



Energy Act 2011

2011 CHAPTER 16

PART 1

ENERGY EFFICIENCY

CHAPTER 3

PRIVATE RENTED SECTOR: SCOTLAND

Scottish non-domestic energy efficiency regulations

61 Scottish non-domestic energy efficiency regulations

- (1) The Scottish Ministers may make regulations for the purpose of securing that a landlord of a Scottish non-domestic PR property—
 - (a) which is of such description of Scottish non-domestic PR property as is provided for by the regulations,
 - (b) in relation to which there is an energy performance certificate, and
 - (c) which falls below such level of energy efficiency (as demonstrated by the energy performance certificate) as is provided for by the regulations,may not let the property until the landlord has complied with the obligation mentioned in subsection (2).
- (2) The obligation is to make to the property such relevant energy efficiency improvements as are provided for by the regulations.
- (3) Regulations under this section are referred to in this Chapter as “Scottish non-domestic energy efficiency regulations”.
- (4) For the purposes of Scottish non-domestic energy efficiency regulations—

“energy performance certificate” has the meaning given by the Energy Performance (Scotland) Regulations;

Status: This is the original version (as it was originally enacted).

“landlord” and “let the property” have the meaning given by the regulations (and “let the property” may be defined to include “continue to let the property”);

“relevant energy efficiency improvements” means improvements which—

- (a) are of such description as the regulations provide, and
- (b) can be—
 - (i) wholly paid for pursuant to a green deal plan as provided for by Chapter 1 of this Part, or
 - (ii) financed by such other description of financial arrangement as the regulations provide.

- (5) The Scottish Ministers may by order amend the definition of “energy performance certificate” in subsection (4).
- (6) Scottish non-domestic energy efficiency regulations may come into force no earlier than 1 April 2015.

62 Further provision about Scottish non-domestic energy efficiency regulations

- (1) Scottish non-domestic energy efficiency regulations may, in particular, include provision about—
 - (a) the period within which improvements required by the regulations must be started or completed;
 - (b) exemptions from any requirement imposed by or under the regulations;
 - (c) evidence relating to any requirement imposed by or under the regulations.
- (2) Provision falling within subsection (1)(b) includes, in particular, provision about exemptions—
 - (a) relating to any necessary permissions or consents;
 - (b) relating to the likely negative impact on the value of a property of complying with a requirement imposed by or under the regulations.
- (3) Provision falling within subsection (1)(c) includes, in particular, provision about evidence for the purpose of demonstrating—
 - (a) an exemption from a requirement imposed by or under the regulations;
 - (b) that a property is not one in relation to which the regulations have effect;
 - (c) that the improvements required by or under the regulations are not relevant energy efficiency improvements within the meaning given by the regulations.

63 Sanctions for the purposes of Scottish non-domestic energy efficiency regulations

- (1) Scottish non-domestic energy efficiency regulations may include provision for the purpose of securing compliance with requirements imposed on landlords by or under the regulations.
- (2) Provision falling within subsection (1) includes, in particular, provision—
 - (a) for a local authority constituted under section 2(1) of the Local Government etc. (Scotland) Act 1994 to enforce any requirement imposed by or under the regulations;
 - (b) about the sanctions for non-compliance with a requirement imposed by or under the regulations;

Status: This is the original version (as it was originally enacted).

- (c) about the sanctions for the provision of false information in connection with such a requirement;
including, in cases falling within paragraph (b) or (c), the imposition of a civil penalty by such a local authority.
- (3) Where Scottish non-domestic energy efficiency regulations make provision for a civil penalty, the regulations must also include provision for a right of appeal to a court or tribunal against the imposition of the penalty.
- (4) Provision falling within subsection (3) includes, in particular, provision—
 - (a) as to the jurisdiction of the court or tribunal to which an appeal may be made;
 - (b) as to the grounds on which an appeal may be made;
 - (c) as to the procedure for making an appeal (including any fee which may be payable);
 - (d) suspending the imposition of the penalty, pending determination of the appeal;
 - (e) as to the powers of the court or tribunal to which an appeal is made;
 - (f) as to how any sum payable in pursuance of a decision of the court or tribunal is to be recoverable.
- (5) The provision referred to in subsection (4)(e) includes provision conferring on the court or tribunal to which an appeal is made power—
 - (a) to confirm the penalty;
 - (b) to withdraw the penalty;
 - (c) to vary the amount of the penalty;
 - (d) to award expenses.
- (6) If the Scottish Ministers consider it appropriate for the purpose of, or in consequence of, any provision falling within subsection (4)(a), (c), (e) or (f), Scottish non-domestic energy efficiency regulations may revoke or amend any subordinate legislation if the provision making the revocation or amendment would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.
- (7) In this section “subordinate legislation” has the meaning given in section 21(1) of the Interpretation Act 1978, except that it includes any instrument made under an Act of the Scottish Parliament.