

EXECUTIVE NOTE

THE ENERGY PERFORMANCE OF BUILDINGS (SCOTLAND) AMENDMENT REGULATIONS 2008 SSI/2008/389

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

Background

The European Directive 2002/91/EC on the energy performance of buildings has been implemented primarily through the Building (Scotland) Act 2003. Articles 3, 4, 5, 6 and 9 and part of Article 7 have been introduced through amendments to the Building (Scotland) Regulations 2004. These Articles involve the adoption of a calculation methodology for energy performance, applying energy standards to new buildings and work on existing buildings, energy performance certificates for buildings and inspection of air-conditioning systems. A building standards system for enforcement is also required.

Policy Objectives

These amendment regulations ease the introduction of the Energy Performance of Building (Scotland) Regulations 2008 for the first three months of 2009. They allow building owners a seven day period to react and commission an Energy Performance Certificate when a prospective buyer or prospective tenant:

- requests any information about the building or to view the building; or
- makes an offer, to buy or lease the building.

During this time period the amendment regulations prevent an enforcement authority from serving a Penalty Charge Notice when an owner is actively seeking to obtain an Energy Performance Certificate. After 1 April 2009, to avoid a Penalty Charge Notice, owners will need to ensure that they are proactive in their approach to obtaining Energy Performance Certificates when they intend to sell or let their buildings.

Consultation

The principles and procedures underlying the Energy Performance of Buildings (Scotland) Regulations 2008 have already been subject to extensive public consultation between 15 May and 11 August 2006.

Financial Effects

There are no consequential financial effects from this amending SSI.

Directorate for the Built Environment
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