

2012 No. 190

BUILDING AND BUILDINGS

**The Energy Performance of Buildings (Scotland) Amendment
Regulations 2012**

<i>Made</i>	- - - -	<i>6th June 2012</i>
<i>Laid before the Scottish Parliament</i>		<i>8th June 2012</i>
<i>Coming into force</i>	- -	<i>1st October 2012</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Energy Performance of Buildings (Scotland) Amendment Regulations 2012 and come into force on 1st October 2012.

Amendment of the Energy Performance of Buildings (Scotland) Regulations 2008

2. The Energy Performance of Buildings (Scotland) Regulations 2008(b) are amended in accordance with regulations 3 to 11.

Interpretation

3. In regulation 2(1) (interpretation)—

- (a) omit the definition of “associated data”;
- (b) after the definition of “energy performance certificate” insert—
““energy performance data” means information needed to produce an energy performance certificate or a recommendations report;”; and
- (c) after the definition of “prospective tenant” insert—
““recommendations report” has the meaning given in regulation 6A;”.

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) S.S.I. 2008/309 as amended by S.S.I. 2008/389.

Energy performance certificates on sale or rent

4. In regulation 5(1) (energy performance certificates on sale or rent), after “the building” insert “and of the related recommendations report”.

Energy performance certificates

5. In regulation 6 (energy performance certificates), after paragraph (1)(c) insert—

“(ca) include a statement indicating that more detailed information on the cost effectiveness of the recommendations made in the energy performance certificate is contained in the recommendations report;”.

Recommendations report

6. After regulation 6 (energy performance certificates) insert—

“Recommendations report

6A.—(1) A recommendations report is a report which must include more detailed information on the cost effectiveness of the recommendations made in the energy performance certificate to which it relates.

(2) A recommendations report must not contain any information or data (except for the address of the building) from which a living individual (other than the person issuing it or that person’s employer) can be identified.”.

Registration of certificates

7. For regulation 10 (registration of certificates) together with its cross heading substitute—

“Registration of energy performance data

10.—(1) There must be one or more registers of energy performance data from which the following documents may be produced—

- (a) an energy performance certificate; and
- (b) a recommendations report.

(2) Each register referred to in paragraph (1) shall be maintained by a keeper.

(3) A register may be maintained for different purposes or for different classes of buildings.

(4) Where a member of an approved organisation issues any document referred to in paragraph (1)(a) or (b), that person must ensure that the energy performance data relating to that document is sent to the relevant register before the document is issued.

(5) Any energy performance data entered onto a register—

- (a) must be registered under a unique reference; and
- (b) must not be altered once registered.

(6) Any energy performance data entered onto a register must be kept on the register for a period of at least 10 years beginning on the date on which it is entered onto the register.”

Disclosures generally

8. For regulation 11 (disclosures generally) substitute—

“11. The keeper of a register may only disclose any—

- (a) energy performance data;
- (b) any document produced from that data; and

(c) any information derived from that data,
if authorised by regulation 12 or 13.”.

Disclosures to approved organisation

9. For regulation 12 (disclosures to approved organisation) substitute—

“12. The keeper of a register may disclose to an approved organisation—

- (a) any energy performance certificate or recommendation report which was prepared by a member of that organisation; and
- (b) any energy performance data relating to that document.”.

Disclosures to enforcement authorities and/or the Scottish Ministers

10. In regulation 13 (disclosures to enforcement authorities and/or the Scottish Ministers) for “certificate or associated” substitute “data or any document produced from that”.

Use of information by the Scottish Ministers and/or the keeper of the register

11. In regulation 14 (use of information by the Scottish Ministers and/or the keeper of the register) for “certificate or associated” in both places where it occurs substitute “data or any document produced from that”.

St Andrew’s House,
Edinburgh
6th June 2012

DEREK MACKAY
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Energy Performance of Buildings (Scotland) Regulations 2008 (“the 2008 Regulations”). The 2008 Regulations require the production of energy performance certificates when buildings are to be sold or rented out.

These Regulations partially transpose for Scotland Article 11 (energy performance certificates) of Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings (OJ L 153, 18.06.2010, p.13) (“the 2010 Directive”). The 2010 Directive is a recast of Directive 2002/91/EC of the European Parliament and of the Council on the energy performance of buildings (OJ L 1, 04.01.2003, p.65).

Article 11(4) of the 2010 Directive states that energy performance certificates shall provide an indication as to where the owner or tenant can receive more detailed information on the cost effectiveness of the energy performance certificate. Regulations 3 to 6 of these Regulations provide a vehicle for this information to be provided to owners and tenants by means of a recommendations report.

Regulations 7 to 11 amend the provisions on the registration of energy performance certificates in order that it is now data rather than the certificate itself that must be entered on to the Register. From 1st October 2012, the energy performance certificate and the recommendations report will be produced from the data held on this Register.

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