

POLICY NOTE

The Energy Act 2011 (Commencement No. 2) (Scotland) Order 2019

SSI 2019/181

The above instrument was made in exercise of the powers conferred by section 121(2)(e) of the Energy Act 2011 (“the 2011 Act”). The instrument is not subject to formal procedure in terms of section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010 and will be laid in Parliament.

Policy Objectives

The Scottish Government seeks to improve the energy efficiency of the Scottish housing stock. Minimum energy efficiency standards in the private rented sector support Scottish Government efforts to meet its climate change, energy efficiency and fuel poverty targets. Furthermore, improvements in the energy efficiency in houses will help the Scottish Government to achieve broader objectives, which include supporting economic growth and jobs in the green construction industry and improving public health

This instrument commences Chapter 3, sections 54 to 65 of the 2011 Act (which received Royal Assent on 18 October 2011), to enable Scottish Ministers to make regulations in relation to the energy efficiency standard in the Private Rented Sector in Scotland.

Once commenced, these regulation making powers will be used to introduce two levels of energy efficiency in the domestic Private Rented Sector: initially at EPC band E and then rising to EPC band D.

Consultation

We consulted on minimum standards in the energy efficiency sector in 2017, and there was support for setting a rising standard of energy efficiency over time, whilst tackling the least energy inefficient properties first.

We have also engaged with a range of landlord, fuel poverty and climate change interests, as well as local authority interests.

As a result of that consultation it is recognised that properties in the private rented sector are behind other tenures in terms of energy efficiency. For example, the Energy Efficiency Standard for Social Housing for those in the social housing sector have already enjoyed warmer and easier to heat homes, and that there is a need to regulate the private rented sector too.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website, it includes CoSLA, Scottish Association of Landlords & Council of Letting Agents; Existing Homes Alliance

Scotland; Energy Action Scotland; Scottish Land & Estates; Consumer Futures Unit, Citizens Advice Scotland; Chartered Institute of Housing Scotland; Shelter Scotland.

Impact Assessments

A Partial Business and Regulatory Impact Assessment impact assessment and an Equality Impact Assessment accompanied the consultation in 2017. The Fairer Scotland Duty Assessment; Island Proofing Assessment; Children's Rights and Wellbeing Impact Assessment are at the final review stage.

EQIA has been completed on the policy and is attached.

Financial Effects

A partial Business and Regulatory Impact Assessment (BRIA) has been completed and is attached.

The impact of this policy on business is that, with the combination of requiring the regulations to 'bite' at change of tenancy (rather than a set date) and a backstop date; coupled with setting the trajectory with an initial EPC E and only raising it subsequently to EPC D, will allow the regulations to be introduced in a phased approach so as to reduce any disruption to landlords and tenants, while ensuring that within a reasonable time period all tenants in the private rented sector are assured of minimum standards of energy efficiency.

The projected costs are an average £1,110 for a landlord to upgrade their property to EPC E, and a further average of £1,790 to upgrade their property from EPC E to EPC D. Should a landlord choose to go straight to EPC D, the average cost is £2,140 – in other words it is more cost effective in the main to go straight to an EPC D. This gives the landlord choice as to how they wish to act and plan their investment. On top of this an allowance (10% of the upgrade cost) for "hidden costs" has been made for ancillary monetary costs such as the costs of clearing lofts, redecorating, etc. Finally, an allowance of a Post-upgrade EPC cost has been included (£70).

Scottish Government
Housing and Social Justice Directorate

03 May 2019