
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 146

The Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016 and come into force on 1st September 2016.

Application of Regulations

2.—(1) Subject to paragraph (2), these Regulations apply to—

- (a) a non-domestic building; and
- (b) a building unit,

with a floor area of more than 1000 square metres.

(2) These Regulations do not apply to—

- (a) a building or building unit constructed in accordance with relevant building standards;
- (b) a green deal improved property; or
- (c) a building to which the 2008 Regulations do not apply by virtue of regulation 4(a) of the 2008 Regulations.

Interpretation

3. In these Regulations—

“the 2008 Regulations” means the Energy Performance of Buildings (Scotland) Regulations 2008(1);

“action plan” means a document prepared and issued in accordance with regulation 6;

“advisory report” has the meaning given in regulation 12;

“alternative improvement measures” means improvement measures (other than the identified improvement measures) which the section 63 advisor has, when preparing an action plan, identified as improvement measures which are recommended to be carried out in respect of the building or building unit;

“approved methodology” means a methodology approved by the Scottish Ministers;

“approved organisation” has the meaning given in regulation 13;

(1) S.S.I. 2008/309 as amended by S.S.I. 2008/309, S.S.I. 2012/190, S.S.I. 2012/208, S.S.I. 2012/315, S.S.I. 2013/12 and S.S.I. 2015/386.

“asset rating” means a numerical indicator of the estimated amount of—

- (a) energy consumed; and
- (b) carbon dioxide emitted,

to meet the different needs associated with a standardised use of the building or building unit, such estimate being made in accordance with an approved methodology;

“authorised recipient” has the same meaning as in the 2008 Regulations;

“building improvement measures” has the meaning given in regulation 6(3)(c);

“building unit” means a part of a non-domestic building which is designed or altered to be used separately;

“the compliance period”, in respect of a building or building unit, means the period of 42 months after the date on which the first action plan is issued;

“current action plan” means the most recent action plan issued for the building or building unit;

“display energy certificate” means a certificate which complies with regulation 11;

“document of confirmation of improvement” has the meaning given in regulation 9;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(2);

“emissions target” has the meaning given in regulation 7(2);

“energy performance target” has the meaning given in regulation 7(1);

“energy performance certificate” means a certificate which complies with regulation 6 of the 2008 Regulations;

“energy performance data” has the same meaning as in the 2008 Regulations;

“energy improvement data” means—

- (a) in relation to an action plan, the information contained in and needed to produce that action plan;
- (b) in relation to a display energy certificate, the information contained in and needed to produce that certificate;
- (c) in relation to an advisory report, the information contained in and needed to produce that report; and
- (d) in relation to a document of confirmation of improvement, the information contained in and needed to produce that document;

“enforcement authority” has the meaning given in regulation 20(1);

“excluded building” has the same meaning as in the 2008 Regulations;

“first action plan” means, in respect of a building or building unit, the first action plan to be issued in respect of that building or building unit;

“green deal plan” has the same meaning as in section 1 of the Energy Act 2011(3);

“green deal improved property” means a building or building unit to which qualifying energy improvements have been (at any time) carried out under a green deal plan;

“identified improvement measures” in respect of a building or building unit has the meaning given in the Schedule;

“improvement measures” means any works, measures or other steps which may be taken by the owner of a building or building unit to improve the energy performance of the building or

(2) 2000 c.7 as amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c.21).

(3) 2011 c.16.

building unit or to reduce emissions of greenhouse gases produced by or otherwise associated with that building or building unit;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(4);

“keeper” means the Scottish Ministers or a person appointed by the Scottish Ministers to keep a register on their behalf in accordance with regulation 14;

“non-domestic building” has the same meaning as in section 63(7) of the Climate Change (Scotland) Act 2009;

“operational rating” for a building or building unit is an indicator, expressed numerically, of the energy consumption (measured in accordance with an approved methodology) associated with the actual use of that building or building unit;

“operational rating measures” means measures, implemented in accordance with regulations 10 to 12, to assess and record the energy consumption (measured in accordance with an approved methodology) associated with the actual use of a building or building unit;

“owner” means, in relation to a building or building unit, the person who has right to the building or building unit whether or not that person has completed title; but if in relation to the building or building unit more than one person comes within that description of owner, then “owner” means such person as has most recently acquired such right;

“prospective buyer” and “prospective tenant” have the meaning given in regulation 4;

“qualifying energy improvements” has the same meaning as in section 1(4)(b) of the Energy Act 2011(5);

“relevant building standards” means, in relation to the construction of a building, the requirements set out in—

- (a) Schedule 5 to the Building (Scotland) Regulations 2004(6); or
- (b) the Building Standards (Scotland) Regulations 1990(7) as those Regulations had effect on or after 4th March 2002,

applicable to the construction of that building;

“report reference number”—

- (a) in respect of energy improvement data relating to an action plan, a display energy certificate, an advisory report or a document of confirmation of improvement, as the case may be, means the unique reference under which the energy improvement data relating to that document is entered onto the register; and

- (b) in respect of energy performance data, has the same meaning as in the 2008 Regulations;

“section 63 advisor” means, in respect of an action plan, the qualified member of an approved organisation who undertakes the assessment of the energy performance of the building or building unit and who prepares and issues the action plan;

“unique identification number” is the unique number from which a member of an approved organisation can be identified by the keeper; and

“unique property reference number” is the unique number from which a building or building unit can be identified by the keeper.

(4) 1994 c.39.

(5) Energy efficiency improvements specified for the purposes of section 1(4)(b) of the Energy Act 2011 as set out in S.I. 2012/2105.

(6) S.S.I. 2004/406 as relevantly amended by S.S.I. 2006/53, S.S.I. 2008/310, S.S.I. 2010/32, S.S.I. 2011/120, S.S.I. 2012/209, S.S.I. 2013/143, S.S.I. 2014/219 and S.S.I. 2015/218.

(7) S.I. 1990/2179 as amended by S.I. 1993/1457, S.I. 1994/1266, S.I. 1996/2251, S.I. 1997/2157, S.S.I. 1999/173.

Meaning of prospective buyer or prospective tenant

4. A person becomes a prospective buyer or prospective tenant in relation to a building or building unit on the earliest of the dates when that person—

- (a) requests any information about the building or building unit from the owner for the purpose of deciding whether to buy or lease the building or building unit;
- (b) makes a request to view the building or building unit for the purpose of deciding whether to buy or lease the building or building unit; or
- (c) makes an offer, whether oral or written, to buy or lease the building or building unit.