



FALKLAND ISLANDS

Building Control Ordinance 1994

(ORDINANCE No. 3 OF 1994)

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FALKLAND ISLANDS

Building Control Ordinance 1994

AN ORDINANCE To make improved provision as to the control of the erection and construction drainage and other servicing of buildings and structures and alterations of and additions to buildings and structures and for connected purposes.

[DATE OF COMMENCEMENT: 17TH JUNE 1994]

Introductory

1 Short title

This Ordinance may be cited as the Building Control Ordinance 1994.

2 Interpretation

(1) In this Ordinance, and unless the context otherwise requires-

"**building**" means any permanent or temporary building and includes any other structure or erection whatsoever (whether permanent or temporary) and includes any part of, addition to or alteration of a building, structure or erection;

"**Committee**" means the Planning and Building Committee;

"**continuing requirements**" means requirements to which section 4 relates;

[Revision w.e.f. 31/07/2017]

"**Planning and Building Committee**" means the Committee of that name established by the Planning Ordinance 1991;

[Revision w.e.f. 31/07/2017]

"**services**" includes the provision of drainage, whether foul drainage or surface water drainage, the provision of electricity and the provision of a supply of water.

(2) A reference in this Ordinance to the supply of services, fittings and equipment in or connected with buildings, or to services, fittings and equipment so provided includes a reference to the affixing of things to buildings or, as the case may be, to things so affixed.

(3) For the purposes of this Ordinance, except where specifically stated to the contrary, each of the following operations is deemed to be the erection of a building-

- (a) the re-erection of a building or part of a building when an outer wall of that building or, as the case may be, that part of a building, has been pulled down, or burnt down, to within one metre of the surface of the ground adjoining the lowest storey of the building or of that part of the building;
- (b) the re-erection of a framed building or part of a framed building when-
 - (i) that building or part of a framed building was previously more than one storey in height;
 - (ii) that building or part of a building has been so far pulled down, or burnt down, as to leave only the framework of the lowest storey of the building or of that part of the building; and
- (c) the roofing over of an open space between walls or buildings,

and "**erect**" shall be construed accordingly.

3 Power to make building regulations.

(1) The Governor may, for any of the purposes of-

- (a) securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings; and
- (b) preventing waste, undue consumption, misuse or contamination of water,

make regulations with respect to the design and construction of buildings and the provision of services, fittings and equipment in or in connection with buildings.

(2) Regulations made under subsection (1) are known as building regulations.

(3) Schedule 1 to this Ordinance has effect with respect to the matters as to which building regulations may provide.

[S. 5(1)/Ord. 17/03/w.e.f. 1/9/03.]

(4) Building regulations may confer powers and impose duties on the Planning and Building Committee and upon any public officer.

4 Continuing requirements

(1) Building regulations may impose on owners and occupiers of buildings to which building regulations are applicable such continuing requirements as the Governor considers appropriate for securing, with respect to any provision of building regulations designated in the regulations as a

provision to which those requirements relate, that the purposes of that provision are not frustrated; but a continuing requirement imposed by virtue of this subsection does not apply in relation to a building unless a provision of building regulations so designated as one to which the requirement relates applies to that building.

(2) Building regulations may impose on owners and occupiers of buildings of a prescribed class (whenever erected, and whether or not any building or regulations were applicable to them at the time of their erection) continuing requirements with respect to all or any of the following matters-

- (a) the conditions subject to which any services, fittings or equipment provided in or in connection with a building may be used;
- (b) the inspection and maintenance of any services, fittings or equipment so provided; and
- (c) the making of reports to a prescribed authority on the condition of any services, fittings or equipment so provided.

(3) If a person contravenes a continuing requirement imposed by virtue of this section, the Crown, without prejudice to the bringing of criminal proceedings in respect of the contravention, may-

- (a) execute any work or take any other action required to remedy the contravention;
- (b) recover, if necessary by proceedings brought by the Attorney General in its name, the expenses reasonably incurred in so doing.

(4) Where the Crown has power under subsection (3) to execute any work it may, instead of exercising that power, by notice require the owner or the occupier of the building to which the contravention referred to in that subsection relates to execute that work or take that action.

(5) A notice under subsection (4) shall indicate the nature of the works or take any action to be executed and state the time within which they are to be executed.

(6) Subject to any right of appeal conferred by subsequent provisions of this section, if the person required by such a notice to execute works or take any action fails to execute them within the time limited by the notice-

- (a) the Crown may itself execute the works or take any action required by the notice and paragraph (b) of subsection (3) shall apply in respect of the expenses reasonably incurred by it in so doing;
- (b) without prejudice to paragraph (a), he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale and to a further fine not exceeding £10 for each day on which the default continues after he is convicted.

(7) Where a person is given a notice under subsection (4), he may appeal to the Magistrate's Court on any of the following grounds that are appropriate in the circumstances of the particular case-

- (a) that the notice or requirement is not justified by the terms of the provision of building regulations in relation to which the notice has been given;
- (b) that there has been some informality, defect or error in, or in connection with the notice;

- (c) that the Committee have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
- (e) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served; and
- (f) where the works for the common benefit of the premises in question and other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute towards the expenses of executing any works required.

(8) The appellant-

- (a) shall, where the grounds upon which the appeal is brought include a ground specified in subsection (7)(e) or (f) above, serve a copy of his notice of appeal on each other person referred to; and
- (b) may, in the case of any appeal under this section, serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question, and on the hearing of the appeal the court may make such order as it thinks fit with respect to-
 - (i) the person by whom any works are to be executed and the contribution to be made by any other person towards the cost of the works; or
 - (ii) the proportions in which any expenses that may become recoverable by the Crown are to be borne by the appellant and such other person.

(9) In exercising its powers under subsection (8), the court shall have regard-

- (a) as between an owner and an occupier, to the terms and conditions of the tenancy and to the nature of the works required; and
- (b) in any case, to the degree of benefit to be derived by the different person concerned.

Exemptions from Building Regulations

5 Defence exemption

Nothing in building regulations shall apply to any building required for the purposes of Her Majesty's Armed Forces in the Falkland Islands or to any building upon land for the time being owned by or in the occupation of the Ministry of Defence of Her Majesty's Government in the United Kingdom.

6 Exemption of particular classes of buildings or of particular areas

(1) Building regulations may exempt a prescribed class of building, services, fittings or equipment from all or any of the provisions of the building regulations.

(2) The Governor may by direction exempt from all or any of the provisions of Building Regulations-

- (a) a particular building; or
- (b) buildings of a particular class at a particular location,

either unconditionally or subject to compliance with any conditions specified in the direction.

[S. 3/Ord. 17/03/w.e.f. 1/9/03.]

(3) A person commits an offence who contravenes a condition specified in a direction given under subsection (2), or permits such a condition to be contravened, and is liable on conviction to a fine not exceeding the maximum of level 5 on the Standard Scale and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.

[S. 3/Ord. 17/03/w.e.f. 1/9/03.]

Relaxation of Building Regulations

[S. 4/Ord. 17/03/w.e.f. 1/9/03.]

6A Relaxation of Building Regulations

(1) Subject to this section, the Governor, if on an application for direction under this section he considers that the operation of a requirement in Building Regulations would be unreasonable in relation to the particular case to which the application relates, may, after consultation with the Committee, give a direction dispensing with or relaxing that requirement.

(2) If Building Regulations so provide as regards a requirement contained in the Regulations, the power to dispense with or relax that requirement under subsection (1) is exercisable by the Committee (instead of by the Governor after consultation with the Committee).

(3) Buildings Regulations made by virtue of subsection (2) may except applications of any description.

(4) Building Regulations may provide as regards a requirement contained in the Regulations that subsections (1) to (3) of this section do not apply.

6B Application for relaxation

(1) An application under section 6A(1) or (2) shall be in such form and shall contain such particulars as may be prescribed.

(2) The application shall be made to the Committee and, except where the power of giving the direction is exercisable by the Committee, the Committee shall transmit the application to the Governor with its comments in writing, if any, in relation to the merits of the application and give notice to the applicant that the application has been so transmitted.

(3) Schedule 2 to this Ordinance has effect as regards an application for a direction that will affect the application of Building Regulations to work that has been carried out before the making of the application.

[S. 4/Ord. 17/03/w.e.f. 1/9/03.]

6C Advertisement of proposal for relaxation of Building Regulations

(1) Not less than 21 days before giving a direction under section 6A(1) or (2) in respect of any particular work, the Governor shall publish in a newspaper circulating in the Falkland Islands a notice-

- (a) indicating the situation and nature of the work and the requirement to be dispensed with or relaxed, and
- (b) stating that representations with regard to the effect that the direction may have on public health or safety may be made by a date specified in the notice, being a date not less than 21 days from the date of the notice

and where the direction is proposed to be made on an application, the Governor may, as a condition of entertaining the application, require the applicant to pay or undertake to pay the cost of publication.

(2) No notice need be published under subsection (1) where it appears to the Governor (or, as the case may be, the Committee where it has the power to dispense with or relax the requirement of Building Regulations in question) that any affect that the direction may have on public health or safety will be limited to premises adjoining the site of the work, but in that case he, or as the case may be, the Committee, shall give such a notice to the owner and occupier of those premises.

(3) No notice need be published or given under subsection (1) or (2) where the work affects only an internal part of a building.

(4) The Governor may, instead of himself publishing or giving a notice under subsection (1) or (2), require the Committee or a public officer on its behalf to give or publish the notice.

(5) Before giving the direction, the Governor shall consider any representations duly made in pursuance of a notice published or given under subsection (1) or (2).

(6) If, after the Committee has received representations under this section, it refuses the application to which the representations relate and an appeal is brought against its refusal, the Committee shall transmit to the Governor copies of those representations.

[S. 4/Ord. 17/03/w.e.f. 1/9/03.]

6D Type relaxation of Building Regulations

(1) If the Governor considers that the operation of a requirement to Building Regulations would be unreasonable in relation to a particular type of building matter, he may, either on an application made to him or of his own accord, give a direction dispensing with or relaxing that requirement generally in relation to that type of building matter, either-

- (a) unconditionally, or

- (b) subject to compliance with any conditions specified in the direction, being conditions with respect to matters directly connected with the dispensation or relaxation.
- (2) A direction under subsection (1)-
- (a) If it so provides, ceases to have effect at the end of such period as may be specified in the direction,
 - (b) may be varied or revoked by a subsequent direction of the Governor.
- (3) Building Regulations may require a person making an application under subsection (1) to pay the Governor the prescribed fee, and-
- (a) may prescribe different fees for different cases, and
 - (b) the Governor may in a particular case remit the whole or part of a fee payable by virtue of this subsection.
- (4) Where the Governor gives a direction under subsection (1), he shall publish notice of that fact in the Gazette.
- (5) A person commits an offence who contravenes a condition specified in a direction given under subsection (1), or permits such a condition to be contravened and is liable on conviction of that offence to a fine not exceeding the maximum of level 5 of the Standard Scale and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.
- (6) If at any time a direction under subsection (1) dispensing with or relaxing a requirement of building regulations ceases to have effect by virtue of subsection (2)(a), or is varied or revoked under subsection (2)(b), that fact does not affect the continued operation of the direction (with any conditions specified in it) in a case in which before that time plans of the proposed work were, in accordance with building regulations, deposited with the Committee or the Building Control Surveyor as the case may be.
- (7) In this section "building matter" means any building or other matter whatsoever to which building regulations are applicable.

[S. 4/Ord. 17/03/w.e.f. 1/9/03.]

Breach of building regulations

7 Penalty for contravening building regulations

A person who contravenes any provision contained in building regulations, other than a provision designated in the regulations as one to which this section does not apply, commits an offence and is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale and to a further fine not exceeding £50 for each day on which the default continues after he is convicted.

8 Removal or alteration of offending work

(1) If any work to which building regulations are applicable contravenes any of those regulations, the Committee, without prejudice to any power under section 7 or any other provision of law to bring criminal proceedings, may by notice require the owner-

- (a) to pull down or remove the work; or
- (b) if he so elects, to effect such alterations in it as may be necessary to make it comply with the regulations.

(2) If, in a case where the Committee are by any provision of building regulations expressly required or authorised to reject plans, any work to which building regulations are applicable is executed-

- (a) without plans having been deposited;
- (b) notwithstanding the rejection of plans; or
- (c) otherwise than in accordance with any requirements subject to which the Committee passed the plans,

the Committee may by notice to the owner-

- (i) require him to pull down or remove the work; or
- (ii) require him either to pull down or, if he so elects, to comply with any other requirements specified in the notice, being requirements that they might have made under building regulations as a condition of passing plans.

(3) If a person to whom a notice has been given under subsection (1) or (2) fails to comply with the notice before the expiration of 28 days, or such longer period as the Governor may on his application allow, the Crown may-

- (a) pull down or remove the work in question; or
- (b) effect such alterations in it as the Committee deem necessary,

and the Attorney General in the name of and on behalf of the Crown may recover from him the expenses reasonably incurred in so doing.

(4) A notice under subsection (1) or (2) (a "section 8 notice") shall not be given after the expiration of 12 months from the date of the completion of the work in question.

(5) A section 8 notice shall not be given, in a case where plans were deposited and the work was shown on them, on the ground that the work contravenes any building regulations or, as the case may be, does not comply with the Committee's requirements if-

- (a) the plans were passed by the Committee; or
- (b) notice of their rejection was not given within two months from their deposit,

and if the work has been executed in accordance with the plans and any requirement made by the Committee as a condition of passing the plans.

(6) This section does not affect the right of the Attorney General (in the name of and on behalf of the Committee or in the name of and on behalf of the Crown) or the right of any other person to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any regulation or provision of this or any other Ordinance; but if-

- (a) the work is one in respect of which plans were deposited;
- (b) the plans were passed by the Committee, or notice of their rejection was not given within two months from their deposit,

the court on granting the injunction may order the Crown to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall, if the Attorney General is not already a party to the proceedings, cause the Attorney General to be joined as a party to them in the name of and on behalf of the Crown.

9 Appeal against section 8 notice

(1) A person aggrieved by the giving of a section 8 notice may appeal to the Governor by notice in writing.

(2) Subject to subsection (3), on an appeal under this section the Governor shall -

- (a) if he is advised by the Attorney General that the Committee were entitled to give the notice, confirm the notice; and
- (b) in any other case, give the Committee a direction to withdraw the notice.

(3) If, in a case where the appeal is against a notice under section 8(2), the Governor-

- (a) is advised by the Attorney General that the Committee were entitled to give the notice; but
- (b) is satisfied that in all the circumstances of the case the purpose for which the regulation contravened was made has been substantially achieved,

the Governor may direct the Committee to withdraw the notice.

(4) An appeal under this section shall be brought within 28 days of the giving of the section 8 notice, and the notice of appeal shall-

- (a) state whether it is alleged that the Committee had no power to give the section 8 notice and, if so alleged, the grounds on which it is so alleged; and
- (b) if it is not alleged that the Committee had no power to give the section 8 notice, and the notice was given under section 8(2), the reasons on the basis of which the appellant asks the Governor to be satisfied that in all the circumstances of the case the purpose of the regulation contravened has been substantially achieved so that he may, if he sees fit, direct the Committee under subsection (3) of this section to withdraw the notice.

(5) Where an appeal is brought under this section-

- (a) the section 8 notice is of no effect pending the final determination or withdrawal of the appeal; and

- (b) section 8(3) has effect in relation to that notice as if after the words "28 days" there were inserted the words "(beginning, in a case where an appeal is brought under section 9, on the date when the appeal is finally determined or, as the case may be, withdrawn)".

10 Further Appeal to Supreme Court

(1) Subject to subsection (2), where a person is aggrieved by a decision of the Governor under section 9, he may, within 28 days of the notification of that decision to him, appeal to the Supreme Court.

(2) The Committee has no right of appeal to the Supreme Court against a direction of the Governor that it shall withdraw a section 8 notice.

(3) The Supreme Court may order that the operation of a section 8 notice which was the subject of the appeal to the Governor under section 9 and is the subject of an appeal to it shall be stayed pending the final determination or, as the case may be, withdrawal of the appeal to it under subsection (1) of this section, but unless it so orders the operation of the section 8 order is not stayed.

(4) Where the Supreme Court makes an order of the kind to which subsection (3) relates, section 9(5) has effect as if-

- (a) the reference in it to an appeal under section 9 were a reference to an appeal under this section; and
- (b) the reference in paragraph (b) of that subsection (modification of section 8(3)) to section 9 were a reference to this section.

Application to the Crown

11 Application to the Crown

(1) Except as provided by section 5 and by building regulations, the requirements of building regulations and continuing requirements apply to the Crown in the same way as they apply to other persons-

- (a) whether or not the work carried out by or on behalf of the Crown is to or in relation to a building owned or occupied or intended to be owned or occupied by the Crown;
- (b) in the case of continuing requirements, if the building is owned or occupied by the Crown.

(2) Where a section 8 notice has been given by the Committee in respect of work carried out by or on behalf of the Crown, the Director of Public Works may within 28 days of the giving of the notice request the Governor to direct the Committee to withdraw the notice, but the Governor shall not give any such direction unless he is satisfied-

- (a) that the Committee had no power to give the notice; or

- (b) in the case of a notice served under section 8(2), that in all the circumstances of the case the purpose for which the regulation contravened was made has been substantially achieved.

(3) The Crown shall have no right of appeal under section 9 and no appeal shall lie from the decision of the Governor on request under subsection (2) of this section.

(4) Where a request has been made under subsection (2) of this section, section 9(5) shall have effect as if the request were an appeal under section 9.

[S.R. & O. 19/05/w.e.f. 17/6/94.]

Further powers to make regulations

12 Regulations

(1) The Governor may make regulations-

- (a) requiring the keeping by or on behalf of the Committee registers as to notices and certificates given to or by or on behalf of the Committee;
- (b) the inspection of any such register by members of the public;
- (c) prescribing the form of any notice, certificate or other document which it is necessary or convenient to prescribe for the purposes of this Ordinance or of building regulations.

(2) The Governor may by regulations revoke all or any of the by-laws 5 to 44 of the Board of Health By-laws 1939 ("the Building By-laws").

[Revision w.e.f. 31/07/2017]

Repeal and Transitional Provisions

13 ...

[Revision w.e.f. 31/07/2017]

14 ...

[Revision w.e.f. 31/07/2017]

SCHEDULE 1
PERMITTED CONTENTS OF BUILDING REGULATIONS

(section 3(3))

1. Building regulations may provide for particular requirements of the regulations to be deemed to be complied with where prescribed methods of construction prescribed types of materials or other prescribed types of materials or other prescribed means are used in or in connection with buildings.

2. Building regulations may include provision as to-

- (a) the giving of notices,
- (b) the deposit of plans of proposed work or work already executed (including provision as to the number of copies to be deposited),
- (c) the retention by the Committee of copies of plans deposited with them in accordance with the regulations,
- (d) the inspection and testing of work,
- (e) the taking of samples.

3. Without prejudice to the generality of section 3(1) of this Ordinance, building regulations may-

- (a) for any of the purposes mentioned in section 3(1) of this Ordinance make provision with respect to any of the following matters-
 - (i) preparation of sites,
 - (ii) suitability, durability and use of materials and components (including surface finishes),
 - (iii) structural strength and stability, including-
 - (a) precautions against overloading, impact and explosion,
 - (b) measures to safeguard adjacent buildings and services,
 - (c) underpinning,
 - (iv) fire precautions, including-
 - (a) structural measures to resist the outbreak and spread of fire and to mitigate its effects,
 - (b) services, fittings and equipment designed to mitigate the effects of fire or to facilitate fire-fighting,
 - (c) means of escape in case of fire and means for securing that such means of escape can be safely and effectively used at all material times,
 - (v) resistance to moisture and decay,
 - (vi) measures affecting the transmission of heat,

- (vii) measures affecting the transmission of sound,
- (viii) measures to prevent infestation,
- (ix) measures affecting the emission of smoke, gases, fumes, grit or dust or other noxious or offensive substances,
- (x) drainage (including waste disposal units),
- (xi) cesspools and other means for the reception, treatment or disposal of foul water,
- (xii) storage, treatment and removal of waste,
- (xiii) installations utilising solid fuel, oil, gas, electricity or any other fuel or power (including appliances, storage tanks, heat exchangers, ducts, fans, and other equipment),
- (xiv) water services (including wells and bore-holes for the supply of water) and fittings and fixed equipment associated therewith,
- (xv) telecommunications services (including telephones),
- (xvi) lifts, escalators, hoists, conveyors and moving footways,
- (xvii) plant providing air under pressure,
- (xviii) standards of heating, artificial lighting, mechanical ventilation and air-conditioning and provision of power outlets,
- (xix) open space about buildings and the natural lighting and ventilation of buildings,
- (xx) accommodation for specific purposes in or in connection with buildings, and the dimensions of rooms and other spaces within buildings,
- (xxi) means of access to and egress from buildings and parts of buildings,
- (xxii) prevention of danger and obstruction to persons in and about buildings (including passers-by),
- (xxiii) matters connected with or ancillary to any of the foregoing matters.
- (b) require things to be provided or done in connection with buildings (as well as regulating the provision or doing of things in or in connection with buildings),
- (c) prescribe the manner in which work is to be carried out.

4. (1) Building regulations may be made with respect to-

- (a) alterations and extensions of buildings and of services, fittings and equipment in or in connection with buildings,
- (b) new services, fittings or equipment provided in or in connection with buildings,
- (c) buildings and services, fittings and equipment in or in connection with buildings, so far as affected by-

- (i) alterations or extensions of buildings, or
- (ii) new, altered or extended services, fittings or equipment in or in connection with buildings,
- (d) the whole of a building, together with any services, fittings or equipment provided in or in connection with it,
- (e) buildings or parts of buildings, together with any services, fittings or equipment provided in or in connection with them, in cases where the purposes for which or the manner or circumstances in which a building or part of a building is used change or changes in a way that constitutes a material change of use of the building or part within the meaning of the expression "material change of use" as defined for the purposes of this paragraph by building regulations.

(2) So far as they relate to matters mentioned in sub-paragraph (1) of this paragraph building regulations may be made to apply to or in connection with buildings erected before the date on which the regulations came into force but, except as aforesaid (and subject to section 4(2) of this Ordinance, shall not apply to buildings erected before that date.

5. Building regulations may prescribe the form of any notice or certificate to be given under the provisions of building regulations.

6. Building regulations may provide for any notice or certificate to be given to or by any person or to or by the Committee to be given to or by any public officer named or described therein for and on behalf of the Committee.

7. Building regulations may provide for the composition of the Committee when exercising functions as to the approval or rejection of plans thereunder.

8. Building regulations may revoke amend or replace any building regulations previously made under the provisions of section 3 of this Ordinance and may contain such transitional provisions related to any such revocation, amendment or replacement as the Governor thinks expedient.

9. Building regulations may provide for such incidental or supplementary matters as the Governor thinks expedient.

SCHEDULE 2

RELAXATION OF BUILDING REGULATIONS FOR EXISTING WORK

[S. 5(2)/Ord. 17/03/w.e.f. 1/9/03.]

Application of Schedule

1. This Schedule applies to a direction under section 6A of this Ordinance that will affect the application of Building Regulations to work that has been carried out before the giving of the direction.

Cases where no direction may be given

2. Neither the Governor nor a committee shall give a direction to which this Schedule applies if, when the application is made, there is in force an injunction or other direction given by a court that requires the work to be pulled down, removed or altered.

Suspension of certain provisions when application pending

3. (1) Subject to the following provisions of this Schedule, after the making of an application for a direction to which this Schedule applies, and until the application is withdrawn or finally disposed of, no section 8 notice shall be given as regards the work to which the application relates on the ground that it contravenes the requirement to which the application relates.

(2) If an application for a direction to which this Schedule applies is made less than twelve months after the completion of the work to which the application relates, section 8(4) of this Ordinance does not prevent the giving of a notice as regards that work at any time within a period of three months from the date on which the application is withdrawn or finally disposed of.

(3) If an application for a direction to which this Schedule applies is made after a section 36 notice has been given on the ground that the work to which the application relates contravenes the requirement to which the application relates (not being an application prohibited by paragraph 2 of this Schedule) section 8(3) of this Ordinance has effect in relation to that work as if for the reference to the period there mentioned there was substituted a reference to a period expiring 28 days after the application is withdrawn or finally disposed of.

(4) Subject to the following provisions of this Schedule, if an application for a direction to which this Schedule applies is made after any person has, in consequence of the carrying out of the work to which the application relates in contravention of building regulations, become liable to a penalty continuing from day to day, the daily penalty is not recoverable in respect of any day after the making of the application and before it is withdrawn or finally disposed of.

(5) In a case where an application is withdrawn or finally disposed of without any directions being given, the Governor or, as the case may be, the Committee may order that the daily penalty is not

recoverable in respect of any day during such further period not exceeding 28 days as may be specified in the order.

4. Paragraph 3(1), (3) and (4) do not apply to an application that is a repetition, or substantially a repetition, of a previous application made under section 6A of this Ordinance.

Saving for criminal liability incurred before making of application

5. The giving of a direction to which this Schedule applies does not affect the liability of a person for an offence committed before the giving of the direction, except so far as that liability depends on the continuation of the offence after the giving of the direction.

Termination of proceedings under section 8 on giving of direction

6. If, before the giving of a direction to which this Schedule applies, a section 8 notice has been given, and the contravention of Building Regulations by virtue of which the notice was given comes to an end when the direction is given, the Crown is not, after the giving of the direction, entitled to proceed under section 8(3) of this Ordinance by virtue of that notice.