

## **EXPLANATORY MEMORANDUM TO**

### **The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2021**

**2021 No. 72**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Finance to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under paragraph 7(2) of Schedule 4 and paragraph 12(3) of Schedule 7 to the European Union (Withdrawal) Act 2018 (“the 2018 Act”) and is subject to the draft affirmative resolution procedure.

#### **2. Purpose**

- 2.1. These Regulations amend the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 SR 2008 No 170 (as amended) (“the principal Regulations”), which came into operation on 30 June 2008. The overall objective of the principal Regulations is to promote awareness of the energy efficiency of buildings through the production and display of certificates and reports.
- 2.2. The Regulations made under this Statutory Rule allow new fees to be set for entering data onto the Northern Ireland Energy Performance Certificate (EPC) Register for the production and display of certificates and reports.

#### **3. Background**

- 3.1. The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 originally implemented parts of Directive 2002/91/EC on the Energy Performance of Buildings which came into force on 16 December 2002. This Directive’s objective was to promote the improvement of the energy performance of buildings within the European Community taking into account outdoor climatic and local conditions as well as indoor climate requirements and cost-effectiveness.
- 3.2. The recast EU Directive 2010/31/EU on the Energy Performance of Buildings (“the Directive”) came into force on 19 May 2010. The purpose of the Directive is to extend the scope of the original 2002 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. Articles 2(1), 2(3), 2(4), 2(8), 2(9), 2(12), 2(15), 2(17), 3, 11(1), 11(2), 11(3), 11(4), 11(8), 12, 13, 15(1), 15(3), 16, 17, 18(1), 20 and 27 of the Directive are implemented through the principal Regulations.
- 3.3. In the United Kingdom, transposition of the 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, Wales, Scotland and Northern Ireland each set their own building regulations.

- 3.4. From the introduction of the original principal Regulations in 2008 the same fee charges that are set in the equivalent Regulations in England and Wales have been charged in Northern Ireland through a joint contract arrangement. The current fee, set in 2018, is £1.86 for domestic and £9.84 for non-domestic lodgements.
- 3.5. Domestic legislation that was derived from European Union law, as it had effect in domestic law immediately before exit day, was saved by the European Union (Withdrawal) Act 2018 and continues to have effect in domestic law as retained EU law. Paragraph 7(2) of Schedule 4 of that Act provides authority to make regulations altering the fees to be charged under regulations that form part of retained EU law.

#### **4. Consultation**

- 4.1. As these regulatory changes are considered to be of no, or minimal impact, with no change to existing working practices, a formal public consultation has not been undertaken.

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

- 5.1. The Department of Finance has considered Section 75 and is of the opinion that there is no undue impact on Section 75 groups and therefore no mitigation is required and no change to policy is required.

#### **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 impact on Accreditation schemes and their Energy assessors, in the production and display of certificates and reports.
- 6.3. The Department does not consider that the proposals will place any further significant impact on District Councils in carrying out a statutory duty to enforce the regulations within their district.

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

- 7.1. There are no Financial Implications in transposing these Articles into Northern Ireland legislation.

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

- 8.1. The Department has considered and is content that the nature of these Articles and their transposition does not contradict Section 24 of the Northern Ireland Act 1998

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

- 9.1. Not applicable.

#### **10. Parity or Replicatory Measure**

- 10.1. In England and Wales the corresponding Statutory Instrument is the Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2021, which is due to come into force on 1st April 2021. The

proposed Statutory Rule will mirror its amendments in relation to allowing new fees to be set.

**11. Additional Information**

11.1. Not applicable.