



T: 0300 244 4000
E: scottish.ministers@gov.scot

To: Chief Executives - Scottish Local Authorities

(copy: Building Standards Managers – Scottish Local Authorities)

Our ref: A30425976

16 October 2020

Dear Chief Executive

The Building (Scotland) Act 2003

**The Building (Scotland) Regulations 2004; Regulation 3, Schedule 1:
Continuation of special measures to enable the erection of temporary buildings by the
hospitality sector**

My letter of 13 July 2020 provided guidance on special measures to enable building standards verifiers to take a pragmatic and flexible approach to the erection of temporary buildings to provide outdoor covered seating by pubs, cafes, restaurants and beer gardens. At that time, the guidance recognised the need for businesses to provide outdoor covered areas, e.g. marquees to comply with physical distancing measures in accordance with the appropriate Scottish Government and sector guidance. The guidance was time-bound with an expiry date of 30 September 2020 and was intended to encourage the sector to take steps to provide a safe and pleasant environment for customers while supporting the economic recovery of the sector.

The new restrictions announced recently in Parliament by the First Minister represent further limitations on how the hospitality sector is able to operate in the short term. It is therefore necessary to continue the current guidance on the erection of temporary buildings beyond the original expiry date.

My earlier letter highlighted that building regulations already make provision for the erection or use (and alteration) of temporary buildings in any given year, before a building warrant is required. This is set out in Schedule 1 to Regulation 3 of the Building (Scotland) Regulations 2004:

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“Type 16 A building which, during any period of 12 months, is either erected or used on a site – a. for a period not exceeding 28 consecutive days; or b. for a number of days not exceeding 60, and any such alterations to such buildings.”

It remains the case that the most efficient way forward is for building standards teams to work with businesses to allow the number of days to be extended before seeking a building warrant. I appreciate that enforcement is a discretionary activity carried out by local authorities. For the avoidance of doubt, I do not expect the limitation on the number of days to be enforced against reasonable temporary outdoor buildings should a longer period be appropriate and helpful to businesses.

I would encourage you to advise owners of such premises to engage competent advisors and contractors, and undertake appropriate risk assessments for all temporary structures.

Although the current restrictions are for a limited period, it is anticipated that most business premises may wish to maintain outdoor covered spaces to comply with physical distancing measures for a longer period. The guidance outlined above is applicable until 31 March 2021 after which time this guidance will be withdrawn.

Officials from Building Standards Division at Scottish Government will be available to respond to any queries that arise. Contact in the first instance should be via Stephen Garvin, Head of Building Standards Division (07836 504 781, Stephen.garvin@gov.scot).

Kind regards



KEVIN STEWART

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St Andrew's House, Regent Road, Edinburgh EH1 3DG
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