



# Energy Act 2011

## 2011 CHAPTER 16

### PART 1

#### ENERGY EFFICIENCY

### CHAPTER 3

#### PRIVATE RENTED SECTOR: SCOTLAND

##### *Scottish tenants' energy efficiency improvements regulations*

#### **58 Scottish tenants' energy efficiency improvements regulations**

- (1) The Scottish Ministers may make regulations for the purpose of securing that a landlord of a Scottish domestic PR property which is of such description of Scottish domestic PR property as is provided for by the regulations does not unreasonably refuse a request mentioned in subsection (2).
- (2) The request is one by the tenant of the property to consent to the making of such relevant energy efficiency improvements as are identified in the request.
- (3) Regulations under this section are referred to in this Chapter as “Scottish tenants’ energy efficiency improvements regulations”.
- (4) For the purposes of Scottish tenants’ energy efficiency improvements regulations—
  - “landlord” and “tenant” have the meaning given by the regulations;
  - “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,

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- (ii) provided free of charge pursuant to an obligation imposed by an order made under section 33BC or 33BD of the Gas Act 1986 or section 41A or 41B of the Electricity Act 1989,
  - (iii) wholly financed pursuant to a combination of such a plan and such an obligation, or
  - (iv) financed by such other description of financial arrangement as the regulations provide.
- (5) Scottish tenants' energy efficiency improvements regulations may come into force no earlier than 1 April 2015.

## **59 Further provision about Scottish tenants' energy efficiency improvements regulations**

- (1) Scottish tenants' energy efficiency improvements regulations may, in particular, include provision about—
- (a) the form, content and service of a request under the regulations;
  - (b) the form, content and service of any response by the landlord to a request (including the period within which any response must be given);
  - (c) exemptions from any requirement imposed by or under the regulations;
  - (d) evidence relating to any requirement imposed by or under the regulations.
- (2) Provision falling within subsection (1)(c) 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 consenting to the request.
- (3) Provision falling within subsection (1)(d) 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 for which consent has been requested are not relevant energy efficiency improvements within the meaning given by the regulations.

## **60 Sanctions for the purposes of Scottish tenants' energy efficiency improvements regulations**

- (1) Scottish tenants' energy efficiency improvements 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 for a tenant to apply to a court or tribunal for a ruling that a landlord has not complied with a requirement imposed by or under the regulations.
- (3) Where the regulations make provision for a tenant to make an application such as is mentioned in subsection (2), the provision may, in particular, include provision—
- (a) as to the jurisdiction of the court or tribunal to which an application may be made;
  - (b) as to the grounds on which an application may be made;

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- (c) as to the procedure for making an application (including any fee which may be payable);
  - (d) as to the powers of the court or tribunal to which an application is made (including as to expenses which may be awarded);
  - (e) as to how any sum payable in pursuance of a decision of the court or tribunal is to be recoverable.
- (4) Where the regulations make provision for a tenant to make an application such as is mentioned in subsection (2), the regulations must also include provision for a right of appeal by the tenant or landlord against any decision of a court or tribunal on an application.
- (5) Provision falling within subsection (4) 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 effect of the decision being appealed against, 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.
- (6) The provision referred to in subsection (5)(e) includes provision conferring on the court or tribunal to which an appeal is made power—
- (a) to confirm the decision;
  - (b) to quash the decision;
  - (c) to make a different decision;
  - (d) to remit the decision or any matter relating to the decision to the person who made it;
  - (e) to award expenses.
- (7) If the Scottish Ministers consider it appropriate for the purpose of, or in consequence of, any provision falling within—
- (a) subsection (3)(a), (c), (d) or (e), or
  - (b) subsection (5)(a), (c), (e) or (f),
- Scottish tenants’ energy efficiency improvements 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.
- (8) 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.