POLICY NOTE

THE ENERGY PERFORMANCE OF BUILDINGS (SCOTLAND) REGULATIONS 2025

SSI 2025/XXX

The above instrument was made in exercise of the powers conferred by sections 1 and 49(1) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021[1], sections 250 and 331(2) of the Energy Act 2023[2] and all other powers enabling them to do so. The instrument is subject to affirmative procedure.

Summary Box

This instrument provides the legislative basis for the operation of the Energy Performance Certificate (EPC) system and EPC assessor market within Scotland.

This instrument revokes and replaces the Energy Performance of Buildings (Scotland) Regulations 2008 ('the 2008 regulations') which transposed the EU Energy Performance of Buildings Directive (EPBD).

EPCs are an important source of information for current and potential building owners and tenants to help them understand the energy performance of their building. Valid EPCs must be provided when a building is advertised for sale or for let to a new tenant, and upon completion of construction of a new building. They must also be displayed in certain large buildings.

Policy Objectives

EPCs are an important source of information for current and potential building owners and tenants to help them understand the energy performance of their building. EPCs must be provided when a building is advertised for sale or for let to a new tenant, and upon completion of construction of a new building. They must also be displayed in certain large buildings. Under the 2008 regulations, EPCs are valid for a period of 10 years.

Our reforms to EPCs respond to concerns highlighted by external stakeholders and independent reports. These include criticism around the relevance, accuracy and quality of EPCs, and their overall role in supporting net zero climate objectives. In large part, this reflects the changes to the policy landscape in the 16 years since EPCs became a legal requirement in Scotland – in particular since 2019 with the requirements of the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019[10] (which sets targets to reduce Scotland's emissions of all greenhouse gases to net-zero by 2045), which will require decarbonisation of Scotland's buildings, where emissions largely come from heating systems.

The purpose of the new Regulations is to put in place reforms to the EPC regime. Reformed EPCs will provide clearer and more comprehensive information to current and prospective property owners and tenants, including details on the energy efficiency of buildings, the type

1 2021 asp 4.
2 2023 c. 52. Regulations under section 250 are made by the "appropriate authority" which in relation means the Scottish Ministers in terms of section 250(5).

and performance of a building's heating systems, and the associated running costs.

EPCs will continue to serve as a key component of the property market, required whenever a property is sold, let, constructed, or when required to be displayed in certain large buildings. The reforms will ensure that EPCs will now be underpinned by more accurate and up-to-date methodologies[3], are conducted to the highest professional standards, and adopt a new technical infrastructure for lodging energy performance data, and generating certificates, on a new EPC Register. Furthermore, the reforms will maintain broad alignment with the recast EU Energy Performance of Buildings Directive (EPBD)[4], which continues to make provision for EPCs and for independent control systems to oversee their production and quality. In particular, the Scottish Government will align with the recast Directive's new onsite audit and inspection regime designed to verify the accuracy and reliability of certificates.

The Energy Performance of Buildings (Scotland) Regulations 2025 will revoke the Energy Performance of Buildings (Scotland) Regulations 2008. There are transitional arrangements within the Regulations to allow existing EPCs to be continued to be used for a limited period.

The 2025 Regulations will continue to require that a valid EPC is in place at key stages in a building's lifecycle: upon completion of a new building, when a building is offered for sale, and when it is let to a new tenant, and when required to be displayed by certain large buildings. Local authorities will remain the enforcement authorities under these regulations, with the power to issue penalty charge notices where necessary. Scottish Ministers will retain the authority to approve organisations that accredit energy assessors, specify the requirements to which they operate (in an accreditation scheme) and to approve the calculation methodologies used in the production of EPCs. The requirement for a register or registers of EPC data will also be maintained.

This instrument will introduce a new rating system for domestic buildings:

- Heat Retention Rating (reflecting fabric energy efficiency),
- Heating System Rating (covering type, emissions and efficiency),
- Energy Cost Rating (an updated version of the existing Energy Efficiency Rating).

For non-domestic buildings, a new rating system will be introduced comprising

- Energy Performance Rating
- Energy Use Rating
- Direct Emissions Rating

These new rating systems will ensure enhanced information for consumers by expanding the data about the features of the property and how these can be improved beyond the provision with in the 2008 regulations. Likewise, the validity period of EPCs will be reduced from 10 years to five years, to ensure that current and prospective owners and tenants of properties have more up-to-date information on the building's energy performance and emissions than under the 2008 regulations.

The reforms will introduce strengthened operational governance arrangements for EPC assessors and the appointment of the Approved Organisations who accredit and oversee EPC assessors. These measures will be introduced through new accreditation schemes, to be

3 The new Home Energy Model which will replace the Standard Assessment Procedure for domestic EPCs, and an updated version of the Simplified Building Energy Model for non domestic EPCs.

4 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401275

approved by the Scottish Ministers, which will enhance quality assurance and provide greater confidence for consumers.

EPC lodgement fees will be increased – from £2.60 to £6.00 for domestic EPCs, and from £12.10 to £15.50 for non-domestic EPCs. Penalty charge levels will remain the same. The increase in lodgement fees is needed to meet the continuing costs of developing and maintaining the EPC technical and operational infrastructure.

Within two years of the regulations coming into force, the Scottish Government will review these lodgement fees and penalty charges to ensure they remain fair and proportionate. The Government will likewise review the onsite audit and inspection function within two years to see if it is fit for purpose and continues to be needed. Amendments would be made to the regulations, if needed, following these reviews.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Energy Performance of Buildings (Scotland) Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

Statements required by the European Union (Withdrawal) Act 2018

The Cabinet Secretary for Housing, Màiri McAllan, has made the following statement under paragraph 16(2) of Part 1 of schedule 8 of the European Union (Withdrawal) Act 2018:

"In my view, there are good reasons for the revocation of the Energy Performance of Buildings (Scotland) Regulations 2008, made under section 2(2) of the European Communities Act 1972. The 2008 Regulations will be superseded and replaced by these Regulations.

"These Regulations re-enact, with modifications, existing requirements of the 2008 Regulations and provide for continuity of existing provisions for ensuring that Energy Performance Certificates (EPCs) must be provided under specified circumstances, whilst ensuring that at the same time they update the requirements for their production through the introduction of a new rating system that will provide more relevant information to current and prospective building owners and tenants on the energy performance and emissions of their building".

The Cabinet Secretary for Housing has the made the following statement under paragraph 16(3) of Part 1 of schedule 8 of the European Union (Withdrawal) Act 2018:

"The Energy Performance of Buildings (Scotland) Regulations 2008 transposed provisions of Directive 2002/91/EC and Directive 2010/31/EU on Energy Performance Certificates (EPCs). The 2008 Regulations are assimilated law and will be revoked and replaced by the

Energy Performance of Buildings (Scotland) Regulations 2025. The effect is that the assimilated law in the form of the 2008 Regulations made under section 2(2) will be revoked. But the Energy Performance of Buildings (Scotland) Regulations 2025 will have the effect of re-enacting with modifications the 2008 Regulations and will therefore maintain and improve existing standards. The Energy Performance of Buildings (Scotland) Regulations 2025 will continue to ensure that all buildings sold, let to a new tenant, or newly constructed have a valid EPC. EPCs must also continue to be displayed in certain large buildings. The new 2025 regulations will allow Scottish EPC legislation to continue to broadly align with the provisions on EPCs within Directive (EU) 2024/1275 on the Energy Performance of Buildings (recast), which aims to modernise EPCs and improve their quality and reliability – ambitions the Scottish Government shares. The provisions in the 2025 Regulations are consequently largely in keeping with the current regime made under section 2(2), and which is being revoked and replaced. The effect of the provision on assimilated law is to maintain and improve existing standards".

Statement required under The UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021

A narration of the necessary statements under the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 are contained in Annex B to this policy note.

EU Alignment Consideration

The EU's Energy Performance of Buildings Directive was first adopted in 2002[5] and introduced policies and measures needed to comply with the Kyoto Protocol. The objective of the Directive was to promote the improvement of the energy performance of buildings. It introduced EPCs across the EU for all buildings sold, leased or newly constructed. The 2010 recast[6] enhanced requirements for EPCs, the accreditation of EPC assessors and the independent control systems for EPCs. Implementation of the EPC elements of the Directive in Scotland to date has been through the Energy Performance of Buildings (Scotland) Regulations 2008, made through the European Communities Act 1972(a). The EPBD has now been recast in 2024 and aims to further enhance the reliability, quality and digitalisation of EPCs.

The main provisions within the recast 2024 EPBD which cover EPCs are:

- Article 4 and Annex I (which specify requirements for applying a calculation methodology for the energy performance of buildings (and the generation of EPCs)).
- Article 19 and Annex V (which specify the measures needed to establish a system for certification of the energy performance of buildings through EPCs. This includes provisions requiring that EPCs are produced to a standardised format, use a letter-based A-G scale of performance, and display key indicators in a format that must be clear and accessible. It also includes requirements that EPCs are reliable, affordable and issued by independent experts with recommendations for improvements to the building's energy performance and to reduce emissions, and provide information on links to advice and financial support).
- Article 20 (which specifies that EPCs must be produced in a digital format at certain trigger points, and shown to prospective buyers or tenants and be included within

5 eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002L0091&qid=1758606496536
6 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0031&qid=1758606496536

property adverts).

- Article 21 (which specifies that EPCs must displayed in a prominent place in public buildings and non-residential buildings that are frequently visited by the public)
- Article 22 (which specifies that national databases must be established to collect and manage data on building energy performance, including EPCs, and which must be publicly accessible).
- Article 27 and Annex VI (which specifies the establishment of independent control systems for EPCs and requirements for what constitutes a valid energy performance certificate and to ensure that the systems meet strict quality standards, including random sampling, third-party verification, and on-site checks).

The Scottish Government is committed to seeking alignment with the EU where possible and meaningful, and in a manner that contributes towards maintaining and advancing standards. The provisions within these Regulations will allow the Scottish Government to continue to align in a meaningful way with the requirements of the EPBD in relation to EPCs, in a way that improves and advances EPC quality and utility for Scottish consumers:

- Regulation 10 ensures broad alignment with the requirements of Article 4 and Annex I by requiring that the Scottish Ministers approve and publish the calculation methodologies used to produce EPCs.
- The regulations establish the framework for EPC assessment and delivery across Scotland. Regulation 2 defines key terms include the energy performance indicators to be included on an EPC. Regulations 8 and 9 detail the minimum information to be included on an EPC and Property Report including the existing energy performance features of a property and potential improvements that building owners could consider to improve their building. Together the regulations help to largely meet the requirements of Article 19 and Annex V in relation to the system of certification.
- Regulation 15 sets the requirements for the display of EPCs in certain buildings, allowing continued alignment with the Directive's requirements for large buildings, set out in Article 21.
- Regulations 16 and 18-21 cover the provision of an EPC register(s) and the management of data entered onto that register(s) which allows continued alignment with the broad requirements of Article 22. EPCs will be provided to users in an accessible, digital format, which will largely align with the requirements of Article 20.
- Regulation 11 allows Scottish Ministers to approve organisations that provide accreditation schemes and to set up audit requirements, include through on-site audits. This will ensure that EPC assessments are completed by qualified assessors and in a consistent, accurate and independent manner, allowing continued broad alignment with the requirements for Independent control systems set out in Article 27.

Consultation

The ratings which EPCs display have been criticised by stakeholders, including the Climate Change Committee[7], consumer groups such as Which?[8], academics[9] and from within the assessment industry itself[10]as in need of reform. This is on the basis that, in their current

7 https://www.theccc.org.uk/wp-content/uploads/2023/02/Annex-Reform-of-domestic-EPC-rating-metrics-to-support-delivery-of-Net-Zero.pdf
8 https://www.which.co.uk/policy-and-insight/article/transforming-epcs-consumer-research-insights-and-recommendations-a7mQM8Z6Pnpj
9 https://www.commonweal.scot/policy-library/energy-performance-certificates-an-alternative-approach
10 https://www.elmhurstenergy.co.uk/blog/2025/02/26/elmhurst-responds-to-epc-reform-consultation/

format, EPCs are not aligned with our net zero ambitions[11]. The Scottish Government has also received recommendations from an independent review of EPCs on the need to improve the quality of EPCs and, in particular, to strengthen quality assurance requirements around audit and inspection of certificates[12].

Three formal public consultations have been held, during 2021, 2023 and 2025. Each stage has allowed further policy development in the light of stakeholder feedback:

- 2021 consultation[13] – this consultation outlined our initial proposals for reform, which included renaming the current EPC ratings and adding a third rating so that EPCs would display separate ratings for energy efficiency, cost, and carbon emissions.
- 2023 consultation[14] – this consultation set out our preferred approach to reform. This included confirming the new rating system that we intended to use for domestic and non-domestic EPCs and our intention to reduce the EPC validity period from 10 to five years. We also consulted on redesigning EPCs to make them more accessible, and enhancing quality assurance for consumers of EPC assessors and Approved Organisations.
- 2025 technical consultation[15] – this consultation set out proposals for increases to EPC lodgement fees to support the costs of developing the new technical infrastructure (Register and calculation methodology) and operational infrastructure (introduction of enhanced onsite audit and inspection arrangements). It also sought views on the level of EPC penalty charges.

During the four years of policy development, the Scottish Government met stakeholders during consultation events, or bilaterally, from a wide range of different organisations. These included housing providers, landlords, local authorities, public bodies, utilities, the construction sector, mortgage lenders, and bodies representing: the EPC assessment sector, estate and letting agents, conveyancing solicitors, as well as the general public. Alongside individual responses from the general public, this ensured wide-ranging and comprehensive engagement with groups likely to be impacted by the development of the regulations.

Consultation responses and stakeholder engagement revealed broad support from organisations for the principal elements of Energy Performance Certificate (EPC) reform. These elements include the introduction of a revised rating system, a digital and accessible format, and changes to the operational system. In contrast, individuals expressed less support for EPC reform, citing concerns about affordability and the practicality of implementing energy upgrades. Opinion on proposals to reduce the EPC validity period from 10 years to five was mixed. Many respondents felt that a standardised EPC model may not be appropriate for certain property types, such as traditional stone-built properties, tenements, and listed buildings. There was a clear preference for EPCs to be presented in a user-friendly and easily understandable format to ensure that all users can comprehend the information provided.

There was general support for the proposal to increase existing lodgement fees for both domestic and non-domestic EPCs. However, some concerns were raised regarding the

11 https://www.theccc.org.uk/publication/letter-reform-of-domestic-epc-rating-metrics-to-patrick-harvie-msp/
12 https://www.gov.scot/publications/review-domestic-non-domestic-energy-performance-certificates-scotland/
13 https://www.gov.scot/publications/domestic-epc-reform-consultation/
14 https://www.gov.scot/publications/energy-performance-certificate-epc-reform-consultation/
15 https://www.gov.scot/publications/technical-consultation-energy-performance-certificate-epc-reform-lodgement-fees-penalty-charges/

alignment of domestic and non-domestic fees, with arguments suggesting that non-domestic fees should be higher due to the greater size and time requirements associated with these assessments. Respondents expressed a range of views regarding penalty charges and their levels. Some were strongly supportive of increasing penalty charges in certain or all circumstances, while others were either opposed or indifferent to the prospect of such increases. Several individuals opposed the use of penalty charges altogether.

Impact Assessments

The following impact assessments have been completed for the Energy Performance of Buildings (Scotland) Regulation 2025:

- Child Rights and Wellbeing Impact Assessment (CRWIA);
- Equality Impact Assessment (EQIA);
- Island Communities Impact Assessment (ICIA);
- Fairer Scotland Duty (FSD); and
- Data Protection Impact Assessment (DPIA)

All are published on the Scottish Government website.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been published alongside the Regulations. The main impacts are summarised below.

It is expected that the reduced validity period would have the most significant impacts. The main impact will be on properties for let, where landlords will no longer be able to reuse valid EPCs for up to 10 years to cover new lets. Instead, they will only be able to reuse for a maximum of five years, to ensure that information contained within the EPC is up-to-date when prospective tenants receive it. There will also be an impact for large public buildings which are always required to display a valid EPC.

We have put in place transitional arrangements to mitigate this, as set out at Regulation 38. There will be no change for owner occupiers given that to meet the requirements of the Home Report legislation a new EPC is in practice obtained each time a domestic property is advertised for sale. For non-domestic properties advertised for sale, there is no equivalent requirement as in the Home Report legislation, so for these properties, the reduction in validity period could mean that a new EPC is required more frequently (for buildings sold more than five years after purchase) A fuller assessment of these issues is contained within the BRIA.

The increased lodgement fee set out in Regulation 15 will impact all EPCs lodged. However, this is a relatively small portion of the total cost of an EPC, so the cost in itself is not expected to have a behavioural impact on the number of EPCs lodged.

There are a wide range of non-monetised benefits which will be delivered for businesses and for other actors through our EPC reforms. These benefits are expected to be significant and include:

- clearer information for landlords and tenants; more accurate and accessible information for property owners;

- support to decarbonisation goals through improved energy efficiency information and information on clean heating options;
- support to other legislation, such as proposed minimum energy efficiency standards, and potential for increased employment and economic activity.

Heat in Buildings Policy & Regulation Division
Directorate For Energy & Climate Change
Scottish Government
October 2025

Annex A – Summary of Regulations

The below summary of the Energy Performance of Buildings (Scotland) Regulations 2025 do not form part of the SSI and have not been endorsed by Parliament.

This summary helps explain what each regulation means in practice. The summary is not, and is not intended to be, a comprehensive description of the SSI.

Regulation	Summary
1. Citation, Commencement and Extent	This Regulation establishes the title and legal scope of the regulations. The regulations come into force on 31 October 2026 and apply to Scotland.
2. Interpretation	This Regulation defines key terms used throughout the regulations. These include the meanings of an energy performance certificate, a property report, an energy assessor and also include the different ratings which will appear on certificates, and the distinction between domestic and non-domestic properties.
3. Meaning of Prospective Buyer or Tenant	This regulation defines when someone becomes a prospective buyer or tenant – in the following circumstances: when requesting information about a building or building unit, when requesting to view a building or building unit when considering whether to buy or lease it, or when making an offer to buy or lease a building.
4. Application of Regulations	This regulation specifies when these regulations do not apply: • Temporary buildings with a planned use time of less than 2 years. • Workshops and agricultural buildings with low energy demand. • Small stand-alone non-domestic buildings of less than 50m² • Unheated buildings or those with non-fixed heating systems
5. Energy Performance Certificate on Sale or Rent	This regulation requires that, when selling or letting a property, the owner of a building must provide an EPC and property report free of charge to prospective buyers or new tenants.
6. Energy Performance Certificates on Construction	This regulation requires that when a newly-constructed building is completed, the developer of that building must provide a copy of the EPC and property report to the owner of the building, within 7 days of the construction being completed.
7. Advertisement Requirements	When a building is marketed for sale or let the energy performance indicators must be stated in any property adverts. For a domestic property the energy performance indicators are the heat retention rating, the heating system rating and the energy cost rating for that property. For a non-domestic property the energy performance indicators are the energy performance rating, the energy use rating and the direct emissions rating for that property

8. Energy Performance Certificates	This regulation specifies the minimum requirements for the information that must be included on an EPC, in particular the different ratings for domestic and non-domestic buildings. EPCs are generated by the EPC register using the energy performance data collected during an assessment by an energy assessor and then lodged on the relevant EPC register. EPCs are valid for 5 years from the date of issue, unless another EPC is subsequently issued for the same building or building unit.
9. Property Report	This regulation specifies the minimum requirements for the information that must be included within a property report accompanying the EPC. A property report is also generated by the EPC register, alongside the certificate. This report provides basic information to building owners, potential owners or potential tenants about measures which could be taken to improve the ratings ('energy performance indicators') of the building, and which might have the potential to reduce emissions, including the estimated costs of taking those measures, including the costs of installation and operation of alternative main heating systems.
10. Methodology for assessment of energy performance	This regulation requires that Scottish ministers approve and publish methodologies used to assess buildings and calculate energy performance indicators, and estimated levels of emissions or costs for the purpose of an EPC and property report.
11. Approved organisations	This regulation allows the Scottish Ministers to approve, on a time limited basis, approved organisations. Approved organisations operate accreditation schemes for energy assessors. The regulation allows Ministers to subject their approval of an organisation to whatever conditions and limitations they consider to be appropriate. The Scottish Ministers must be satisfied that accreditation schemes operated by approved organisations ensure that EPC assessments are completed by qualified assessors and in a consistent, accurate and independent manner.
12. Accreditation schemes	This regulation requires that, when approved by the Scottish Ministers, approved organisations can operate accreditation schemes which are themselves approved by the Scottish Ministers. Accreditation schemes may relate to specific categories of assessment, which for example could be domestic and non-domestic buildings. Energy assessors must be members of accreditation schemes approved by the Scottish Ministers. The regulation sets out specific provisions which must be adequately provided for within an accreditation scheme before it can be approved by the Scottish Ministers, and allows Ministers to subject their approval of an accreditation scheme to whatever conditions and limitations they consider to be appropriate.

13. Display of Energy Performance Certificates	This regulation requires that where a building, frequently visited by the public, is occupied by a public authority and has a floor area of over 250m², an EPC must always be displayed in a prominent place. It also requires that where a valid EPC exists for a building frequently visited by the public and with a floor area floor area of over 500m², the EPC must be displayed in a prominent place. This requirement only applies where an EPC has been issued for that building – there is not a requirement for all buildings over 500m² to always have a valid EPC.
14. Registration of Energy Performance Data	This regulation requires the Scottish Ministers to ensure the existence of one or more registers that store energy performance data. These registers serve as the source for producing EPCs and property reports. The regulation requires that each register is managed by a designated keeper, who may be the Scottish Ministers themselves or a person appointed by them. Before an EPC or property report can be issued, the energy assessor must submit the relevant data to the appropriate register.
15. Fees for entering data onto register	This regulation sets the fee to enter domestic energy performance data on a register at £6.00. The fee to enter non-domestic energy performance data is £15.50.
16. Disclosures generally	This regulation sets out the conditions under which the keeper of a register may disclose energy performance data and related documents, and that these conditions are specified in regulations 17-20.
17. Disclosure of documents	This regulation requires that the keeper of a register may disclose an EPC and property report for an individual building or unit to any person, provided the request is made via the keeper's website and includes: • The full address (excluding postcode), • The full postcode, or • The report reference number. This allows an individual or organisation (such as prospective buyers or tenants for a property, or conveyancing solicitors conducting property transactions) to retrieve an EPC or property report for that property (if it exists) via a search of the register website.
18. Disclosure of data relating to a particular building or building unit	This regulation provides that the keeper of a register may disclose energy performance data for an individual building or unit if: • The request is made via the keeper's website or by electronic communication to a designated address, • The request includes: • The full address (excluding postcode),

	• The full postcode, or • The report reference number. • The building is not an excluded building. This allows anyone to request access to such data. As specified in Regulation 2, "energy performance data" means information needed to produce an energy performance certificate or a property report – i.e. the data which is registered on the register(s) of energy performance data. In addition, the regulation provides that a keeper of a register, an approved organisation, or an energy assessor, may share assessment data with the building's owner, occupier or another person, provided that the owner of the building consents to this. As specified in Regulation 2, "assessment data" means any information collected during an energy assessment, whether or not that information is entered on a register, held by an approved organisation, energy assessor or the keeper. The regulation states that it is an offence to disclose assessment data outside of these requirements and that a person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
19. Disclosure of bulk access data	This regulation provides that the keeper of the register may publish bulk energy performance data online, and must do so if instructed by the Scottish Ministers. However, this data must not: • Identify individuals, • Disclose the location of excluded buildings.
20. Duty to disclose energy performance data	This regulation makes provision requiring the keeper of the register to disclose energy performance data upon request: • To an enforcement authority enforcing these regulations • Where required by an enactment, rule of law or by order of a court, for regulatory purposes • To the Scottish Ministers.
21. Enforcement Authorities	This regulation provides that local authorities are enforcement authorities for these regulations in their areas and that they have a duty to enforce them. The Scottish Ministers may appoint themselves or another person as an enforcement authority, subject to any conditions they see fit.
22. Power to require production of energy performance certificate	This regulation provides that enforcement authorities have the power to request that a building owner, who appears to be or have been subject to the duty under Regulation 5 (to make a copy of a valid EPC and property report available for inspection, free of change), produce a copy of the energy performance certificate (EPC) for inspection.
23. Penalty charge notice for	This regulation provides that if an enforcement authority believes an owner has failed to meet their duty under Regulation 5 (to make an EPC available), it may issue a penalty charge notice. However, this can only

failure to comply with regulation 5	happen under specific circumstances. The regulation details the process for issuing a penalty charge notice..
24. Penalty charge notices for failure to comply with regulation 6, 7 or 13	This regulation extends the penalty charge notice system to other duties: • Regulation 6: Developers must provide EPCs on construction. • Regulation 7: Owners must include EPC information in advertisements for sale or let. • Regulation 13: Owners or occupiers must display EPCs in certain large non-domestic buildings.
25. Defence where energy performance certificate unobtainable	This regulation provides for circumstances in which an owner will not be penalised for failing to provide an Energy Performance Certificate (EPC) under Regulation 5 and where a developer is not liable to a penalty charge for a breach of a duty under Regulation 25.
26. Defence where failure to comply with regulation 7	This regulation provides that an owner is not liable for failing to include EPC indicators in an advertisement if they can prove that instructions for the advert included a requirement to state the EPC indicators, and sufficient information was provided to enable this.
27. Reviews	This regulation makes provision for circumstances in which the recipient of a penalty charge notice requests a review, and sets out the approach that the enforcement authority must take.
28. Appeal to the sheriff court	This regulation makes provision for circumstances where, following a review where a penalty charge notice is confirmed by the enforcement authority, the recipient may appeal against the notice to the sheriff court.
29. Recovery of penalty charges	This regulation makes provision that penalty charges are recoverable as debts owed to the enforcement authority unless the notice has been withdrawn or quashed, or the charge has already been paid.
30. Service of documents	This regulation makes provision for how penalty charge notices must be issued.
31. Offences relating to enforcement officers	This regulation makes provision for offences relating to enforcement officers.
32. Application to the Crown	This regulation makes special provision for how enforcement applies to the Crown.
33. Green Deal Properties	This regulation (and Schedule Part 1 and 2) applies specific modifications to the regulations for Green Deal properties.
34. Amendment of the Building (Scotland) Regulations 2004	This regulation makes consequential amendments to the Building (Scotland) Regulations 2004.

35. Amendment of the Building (Procedure) (Scotland) Regulations 2004	This regulation makes consequential amendments to the Building (Procedure) (Scotland) Regulations 2004.
36. Approved organisations and accreditation schemes– transitional provisions	This regulation clarifies that in spite of Regulation 11 and Regulation 12 (covering approved organisations and accreditation schemes, respectively) being commenced on 1 January 2026, ahead of the remainder of the regulations coming into force on 31 October 2026, this does not disturb the existing requirements of the Energy Performance of Buildings (Scotland) Regulations 2008 covering approved organisations and their members who issue EPCs.
37. Revocations	The Energy Performance of Buildings (Scotland) Regulations 2008 are revoked, subject to saving and transitional provisions in Regulation 37. This means that from 31 October 2026, a new EPC conforming to the requirements of the 2025 Regulations will need to be produced to meet the other requirements of these Regulations (such as Regulations 5,6 and 7), except in specific transitional circumstances provided for in Regulation 38.
38. Saving and transitional provisions	This regulation makes transitional provisions which allow that (to meet the requirements of Regulation 5), either an EPC and recommendations report issued in accordance with the 2008 Regulations, or an EPC and property report issued in accordance with the 2025 Regulations, meets these requirements from 31 October 2026 until the earlier of, the date on which the building is first sold or let, or until 31 October 2027. After the earlier of those dates, only an EPC and property report issued in accordance with the 2025 regulations will meet the requirements of Regulation 5. This regulation also makes transitional provisions that references to energy performance indicators in Regulation 7 can be treated as a reference to the energy performance indicator within the meaning of the 2008 Regulations, or the energy performance indicators within the meaning of the 2025 Regulations. This regulation also makes transitional provision that (to meet the requirements of Regulation 13) either an EPC and property report issued in accordance with the 2025 Regulations, or an EPC and recommendations report issued in accordance with the 2008 Regulations, meets these requirements until 31 October 2031.

Annex B

Statements required under section 8 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 when using the power in section 1(1) of that Act

Statement explaining: (a) the instrument or draft, (b) why, in the Scottish Ministers' opinion, there are good reasons for making the provision contained in the instrument or draft, (c) the law before IP completion day which is relevant to the provision, and (d) the effect (if any) of the provision on retained EU law.

The Cabinet Secretary for Housing, Màiri McAllan, has made the following statement:

"In my view, there are good reasons for the revocation of the Energy Performance of Buildings (Scotland) Regulations 2008, made under section 2(2) of the European Communities Act 1972. The 2008 Regulations will be superseded and replaced by these Regulations.

"These Regulations re-enact, with modifications, existing requirements of the 2008 Regulations and provide for continuity of existing provisions for ensuring that Energy Performance Certificates (EPCs) must be provided under specified circumstances, whilst ensuring that at the same time they update the requirements for their production through the introduction of a new rating system that will provide more relevant information to current and prospective building owners and tenants on the energy performance and emissions of their building".

"The Energy Performance of Buildings (Scotland) Regulations 2008 transposed provisions of Directive 2002/91/EC and Directive 2010/31/EU on Energy Performance Certificates (EPCs). The 2008 Regulations are assimilated law and will be revoked and replaced by the Energy Performance of Buildings (Scotland) Regulations 2025. The effect is that the assimilated law in the form of the 2008 Regulations made under section 2(2) will be revoked. But the Energy Performance of Buildings (Scotland) Regulations 2025 will have the effect of re-enacting with modifications the 2008 Regulations and will therefore maintain and improve existing standards. The Energy Performance of Buildings (Scotland) Regulations 2025 will continue to ensure that all buildings sold, let to a new tenant, or newly constructed have a valid EPC. EPCs must also continue to be displayed in certain large buildings. The new 2025 regulations will allow Scottish EPC legislation to continue to broadly align with the provisions on EPCs within Directive (EU) 2024/1275 on the Energy Performance of Buildings (recast), which aims to modernise EPCs and improve their quality and reliability – ambitions the Scottish Government shares. The provisions in the 2025 Regulations are consequently largely in keeping with the current regime made under section 2(2), and which is being revoked and replaced. The effect of the provision on assimilated law is to maintain and improve existing standards".

Statement explaining the effect (if any) of the instrument or draft on: (a) the Convention rights within the meaning of section 1 of the Human Rights Act 1998, and (b) other human rights contained in any international convention, treaty or other international instruments ratified by the United Kingdom.

The Cabinet Secretary for Housing, Màiri McAllan, has made the following statement: "In my view the Energy Performance of Buildings (Scotland) Regulations 2025 do not

contravene Convention rights within the meaning of section 1 of the Human Rights Act 1998 or any human rights contained in any international convention, treaty or other international instruments ratified by the United Kingdom".

Statement: (a) as to whether the instrument or draft amends, repeals or revokes any provision of equality legislation, and (b) if it does, explaining the effect of each such amendment, repeal or revocation.

The Cabinet Secretary for Housing, Màiri McAllan, has made the following statement: "In my view the Energy Performance of Buildings (Scotland) Regulations 2025 do not amend, repeal or revoke any provision of equality legislation.".

Statement to the effect that, in relation to the instrument or draft, the Scottish Ministers have, so far as required to do so by equality legislation, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010

The Cabinet Secretary for Housing, Màiri McAllan, has made the following statement: "In my view in relation to the Energy Performance of Buildings (Scotland) Regulations 2025, the Scottish Ministers have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010".

Statement explaining the effect (if any) of the instrument or draft on: (a) rights and duties relating to employment and health and safety, (b) matters relating to consumer protection, so far as it is within devolved competence (within the meaning of section 54 of the Scotland Act 1998) for the instrument or draft to have any such effect.

The Cabinet Secretary for Housing, Màiri McAllan, has made the following statement: "In my view the Energy Performance of Buildings (Scotland) Regulations 2025 do not have any effect upon the rights and duties relating to employment and health and safety, and matters relating to consumer protection, so far as it is within devolved competence".

Statement: (a) as to whether, in relation to the instrument or draft, the Scottish Ministers have consulted: (i) such persons appearing to them to be representative of the interests of local authorities, (ii) any other person, and (b) if they have, setting out details of the consultation that they carried out.

The Cabinet Secretary for Housing, Màiri McAllan, has made the following statement: "the Scottish Ministers have consulted such persons appearing to them to be representative of the interests of local authorities, and have consulted any other person during public consultations in 2021, 2023 and 2025, ahead of laying the Energy Performance of Buildings (Scotland) Regulations 2025. Details of this consultation are set out in the policy note accompanying the regulations, under the section on consultation".

Statement setting out the likely financial implications of the provision contained in the draft.

The Cabinet Secretary for Housing, Màiri McAllan, has made the following statement: "In my view, the likely financial implications of the provision contained in the Energy Performance of Buildings (Scotland) Regulations 2025 is set out in the policy note under the

section on financial effects and in the Business and Regulatory Impact Assessment which has been published alongside the Regulations".

Statement setting out if the instrument or draft (a) is laid before a policy statement is published under section 6(1), (b) is laid during the period beginning with the day on which a copy of a revised policy statement is laid before the Scottish Parliament under section 7(1) and ending with the day on which the revised policy statement is published under section 6(2) or (3)(b)(i), or (c) contains provision that involves using the power under section 1(1) in a way that is not in accordance with the policy statement published under section 6, a statement explaining why, in the Scottish Ministers' opinion, there are good reasons for laying the instrument or draft at that time or, as the case may be, for using the power in that way

The Cabinet Secretary for Housing, Màiri McAllan, has made the following statement: "Section 9(9) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, does not apply to the Energy Performance of Buildings (Scotland) Regulations 2025".