

SCOTTISH EXECUTIVE

BUILDING REGULATION NOTE 2/2000

Building Standards (Scotland) Regulations 1990 (as amended)

Relaxation of Functional or Performance Standards

Our Ref: QTD 1/5
23 February 2000

Dear Sir/Madam

Enclosed for your information is a copy of Building Regulation Note 2/2000

This Building Regulation Note is intended to provide guidance in relation to the relaxation of the Technical Standards for compliance with the Building Standards (Scotland) Regulations 1990, as amended, and to assist with the uniformity of interpretation of procedures.

Any enquiries regarding this Note should be addressed to:

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Yours faithfully

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RELAXATION OF FUNCTIONAL OR PERFORMANCE STANDARDS

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1 INTRODUCTION OF FUNCTIONAL OR PERFORMANCE STANDARDS

1.1 In recent years, as building control authorities are aware, amendments to the [Technical Standards](#) have increasingly been written in functional or performance terms rather than as prescriptive standards. The main reason for this change (which is part of a world-wide movement) is to increase the freedom of choice for the client and the designer. However it is also increasingly necessary because of the advent of harmonised European Standards. These will require to be integrated, over the next five years, into our building standards regulations. It is expected that European Standards will be referenced in the deemed to satisfy clauses, and not in the Technical Standards, as there will be a transition period in which both national and European standards must be recognised. To accommodate the different bases, tests and assumptions of the two sets of standards, the Technical Standards will generally have to be written in either functional or performance terms.

2 RELAXATION OF FUNCTIONAL STANDARDS

2.1 The introduction of standards in functional form has led to various approaches being taken by building control authorities. There appears to be differing opinions as to whether or not it is permissible to relax functional Technical Standards. The short answer is that the Act gives the power to relax any standard, but it is difficult to see how to relax a functional standard in practice. The difficulty arises because a functional standard usually asks for an "*adequate or suitable standard*" of provision, but does not ask for anything specific. For example, Technical Standard K2.1 in the 1997 amendment asks for buildings other than garages to have "adequate" ventilation. This requirement was previously in prescriptive form giving specific dimensions of openings etc, and as such could have been the subject of a relaxation. Certain dimensions of openings etc. now appear in the deemed to satisfy requirements, but these offer only one way of providing 'adequate' ventilation.

2.2 It is not technically possible to 'relax' a deemed to satisfy requirement as it does not form part of a standard, so a building control officer must use his/her judgement as to whether a particular scheme is providing 'adequate' ventilation. It is, however, not reasonable to use the deemed to satisfy dimensions etc. as an absolute measure of adequacy. The dimensions etc. given are one way of ensuring adequate performance, but are not the only way.

2.3 In relation to functional standards therefore, it may not be necessary to relax a standard as it is a question of deciding whether a suggested solution is adequate/suitable or not. The solution must meet the intention of such standards, but the intention is to provide more freedom of choice between solutions. This applies as much to new buildings as to existing buildings.

2.4 The difficulty of deciding whether some other way is suitable is not underestimated. The scale, layout and likely occupation of the building are all matters which a building control authority might consider when deciding on adequacy. It may also be helpful to remember that although one may not in practice relax a functional standard there is no reason why such a standard cannot be dispensed with, and no reason why a dispensation cannot be the subject of conditions formulated to support the intention of the Technical Standard (see section 4(4) of the Act).

3 RELAXATION OF PERFORMANCE STANDARDS

3.1 In the case of a performance standard, where a level of performance to be achieved is stated and a method of measuring that performance is given, there have also been doubts as to how this can be relaxed. Again, the basic reply is that the standard can be relaxed to accept a lower level of performance if it is suitable in a particular case, for example if there are compensating features. It may also be permissible to accept an alternative method of measuring performance provided the performance achieved is adequate to meet the intention of the standard.

3.2 If methods of measurement are given in deemed to satisfy clauses, they are of course only one way of meeting a standard and should not be applied as the only acceptable way of measuring performance. For example, Technical Standard E8.8 in the 1997 amendment requires the provision of ventilators activated by smoke detection, and the deemed to satisfy provision gives a specification for the positioning of detector heads. However, other specifications of head can be acceptable and the positioning as mentioned in the deemed to satisfy may then not be relevant.

4 FURTHER INFORMATION

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