
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

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

PART 2

Assessment of Energy Performance

Action plans on sale or rent of non-domestic buildings

5.—(1) Where a building or building unit to which these Regulations apply is to be sold or is to be let by the owner of the building or building unit, the owner must—

- (a) make a copy of the action plan for the building or building unit available for inspection free of charge to a prospective buyer or a prospective tenant; and
- (b) ensure that the energy improvement data relating to that action plan has already been sent to the relevant register in accordance with regulation 14.

(2) Where a building or building unit is sold or let a copy of the action plan for the building or building unit must be provided free of charge by the seller to the buyer or, as the case may be, by the owner to the tenant.

(3) The action plan to be made available under paragraph (1) or provided under paragraph (2) is the most recent action plan issued in respect of the building or building unit.

(4) Paragraphs (1) to (3) do not apply if the sale or lease of the building or building unit is an exempt transaction.

(5) In this regulation—

“exempt transaction” means—

- (a) the sale or lease of a building or building unit at any time before the construction of that building or building unit has been completed;
- (b) the lease of a building or building unit—
 - (i) on a short term lease; and
 - (ii) where the building or building unit has not been let by the owner during the period of 36 weeks immediately preceding the period of lease under that short term lease;or
- (c) the renewal of an existing lease with the same tenant; and

“short term lease” means a lease for a period of not more than 16 weeks and which does not include an option, right or obligation to extend the period of lease for a total period of longer than 16 weeks.

Action Plans

6.—(1) An action plan for a building or building unit is a certificate prepared and issued in accordance with this regulation containing a programme for the implementation of measures to—

- (a) improve the energy performance of the building or building unit;
 - (b) reduce emissions of greenhouse gases produced by or otherwise associated with that building or building unit.
- (2) An action plan must—
- (a) be prepared and issued by a qualified member of an approved organisation (“the section 63 advisor”); and
 - (b) be prepared following an assessment of the energy performance of the building or building unit undertaken by the section 63 advisor in accordance with an approved methodology and using energy performance data relating to a valid energy performance certificate for that building or building unit.
- (3) Where there are identified improvement measures in respect of the building or building unit, the action plan must, in addition to including the information specified in paragraph (5)—
- (a) specify the identified improvement measures for the building or building unit;
 - (b) include the energy performance target and the emissions target for the building or building unit;
 - (c) specify the improvement measures which the section 63 advisor recommends are carried out in respect of the building or building unit (“building improvement measures”); and
 - (d) state whether or not operational rating measures are to be implemented in respect of the building or building unit; and
 - (e) state the date of expiry of the compliance period.
- (4) Where there are no identified improvement measures in respect of the building or building unit, the action plan must, in addition to the information specified in paragraph (5), contain a statement that there are no identified improvement measures for the building or building unit.
- (5) The information is—
- (a) the report reference number for—
 - (i) the energy performance data used in the preparation of the action plan; and
 - (ii) the action plan;
 - (b) the address of the building or building unit;
 - (c) the unique property reference number for the building or building unit;
 - (d) the unique identification number for the section 63 advisor;
 - (e) the date on which the section 63 advisor inspected the building or building unit in connection with the preparation of the action plan; and
 - (f) the date on which the action plan is issued.
- (6) The building improvement measures to be specified in the action plan under paragraph (3) (c)—
- (a) must be—
 - (i) the identified improvement measures;
 - (ii) alternative improvement measures; or
 - (iii) a combination of identified improvement measures and alternative improvement measures; and
 - (b) must when implemented be sufficient to—
 - (i) reduce the estimated energy consumption of the building or building unit to meet the energy performance target for the building or building unit; and

(ii) reduce the estimated level of greenhouse gas emissions from the building or building unit to meet the emissions target.

(7) An action plan may only specify alternative improvement measures as building improvement measures under paragraph (3)(c) if, or to the extent that, it is possible using an approved methodology to calculate both—

- (a) the amount of energy by which it is estimated the energy consumption of the building or building unit would be reduced if the alternative improvement measures were to be carried out; and
- (b) the reduction in the level of greenhouse gas emissions produced by or otherwise associated with the building or building unit which it is estimated would be achieved if the alternative improvement measures were to be carried out.

(8) After the first action plan has been issued a subsequent action plan may be issued in respect of the building or building unit but—

- (a) a subsequent action plan issued on or after the date falling 12 months after the date of issue of the first action plan may only state that operational rating measures are to be implemented in respect of the building or building unit if—
 - (i) there is a valid display energy certificate in respect of the building or building unit;
 - (ii) the date of issue of the first display energy certificate in respect of that building or building unit occurred on or before the date falling 12 months after the date of issue of the first action plan; and
 - (iii) since the date of issue of the first display energy certificate in respect of the building or building unit there has always been a valid display energy certificate in respect of the building or building unit; and
- (b) a subsequent action plan may not be issued on or after the date of expiry of the compliance period unless—
 - (i) it states that operational rating measures are to be implemented in respect of the building or building unit; and
 - (ii) the date on which the most recently issued display energy certificate for the building or building unit ceases to be valid in accordance with regulation 11(2) is no earlier than one month after the date on which the subsequent action plan is to be issued.

(9) In this regulation, “valid energy performance certificate” means an energy performance certificate which on the date on which the action plan is issued has not ceased to be valid in terms of regulation 6(2)(b) of the 2008 Regulations.

Energy performance target and emissions target

7.—(1) The energy performance target for a building or building unit is the amount of energy, calculated in accordance with an approved methodology, by which it is estimated the energy consumption of the building or building unit would be reduced if the identified improvement measures were to be carried out.

(2) The emissions target for a building or building unit is the reduction in the level of greenhouse gas emissions produced by or otherwise associated with the building or building unit which, calculated in accordance with an approved methodology, it is estimated would be achieved if the identified improvement measures were to be carried out.