

## **EPC Enforcement**

The transposition of the Energy Performance of Buildings Directive (EPBD) in Scotland has been achieved through existing primary legislation, The Building (Scotland) Act 2003, amendment of Scottish building regulations and introduction of the Energy Performance of Buildings (Scotland) Regulations 2008.

The Enforcement of this legislation within East Ayrshire Council has been shared between both Building Standards and Trading Standards and has been divided as indicated in the attached document 'Service Responsibilities for EPC's'.

The object of this note is to provide guidance on EPC enforcement within East Ayrshire Council and provide an insight to the Energy Performance of Buildings (Scotland) Regulations 2008 and explain the relationship to other legislation.

Standard 6.9 of the Technical Handbooks for compliance with the Building Standards (Scotland) Regulations 2004 set out guidance on the provision and display of Energy performance certificates in all **new buildings** this is dealt with via the Building (Scotland) Act 2003 by East Ayrshire Council Building Standards.

Regulation 5 of the Energy Performance of Buildings (Scotland) Regulations 2008 requires the owner to make available the most recent energy performance certificate to the prospective buyer or tenant. It should be noted that where cases of non-compliance occur in the **sale and rental of a domestic property** any enforcement action in respect of this will be taken by East Ayrshire Council Trading Standards using Regulation 17 which allows the local authority to issue a Penalty Charge Notice. The fine for a dwelling or buildings ancillary to a dwelling being £500. It should also be noted that in the case of house sales that Trading Standards have further enforcement power under the Housing (Scotland) Act 2006, if the owner fails to provide prescribed documentation for the Home Report. Where a penalty charge notice has been given in relation to a breach of The Housing (Scotland) Act 2006 (Penalty Charge) Regulations 2007, it is not anticipated initially that a further fine should be levied in respect of the Energy Performance Certificate.

Should the contravention be only the non-display of an EPC within a dwelling then East Ayrshire Council Building Standards would pursue enforcement action using Section 25 of the Building (Scotland) Act 2003.

Regulation 5 of the Energy Performance of Buildings (Scotland) Regulations 2008 requires the owner to make available the most recent energy performance certificate to the prospective buyer or tenant. It should be noted that where cases of non-compliance occur in the **sale and rental of a non-domestic property** any enforcement action in respect of this will be taken by East Ayrshire Council Building Standards using Regulation 17 via the issue of a Penalty Charge Notice. The fine for a non-domestic building being £1000.

Regulation 9 of the Energy Performance of Buildings (Scotland) Regulations 2008 places a duty on the owner of a **large public building** to obtain and display an energy performance certificate in a prominent place, such as a public reception area. The occupier is under a duty to ensure that such a certificate is displayed at all times. It should be noted that where cases of non-compliance occur any enforcement action in respect of this will be taken by East Ayrshire Council Building Standards using Section 25 of the Building (Scotland) Act 2003.