any access route required by the regulations.

### 21. Is there any type of building work that does not require a warrant?

Yes. The following building work does not require a warrant, **provided the work complies with the building regulations** (the full list is in <u>schedule 3</u> in section 0 of the Technical Handbook):

- a) Any building work to or in a **house**, that **does not** involve:
  - increasing the floor area
  - the demolition or alteration of a roof, an external wall or an element of structure, for example, forming a doorway in a loadbearing wall.
  - underpinning
  - any work adversely affecting a separating wall
  - changing the method of wastewater discharge
  - any work to a house having a storey, or creating a storey, at a height of more than 4.5 metres (normally a three or more storey house).

For example, the alteration and refit of a kitchen or bathroom or forming an en-suite bathroom or showerroom.

- b) A detached single-storey building having an area exceeding 8 square metres but not exceeding 30 square metres, ancillary to and within the garden of a **house**, provided that the building:
  - is at least 1 metre from the house, or is closer than 1 metre to the house but is at least 1 metre from any boundary.
  - does not contain a fixed solid fuel, oil or gas appliance
  - does not contain a sanitary fitting

For example, the construction of a detached shed, detached carport, or detached garage.

- c) A detached single-storey building having an area exceeding 8 square metres but not exceeding 30 square metres, ancillary to and within the garden of a **flat or maisonette**, provided that the building:
  - is at least 1 metre from the flat or maisonette or within 3 metres of any other part of the building containing the flat or maisonette,
  - is at least 1 metre from any boundary,
  - does not contain a fixed solid fuel, oil or gas appliance,
  - does not contain a sanitary facility.

For example, the construction or installation of a detached shed, detached carport, or detached garage.

- d) Any building work associated with a domestic scale fixed solid fuel, oil or gas appliance or other part of a heating installation that does not include work associated with a chimney, flue pipe or constructional hearth.
- e) Any building work associated with a balanced flue serving a room-sealed appliance.
- f) Any building work associated with the installation of a flue liner.
- g) 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.

- h) Other minor work such as the provision of a single sanitary facility (other than a WC), installation of an extractor fan or, in a **dwelling**, the installation of a stairlift.
- i) 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 (other than where forming part of any access or escape route required by the regulations), and paved areas exceeding 200 square metres in area (other than where forming part of any access required by the regulations).
- j) Replacement doors, windows, and rooflights when the frame is also being replaced.

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## 22. Do I require a building warrant for repair work?

A warrant is not required for repair or maintenance work where the fitting or equipment is being replaced, either totally or in part, by the same general type and the installation is to a standard no worse than at present. In other words the replacement or repair work does not make the service, fitting or equipment worse than it was before. However, the existing may be improved upon, for example, by installing double glazed units within existing window frames. Examples of such work may include the repair or maintenance of:

- 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
- wall and ceiling linings
- cladding
- covering or rendering either internally or externally.

The **repair** of a door, window or rooflight, including glazing would also be included in this grouping but not where the entire unit, including the frame, is being replaced (see Question 21. *Is there any type of building work that does not need a warrant?*).

# OTHER BUILDING STANDARDS ISSUES

### 23. How do I obtain a view from the Scottish Ministers?

Definitive interpretation of the Building (Scotland) Regulations 2004 is the responsibility of the verifier 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. This process is intended to clarify a genuine doubt between the verifier and the applicant/agent about what meets the building regulations. It should not be seen as an "unofficial appeal system".

To apply for a view, a joint referral from the applicant and verifier should be submitted by the verifier to the SBSA explaining the background to the case. The referral should include the aspect of design or construction to be considered, specifying the mandatory standard(s) and relevant clause(s) contained within the Technical Handbook, if appropriate. A request for a view may be rejected and a view will not normally be given if only one party seeks to approach the SBSA.

A referral for a view should be submitted using the <u>template letter</u> on the agency web site and can be posted, e-mailed 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.

A view is sent to both verifier and applicant and the verifier is required to have regard to it. The verifier is invoiced for the fee. The agency publishes an anonymised version of the view online.

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# 24. 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 consists of two parts, Part I consists of data in an electronic format and Part II consists of hard copies of documents of drawings.

Part I is freely available to all during normal office hours or is accessible on your Local Authority website and contains information on:

- applications for warrants and amendments to warrants
- decisions on applications
- submissions of completion certificates
- decisions on acceptance or refusal
- notices served under sections 25 to 30 of the Building (Scotland) Act 2003

The documents contained within Part II are generally available for inspection, however, there are certain restrictions. Documents relating to residential buildings, including dwellings, may only be inspected by the actual or prospective owner, occupier or tenant of the building or an adjoining building. Access to documents relating to non residential buildings that are considered a security concern are also restricted unless agreed with the owner. Part II of the register contains:

- copy warrants
- copies of certificates form Approved Certifiers of Design or Construction
- completion certificates

- principal drawings and specifications
- details of any continuing requirements (for further details see <u>Question 26</u>. Does the Local Authority have any other responsibilities?)

The information in Part I of the register must be maintained as a permanent record but the documents contained within Part II need only be kept for 25 years.

Note that for warrants issued prior to 1st May 2005 your local authority will have records that can be made available to you.

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# 25. 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 building 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 verifier may request parts to be exposed so that adequate checks can be made, and a higher fee is charged to cover such difficulties. 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 a warrant has not been issued and the works are complete you may be asked to produce a completion certificate if you are selling your property (see <u>Questions 7 & 8</u> regarding works that do not require building warrant). The certificate may only be accepted by the verifier 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 plans and specification details equivalent to those for a warrant application so that the verifier can adequately assess whether to accept the completion certificate. The verifier may request parts of the works to be exposed to allow checks to be made on the adequacy of the construction. A fee will also be levied equivalent to a late application for a building warrant.

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### 26. Do 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 to defective buildings 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 may impose some continuing requirements 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.

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## 27. What is an Approved Certifier?

Approved certifiers have government approval to certify that part of a 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 the certified work on your application or completion certificate complies with building regulations. The application should take less time to process because the verifier does not need to check any work that is certified, although they do need to confirm the approved certifier's registration. You will also get a discount on the warrant fee if you submit a certificate of design from an Approved Certifier of Design with your application (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.

The Certification Register is kept by the SBSA and can only be accessed on the agency website <u>here</u>. The Certification Register contains details of approved certification schemes and the registration status of scheme members. To find an Approved Certifier use the Certification Register to contact the Certification Co-ordinator at the firm (the Approved Body) that employs the Approved Certifier to make arrangements.

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# 28. Can I get general advice on building matters from my Local Authority Building Standards offices?

It is suggested that you contact your verifier for help and advice on matters concerning the condition of your building or changes you wish to consider making to your building.

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### ENERGY PERFORMANCE CERTIFICATES

### 29. What is an Energy Performance Certificate?

An Energy Performance Certificate (EPC) is a document which records the amount of carbon dioxide a building produces and also shows how energy efficient a building

is. EPC's also include simple cost-effective home improvement measures that will help save energy, reduce bills and cut carbon dioxide emissions. A sample EPC is available <u>here</u>.

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## 30. How do I obtain an Energy Performance Certificate?

If you are applying for a building warrant for a new building you must submit an Energy Performance Certificate with the completion certificate. If you are employing an agent (architect, surveyor, etc) it is likely they will provide the information you require. If in the future you wish to obtain an EPC for an existing property please refer to Section 6.9 of the Technical Handbooks and the guidance leaflets on this website under European Directives, EPBD.

# 31. I am applying for a building warrant for conversion of a property – do I need an Energy Performance Certificate?

No, not as part of the building warrant process. Energy Performance Certificates are only required when a property is constructed, sold or rented out.

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## 32. Local Authority Building Standards Departments

The website of all 32 Scottish Local Authorities can be accessed via the website of the Scottish Association of Building Standards Managers, found <u>here</u>.