

## EXPLANATORY MEMORANDUM TO

### The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2014

2014 No. 43

#### 1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Finance and Personnel to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

#### 2. Purpose

- 2.1. These Regulations amend the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 (“the Principal Regulations”). The Principal Regulations implemented the provisions of Articles 7, 9 and 10 of Directive 2002/91/EC of the European Parliament of 16 December 2002 on the energy performance of buildings (“the 2002 Directive”).
- 2.2. These Regulations implement the requirements of Articles 2(9), 11(2)(a), 11(2)(b), 11(3) and 13(2) of the European Parliament of 19 May 2010 on the energy performance of buildings 2010/31/EU (“the recast Directive”). The Principal Regulations are amended as follows:
  - Amends or inserts new definitions to clarify terms in the new regulation on recommendation reports.
  - Recommendation reports shall include cost-effective measures that could be carried out with and without major renovations.
  - Cost-effective measures recommended by the energy assessor must be technically feasible.
  - Where an Energy Performance Certificate (EPC) has been issued for a building on construction and the building has a total useful floor area greater than 500 metres squared and is frequently visited by members of the public, that a copy of the EPC must be displayed in a prominent position clearly visible to the public.

#### 3. Background

- 3.1. The 2002 Directive came into force on 16 December 2002. Its objective was to promote the improvement of the energy performance of buildings within the European Union taking into account outdoor climatic and local conditions as well as indoor climate requirements and cost-effectiveness.
- 3.2. The recast Directive came into force on 19 May 2010. The purpose of the recast is to extend the scope of the original Directive, strengthen certain provisions, and clarify other aspects. It also gives the public sector a lead role in improving the energy efficiency of its building stock.

- 3.3. In the United Kingdom, transposition of the recast Directive was taken forward on a regional basis as a significant part of compliance required an amendment to building regulations which is a devolved responsibility. England and Wales, Scotland and Northern Ireland each set their own building regulations.
- 3.4. These Regulations implement a small number of Articles in the recast Directive.

#### **4. Consultation**

- 4.1. Public consultation ran from 10th December 2013 to 4th February 2014. A total of 242 notifications of the proposals were issued, and 15 responses were received. The majority of respondents were in favour of the proposals. The main area on which respondents commented was the definition of “building element”. The Department has taken account of these views and amended the definition to include windows, doors, roof windows or roof lights.

#### **5. Equality Impact**

- 5.1. The regulations have been screened out of the Equality Impact Programme as they apply to everyone across the board, irrespective of Section 75 status.

#### **6. Regulatory Impact**

- 6.1. The Department considers that, given the nature of the proposals, there will be no costs or no savings, or negligible costs or savings on business, charities, social economy enterprises or the voluntary sector.
- 6.2. The Department does not consider that the proposals will place any further significant impact on enforcement officers in carrying out their duties. District councils already have a statutory duty to enforce the regulations within their district. Assessors and district councils will have to bear the minimal cost of learning and understanding the impact of the minor changes brought about by the proposed SR. They should not entail any new skills as the Department anticipates that any minimal costs will relate to initial familiarisation/training costs. The Department also considers that the Energy Performance of Buildings Team in Belfast City Council, which is grant funded by the Department, will assist councils in this area.
- 6.3. A Regulatory Impact Assessment for the proposed SR is therefore unnecessary.

#### **7. Financial Implications**

- 7.1. None.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. It is the view of the Department that the amended Regulations are compatible with section 24 of the Northern Ireland Act 1998.

#### **9. EU Implications**

- 9.1. These Regulations introduce the minimum requirements necessary to implement Articles 2(9), 11(2)(a), 11(2)(b), 11(3) and 13(2) of the recast

Energy Performance of Buildings Directive 2010/31/EU. A transposition note has been prepared.

**10. Parity or Replicatory Measure**

- 10.1. The regulations mirror amendments introduced in England, Wales and Scotland.

**11. Additional Information**

- 11.1. Not applicable.