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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2020 No.**

**The Energy Efficiency (Domestic Private Rented Property) (Scotland) Regulations 2020**

**PART 1**

**Introduction**

**Citation and commencement**

1. These Regulations may be cited as the Energy Efficiency (Domestic Private Rented Property) (Scotland) Regulations 2020 and come into force on 1 April 2020.

**General interpretation**

2.—(1) In these Regulations—

“the Act” means the Energy Act 2011,

“building” means a roofed construction having walls, for which energy is used to condition the indoor climate,

“building unit” means a section, floor or apartment within a building which is designed or altered to be used separately,

“compliance notice” has the meaning given in regulation 17,

“domestic PR property” has the meaning given in regulation 3,

“energy efficiency improvement”, in relation to a property, means a measure specified as an energy efficiency improvement in schedule 1,

“energy performance indicator” has the meaning given in regulation 2(1) of the EPB Regulations,

“enforcement authority” has the meaning given in regulation 15(1),

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

“EPC assessor” means, in respect of a domestic PR property, a person who is a qualified member of an organisation approved by the Scottish Ministers under regulation 8 of the EPB Regulations as an organisation whose members may issue an energy performance certificate for that domestic PR property,

“former landlord” has the meaning given in regulation 4,

“green deal report” means a report produced pursuant to a qualifying assessment,

“independent”, in relation to a person, means—

- (a) where a landlord or a superior landlord is an individual, a person who is not a spouse or civil partner of that landlord or that superior landlord (as the case may be), or

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(1) [S.S.I. 2008/309](#), as relevantly amended by [S.S.I. 2012/190](#), [S.S.I. 2012/208](#), [S.S.I. 2012/315](#) and [S.S.I. 2013/12](#).

- (b) where a landlord or a superior landlord is not an individual, a person who is not, and has not been in the last 12 months—
- (i) a director, partner, shareholder or employee of, or other person exercising management control over, that landlord or that superior landlord, or
  - (ii) a spouse or civil partner of a person falling within subparagraph (i),
- “L”, for the purposes of Parts 4 to 6, means a person who is a landlord, or a former landlord, “landlord” has the meaning given in regulation 4,
- “listed building” means a listed building within the meaning of section 1(4) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997(2),
- “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(3),
- “minimum level of energy efficiency” has the meaning given in regulation 5(b),
- “penalty notice” has the meaning given in regulation 18,
- “property” means a building or a building unit,
- “PRS Exemptions Register” means a register established and maintained in accordance with regulation 14(1),
- “qualifying assessment” has the meaning given in section 3(9) of the Act,
- “recommendation report” has the meaning given in regulation 6A of the EPB Regulations,
- “relevant energy efficiency improvements” has the meaning given in section 55(4) of the Act read with regulation 7,
- “relevant person” means an independent architect, an independent chartered engineer, an independent chartered building surveyor or an independent chartered architectural technologist,
- “sub-standard” has the meaning given in regulation 5(a),
- “superior landlord” has the meaning given in regulation 4,
- “tenant” has the meaning given in regulation 4,
- “third party consent” means consent, permission, licence or approval which is required (other than from a tenant) before an energy efficiency improvement can be made, including in particular—
- (a) where the property is one of two or more properties comprised in a building, the consent of an owner, a tenant or other occupier of any other property in the building,
  - (b) the consent of any person who holds a standard security over the landlord’s, or a superior landlord’s, interest in the property,
  - (c) the consent of the owner of the domestic PR property or of any superior landlord,
  - (d) planning permission required under the Town and Country Planning (Scotland) Act 1997(4) or any approval or consent required by virtue of such planning permission, and
  - (e) consent required as a result of the property being a listed building,
- “valid”, in relation to an energy performance certificate(5), has the meaning given in regulation 5(c).

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(2) 1997 c.9. Section 1(4) was amended by section 22(2)(a) and schedule 3 of the Historic Environment Scotland Act 2014 (asp 19).

(3) 1994 c.39.

(4) 1997 c.8.

(5) “energy performance certificate” is defined for the purposes of these Regulations by section 55(4) of the Energy Act 2011 and has the same meaning as given in the Energy Performance of Buildings (Scotland) Regulations 2008 (S.S.I. 2008/309).

(2) Where two or more persons together are the tenant, the landlord, former landlord or the superior landlord, then any reference to the tenant, the landlord, the former landlord or the superior landlord (as the case may be), except in the definition of “independent” in paragraph (1), is a reference to all the persons who are the tenant, the landlord, the former landlord or the superior landlord (as the case may be).

(3) References to the submission of information (including evidence or copies of documents) for registration in the PRS Exemptions Register in relation to a domestic PR property are references to the submission of information (including evidence or copies of documents) to the local authority for the area in which that property is situated for registration in the PRS Exemptions Register for that area.

(4) Nothing in these Regulations affects any duty to carry out works to a property (including works to repair or to improve) imposed on a tenant, a landlord, or a superior landlord, by the terms of a tenancy agreement or by any other enactment.