

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the assessment of the energy performance of non-domestic buildings and of the emission of greenhouse gases from such buildings. They also provide for the circumstances in which the owners of non-domestic buildings are required to take steps to improve the energy performance of such buildings and reduce such emissions.

Regulation 2 sets out the non-domestic buildings and parts of such buildings to which the Regulations apply. Regulations 3 and 4 provide definitions for terms used in the Regulations.

Regulation 5 imposes a duty on the owner of a building to make an action plan available to prospective buyers or tenants where the building is to be sold or let. The requirements of an action plan are set out in regulation 6. Regulation 7 sets out the energy performance target and emissions target which are identified in an action plan.

Regulations 8 and 9 set out the requirement for an owner to implement the building improvement measures identified in an action plan and for a document confirming that building improvement measures have been completed to be issued. Regulations 10 to 12 provide for the circumstances in which and the manner in which operational rating measures are to be implemented.

The Scottish Ministers may approve organisations whose members may issue action plans and other documents (regulation 13).

Regulation 14 provides that a register of data from which an action plans and other documents can be produced, which must be sent to the relevant register before being issued. Regulations 15 to 19 regulate the disclosure of information contained in the register.

Local authorities have powers to enforce the Regulations. Under regulation 21 the enforcement authority may require production of an action plan. Under regulation 22 a penalty charge notice may be served on owners of buildings who contravene the requirement to make an action plan available. Under regulation 24, a penalty charge notice may be served on owners of buildings who fail to implement building improvement measures. The penalty is £1,000. Regulations 23 and 25 deal with defences to and review of penalty charge notices. Regulation 26 deals with appeals to the sheriff. Regulation 27 deals with recovery of penalty charges. Regulation 28 deals with repayment of penalty charges where a penalty charge notice is withdrawn or quashed.

The Schedule to the Regulations identifies the improvement measures which are used to create the energy performance target and emissions target for a building.