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To: Chief Executives - Scottish Local Authorities

(copy: Building Standards Managers – Scottish Local Authorities)

Our ref: A32014420

29 February 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**

Further to my letter of 16 October 2020 where I extended the period of guidance on the erection of temporary buildings applicable to the hospitality sector. I am writing to inform you that I am extending the guidance for a further period to the 30 September 2021. It is my intention to review the position every six months, and I will further advise you if there are any further extensions of the guidance.

Given the current situation it is appropriate that the guidance remains in place as I recognise the need for businesses to provide outdoor covered areas, e.g. marquees, which will of course need to comply with physical distancing measures set out in the Scottish Government and sector guidance. The guidance is 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.

My earlier letter of 13 July 2020 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.

It is anticipated that most business premises may wish to maintain outdoor covered spaces to comply with physical distancing measures for a longer period.

Beyond the building standards system, there will likely be some wider interests for businesses and local authorities to consider through other consenting and licensing regimes and any public health implications, including working within physical distancing requirements. I would draw your attention to the guidance issued by the Scottish Government in relation to [occasional licenses for licensed premises](#) and [temporary traffic regulation orders and notices](#). In addition, our [guidance on Safer Public Spaces for Scotland](#) published on 29 June 2020 advises on the design principles for safer urban centres and green spaces, connecting to Scotland’s route map through and out of the crisis.

Where there are licensed premises [under the Licensing (Scotland) Act 2005] these will be required to meet the conditions of the licenses granted by local authorities to operate their business.

I would expect that building standards verifiers, if requested, provide professional advice to assist in these situations if at all possible.

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

Yours sincerely

Kind regards

KEVIN STEWART

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