

POLICY NOTE

THE ENERGY PERFORMANCE OF BUILDINGS (SCOTLAND) AMENDMENT REGULATIONS 2013

SSI 2013/12

1. The above instrument is made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 10 and 75 of the Energy Act 2011. The instrument is subject to negative procedure.

Policy Objectives

2. Under regulation 10 of the Energy Performance of Buildings (Scotland) Regulations 2008, made under section 2(2) of the European Communities Act 1972, a register of energy performance data is maintained to support delivery of Directive 2010/31/EU on the Energy Performance of Buildings. The energy performance certificates and recommendations reports produced from data held on this register are the vehicle for disclosure of green deal information in relation to the sale or rental of a property where energy efficiency improvements are funded through the green deal energy efficiency scheme ('Green Deal').

3. The Energy Act 2011 Act ('the Act') made provision for the development of the Green Deal. Through consequential secondary legislation, the UK Government has put in place a scheme whereby the cost of carrying out energy efficiency improvements to a property are paid back in instalments via the electricity bill for the property, by the person who is the bill payer at the time the instalment is due. Accordingly, when the electricity bill payer for a property changes, the obligation to pay Green Deal instalments passes to the new bill payer. The disclosure requirements (set out in section 12 of the Act and Chapter 2 of Part 7 of [The Green Deal Framework \(Disclosure, Acknowledgment, Redress etc.\) Regulations 2012](#) (2012 No. 2079) ('the Framework Regulations') are designed to ensure that the new electricity bill payer is made aware of the green deal plan before they take on the property.

4. In Scotland, that information is to be included in a "recommendations report", which is a document that is required to be provided whenever an energy performance certificate is issued for a property. The energy performance certificate and the recommendations report (which are referred to in the Framework Regulations as the "disclosure document") must be given to prospective electricity bill payers. In making this instrument, which is required in advance of launch of the Green Deal on 28 January 2013, the Scottish Ministers exercise powers under sections 10 and 75 of the Act.

5. This instrument requires the inclusion of green deal information on the EPC and recommendations report where a property is the subject of a Green Deal, enabling disclosure of this status. They also address access to and use of such information where held on the register of energy performance data. A schedule lists the Green Deal information which is required to be presented within the recommendations report.

6. The provisions made in this SSI are as follows:

- regulation 3 adds further definitions in relation to the Green Deal, needed to support the amended regulations;

- regulation 4 introduces a requirement to identify the presence of a Green Deal on an energy performance certificate and specifies the validity of the certificate for Green Deal disclosure purposes.
- regulation 5 introduces a requirement to provide Green Deal information in the recommendations report which must accompany an energy performance certificate, for disclosure purposes.
- regulation 6 enables Green Deal information entered on the register to be altered to enable such information, reported on disclosure documents, to be current.
- regulations 8 to 10 specify restrictions on the disclosure of information held on the register to ensure that Green Deal information is only disclosed by the keeper of the register in appropriate circumstances.
- regulation 11 introduces the schedule which sets out the Green Deal information which must be present in a recommendations report for disclosure purposes where a building is subject to a Green Deal.

Consultation

5. The UK Government carried out a consultation on the Green Deal at the end of 2011 and the beginning of 2012. This consultation and the subsequent response can be found at http://www.decc.gov.uk/en/content/cms/consultations/green_deal/green_deal.aspx

Impact Assessment and financial effects

6. A regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. However, this instrument forms part of a series of instruments which establish the green deal energy efficiency scheme. A full regulatory impact assessment of the effect that that scheme will have on the costs of business and the voluntary sector is available from the Green Deal Legislation Team, Department of Energy and Climate Change at 3 Whitehall Place, London SW1A 2AW and is published alongside the The Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012 (2012 No. 2079) on www.legislation.gov.uk .

**Scottish Government
Communities and Local Government Directorate
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