

## POLICY NOTE

### THE ENERGY PERFORMANCE OF BUILDINGS (SCOTLAND) AMENDMENT REGULATIONS 2017

#### SSI 2017/225

1. The above instrument is made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative procedure.

#### Policy Objectives

2. This instrument amends one aspect of The Energy Performance of Buildings (Scotland) Regulations 2008 ('the 2008 regulations') which transpose the EU Energy Performance of Buildings Directive.
3. This Directive, which promotes the improvement of the energy performance of buildings, was recast in May 2010 as Directive 2010/31/EU on the Energy Performance of Buildings and it is available on Eurlex at:- <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:153:0013:01:EN:HTML>. The recast Directive sets requirements for Member States, including:
  - a methodology for calculating the energy performance of buildings;
  - a system of energy certification of buildings; and
  - independent control systems for energy performance certificates and inspection reports.
4. In support of the transposition of the 2010 Directive, regulation 12 of The Energy Performance of Buildings (Scotland) Amendment (No. 2) Regulations 2012 introduced regulation 10A to the 2008 regulations which enabled the keeper of the register to charge certain fees for entering energy performance data onto the register.
5. This instrument amends the statutory fees chargeable for lodgement of energy performance data to the Scottish Energy Performance Certificate Register (SEPCR). The fee for lodgement of data for a domestic property is amended from £1.15 to £2.60 whilst the fee for lodging data for a non-domestic property is amended from £5.36 to £12.10. Annually, these fees are intended to fund the cost of operating and maintaining the Register.

#### Consultation

6. A consultation seeking views on the funding of the SEPCR and proposed changes to statutory fees took place between 8 May 2017 and 19 June 2017.
7. The consultation received 62 responses and confirmed support for the proposal to continue to fund the operation of SEPCR via the statutory lodgement fee and to review that fee in the future. Responses also signalled a strong case for review of functions, facilities and governance of the register to demonstrate effectiveness and best value.

8. A consultation report was published on 27 June 2017 and is available from the Scottish Government Consultation website at <https://consult.scotland.gov.uk/local-government-and-communities/scottish-energy-performance-certificate-register/>.
9. A full list of those notified of the consultation is recorded in the consultation document. All consultation responses from those who agreed to the publication of their response and the consultation document are also published at the weblink above.

### **Impact Assessments**

10. A screening exercise was carried out to determine if action proposed 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. This assessment can be viewed at <http://www.scotland.gov.uk/Topics/Environment/SustainableDevelopment/14587/SEAG>.
11. It was determined that, due to the scope and subject matter, the following assessments were not applicable to the action proposed:
  - Equality Impact Assessment
  - Child Rights and Wellbeing Impact Assessment
  - Privacy Impact Assessment

### **Financial Effects**

12. A Business and Regulatory Impact Assessment (BRIA) has been completed and is available at <https://consult.scotland.gov.uk/local-government-and-communities/scottish-energy-performance-certificate-register/> and alongside these regulations at [www.legislation.gov.uk](http://www.legislation.gov.uk). This includes assessment of costs and benefits provided for by this instrument.

**Scottish Government**  
**Local Government and Communities Directorate**  
**27 June 2017**