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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 386**

**ENERGY**

**BUILDING AND BUILDINGS**

**The Energy Performance of Buildings (Scotland) Amendment  
Regulations 2015**

<i>Made</i>	- - - -	<i>16th November 2015</i>
<i>Laid before the Scottish Parliament</i>		<i>18th November 2015</i>
<i>Coming into force</i>	- -	<i>19th December 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and sections 10 and 75 of the Energy Act 2011(b) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Energy Performance of Buildings (Scotland) Amendment Regulations 2015 and come into force on 19th December 2015.

**Amendment of the Energy Performance of Buildings (Scotland) Regulations 2008**

2.—(1) The Energy Performance of Buildings (Scotland) Regulations 2008(c) are amended in accordance with paragraphs (2) to (10).

(2) For regulation 12(2) (disclosure of documents) substitute—

“(2) The conditions are that—

- (a) a request is made by means of a website operated by the keeper; and
- (b) the request includes—
  - (i) where the building or building unit to which the request relates is a green deal property, the report reference number for the energy performance data relating to the document; or
  - (ii) where the building or building unit to which the request relates is not a green deal property—

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(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) 2011 c.16.

(c) S.S.I. 2008/309 as amended by S.S.I. 2008/389, S.S.I. 2012/190, S.S.I. 2012/208, S.S.I. 2012/315 and S.S.I. 2013/12.

- (aa) the full address (excluding the postcode) of the building or building unit;
- (bb) the full postcode of the building or building unit; or
- (cc) the report reference number for the energy performance data relating to the document.”.

(3) In regulation 12A (disclosure of data relating to a particular building or building unit)(a) omit paragraphs (2)(c)(ii), (3) and (5) and “and” immediately following paragraph (2)(c)(ii).

(4) In regulation 13 (disclosure of bulk access data) omit paragraphs (2)(d)(ii) and (3).

(5) In regulation 14 (disclosure of data) in paragraph (2) omit from “for” where it first occurs until the end of that paragraph.

(6) In regulation 15 (enforcement authorities) after paragraph (2) insert—

“(3) The Scottish Ministers may appoint, subject to such conditions or limitations as they think fit, themselves or another person as an enforcement authority for the purposes of enforcement of the performance of duties under these Regulations by a local authority.

(4) Where a local authority is appointed as an enforcement authority for the purposes of enforcement of the performance of duties under these Regulations by another local authority that local authority, as enforcement authority, has a duty to enforce these Regulations in the area of the other authority”.

(7) In regulation 17(8) (penalty charge notices) for “a local” substitute “an enforcement”.

(8) In regulation 17A(4) (penalty charge notice for failure to comply with regulation 5A)(b) for “a local” substitute “an enforcement”.

(9) In regulation 17B(4) (penalty charge notice for failure to comply with regulation 9)(c) for “a local” substitute “an enforcement”.

(10) In Schedule 1 (disclosure of data)(d)—

(a) in Part 1 after paragraph (k) insert—

“(l) a local authority;

(m) a county council, district council or parish council in England;

(n) a London borough council;

(o) the Greater London Authority;

(p) a county borough council or county council in Wales;

(q) a post-16 education body;

(r) a charity whose purposes include—

(i) the conduct of research into the earth’s climate or environment;

(ii) the conduct of research into the construction, design or use of buildings; or

(iii) the promotion of energy efficiency in buildings;

(s) a registered social landlord;

(t) a person (other than a natural person) who is certificated as an installer under the scheme known as the “Microgeneration Certification Scheme(e)”.”;

(b) in Part 2 after paragraph 7 insert—

“8. Conducting research, carrying out statistical analysis or providing information in respect of the characteristics of buildings or building units.”; and

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(a) Regulation 12A was inserted by S.S.I. 2012/315 and amended by S.S.I. 2013/12.

(b) Regulation 17A was inserted by S.S.I. 2012/208.

(c) Regulation 17B was inserted by S.S.I. 2012/208.

(d) Schedule 1 was inserted by S.S.I. 2012/315.

(e) The Microgeneration Certification Scheme is an industry led quality assurance scheme. For further details see: <http://www.microgenerationcertification.org>.

(c) for Part 3 substitute—

**“PART 3**  
**Interpretation**

In this Schedule—

“post-16 education body” has the same meaning as in section 35(1) of the Further and Higher Education (Scotland) Act 2005<sup>(a)</sup>;

“energy efficiency improvements” has the same meaning as in section 2 of the Energy Act 2011;

“London borough council” includes the Common Council of the City of London; and

“registered social landlord” means a body registered in the register maintained under section 20(1) of the Housing (Scotland) Act 2010<sup>(b)</sup>.”.

*MARCO BIAGI*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
16th November 2015

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(a) 2005 asp 6. Section 35(1) is relevantly amended by paragraph 8(23) of Schedule 1 to The Post-16 Education (Scotland) Act 2013 (asp 12).

(b) 2010 asp 17.

**EXPLANATORY NOTE**

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

These Regulations amend the Energy Performance of Buildings (Scotland) Regulations 2008 (“the 2008 Regulations”) which transpose Directive 2010/31/EU of the European Parliament and of the Council of 19th May 2010 on the energy performance of buildings. Regulation 15 of the 2008 Regulations provides that the local authority is the enforcement authority for its area and that there is a duty on the local authority to enforce the 2008 Regulations in its area. Regulation 2(6) amends regulation 15 to provide that the Scottish Ministers may direct that they or another person (including another local authority) are to be an enforcement authority in respect of the performance by a local authority of the duties under the 2008 Regulations. The new paragraph (4) extends the duty to enforce in regulation 15(2) where a local authority becomes an enforcement authority by virtue of a direction. Regulation 2(2) also amends the provisions in the 2008 Regulations in respect of disclosure of energy performance data by the keeper of the register of such data maintained under the 2008 Regulations.