

## POLICY NOTE

### THE BUILDING (SCOTLAND) AMENDMENT REGULATIONS 2015

#### SSI 2015/218

1. The above instrument is made in exercise of the powers conferred by sections 1 and 54(2) of the Building (Scotland) Act 2003. The instrument is subject to negative procedure.

#### Background

2. Section 1 of the Building (Scotland) Act 2003 allows Ministers to make regulations with respect to the design, construction, demolition and conversion of buildings and the provision of services, fittings and equipment in or in connection with buildings for purposes including furthering the conservation of fuel and power and furthering the achievement of sustainable development.
3. This SSI amends paragraph 6.3 and 6.9 of Schedule 5 to the Building (Scotland) Regulations 2004 (“the principal Regulations”) which contains standards applicable to the design and construction of buildings. The SSI comes into force on 9 July 2015 in respect of standard 6.9 and 1 October 2015 in respect of standard 6.3.
4. Provisions made in respect of paragraph 6.3 of schedule 5 completes action to deliver changes to building regulations in respect of improved energy standards. This follows amendment to paragraph 6.1 of schedule 5 within The Building (Scotland) Amendment Regulations 2014, [SSI 2014/219](#).
5. Provisions made in respect of paragraph 6.9 of schedule 5 for new buildings completes action in response to Article 13 of Directive 2010/31/EU on the Energy Performance of Buildings. This follows amendment to the same effect in respect of existing buildings within The Energy Performance of Buildings (Scotland) Amendment (No. 2) Regulations 2012, [SSI 2012/208](#).

#### Policy Objectives

4. This SSI and associated changes to published guidance documents are made in support of EU obligations and Scottish Ministers’ action to reduce carbon dioxide emissions and energy use, as part of the Scottish Government’s Climate Change Programme. This work contributes to the Scottish Government’s Greener and Healthier Strategic Objectives. In particular, it will impact on the following National Outcomes:
  - We reduce the local and global environmental impact of our consumption and productions; and
  - We live in well-designed, sustainable places where we are able to access the amenities and services we need.
5. Under section 4 of the Building (Scotland) Act 2003, Scottish Ministers may issue guidance documents for the purpose of providing practical guidance with respect to the requirements of any provision of building regulations. To accompany this amendment to the principal Regulations, Scottish Ministers will make associated changes to these

guidance documents ('Technical Handbooks') in relation to paragraph 6 of said Schedule 5.

6. In respect of change to paragraph 6.3 of schedule 5, this would be achieved through the introduction of revised legislative standards and guidance to reduce carbon dioxide emissions and improve energy performance of new buildings and new building work, where such work is subject to building regulations. To achieve this, the following objective was identified:
  - To extend the scope of legislation specifying levels of performance of heating systems to include fixed independent space heaters used for secondary heating.
7. In respect of change to paragraph 6.9 of schedule 5, amendment ensures that action required in response to Article 13 of Directive 2010/31/EU on the Energy Performance of Buildings continues to be communicated clearly for new buildings.
8. The provisions made in this SSI are as follows:
  - Regulation 2 amends Schedule 5 to the principal Regulations to amend the scope of application of the standard in paragraph 6.9(c) that requires that energy performance certificates are displayed in new buildings into which members of the public have an express or implied licence to enter and which are visited by members of the public on at least a weekly basis ('public buildings'). Amendment reduces the minimum floor area above which this standard applies from 500 m<sup>2</sup> to 250 m<sup>2</sup>. Equivalent provisions applicable to existing buildings were made via regulation 11 of The Energy Performance of Buildings (Scotland) Amendment (No. 2) Regulations 2012, [2012 No. 208](#).
  - Regulation 3 amends Schedule 5 to the principal Regulations to remove a limitation to the standard in paragraph 6.3 that requires that heating and hot water service systems installed in buildings are energy efficient and are capable of being controlled to achieve optimum energy efficiency. Amendment brings fixed independent space heaters used for secondary heating within the scope of the standard.
  - Regulation 4 contains transitional provisions in respect of regulation 3.

## Consultation

9. In respect of paragraph 6.3 to schedule 5, [consultation proposals](#) were issued in January 2013 to just over 500 public, private sector and third sector organisations, Non-Departmental Public Bodies (NDPB) and individuals and interested parties. A total of 1600 organisations and individuals registered with the BSD were also advised of the consultation by email. All were invited to submit comments on the proposals made in the consultation paper by 15 April 2013. In total there were 117 responses. The [Scottish Government consultation response](#) was published in January 2014.
10. In respect of paragraph 6.9 to schedule 5, [consultation](#) in response to the recast Directive 2010/31/EU took place between October 2011 and January 2012. The consultation received 46 responses and helped shape the Government response to the provisions of the Directive which must be implemented by Member states. The [Scottish Government consultation response](#) was published in June 2012

## Impact Assessments

11. In respect of paragraph 6.3 to schedule 5:
  - an [Equality Impact Assessment](#) was undertaken in association with the subject of this instrument. This identified no material issues.
  - a [screening exercise](#), reference SEA/00768, was carried out to determine if action proposed in association with the subject of this instrument would require a Strategic Environmental Assessment. This determined that proposals will result in 'no or minimum environmental effects' and that a Strategic Environmental Assessment is not required.
12. In respect of paragraph 6.9 to schedule 5:
  - an [Equality Impact Assessment](#) on action proposed in response to the recast Directive, including the subject of this amendment to regulations. There are no equality impact issues.
  - a [screening exercise](#) was carried out to determine if action proposed in response to the recast Directive, including the subject of this amendment to regulations, would require a Strategic Environmental Assessment. This determined that proposals will result in 'no or minimum environmental effects' and that a Strategic Environmental Assessment is not required.

## Financial Effects

13. In respect of paragraph 6.3 to schedule 5, the subject of this instrument has a material impact on the cost of delivering new buildings and new building work. Accordingly, an assessment of the overall costs and benefits associated with this instrument and associated amendments to published guidance on reducing carbon dioxide emissions and energy use in new buildings and in new building work is provided within the [final Business and Regulatory Impact Assessment](#) produced in support of 2015 changes to energy standard within building regulations.
14. In respect of paragraph 6.9 to schedule 5, the subject of the instrument has no material impact on the cost of delivering obligations under regulations. The issue addressed is simply the display of a document, already required under existing provisions, in qualifying buildings with an area of between 250 m<sup>2</sup> and 500 m<sup>2</sup>. Information on the cost of measures already implemented is set out in the [final Business and Regulatory Impact Assessment](#) produced in support of the regulations transposing the recast of Directive 2010/31/EU.

Scottish Government  
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