

STATUTORY INSTRUMENTS

2012 No. 3118

The Energy Performance of Buildings (England and Wales) Regulations 2012

PART 1

Introductory

Citation, application, extent and commencement

1.—(1) These Regulations may be cited as the Energy Performance of Buildings (England and Wales) Regulations 2012.

(2) Subject to regulation 5 and any other exemptions in these Regulations, and notwithstanding section 4 of the Building Act 1984 ^{M1}, these Regulations apply to all buildings including buildings which are exempt from building regulations by virtue of that section.

(3) These Regulations extend to England and Wales.

(4) These Regulations shall come into force on 9th January 2013.

Marginal Citations

M1 1984 c.55. Section 4 was repealed by section 5 of the Sustainable and Secure Buildings Act 2004, c.22, but section 5 of that Act has not yet been commenced. Section 4(1)(a)(i) to (iv) of the Building Act 1984 was substituted by paragraph 59 of Schedule 37 to the [Education Act 1996 \(c.56\)](#); subsection (1)(a)(ii) was substituted by paragraph 6 of Schedule 21 to the [Education Act 2002 \(c.32\)](#); subsection (1)(a)(iii) and (iv) was repealed by Schedule 31 to the [School Standards and Framework Act 1998 \(c.31\)](#); subsection (1)(b) was amended by Schedule 6 to the [Airports Act 1986 \(c.31\)](#); subsection (1)(b)(ii) was amended by [S.I. 2011/2491](#); and subsection (1)(c) was amended by [S.I. 2001/4050](#). There are other amendments to section 4 which are not relevant to these Regulations.

Interpretation

2.—(1) In these Regulations—

[^{F1}“Green Deal Framework Regulations” means the Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012;]

“accreditation scheme” means a scheme approved by the Secretary of State in accordance with—

(a) regulation 22; ^{F2} ...

(b) ^{F3} ...

“air-conditioning system” means a combination of all the components required to provide a form of air treatment in which the temperature is controlled or can be lowered, and includes

systems which combine such air treatment with the control of ventilation, humidity and air cleanliness;

[^{F4}“asset rating” means an energy performance indicator determined from the amount of energy estimated to meet the different needs associated with a standardised use of a building;]

^{F5} ...

“building” means a roofed construction having walls, for which energy is used to condition the indoor climate [^{F6}, and (other than in regulations 9(4) and 11) reference to a building includes reference to a building unit in that building] ;

“building envelope” means the integrated elements of a building which separate its interior from the outdoor environment;

“building unit” means a section, floor or apartment within a building which is designed or altered to be used separately;

“bulk access data” means any data entered onto a register as required by regulation 27(2) [^{F7}, (3) or (4B)] ;

[^{F8}“display energy certificate” means a certificate which—

- (a) complies with regulation 15; or
- (b) in the case of a certificate issued in respect of an excluded building under regulation 15A, complies with regulation 15A(2);]

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling;

“energy assessor” means an individual who is a member of an accreditation scheme;

[^{F9}“energy efficiency improvement” has the meaning given in section 2(4) of the Energy Act 2011;]

“energy from renewable sources” means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

[^{F10}“energy performance” in relation to a building means the calculated or measured amount of energy needed to meet the energy demand associated with a typical use of the building, which includes, inter alia, energy used for heating, cooling, ventilation, hot water and lighting;]

[^{F10}“energy performance certificate” means a certificate which—

- (a) in the case of a certificate entered on the register before 9th January 2013 complied with the requirements of regulation 11(1) of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 ^{M2};
- (b) in the case of a certificate entered on the register on or after 9th January 2013 complies with the requirements of regulation 9(1) of these Regulations; ^{F11} ...
- (ba) [^{F12}in the case of a certificate issued in respect of an excluded building under regulation 9A, complies with the requirements of regulation 9A(2) of these Regulations; or]
- (c) [^{F13}in the case of a certificate entered on the register before 6th April 2016] complies with the requirements of regulation 29 ^{M3} of the Building Regulations 2010;

[^{F14}“excluded building” means a building owned, occupied or used by or for the purposes of—

- (a) the Security Service, the Secret Intelligence Service or the Government Communications Headquarters;
- (b) any of the armed forces;

- (c) the Royal Family;
- (d) a prison;
- (e) a contracted out prison within the meaning of the Criminal Justice Act 1991; or
- (f) a young offender institution;]

“general access data” means information that is required by these Regulations to be included in an energy performance certificate, a display energy certificate, an inspection report, or a recommendation report;

[^{F15}“green deal disclosure obligations” means the obligations to provide an energy performance certificate in section 12 of the Energy Act 2011 and Part 7 of the Green Deal Framework Regulations;

“green deal information” means the information about a green deal plan that is required by regulation 9(1)(ea) to be included in an energy performance certificate for a green deal property;]

“green deal plan” means an energy plan which is a green deal plan in accordance with section 1(3) of the Energy Act 2011;

[^{F16}“green deal property” has the meaning given in section 12(5)(b) of the Energy Act 2011;]

[^{F17}“green deal relevant person” means a person who is authorised as—

- (a) a green deal provider; or
- (b) a green deal assessor certification body,

in accordance with Part 2 of the Green Deal Framework Regulations;.]

[^{F18}“inspection report” means a report—

- (a) issued by an energy assessor in accordance with regulation 19(1); or
- (b) in the case of a report issued in respect of an excluded building, issued by an energy assessor in accordance with regulation 19A(2);]

“keeper of the register” means the Secretary of State, or the person keeping a register on the Secretary of State’s behalf;

“nominated date”, in relation to a display energy certificate, means a date no later than three months after the end of the period over which the operational rating is calculated, which is nominated by the energy assessor who issued the certificate;

[^{F19}“operational rating” means an energy performance indicator determined from the amount of energy consumed during the occupation of a building over a period of time and the energy demand associated with a typical use of the building over that period;]

[^{F20}“payment period” has the meaning given in regulation 2(1) of the Green Deal Framework Regulations;]

“penalty charge notice” means a notice given pursuant to regulation 36;

^{F21} ...

“register” means a register required to be maintained under regulation 27;

“relevant person” (other than in the phrase “green deal relevant person”) means—

- (a) in relation to a building which is to be sold, the seller;
- (b) in relation to a building which is to be rented out, the prospective landlord;
- (c) in relation to an air-conditioning system, the person who has control of the operation of the system; and
- (d) in relation to a building which is constructed, the person who carries out the construction;

“report reference number” means the unique number assigned by the keeper of the register to each energy performance certificate [^{F22}issued by an energy assessor under regulation 9] or display energy certificate [^{F23}issued by an energy assessor under regulation 15];

“total useful floor area” means the gross floor area as measured in accordance with the guidance issued from time to time by the Royal Institution of Chartered Surveyors or by any body replacing that Institution.]

Textual Amendments

- F1** Words in reg. 2(1) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **8(2)**
- F2** Word in reg. 2(1) omitted (1.10.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2016 (S.I. 2016/888), regs. 1(2), **2(2)(a)(i)**
- F3** Words in reg. 2(1) omitted (1.10.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2016 (S.I. 2016/888), regs. 1(2), **2(2)(a)(ii)**
- F4** Words in reg. 2 substituted (1.6.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(a)**
- F5** Words in reg. 2 omitted (1.10.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(4), **3(b)**
- F6** Words in reg. 2 inserted (6.2.2013) by The Building Regulations &c. (Amendment) Regulations 2013 (S.I. 2013/181), regs. 1(3), **9**
- F7** Words in reg. 2 inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(c)**
- F8** Words in reg. 2 substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(d)**
- F9** Words in reg. 2(1) inserted (1.10.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2016 (S.I. 2016/888), regs. 1(2), **2(2)(b)**
- F10** Words in reg. 2 inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(e)**
- F11** Word in reg. 2 omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(f)(i)**
- F12** Words in reg. 2 inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(f)(ii)**
- F13** Words in reg. 2(c) added (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(f)(iii)**
- F14** Words in reg. 2 inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(g)**
- F15** Words in reg. 2(1) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **8(3)**
- F16** Words in reg. 2(1) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **8(4)**
- F17** Words in reg. 2(1) substituted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **8(5)**
- F18** Words in reg. 2 substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(h)**
- F19** Words in reg. 2 substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(i)**
- F20** Words in reg. 2(1) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **8(6)**
- F21** Words in reg. 2(1) omitted (6.4.2018) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2018 (S.I. 2018/362), regs. 1(2), **3**

F22 Words in reg. 2 inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(j)(i)**

F23 Words in reg. 2 inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **3(j)(ii)**

Marginal Citations

M2 S.I. 2007/991, revoked by these Regulations (see regulation 46 and Schedule 3).

M3 Regulation 29 of the Building Regulations 2010 was amended by S.I. 2012/809 and by S.I. 2012/3119.

Meaning of “prospective buyer or tenant”

3. A person becomes a prospective buyer or tenant in relation to a building when he or she—
- requests any information about the building from the relevant person or the relevant person's agent for the purpose of deciding whether to buy or rent the building;
 - makes a request to view the building for the purpose of deciding whether to buy or rent the building; or
 - makes an offer, whether oral or written, to buy or rent the building.

Recommendation reports

4.—(1) In these Regulations, a “recommendation report” means recommendations made by an energy assessor for the cost-effective improvement of the energy performance of a building^{F24}....

(2) A recommendation report made on or after 9th January 2013 must include—

- recommended cost-effective measures that could be carried out in connection with a major renovation of the building envelope or technical building systems;
- recommended cost-effective measures for individual building elements that could be carried out without the necessity for a major renovation of the building envelope or technical building systems;
- an indication as to how the owner or tenant can obtain more detailed information about improving the energy efficiency of the building, including more detailed information about the cost-effectiveness of the recommendations; and
- information on the steps to be taken to implement the recommendations.

(3) Any cost-effective measure which the energy assessor recommends must be technically feasible for the building to which the recommendation report relates.

(4) A recommendation report made on or after 9th January 2013 ceases to be valid at the end of the following periods—

- for a report which is included in an energy performance certificate, ten years from the date of that certificate;
- for a report which is required to be held in respect of the building under regulation 14(3)
 - - where the [F25;total useful floor area of the building is over 1,000m², seven years from the nominated date applying to the report; and]
 - [F26;in the case of any other building, ten years from] the nominated date applying to the report^{F27}....

(5) In this regulation—

- [^{F28}(a) “building element” means a controlled service or fitting or a thermal element within the meaning of those expressions in regulation 2(1) and (3) respectively of the Building Regulations 2010.]
- (b) “major renovation” means the renovation of a building where more than 25% of the surface area of the building envelope undergoes renovation; and
- (c) “technical building systems” means technical equipment for the heating, cooling, ventilation, hot water, lighting (or for any combination thereof) of a building ^{F29}....

Textual Amendments

- F24** Words in reg. 4(1) omitted (6.2.2013) by virtue of The Building Regulations &c. (Amendment) Regulations 2013 (S.I. 2013/181), regs. 1(3), **10**
- F25** Words in reg. 4(4)(b)(i) substituted (6.4.2014) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/880), regs. 1(2), **3(a)**
- F26** Words in reg. 4(4)(b)(ii) substituted (6.4.2014) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/880), regs. 1(2), **3(b)**
- F27** Words in reg. 4(4)(b)(ii) omitted (6.4.2014) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/880), regs. 1(2), **3(b)**
- F28** Reg. 4(5)(a) substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **4**
- F29** Words in reg. 4(5)(c) omitted (6.2.2013) by virtue of The Building Regulations &c. (Amendment) Regulations 2013 (S.I. 2013/181), regs. 1(3), **10**

PART 2

Duties relating to Energy Performance Certificates

Application of Part 2

- 5.—(1) This Part does not apply to—
- (a) buildings officially protected as part of a designated environment or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance;
 - (b) buildings used as places of worship and for religious activities;
 - (c) temporary buildings with a time of use of two years or less;
 - (d) industrial sites, workshops and non-residential agricultural buildings with low energy demand;
 - (e) non-residential agricultural buildings which are in use by a sector covered by a national sectoral agreement on energy performance;
 - (f) residential buildings which are used or intended to be used—
 - (i) for less than four months of the year, or
 - (ii) for a limited annual time of use and with an expected energy consumption of less than 25% of what would be the result of all-year use; and
 - (g) stand-alone buildings with a total useful floor area of less than 50m².
- (2) Nothing in this Part requires an energy performance certificate to be given or made available to a prospective buyer or tenant at any time before the construction of the building has been completed.

Energy performance certificates on sale and rent

- 6.—(1) Subject to regulation 8, this regulation applies where a building is to be sold or rented out.
- (2) The relevant person shall make available free of charge a valid energy performance certificate to any prospective buyer or tenant—
- (a) at the earliest opportunity; and
 - (b) in any event no later than whichever is the earlier of—
 - (i) in the case of a person who requests information about the building, the time at which the relevant person first makes available any information in writing about the building to the person; or
 - (ii) in the case of a person who makes a request to view the building, the time at which the person views the building.
- (3) Paragraph (2) does not apply if the relevant person believes on reasonable grounds that the prospective buyer or tenant—
- (a) is unlikely to have sufficient means to buy or rent the building;
 - (b) is not genuinely interested in buying or renting a building of a general description which applies to the building; or
 - (c) is not a person to whom the relevant person is likely to be prepared to sell or rent out the building.
- (4) Nothing in paragraph (3) authorises the doing of anything which constitutes an unlawful act of discrimination.
- (5) The relevant person must ensure that a valid energy performance certificate has been given free of charge to the person who ultimately becomes the buyer or tenant.

Energy performance certificates on marketing

- 7.—(1) Subject to regulation 8, this regulation applies where—
- (a) a building is to be sold or rented out; and
 - (b) no valid energy performance certificate is available for that building.
- (2) Before the building is put on the market, the relevant person must secure that an energy performance certificate is commissioned for the building.
- (3) Before marketing the building, a person acting on behalf of the relevant person must be satisfied that an energy performance certificate has been commissioned for the building.
- (4) The relevant person and a person acting on behalf of the relevant person must use all reasonable efforts to secure that a valid energy performance certificate is obtained for the building before the end of a period of 7 days starting with the day on which the building was first put on the market.
- (5) Where any person subject to the duty in paragraph (4) is unable, despite using all reasonable efforts, to secure that a valid energy performance certificate is obtained for the building before the end of the 7 day period specified in that paragraph, the person shall secure that the certificate is obtained before the end of the period of 21 days immediately following the 7 day period.
- (6) In this regulation—
- (a) “the market” means the property market in England and Wales;
 - (b) a building is put on the market when the fact that it is or may become available for sale or rent is, with the intention of marketing the building, first made public in England and Wales by or on behalf of the relevant person;

- (c) a fact is made public when it is advertised or otherwise communicated (in whatever form and by whatever means) to the public or to a section of the public;
- (d) an energy performance certificate is commissioned when a request is made—
 - (i) which is properly addressed to an energy assessor who is accredited to produce energy performance certificates for the category of building in question, and
 - (ii) which is in such form, contains all such information and is accompanied by such payment or undertaking to make such payment as is usually necessary to obtain a certificate.

[^{F30}Energy performance certificates on construction

- 7A.**—(1) This regulation applies where—
- (a) a building is erected; or
 - (b) a building is modified so that it has a greater or lesser number of parts designed or altered for separate use than it previously had, where the modification includes the provision or extension of any of the fixed services for heating, hot water, air conditioning or mechanical ventilation.
- (2) The person carrying out the building work must—
- (a) give an energy performance certificate for the building to the owner of the building;
 - (b) give to the local authority notice to that effect; and
 - (c) include in that notice the reference number under which the energy performance certificate has been registered in accordance with regulation 27(4), except in the case of an energy performance certificate issued under regulation 9A (energy performance certificates in respect of excluded buildings).
- (3) The energy performance certificate and notice must be given not later than five days after the building work has been completed.]

Textual Amendments

F30 Reg. 7A inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), 5

Modifications etc. (not altering text)

- C1** Reg. 7A by applied (with modifications) by S.I. 2010/2215, reg. 20(1)(7) (as amended (6.4.2016) by The Building Regulations &c. (Amendment) Regulations 2016 (S.I. 2016/285), regs. 1(4), **3(3)(c)**)
- C2** Reg. 7A applied (with modifications) by S.I. 2010/2215, reg. 20(1)(7) (as amended (W.) (17.6.2016) by The Building Regulations &c. (Amendment) (Wales) Regulations 2016 (S.I. 2016/611), regs. 1(4), **3** (with reg. 1(3))) (as amended (W.) (25.4.2024) by S.I. 2024/447, regs. 1(1), **3(h)** (with reg. 6))
- C3** Reg. 7A applied (with modifications) (E.) (6.4.2024) by The Building (Registered Building Control Approvers etc.) (England) Regulations 2024 (S.I. 2024/110), regs. 1(3), **5(12)** (with regs. 44-47)

Buildings to be demolished

- 8.**—(1) Regulations 6 and 7 do not apply in relation to a dwelling which is to be sold or rented out where the relevant person can demonstrate that—
- (a) the dwelling is suitable for demolition;
 - (b) the resulting site is suitable for redevelopment;

- (c) all the relevant planning permissions, listed building consents and conservation area consents exist in relation to the demolition; and
 - (d) in relation to the redevelopment—
 - (i) either outline planning permission or planning permission exists, or both; and
 - (ii) where relevant, listed building consent exists.
- (2) Regulation 6 does not apply in relation to any prospective buyer or tenant of a building other than a dwelling which is to be sold or rented out where—
- (a) the relevant person can demonstrate that—
 - (i) the building is to be sold or rented out with vacant possession;
 - (ii) the building is suitable for demolition; and
 - (iii) the resulting site is suitable for redevelopment; and
 - (b) the relevant person believes on reasonable grounds that the prospective buyer or tenant intends to demolish the building.
- (3) Regulation 7 does not apply in relation to a building other than a dwelling which is to be sold or rented out where the relevant person can demonstrate that—
- (a) the building is to be sold or rented out with vacant possession;
 - (b) the building is suitable for demolition;
 - (c) the resulting site is suitable for redevelopment;
 - (d) all the relevant planning permissions, listed building consents and conservation area consents exist in relation to the demolition; and
 - (e) in relation to the development—
 - (i) either outline planning permission or planning permission exists, or both; and
 - (ii) where relevant, listed building consent exists.

Energy performance certificates

9.—(1) [^{F31}Subject to paragraph (6),] an energy performance certificate entered on the register on or after 9th January 2013 must—

- [^{F32}(a) show the asset rating of the building, calculated and expressed in accordance with the methodology approved by the Secretary of State under regulation 24 of the Building Regulations 2010;]
- (b) include a reference value [^{F33}in order to make it possible to compare and assess the energy performance of the building];
- (c) be issued by an energy assessor who is accredited to produce energy performance certificates for the category of building to which the certificate relates;
- (d) include a recommendation report ^{M4} unless there is no reasonable potential for energy performance improvements compared to the energy performance requirements in force;
- (e) include the following information—
 - (i) the reference number under which the set of data from which the certificate may be produced has been entered onto the register in accordance with regulation 27;
 - (ii) the address of the building;
 - (iii) an estimate of the total useful floor area of the building; and
 - (iv) the date on which it was issued; ^{F34}...

[^{F35}(ea) where it relates to a building or a building unit which is a green deal property, include the information specified in Schedule A1 in connection with each green deal plan that has been entered into in respect of that green deal property and for which payments are still to be made under that plan; and]

(f) be valid [^{F36}for the purposes of this Part] in accordance with paragraph (2).

(2) An energy performance certificate is only valid for the purposes of this Part if—

(a) it was entered on the register no more than 10 years before the date on which it is made available; and

(b) no other energy performance certificate for the building has since been entered on the register.

[^{F37}(2A) An energy performance certificate is only valid for the purposes of complying with the green deal disclosure obligations if it was—

(a) issued by an energy assessor; or

(b) produced under regulation 30 pursuant to a request for the disclosure of general access data relating to a green deal property,

no more than twelve months before the date on which the energy performance certificate is provided in connection with those obligations.]

(3) An energy performance certificate must not contain any information or data (except for the address of the building) from which a living individual (other than the energy assessor or his employer) can be identified.

[^{F38}(3A) An energy performance certificate must not contain any information relating to a green deal plan for which the payment period has finished.]

(4) Certification for building units on or after 9th January 2013 may be based—

(a) for a non-residential building, on a common certification of the whole building for blocks with a common heating system; or

(b) on the assessment of another representative [^{F39}building] or unit in the same block..

(5) Certification on or after 9th January 2013 for a building which consists of a single dwelling may be based on the assessment of another representative building of similar design and size with a similar actual energy performance quality if such correspondence is guaranteed by the energy assessor issuing the energy performance certificate.

[^{F40}(6) This regulation does not apply to an energy performance certificate to which regulation 9A applies.]

Textual Amendments

F31 Words in reg. 9(1) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **6(a)(i)**

F32 Reg. 9(1)(a) substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **6(a)(ii)**

F33 Words in reg. 9(1)(b) substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **6(a)(iii)**

F34 Word in reg. 9(1)(e)(iv) omitted (27.1.2013) by virtue of The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **9(2)**

F35 Reg. 9(1)(ea) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **9(3)**

F36 Words in reg. 9(1)(f) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **9(4)**

- F37** Reg. 9(2A) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **9(5)**
- F38** Reg. 9(3A) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **9(6)**
- F39** Word in reg. 9(4)(b) substituted (6.4.2014) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/880), regs. 1(2), **4**
- F40** Reg. 9(6) added (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **6(b)**

Marginal Citations

- M4** “Recommendation report” is defined in regulation 4.

[^{F41}Energy performance certificates in respect of excluded buildings

- 9A.**—(1) This regulation applies where—
- (a) a building in relation to which an energy performance certificate is requested to be issued is an excluded building; and
 - (b) the person who requests the energy performance certificate—
 - (i) notifies the energy assessor (whether in writing or otherwise) that the building is an excluded building; and
 - (ii) requests (whether in writing or otherwise) that the energy performance certificate is issued under this regulation.
- (2) An energy performance certificate issued under this regulation must—
- (a) comply with the requirements set out in subparagraphs (a) to (e) of regulation 9(1), other than the requirement in subparagraph (e)(i) (reference number under which data entered onto register); and
 - (b) be valid for the purposes of this Part in accordance with paragraph (4).
- (3) An energy performance certificate must not contain any information or data (except the address of the building) from which a living individual (other than the energy assessor or energy assessor’s employer) can be identified.
- (4) An energy performance certificate issued under this regulation is only valid for the purposes of this Part if—
- (a) it was issued no more than 10 years before the date on which it is made available; and
 - (b) no other energy performance certificate for the building has since been issued under this regulation or entered onto the register.
- (4) Where this regulation applies, the energy assessor must not enter any data relating to the building onto the register.
- (5) Certification for building units may be based—
- (a) for a non-residential building, on a common certification of the whole building for blocks with a common heating system; or
 - (b) on the assessment of another representative building unit in the same block.
- (6) Certification for a building which consists of a single dwelling may be based on the assessment of another representative building of similar design and size with a similar actual energy performance quality if such correspondence is guaranteed by the energy assessor issuing the energy performance certificate.]

Textual Amendments

- F41** Reg. 9A inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), 7

Display of energy performance certificates

10.—(1) This regulation applies to a building, other than a dwelling, which satisfies all the following requirements—

- (a) it has a total useful floor area of more than 500m²;
- (b) it is frequently visited by the public; and
- (c) an energy performance certificate has been made available in accordance with—
 - (i) regulation 6 [F42 or 7A], or
 - (ii) [F43 in the case of certificate entered on the register before 6th April 2016,] regulation 29(2) M5 of the Building Regulations 2010.

(2) In a building to which this regulation applies, the energy performance certificate must be valid, and must be displayed in a prominent place clearly visible to members of the public who visit the building.

Textual Amendments

- F42** Words in reg. 10(1)(c)(i) added (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), 8(a)
- F43** Words in reg. 10(1)(c)(ii) added (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), 8(b)

Marginal Citations

- M5** Regulation 29 of the Building Regulations 2010 is amended by S.I. 2012/3119.

Statement of energy performance [F44 rating]

11.—(1) This regulation applies to—

- (a) a building having a valid energy performance certificate
- (b) a building unit in such a building, and
- (c) a building unit having a valid energy performance certificate.

(2) Where a building or building unit to which this regulation applies is offered for sale or rent on or after 9th January 2013 the, [F45 relevant person, or, where applicable, a person acting on behalf of the relevant person, must ensure that the][F46 energy performance [F47 rating]] of the building expressed in the energy performance certificate [F48 is] stated in any advertisement of the sale or rental in commercial media.

(3) [F49 In this regulation “energy performance [F50 rating] ” means an indication of the energy efficiency of a building or building unit, calculated using the methodology approved by the Secretary of State under regulation 24 of the Building Regulations 2010 and expressed on a scale of A+ to G, (or A to G in the case of a building that is a dwelling), with G representing the least energy efficient rating.]

Textual Amendments

- F44** Word in reg. 11 heading substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **9(1)(a)**
- F45** Words in reg. 11(2) inserted (6.4.2015) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2015 (S.I. 2015/609), regs. 1(1), **2(2)(a)**
- F46** Words in reg. 11(2) substituted (6.4.2014) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/880), regs. 1(2), **5(a)**
- F47** Word in reg. 11(2) substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **9(1)(b)**
- F48** Word in reg. 11(2) substituted (6.4.2015) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2015 (S.I. 2015/609), regs. 1(1), **2(2)(b)**
- F49** Reg. 11(3) inserted (6.4.2014) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/880), regs. 1(2), **5(b)**
- F50** Word in reg. 11(3) substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **9(1)(b)**

Production of copies of energy performance certificates

12. Where this Part requires a relevant person to give or make available a valid energy performance certificate to any person, it is sufficient for the relevant person to give or make available a copy of a valid certificate.

Electronic service of energy performance certificates

^{F51}**13.**—(1) A document that is made available or given in accordance with the regulations listed in paragraph (2) may be made available or given electronically if the intended recipient consents to receiving it electronically.

(2) Those documents are—

- (a) an energy performance certificate made available in accordance with regulation 6(2);
- (b) an energy performance certificate given in accordance with regulation 6(5);
- (c) an energy performance certificate given in accordance with regulation 7A(2)(a);
- (d) a notice given to a local authority in accordance with regulation 7A(2)(b).]

Textual Amendments

- F51** Reg. 13 substituted (1.10.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2016 (S.I. 2016/888), regs. 1(2), **2(3)**

PART 3

Display Energy Certificates

Duties relating to display energy certificates and recommendation reports

14.—(1) This regulation applies on and after the specified date to buildings occupied by public authorities and frequently visited by the public.

(2) In this regulation the specified date is—

- (a) for buildings with a total useful floor area of over 500m², 9th January 2013; and
 - (b) for buildings with a total useful floor area of between 250m² and ^{F52}... 500m², 9th July 2015.
- (3) Every occupier of a building to which this regulation applies must—
- (a) have in its possession or control at all times a valid recommendation report relating to the building unless there is no reasonable potential for energy performance improvements compared to the energy performance requirements in force; and
 - (b) display at all times a valid display energy certificate in a prominent place clearly visible to members of the public who visit the building.
- (4) A display energy certificate for a building to which this regulation applies is valid for the following period—
- (a) 12 months beginning with the nominated date where the total useful floor area of the building is over 1,000m²; or
 - (b) 10 years beginning with the nominated date in the case of any other building.

Textual Amendments

F52 Words in [reg. 14\(2\)\(b\)](#) deleted (6.4.2014) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/880\)](#), regs. 1(2), **6**

Display energy certificates

15.—^{F53}(1) [^{F54}Subject to paragraph (2),] a display energy certificate [^{F55}issued under this regulation] must—

- ^{F56}(a) subject to regulation 16, show the operational rating of the building, calculated and expressed in accordance with the methodology approved by the Secretary of State under regulation 24 of the Building Regulations 2010, relating to the period of 12 months ending no earlier than three months before the nominated date;]
- (b) show the operational ratings for the building which were [^{F57}shown] in any certificates displayed by the occupier during the two years before the nominated date;
- (c) include a reference value [^{F58}in order to make it possible to compare and assess the energy performance of the building];
- (d) be issued by an energy assessor who is accredited to produce display energy certificates for that category of building;
- (e) include the following information—
 - (i) the reference number under which the set of data from which the certificate may be produced has been entered onto the register in accordance with regulation 27;
 - (ii) the address of the building;
 - (iii) the total useful floor area of the building;
 - (iv) the name of the energy assessor who issued it;
 - (v) the name and address of the energy assessor's employer, or, if he is self-employed, the name under which he trades and his address;
 - (vi) the date on which it was issued;
 - (vii) the nominated date; and

(viii) the name of the approved accreditation scheme of which the energy assessor is a member.

[^{F59}(2) This regulation does not apply to a display energy certificate issued under regulation 15A.]

Textual Amendments

- F53** Reg. 15(1): reg 15 renumbered as 15(1) (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), **10(a)**
- F54** Words in reg. 15(1) inserted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), **10(b)**
- F55** Words in reg. 15 inserted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), **10(c)**
- F56** Reg. 15(1)(a) substituted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), **10(d)**
- F57** Word in reg. 15(1)(b) substituted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), **10(e)**
- F58** Words in reg. 15(1)(c) substituted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), **10(f)**
- F59** Reg. 15(2) inserted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), **10(g)**

[^{F60}Display energy certificates for excluded buildings

15A.—(1) This regulation applies where—

- (a) a building in relation to which a display energy certificate is requested to be issued is an excluded building; and
- (b) the person who requests the display energy certificate—
 - (i) notifies the energy assessor (whether in writing or otherwise) that the building is an excluded building; and
 - (ii) requests (whether in writing or otherwise) that the display energy certificate is issued under this regulation.

(2) A display energy certificate issued under this regulation must comply with the requirements of subparagraphs (a) to (e) of regulation 15(1), other than the requirement in paragraph (e)(i) (reference number under which data entered onto register).

(3) Where this regulation applies, the energy assessor must not enter any data relating to the building onto the register.]

Textual Amendments

- F60** Reg. 15A inserted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), **11**

Change of occupier

16. Regulation 15(a) does not apply in relation to a display energy certificate which is displayed by an occupier of a building at any time before that occupier has been in occupation of the building for 15 months.

PART 4

Inspection of Air-conditioning systems

Application and interpretation of Part 4

17.—(1) This Part applies to air-conditioning systems with an effective rated output of more than 12kW.

(2) Where the relevant person has the power to control the temperature of more than one individual air-conditioning unit in a building, each unit shall be considered to be a component of a single air-conditioning system for the purposes of paragraph (1).

(3) In this Part, “effective rated output” means the maximum calorific output specified and guaranteed by the manufacturer of the system as being deliverable during continuous operation while complying with the useful efficiency indicated by the manufacturer.

Inspections of air-conditioning systems

18.—(1) It is the duty of the relevant person in relation to an air-conditioning system to which this Part applies to ensure that ^{F61}accessible parts of the system are] inspected by an energy assessor at regular intervals not exceeding five years.

(2) The first inspection of the ^{F62}accessible parts of the] system must take place before the relevant date.

(3) In this regulation, “the relevant date”—

- (a) where the system is first put into service on or after 1st January 2008, means the last day of the period of five years beginning with the date on which the system is first put into service; and
- (b) where paragraph (a) does not apply—
 - (i) in the case of a system with an effective rated output of more than 250kW, means 4th January 2009; or
 - (ii) in the case of a system with an effective rated output of more than 12kW, means 4th January 2011.

Textual Amendments

F61 Words in [reg. 18\(1\)](#) substituted (6.4.2015) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2015 \(S.I. 2015/609\)](#), regs. 1(1), **2(3)(a)**

F62 Words in [reg. 18\(2\)](#) inserted (6.4.2015) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2015 \(S.I. 2015/609\)](#), regs. 1(1), **2(3)(b)**

Reports

19.—(1) ^{F63}Subject to paragraph (4),] where an energy assessor undertakes an inspection of the system ^{F64}under regulation 18] he must make a written report of the inspection and give it to the relevant person as soon as practicable after completing the inspection.

(2) The inspection report must include an assessment of the air-conditioning efficiency and the sizing of the system compared to the cooling requirements of the building, and contain appropriate advice on ^{F65}cost-effective improvement to the energy performance of] the system, replacement of the system and alternative solutions.

[^{F66}(2A) The inspection report must consider the capabilities of the air-conditioning system to optimise its performance under typical operating conditions for that system.]

- (3) The inspection report must be in a form including the following information—
- (a) the reference number under which the set of data from which the report may be produced has been entered onto the register in accordance with regulation 27;
 - (b) the address of the building in which the system is located;
 - (c) the name of the energy assessor;
 - (d) the name and address of the energy assessor's employer, or, if such a person is self-employed, the name under which that person trades and their address;
 - (e) the date on which the inspection occurred; and
 - (f) the name of the approved accreditation scheme of which the energy assessor is a member.

[^{F67}(4) This regulation does not apply to inspection reports issued under regulation 19A.]

Textual Amendments

- F63** Words in reg. 19(1) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **12(a)**
- F64** Words in reg. 19(1) inserted (6.4.2015) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2015 (S.I. 2015/609), regs. 1(1), **2(4)(a)**
- F65** Words in reg. 19(2) substituted (6.4.2015) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2015 (S.I. 2015/609), regs. 1(1), **2(4)(b)**
- F66** Reg. 19(2A) inserted (28.12.2020) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2020 (S.I. 2020/1422), regs. 1(2), **3**
- F67** Reg. 19(4) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **12(b)**

[^{F68}Reports in respect of excluded buildings

19A.—(1) This regulation applies where—

- (a) a building in relation to which an inspection report is requested to be issued is an excluded building; and
- (b) the person who requests the inspection report—
 - (i) notifies the energy assessor (whether in writing or otherwise) that the building is an excluded building; and
 - (ii) requests (whether in writing or otherwise) that the inspection report is issued under this regulation.

(2) Where an energy assessor undertakes an inspection of the system under regulation 18 he must make a written report of the inspection and give it to the relevant person as soon as practicable after completing the inspection.

(3) An inspection report issued under this regulation must comply with the requirements of paragraphs (2)[^{F69}, (2A)] and (3) of regulation 19, other than the requirement in paragraph (3)(a) (reference number under which data entered onto register).

(4) Where this regulation applies, the energy assessor must not enter any data relating to the building onto the register.]

Textual Amendments

- F68** Reg. 19A inserted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), **13**
- F69** Word in reg. 19A(3) inserted (28.12.2020) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1422\)](#), regs. 1(2), **4**

Keeping of records etc

20.—(1) The relevant person must keep the most recent inspection report made by an energy assessor pursuant to regulation 19.

(2) Where the relevant person changes, the previous relevant person must give to the new relevant person any inspection report kept by him under this regulation.

Changes of relevant person

21. Where—

- (a) the relevant person changes; and
- (b) the new relevant person is not given any inspection report,

the new relevant person must ensure that the system is inspected within three months of the day on which he becomes the relevant person.

PART 5

Energy Assessors

Accreditation schemes

22.—(1) An energy assessor must be a member of an accreditation scheme approved by the Secretary of State.

(2) The terms of approval of any accreditation scheme may be limited in relation to—

- (a) the categories of building for which members may produce certificates; and
- (b) the types of air-conditioning systems members may inspect.

(3) Before approving an accreditation scheme the Secretary of State must be satisfied that the scheme contains adequate provision—

- (a) for ensuring that members of the scheme carry out consistent and accurate energy assessments in an independent manner;
- (b) for ensuring that members of the scheme are fit and proper persons who are qualified (by their education, training and experience) to carry out energy assessments;
- (c) for requiring members of the scheme to prepare energy performance certificates, display energy certificates, recommendation reports and inspection reports using a standard form for each type of document;
- (d) for ensuring that a code is produced and published as regards the conduct required of its members;
- (e) for indemnity arrangements in relation to relevant persons and prospective or actual buyers or tenants;

- (f) for facilitating the resolution of complaints against members of the scheme;
- [^{F70}(g) for requiring the sets of data from which there may be produced energy performance certificates (other than data relating to a certificate issued under regulation 9A), display energy certificates (other than data relating to a certificate issued under regulation 15A), recommendation reports (other than one to which regulation 27(7) applies) and inspection reports (other than data relating to a certificate issued under regulation 19A) prepared by members of the scheme to be entered onto the relevant register maintained by the Secretary of State pursuant to regulation 27; and]
- (h) for the keeping of a register of the members of the scheme.

Textual Amendments

F70 Reg. 22(3)(g) substituted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/284\)](#), regs. 1(2), 14

Related party disclosures

23. An energy assessor must include in an energy performance certificate or inspection report a declaration of any personal or business relationship (other than in relation to producing the certificate or inspection report) that he has with—

- (a) the person who commissioned the certificate or inspection report;
- (b) any person on whose behalf the certificate or inspection report was commissioned; and
- (c) any person who he believes—
 - (i) has or may have a personal or business relationship with a person referred to in paragraph (a) or (b); or
 - (ii) has or may have an interest in the building.

Duty of care

24.—(1) Energy assessors must carry out energy assessments with reasonable care and skill.

(2) The duty imposed by paragraph (1) shall be enforceable by the following persons—

- (a) the relevant person;
- (b) in the case of an energy performance certificate, any prospective or actual buyer or tenant during the period of validity of the certificate; and
- (c) in the case of a display energy certificate, the occupier of the building.

(3) Any cause of action arising in relation to the duty imposed by paragraph (1) is deemed not to be an action founded on tort for the purposes of the Limitation Act 1980^{M6}.

Marginal Citations

M6 1980 c.58.

Right to copy documents

25. Any person may, for the purpose of complying with any duty imposed by these Regulations, copy or issue a copy of any document produced by an energy assessor.

Meaning of energy assessment

26. In this Part, a reference to “energy assessment” includes a reference to—
- (a) the preparation and issuing of energy performance certificates;
 - (b) the preparation and issuing of display energy certificates;
 - (c) the preparation and issuing of recommendation reports;
 - (d) the preparation and issuing of inspection reports;
 - (e) the carrying out of any inspections undertaken for the purposes of preparing any of the documents referred to in paragraphs (a) to (d).

PART 6

Registration and Disclosure of Data Relating to Certificates and Reports

Registration of certificates etc

27.—(1) ^{F71}Subject to paragraph (6),] the Secretary of State shall maintain one or more registers of data from which the following documents may be produced—

- (a) energy performance certificates;
- (b) display energy certificates; ^{F72}...
- (c) inspection reports^{F73}; and
- (d) recommendation reports]

(2) An energy assessor who issues a document referred to in paragraph (1)(a) or (b) must ensure that the data which, in accordance with the methodology of calculation of the energy performance of buildings approved by the Secretary of State under regulation 24 of the Building Regulations 2010 ^{M7}, was used to calculate any asset rating or operational rating, and to produce the document, is entered onto the relevant register before the assessor gives the document to the person who requested that it be issued.

^{F74}(2A) Where an energy assessor issues an energy performance certificate relating to a green deal property, the data which the assessor must ensure is entered onto the relevant register in accordance with paragraph (2) includes the green deal information relating to that property.]

(3) An energy assessor who issues an inspection report must ensure that the data required by regulation 19(3) to be included in the report is entered onto the relevant register before the assessor gives the document to the relevant person.

(4) Each set of data entered onto the register from which a particular document may be produced—

- (a) shall be registered under a unique reference number; and
- (b) ^{F75}subject to paragraph (4A)] shall not be altered once registered.

^{F76}(4A) The green deal information entered onto the relevant register in respect of a green deal property may be altered in accordance with provision made under section 11(6) of the Energy Act 2011.]

^{F77}(4B) An energy assessor who issues a recommendation report (whether as part of an energy performance certificate under regulation 9(1)(d) or as a separate document) must ensure that the data that is required to be included in the report by regulation 4(2) (recommendation reports) is entered onto the relevant register before the assessor gives the report to the person who requested that it be issued.]

(5) Any data entered on the register must be kept on the register for a period of at least 20 years beginning on the date on which it is entered onto the register.

[^{F78}(6) This regulation does not apply to—

- (a) an energy performance certificate issued under regulation 9A (energy performance certificates in respect of excluded buildings);
- (b) a display energy certificate issued under regulation 15A (display energy certificates in respect of excluded buildings);
- (c) an inspection report issued under regulation 19A (inspection reports in respect of excluded buildings); or
- (d) a recommendation report to which paragraph (7) applies.

(7) This paragraph applies to a recommendation report which—

- (a) is included in an energy performance certificate issued under regulation 9A (energy performance certificates in respect of excluded buildings);
- (b) is issued in relation to a building together with a display energy certificate issued in relation to that building under regulation 15A (display energy certificates in respect of excluded buildings).]

Textual Amendments

- F71** Words in reg. 27(1) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **15(a)(i)**
- F72** Word in reg. 27(1)(b) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **15(a)(ii)**
- F73** Reg. 27(1)(d) and word added (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **15(a)(iii)**
- F74** Reg. 27(2A) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **10(2)**
- F75** Words in reg. 27(4)(b) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **10(3)**
- F76** Reg. 27(4A) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **10(4)**
- F77** Reg. 27(4B) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **15(b)**
- F78** Reg. 27(6)(7) added (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **15(c)**

Marginal Citations

- M7** S.I. 2010/2214.

Fees for entering data onto register

28. The keeper of the register may charge the following fees for entering data onto the register on or after 9th January 2013—

- (a) for entering data from which an energy performance certificate which relates to a dwelling may be produced, a fee of [^{F79}£1.50];
- (b) for entering data from which—
 - (i) an energy performance certificate which relates to a building other than a dwelling,
 - (ii) a display energy certificate, or

(iii) an inspection report,
may be produced, a fee of [^{F80}£1.70].

Textual Amendments

- F79** Sum in Reg. 28(a) substituted (1.4.2022) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/413\)](#), regs. 1(2), **2(2)(a)**
- F80** Sum in Reg. 28(b) substituted (1.4.2022) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/413\)](#), regs. 1(2), **2(2)(b)**

Disclosure of data: general

29.—[^{F81}(1) A person must not disclose data collected under these regulations to any other person unless the disclosure is in accordance with regulation 29A, 30, 30A or 32.]

(2) It is an offence for a person to disclose, or permit the disclosure of, data otherwise than in accordance with paragraph (1).

(3) A person guilty of an offence under paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Textual Amendments

- F81** [Reg. 29\(1\)](#) substituted (24.6.2024) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2024 \(S.I. 2024/640\)](#), regs. 1(2), **3**

[^{F82}Disclosure of assessment data

29A.—(1) The keeper of the register, an accreditation scheme or an energy assessor may disclose assessment data—

- (a) in relation to a particular building, to—
- (i) the owner, landlord or occupier of that building; or
 - (ii) a third party with the consent of a person listed in (i);
- (b) in relation to an air-conditioning system to which Part 4 applies, to the relevant person.

(2) In this regulation “assessment data” means any data held that was collected during an energy assessment, whether or not that data has been entered onto a register but does not include—

- (a) green deal information; or
- (b) the name of an individual.

(3) “Energy assessment” has the meaning given in regulation 26.

(4) This regulation does not apply in relation to excluded buildings.]

Textual Amendments

- F82** [Reg. 29A](#) inserted (24.6.2024) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2024 \(S.I. 2024/640\)](#), regs. 1(2), **4**

Disclosure of general access data

30.—(1) The keeper of the register may disclose general access data [^{F83}which does not relate to a building or a building unit that is a green deal property] to any person if the conditions in paragraph (2) are met.

(2) The conditions are that—

- (a) a request for disclosure of the data to the person has been made by means of a website operated by the keeper;
- (b) the request includes at least one of the following—
 - (i) the full postcode of that building;
 - (ii) the name of the road or street on which, and the name of the city, town, village or parish in which that building is located; or
 - (iii) the report reference number of the valid energy performance certificate that relates to the building^{F84} ... [^{F85}; and]

[^{F86}(c) subject to paragraph (2ZA), no opt-out is in effect in respect of the data.]

[^{F87}(d)

[^{F88}(2ZA) The condition in paragraph (2)(c) does not apply where the request—

- (a) is for data that is required to be included in a display energy certificate; or
- (b) includes the report reference number of the valid energy performance certificate that relates to the building.]

[^{F89}(2A) The keeper of the register may disclose general access data which relates to a building or a building unit which is a green deal property to—

- (a) any person if the conditions in paragraph (2)(a), (b)(iii) [^{F90}and (c)] are met;
- (b) a person who is acting on behalf of another person—
 - (i) who is or may be required to comply with the green deal disclosure obligations; or
 - (ii) to whom an energy performance certificate is required to be provided pursuant to the green deal disclosure obligations,

if the conditions in paragraph (2)(a), (b)(i) or (ii) [^{F91}and (c)] are met.]

(3) In this regulation—

- (a) an opt-out is in effect in respect of data where—
 - (i) the owner or occupier of the building to which the data relates has notified the keeper that the data is not to be disclosed,
 - (ii) the notice was given in writing, or by electronic communication sent to an address or location specified by the keeper for the purpose of the receipt of such notices, and
 - (iii) the notice has not been withdrawn by the owner or occupier (by the means referred to in this sub-paragraph)^{F92}...

[^{F93}(b)

Textual Amendments

F83 Words in [reg. 30\(1\)](#) inserted (27.1.2013) by [The Energy Performance of Buildings \(England and Wales\) etc. \(Amendment\) Regulations 2013](#) (S.I. 2013/10), regs. 1(1), **11(2)**

F84 Word in [reg. 30\(2\)\(b\)](#) omitted (6.4.2016) by virtue of [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016](#) (S.I. 2016/284), regs. 1(2), **17(a)(i)**

- F85** Words in reg. 30(2)(b) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **17(a)(i)**
- F86** Reg. 30(2)(c) substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **17(a)(ii)**
- F87** Reg. 30(2)(d) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **17(a)(iii)**
- F88** Reg. 30(2ZA) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **17(b)**
- F89** Reg. 30(2A) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **11(3)**
- F90** Words in reg. 30(2A)(a) substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **17(c)(i)**
- F91** Words in reg. 30(2A)(b) substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **17(c)(ii)**
- F92** Words in reg. 30(3)(a) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **17(d)(i)**
- F93** Reg. 30(3)(b) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **17(d)(ii)**

[^{F94}Publication of bulk access data on a website

[^{F95}**30A.**—(1) Subject to paragraph (2), the keeper of the register may publish on a website bulk access data relating to any building appearing on the register.

(2) Under this regulation the keeper of the register may not publish the name of an individual or any data in relation to which an opt-out is in effect in accordance with regulation 30(3).]

Textual Amendments

- F94** Reg. 30A inserted (1.6.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(3), **18**
- F95** Reg. 30A(1)(2) substituted (24.6.2024) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2024 (S.I. 2024/640), regs. 1(2), **5**

Disclosure of bulk access data

^{F96}**31.**

Textual Amendments

- F96** Reg. 31 revoked (1.10.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(4), **20**

Disclosure by keeper of register

32.—(1) The keeper of the register may disclose general access data or bulk access data—

(a) to an enforcement authority for the purposes of their duty under regulation 34(2);

[^{F97}(aa) to the building safety regulator for the purposes of its duty under section 91 of the Building Act 1984;]

- (b) to a local authority for the purposes of their duty under section 91 of the Building Act 1984^{M8};
- (c) to ^{F98}a registered building control approver for the purposes of the approver's] functions under Part 2 of the Building Act 1984; or
- (d) for the purpose of—
 - (i) the prevention or detection of crime;
 - (ii) the apprehension or prosecution of alleged offenders;
 - (iii) any proceedings in a court or tribunal; or
 - (iv) complying with an order or a court or tribunal.^{F99}; or
- (e) to the Office for National Statistics for statistical or research purposes]

(2) ^{F100}The keeper of the register] may disclose general access data or bulk access data to the Secretary of State ^{F101}, or to a person acting on behalf of the Secretary of State,] for the purpose of enabling the Secretary of State to carry out any function under or in connection with these Regulations, or for statistical or research purposes.

^{F102}(2A) ^{F103}Where the keeper of the register discloses general access data or bulk access data to the Secretary of State or to the Office for National Statistics for statistical or research purposes, such data may be published by the Secretary of State or the Office of National Statistics (as the case may be) if—]

- (a) the data is published in anonymised form; and
- (b) the data does not include any information revealing the report reference number for an energy performance certificate.

(2B) In paragraph (2A) “anonymised form” means that the data is in a form calculated to prevent the data from being identified as relating to a particular person or building.]

^{F104}(3) The keeper of the register may disclose general access data or bulk access data to—

- (a) the Secretary of State;
- (b) a person acting on behalf of the Secretary of State; or
- (c) the Green Deal Ombudsman,

for the purpose of enabling that person to carry out any function under or in connection with Part 8 of the Green Deal Framework Regulations.

(4) In this regulation, “Green Deal Ombudsman” has the meaning given in regulation 2(1) of the Green Deal Framework Regulations.]

^{F105}(5) The keeper of the register may disclose to a person who operates an accreditation scheme approved by the Secretary of State under regulation 22—

- (a) any document entered onto the register; and
- (b) any associated data.

(6) Any document or data which is disclosed under paragraph (5)—

- (a) may only be disclosed to the operator of the accreditation scheme through which the energy assessor entered the document or data on the register; and
- (b) shall not include any green deal information or any information revealing the report reference number for an energy performance certificate relating to a green deal property.

(7) The keeper of the register may disclose bulk access data, which relates to a dwelling, to—

- (a) the Gas and Electricity Markets Authority (“the Authority”);
- (b) the Secretary of State; and

(c) a person acting on behalf of the Authority or the Secretary of State; for the purposes of enabling the Authority or the Secretary of State to carry out any function in relation to a scheme established under section 100 of the Energy Act 2008.

^{F106}(7A) The keeper of the register may disclose bulk access data which relates to a building to a green deal relevant person if the data is to be used by that person solely for one or more of the following purposes—

- (a) promoting energy efficiency improvements in relation to buildings;
- (b) promoting and marketing energy efficiency improvements that may be made pursuant to a green deal plan;
- (c) determining whether energy efficiency improvements that may be made pursuant to a green deal plan have or have not been made in respect of a particular building or buildings.

(7B) The keeper of the register may disclose bulk access data which relates to a building to the Secretary of State, or to a person acting on behalf of the Secretary of State, for one or more of the following purposes—

- (a) the carrying out of any function of the Secretary of State under—
 - (i) sections 33BC (promotion of reductions in carbon emissions: gas transporters and gas suppliers) or 33BD (promotion of reductions in home-heating costs: gas transporters and gas suppliers) of the Gas Act 1986,
 - (ii) sections 41A (promotion of reductions in carbon emissions: electricity distributors and electricity suppliers) or 41B (promotion of reductions in home-heating costs: electricity distributors and electricity suppliers) of the Electricity Act 1989,
 - (iii) the Green Deal Framework Regulations, or
 - (iv) the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015;
- (b) promoting energy efficiency improvements in relation to buildings.

(7C) The keeper of the register may disclose bulk access data which relates to a building to the Gas and Electricity Markets Authority, or to a person acting on behalf of the Authority, for one or more of the following purposes—

- (a) the carrying out of any functions of the Authority under the Electricity and Gas (Energy Company Obligation) Order 2014;
- (b) promoting energy efficiency improvements in relation to buildings.]

(8) Any data disclosed under paragraph (7) [^{F107}, (7A), (7B) or (7C)] shall not include any—

- ^{F108}(a)
- (b) information revealing the address or postcode of an identifiable person where an opt-out has effect under regulation 30.]

Textual Amendments

- F97** Reg. 32(1)(aa) inserted (1.10.2023) by [The Building Regulations etc. \(Amendment\) \(England\) Regulations 2023](#) (S.I. 2023/911), regs. 1(2), **19(2)** (with regs. 22-24)
- F98** Words in reg. 32(1)(c) substituted (E.) (6.4.2024) by [The Building \(Registered Building Control Approvers etc.\) \(England\) Regulations 2024](#) (S.I. 2024/110), regs. 1(3), **39(1)** (with reg. 39(2)); and (W.) (25.4.2024) by [The Building Safety Act 2022 \(Commencement No. 5 and Consequential Amendments\) \(Wales\) Regulations 2024](#) (S.I. 2024/447), regs. 1(1), **5** (with reg. 6)

- F99** Reg. 32(1)(e) and word inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **21(a)**
- F100** Words in reg. 32(2) substituted (6.4.2018) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2018 (S.I. 2018/362), regs. 1(2), **5(a)**
- F101** Words in reg. 32(2) inserted (6.4.2018) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2018 (S.I. 2018/362), regs. 1(2), **5(b)**
- F102** Reg. 32(2A)(2B) inserted (6.4.2014) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/880), regs. 1(2), **8(a)**
- F103** Words in reg. 32(2A) substituted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **21(b)**
- F104** Reg. 32(3)(4) inserted (27.1.2013) by The Energy Performance of Buildings (England and Wales) etc. (Amendment) Regulations 2013 (S.I. 2013/10), regs. 1(1), **13**
- F105** Reg. 32(5)-(8) inserted (6.4.2014) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/880), regs. 1(2), **8(b)**
- F106** Reg. 32(7A)-(7C) inserted (1.10.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2016 (S.I. 2016/888), regs. 1(2), **2(5)(a)**
- F107** Words in reg. 32(8) inserted (1.10.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2016 (S.I. 2016/888), regs. 1(2), **2(5)(b)**
- F108** Reg. 32(8)(a) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **21(c)**

Marginal Citations

- M8** 1984 c.55. Section 91 was amended by Schedule 17 to the Local Government Act 1985 (c.51).

Fee for disclosure of bulk access data

^{F109}**33.**

Textual Amendments

- F109** Reg. 33 revoked (1.10.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **22**

PART 7

Enforcement

Enforcement authorities

34.—(1) Every local weights and measures authority is an enforcement authority for the purpose of this Part.

(2) It is the duty of each enforcement authority to enforce in their area the duties under regulations 6(2), 6(5), 7(2), 7(3), 7(4), 7(5) [^{F110}, 7A(2), 7A(3)], [^{F111}10(2), 11(2)] 14(3), 18(1), 20, 21 and 35(5)^{F112}....

^{F113}(3)

^{F113}(4)

^{F113}(5)

Textual Amendments

- F110** Words in reg. 34(2) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **23(a)(i)**
- F111** Words in reg. 34(2) inserted (6.4.2014) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/880), regs. 1(2), **9**
- F112** Words in reg. 34(2) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **23(a)(ii)**
- F113** Reg. 34(3)-(5) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **23(b)**

[F114] Enforcement and local authority buildings

34A.—(1) This regulation applies in relation to all buildings in respect of which a local authority is subject to a duty under any of regulations 6(2), 6(5), 7(2), 7(3), 7(4), 7(5) [F115, 7A(2), 7A(3)], 10(2), 11(2), 14(3), 18(1), 20, 21 and 35(5)^{F116}... (“local authority buildings”).

(2) The local weights and measures authority for an area (“Authority 1”) must agree in writing with the local weights and measures authority for another area (“Authority 2”) that Authority 2 will enforce regulations 6(2), 6(5), 7(2), 7(3), 7(4), 7(5) [F117, 7A(2), 7A(3)], 10(2), 11(2), 14(3), 18(1), 20, 21 and 35(5)^{F118}... in respect of local authority buildings in the area of Authority 1.

(3) Once an agreement made under paragraph (2) comes into effect—

- (a) it is the duty of Authority 2 to enforce regulations 6(2), 6(5), 7(2), 7(3), 7(4), 7(5) [F119, 7A(2), 7A(3)], 10(2), 11(2), 14(3), 18(1), 20, 21 and 35(5)^{F120}... in respect of local authority buildings in the area of Authority 1; and
- (b) Authority 1 must publish that fact.

(4) Authority 1 must notify an agreement made under paragraph (2) to the Secretary of State in writing.

(5) An agreement under paragraph (2) may relate to part only of the area of Authority 1, but in that case Authority 1 must make one or more other agreements under that paragraph to ensure that there are such agreements in place in respect of the whole of its area.

(6) Where more than one agreement under paragraph (2) is in place in respect of the area of Authority 1—

- (a) the references to Authority 2 in paragraph (3) apply to each authority with which Authority 1 has made such an agreement, but only within the part of the area of Authority 1 to which the agreement relates; and
- (b) Authority 1 must publish information in relation to every such agreement in accordance with paragraph (3)(b), and notify every such agreement to the Secretary of State in accordance with paragraph (4), stating in each case the part of its area to which the agreement relates.

(7) Every local weights and measures authority must have complied with paragraphs (2), (3)(b) and (4) by the end of the period of three months beginning on the day after these Regulations come into force, or, if it is not reasonably practicable to do so within that time, as soon as is reasonably practicable after that time.

^{F121}(8)

Textual Amendments

- F114** Regs. 34A-34C inserted (9.11.2015) by The Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2015 (S.I. 2015/1681), regs. 1(1), **2(3)**
- F115** Words in reg. 34A(1) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **24(a)(i)**
- F116** Words in reg. 34A(1) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **24(a)(ii)**
- F117** Words in reg. 34A(2) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **24(b)(i)**
- F118** Words in reg. 34A(2) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **24(b)(ii)**
- F119** Words in reg. 34A(3)(a) inserted (6.4.2016) by The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **24(c)(i)**
- F120** Words in reg. 34A(3)(a) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **24(c)(ii)**
- F121** Reg. 34A(8) omitted (6.4.2016) by virtue of The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284), regs. 1(2), **24(c)(iii)**

Enforcement plans

34B.—(1) Every enforcement authority must ensure that it collects sufficient information concerning the buildings for which it has enforcement duties under regulations 34(2) and 34A(3) to enable it to plan effective enforcement action under this Part.

(2) Enforcement action under this Part must be planned in accordance with guidance issued by the Secretary of State.

Textual Amendments

- F114** Regs. 34A-34C inserted (9.11.2015) by The Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2015 (S.I. 2015/1681), regs. 1(1), **2(3)**

Annual reports by enforcement authorities

34C.—(1) Every enforcement authority must make and keep a record of all action that it takes under this Part.

(2) Every enforcement authority must make in respect of every financial year of the authority a report (“the annual report”) to the Secretary of State on the actions that it has taken under this Part during that year.

(3) The annual report must—

- (a) be made by the end of the period of two months beginning on the day after the end of the financial year concerned.
- (b) be in a form and contain information in accordance with guidance issued by the Secretary of State;
- (c) identify such agreements as the enforcement authority has entered into with any other enforcement authority under regulation 34A(2) to act as enforcement authority in relation to local authority buildings in the area of either; and
- (d) state any changes in the responsibility of enforcement authorities under such agreements.

(4) A report made under this paragraph may be published by the enforcement authority by which it is made or by the Secretary of State.]

Textual Amendments
F114 Regs. 34A-34C inserted (9.11.2015) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) \(No. 2\) Regulations 2015](#) (S.I. 2015/1681), regs. 1(1), **2(3)**

Power to require production of documents

35.—(1) An authorised officer of an enforcement authority may require a person who appears to him to be or to have been subject to any of the duties under regulation 6 [^{F122}, 7A], 14(3), 18(1) or 20^{F123}... to produce for inspection a copy of—

- (a) a valid energy performance certificate;
- (b) a recommendation report; or
- (c) an inspection report.

(2) An authorised officer of an enforcement authority may require a person who appears to him to have been subject to the duty under regulation 7(3) to produce for inspection a copy of any request made in accordance with regulation 7(6)(d).

(3) The powers conferred by paragraphs (1) and (2) include power to take copies of any document produced for inspection.

(4) A requirement under this regulation may not be imposed more than six months after the last day on which the person concerned was subject to such a duty in relation to the building.

(5) It is the duty of a person subject to such a requirement to comply with it within the period of seven days beginning with the day after that on which it is imposed.

(6) A person is not required to comply with such a requirement if he has a reasonable excuse for not complying with the requirement.

- ^{F124}(7)
- ^{F124}(8)
- ^{F124}(9)

Textual Amendments
F122 Words in [reg. 35\(1\)](#) inserted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016](#) (S.I. 2016/284), regs. 1(2), **25(a)(i)**
F123 Words in [reg. 35\(1\)](#) omitted (6.4.2016) by virtue of [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016](#) (S.I. 2016/284), regs. 1(2), **25(a)(ii)**
F124 [Reg. 35\(7\)-\(9\)](#) omitted (6.4.2016) by virtue of [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016](#) (S.I. 2016/284), regs. 1(2), **25(b)**

Penalty charge notices

36.—(1) An authorised officer of an enforcement authority may, if he believes that a person has committed a breach of any duty under regulation 6(2), 6(5), 7(2), 7(3), 7(4), 7(5) [^{F125}, 7A(2), 7A(3)], [^{F126}10(2), 11(2)] 14(3), 18(1), 20, 21, or 35(5), ^{F127}... give a penalty charge notice to that person.

(2) A penalty charge notice may not be given after the end of the period of six months beginning with the day (or in the case of a continuing breach the last day) on which the breach of duty was committed.

(3) A penalty charge notice must—

- (a) state the officer's belief that the person has committed a breach of duty;
- (b) give such particulars of the circumstances as may be necessary to give reasonable notice of the breach of duty;
- (c) require that person, within a period specified in the notice—
 - (i) to pay a penalty charge specified in the notice; or
 - (ii) to give notice to the enforcement authority that he wishes the authority to review the notice;
- (d) state the effect of regulation 41;
- (e) specify the person to whom and the address at which the penalty charge may be paid and the method or methods by which payment may be made; and
- (f) specify the person to whom and the address at which a notice requesting a review may be sent (and to which any representations relating to the review may be addressed).

(4) The period specified under paragraph (3)(c) must not be less than 28 days beginning with the day after that on which the penalty charge notice was given.

(5) The enforcement authority may extend the period for complying in any particular case if they consider it appropriate to do so.

(6) The enforcement authority may, if they consider that the penalty charge notice ought not to have been given, give the recipient a notice withdrawing the penalty charge notice.

(7) The enforcement authority must withdraw a penalty charge notice where the recipient can demonstrate that—

- (a) he took all reasonable steps and exercised all due diligence to avoid breaching the duty; or
- (b) regulation 37 (defence) applies.

^{F128}(8)

^{F128}(9)

^{F128}(10)

Textual Amendments

F125 Words in [reg. 36\(1\)](#) inserted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016](#) (S.I. 2016/284), regs. 1(2), **26(a)(i)**

F126 Words in [reg. 36\(1\)](#) inserted (6.4.2014) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2014](#) (S.I. 2014/880), regs. 1(2), **11(a)**

F127 Words in [reg. 36\(1\)](#) omitted (6.4.2016) by virtue of [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016](#) (S.I. 2016/284), regs. 1(2), **26(a)(ii)**

F128 [Reg. 36\(8\)-\(10\)](#) omitted (6.4.2016) by virtue of [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016](#) (S.I. 2016/284), regs. 1(2), **26(b)**

Defence when energy performance certificate unobtainable

37.—(1) A relevant person shall not be liable to a penalty charge notice for a breach of the duty imposed by regulation 6 where he can demonstrate that—

- (a) he is not a person to whom the duty under regulation 7(2) previously applied and he made a request for an energy performance certificate as soon as possible after he became subject to the duty, and, despite all reasonable efforts and enquiries by the relevant person, he did not have in his possession or control a valid energy performance certificate at the relevant time; or
 - (b) in the case of a failure to make available an energy performance certificate to a prospective tenant—
 - (i) the prospective tenant was seeking to rent the building due to an emergency which required the tenant's urgent relocation;
 - (ii) at the relevant time the relevant person did not have in his possession or control a valid energy performance certificate;
 - (iii) there was insufficient time in which the relevant person could reasonably have been expected to obtain a certificate before renting out the building to the prospective tenant; and
 - (iv) the relevant person has given a valid energy performance certificate to the tenant as soon as reasonably practicable after renting out the building.
- (2) A relevant person shall not be liable to a penalty charge notice for a breach of the duty imposed by regulation 6 where he can demonstrate that—
- (a) he is a person to whom the duty under regulation 7(2) applies;
 - (b) he complied with that duty; and
 - (c) despite all reasonable efforts and enquiries by the relevant person he did not have in his possession or control a valid energy performance certificate at the relevant time.
- (3) In paragraph (1)(a) the reference to a request is to a request properly addressed to a person who usually provides or is likely to provide an energy performance certificate for the category of building in question and which includes such payment or an undertaking to make such payment as is usually necessary to obtain an energy performance certificate.
- (4) In this regulation, “relevant time” means the point in time by which the relevant person is required to have made an energy performance certificate available to a prospective buyer or tenant by virtue of regulation 6(2).

Penalty amount

- 38.**—(1) The penalty charge specified in the notice shall be—
- (a) in relation to a breach of a duty under regulation 6(2), 6(5), 7(2), 7(3), 7(4), [F1297(5), 7A(2), or 7A(3)] —
 - (i) where the building is a dwelling, £200;
 - (ii) where the building is not a dwelling, calculated in accordance with the formula in paragraph (2);
 - (b) in relation to a breach of a duty under regulation 14(3)(a), £1000;
 - (c) in relation to a breach of a duty under regulation [F13010(2) or] 14(3)(b), £500;
 - (d) in relation to a breach of a duty under regulation 18(1), 20(1), 20(2) or 21, £300; and
 - (e) in relation to a breach of a duty under regulation [F13111(2) or] 35(5), £200.
- (2) Subject to the minimum and maximum penalty charges prescribed by paragraph (3), the penalty charge for the purposes of paragraph (1)(a)(ii) shall be—
- (a) where the building constitutes a hereditament, 12.5% of the rateable value of the hereditament;

- (b) where no other building (other than a building which is exempt from Part 2 by virtue of—
 - (i) regulation 5(1)(a), (b), (d) or (e), or
 - (ii) for a building which is not a dwelling, regulation 5(1)(c) or (g)),
forms a part of the same hereditament, 12.5% of the rateable value of the hereditament of which the building forms a part;
 - (c) where the building comprises more than one hereditament, 12.5% of the sum of the rateable values of each hereditament that comprise the building; and
 - (d) where—
 - (i) one or more buildings (other than a building which is exempt from Part 2 by virtue of—
 - (aa) regulation 5(1)(a), (b), (d) or (e), or
 - (bb) for a building which is not a dwelling, regulation 5(1)(c) or (g))
form part of the same hereditament; or
 - (ii) the building is not, or does not form part of, a hereditament which appears on a local non-domestic rating list at the relevant time,
£750.
- (3) The minimum and maximum penalty charges for the purposes of paragraph (2) are £500 and £5000 respectively.

^{F132}(4)

- (5) In this regulation the following definitions also apply—
- “hereditament” means a hereditament which, pursuant to section 42 of the Local Government Finance Act 1988 ^{M9}, is shown on a local non-domestic rating list in force at the relevant time;
 - “local non-domestic rating list” means a local non-domestic rating list maintained in accordance with section 41 ^{M10} of the Local Government Finance Act 1988;
 - “rateable value” means the rateable value shown for a hereditament on a local non-domestic rating list at the relevant time; and
 - “relevant time” means the time at which the penalty charge notice is given.

Textual Amendments

- F129** Words in [reg. 38\(1\)](#) substituted (6.4.2016) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016](#) (S.I. 2016/284), [regs. 1\(2\)](#), [27\(a\)\(i\)](#)
- F130** Words in [reg. 38\(1\)\(c\)](#) inserted (6.4.2014) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2014](#) (S.I. 2014/880), [regs. 1\(2\)](#), [12\(a\)](#)
- F131** Words in [reg. 38\(1\)\(e\)](#) inserted (6.4.2014) by [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2014](#) (S.I. 2014/880), [regs. 1\(2\)](#), [12\(b\)](#)
- F132** [Reg. 38\(4\)](#) omitted (6.4.2016) by virtue of [The Energy Performance of Buildings \(England and Wales\) \(Amendment\) Regulations 2016](#) (S.I. 2016/284), [regs. 1\(2\)](#), [27\(a\)\(ii\)](#)

Marginal Citations

- M9** [1988 c.41](#). Section 42 was amended by Schedule 5 to the [Local Government and Housing Act 1989](#) ([c.42](#)).
- M10** [Section 41](#) of this Act was amended by Schedule 5 to the [Local Government and Housing Act 1989](#), Schedule 13 to the [Local Government Finance Act 1992](#) ([c.14](#)), and section 60(1) of the [Local Government Act 2003](#) ([c.26](#)).

Reviews

39.—(1) If, within the period specified under regulation 36(3)(c) (or that period as extended under regulation 36(5)), the recipient of the penalty charge notice gives notice to the enforcement authority requesting a review, the authority shall—

- (a) consider any representations made by the recipient and all other circumstances of the case;
- (b) decide whether to confirm or withdraw the notice; and
- (c) give notice of their decision to the recipient.

(2) A notice confirming the penalty charge notice must also state the effect of regulations 40 and 41.

(3) If the authority are not satisfied that—

- (a) the recipient committed the breach of duty specified in the notice;
- (b) the notice was given within the time allowed by regulation 36(2) and complies with the other requirements imposed by these Regulations; and
- (c) in the circumstances of the case it was appropriate for a penalty charge notice to be given to the recipient,

they shall withdraw the penalty charge notice.

Appeal to the county court

40.—(1) If, after a review, the penalty charge notice is confirmed by the enforcement authority, the recipient may, within the period of 28 days beginning with the day after that on which the notice under regulation 39(1)(c) is given, appeal to the county court against the penalty charge notice.

(2) The county court may extend the period for appealing against the notice.

(3) Such an appeal must be on one (or more) of the following grounds—

- (a) that the recipient did not commit the breach of duty specified in the penalty charge notice;
- (b) that the notice was not given within the time allowed by regulation 36(2) or does not comply with any other requirement imposed by these Regulations; or
- (c) that in the circumstances of the case it was inappropriate for the notice to be given to the recipient.

(4) An appeal against a penalty charge notice shall be by way of a rehearing; and the court shall either uphold the notice or quash it.

(5) If the penalty charge notice is withdrawn or quashed, the authority shall repay any amount previously paid as a penalty charge in pursuance of the notice.

Recovery of penalty charges

41.—(1) The amount of the penalty charge is recoverable from the recipient of the penalty charge notice as a debt owed to the authority unless—

- (a) the notice has been withdrawn or quashed; or
- (b) the charge has been paid.

(2) Proceedings for the recovery of the penalty charge may not be commenced before the end of the period mentioned in regulation 39(1).

(3) If within that period the recipient of the penalty charge notice gives notice to the authority that he wishes the authority to review the penalty charge notice, such proceedings may not be commenced—

- (a) before the end of the period mentioned in regulation 40(1); and

- (b) where the recipient appeals against the penalty charge notice, before the end of the period of 28 days beginning with the day on which the appeal is withdrawn or determined.
 - (4) In proceedings for the recovery of the penalty charge, a certificate which—
 - (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the enforcement authority; and
 - (b) states that payment of the penalty charge was or was not received by a date specified in the certificate,
- is evidence of the facts stated.

Service of documents

- 42.**—(1) A penalty charge notice and any other notice mentioned in this Part may be given by post.
- (2) Any such notice may be given—
 - (a) in the case of a body corporate, to the secretary or clerk of that body; and
 - (b) in the case of a partnership, to any partner or to a person having control or management of the partnership business.

Offences relating to enforcement officers

- 43.**—(1) A person who obstructs an officer of an enforcement authority acting in pursuance of regulation 35 is guilty of an offence.
- (2) A person who, not being an authorised officer of an enforcement authority, purports to act as such in pursuance of this Part is guilty of an offence.
 - (3) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART 8

Miscellaneous

Application to the Crown

- 44.**—(1) Subject to paragraph (2), these Regulations, other than regulation 45(2)(a), bind the Crown.
- (2) No act or omission by or on behalf of the Crown shall constitute an offence or make the Crown liable to a penalty charge notice under these Regulations, but the High Court may, on the application of an enforcement authority, declare unlawful any act or omission of the Crown which constitutes a contravention of these Regulations.

Duty to cooperate

- 45.**—(1) This regulation applies where these Regulations impose a duty on a person to—
 - (a) make available, give or display an energy performance certificate or a display energy certificate in relation to a building; or
 - (b) ensure an air-conditioning system is inspected.
- (2) It shall be the duty of every person with an interest in, or in occupation of, the building to—

- (a) allow such access to any energy assessor appointed by the person referred to in paragraph (1) (“the responsible person”) as is reasonably necessary to inspect the building for the purposes of—
 - (i) preparing an energy performance certificate;
 - (ii) preparing a display energy certificate;
 - (iii) preparing a recommendation report; or
 - (iv) inspecting an air-conditioning system; and
- (b) cooperate with the responsible person so far as is reasonably necessary to enable him to comply with the duty referred to in paragraph (1).

Revocations

46. The Regulations specified in the first column of the table in Schedule 3 are revoked to the extent specified in relation to each in the third column of that table.

Review

- 47.—(1) Before the end of each review period, the Secretary of State must—
- (a) carry out a review of these Regulations;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings of 19th May 2010 (recast) is implemented in other member States.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) “Review period” means—
- (a) the period of five years beginning with the day on which these Regulations come into force; and
 - (b) subject to paragraph (5), each successive period of five years.
- (5) If a report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

Signed by the authority of the Secretary of State for the Department for Communities and Local Government

Department for Communities and Local
Government

Don Foster
Parliamentary Under Secretary of State

Changes to legislation:

There are currently no known outstanding effects for the The Energy Performance of Buildings (England and Wales) Regulations 2012.