
STATUTORY INSTRUMENTS

2012 No. 3118

The Energy Performance of Buildings
(England and Wales) Regulations 2012

PART 7

Enforcement

Penalty amount

- 38.**—(1) The penalty charge specified in the notice shall be—
- (a) in relation to a breach of a duty under regulation 6(2), 6(5), 7(2), 7(3), 7(4), or 7(5), or of the EPC construction duty—
 - (i) where the building is a dwelling, £200;
 - (ii) where the building is not a dwelling, calculated in accordance with the formula in paragraph (2);
 - (b) in relation to a breach of a duty under regulation 14(3)(a), £1000;
 - (c) in relation to a breach of a duty under regulation 14(3)(b), £500;
 - (d) in relation to a breach of a duty under regulation 18(1), 20(1), 20(2) or 21, £300; and
 - (e) in relation to a breach of a duty under regulation 35(5), £200.
- (2) Subject to the minimum and maximum penalty charges prescribed by paragraph (3), the penalty charge for the purposes of paragraph (1)(a)(ii) shall be—
- (a) where the building constitutes a hereditament, 12.5% of the rateable value of the hereditament;
 - (b) where no other building (other than a building which is exempt from Part 2 by virtue of—
 - (i) regulation 5(1)(a), (b), (d) or (e), or
 - (ii) for a building which is not a dwelling, regulation 5(1)(c) or (g)),
forms a part of the same hereditament, 12.5% of the rateable value of the hereditament of which the building forms a part;
 - (c) where the building comprises more than one hereditament, 12.5% of the sum of the rateable values of each hereditament that comprise the building; and
 - (d) where—
 - (i) one or more buildings (other than a building which is exempt from Part 2 by virtue of—
 - (aa) regulation 5(1)(a), (b), (d) or (e), or
 - (bb) for a building which is not a dwelling, regulation 5(1)(c) or (g))
form part of the same hereditament; or

(ii) the building is not, or does not form part of, a hereditament which appears on a local non-domestic rating list at the relevant time,

£750.

(3) The minimum and maximum penalty charges for the purposes of paragraph (2) are £500 and £5000 respectively.

(4) In this regulation—

(a) “the EPC construction duty” means the duty specified in sub-paragraph (b) applying to a building specified in sub-paragraph (c);

(b) the duty is the requirement in accordance with the provisions of regulation 29 of the Building Regulations 2010⁽¹⁾ that a relevant person must, no later than five days after construction work has been completed on a building, give to the owner of the building an energy performance certificate for the building; and

(c) the buildings to which the duty in paragraph (4) applies are those specified in regulation 34(1)(a) and (b) of the Building Regulations 2010⁽²⁾.

(5) In this regulation the following definitions also apply—

“hereditament” means a hereditament which, pursuant to section 42 of the Local Government Finance Act 1988⁽³⁾, is shown on a local non-domestic rating list in force at the relevant time;

“local non-domestic rating list” means a local non-domestic rating list maintained in accordance with section 41⁽⁴⁾ of the Local Government Finance Act 1988;

“rateable value” means the rateable value shown for a hereditament on a local non-domestic rating list at the relevant time; and

“relevant time” means the time at which the penalty charge notice is given.

(1) Regulation 29 of the Building Regulations 2010 is amended by [S.I. 2012/3119](#).

(2) New text for regulation 34 of the Building Regulations 2010 is inserted by regulation 22 of [S.I. 2012/3119](#).

(3) [1988 c.41](#). Section 42 was amended by Schedule 5 to the Local Government and Housing Act 1989 ([c.42](#)).

(4) Section 41 of this Act was amended by Schedule 5 to the Local Government and Housing Act 1989, Schedule 13 to the Local Government Finance Act [1992 \(c.14\)](#), and section 60(1) of the Local Government Act 2003 ([c.26](#)).