

EXPLANATORY MEMORANDUM TO
THE ENERGY PERFORMANCE OF BUILDINGS (CERTIFICATES AND
INSPECTIONS) (ENGLAND AND WALES) (AMENDMENT NO. 2)
REGULATIONS 2007

2007 No. 3302

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument amends the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991) (“the principal regulations”). The amendments are to the commencement dates of various requirements of the principal regulations. The principal regulations were amended previously by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2007 (S.I. 2007/1669).

2.2 The principal regulations implemented Articles 7, 9 and 10 of the Energy Performance of Buildings Directive (“the Directive”), which relate to energy performance certificates (“EPCs”) on the sale, renting out and construction of buildings.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The background to the principal regulations was covered fully in the Explanatory Memorandum which accompanied them.

4.2 A copy of the Directive can be found at http://eur-lex.europa.eu/LexUriServ/site/en/oj/2003/l_001/l_00120030104en00650071.pdf

4.3 The transposition note for the Directive is attached in a revised form, showing the amendments made by these Regulations.

4.4 The principal regulations, so far as relevant to these amendments:

a. require that an EPC, and a report providing recommendations as to how the energy efficiency of the building can be improved is made available to a

prospective buyer or tenant on the sale or rent respectively of a building (regulations 5 and 10);

b. amend the Building Regulations 2000¹ to revoke the previous regulations which required an energy rating to be calculated wherever new dwellings are created, and replace them with regulations requiring that an EPC and recommendation report be produced for all new buildings once construction work is complete;

c. provide for a phased commencement of the duty to provide an EPC on sale or rent, with the first phases relating to cases where a building is sold or rented on a long lease in circumstances where section 155(1) or 159(2) of the Housing Act 2004 imposes a duty to provide a home information pack (regulation 1(4) and Schedule 1);

d. provide for certain public sector organisations occupying public buildings with more than 1000m² floor area to display a display energy certificate (“DEC”); in relation to their accommodation.

e. require EPCs and DECs to be issued by accredited energy assessors (regulations 11(1)(c) and 17(1)(d));

f. provide for the creation of a register of EPCs and DECs .

4.5 When the previous amendments were made to the principal regulations it was intended that:

- a. the requirement for EPCs on the construction of new dwellings would be introduced on 1 January 2008;
- b. the requirement for EPCs on existing buildings other than dwellings over 500m² would be introduced on 6 April 2008;
- c. the requirement for EPCs on the construction of commercial buildings would be introduced on 6 April 2008; and
- d. the requirement for DECs would be introduced on 6 April 2008, with modifications for buildings which had had a change of occupier within the 15 months prior to that.

4.6 For reasons set out in section 7 below, it is now necessary to amend those commencement dates as follows:

- a. the requirement for EPCs on the construction of new dwellings will now be introduced on 6 April 2008;
- b. the requirement for EPCs on the construction, sale or letting of buildings other than dwellings over 10,000m² will now be introduced on 6 April 2008;
- c. the requirement for EPCs on the construction, sale or letting of buildings other than dwellings over 2,500m² will now be introduced on 1 July 2008;

¹ S.I. 2000/2531, as amended by S.I. 2006/652.

d. the requirement for EPCs on the construction, sale or letting of all other existing buildings will now be introduced on 1 October 2008; and
e. the requirement for DEC's will now be introduced on 1 October 2008, with modifications for buildings which have had a change of occupier within the 15 months prior to that date.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Directive had to be transposed into national legislation by 4 January 2006, but it allows EU Member States a three year derogation period until January 2009 if they do not have enough qualified or accredited energy assessors to complete the requirements of the Directive. The Government has relied upon this provision to make sure that the required infrastructure to facilitate the accreditation of energy assessors in each sector will be in place when EPCs and DEC's are implemented in that sector. The Government is committed to full implementation by the end of the three year period on 3rd January 2009. The change in coming into force dates contained in these regulations does not affect the January 2009 date. It reflects the lessons learned from implementing the first phase of the Directive and the need to allow enough time to get trained and accredited assessors in place.

7.2 The requirement for EPCs on construction of new dwellings will now be brought into force on 6 April 2008. This reflects the need to ensure readiness and capacity to deliver.

7.3 The reason for changing the coming into force dates for EPCs on sale, rental and construction of commercial buildings and for instigating a phased implementation for EPCs on construction of such buildings is to make sure that there will be enough accredited energy assessors in place to cover the wide range in age, type and size of these buildings. The coming into force date for EPCs on the sale rental and construction of such buildings with floor areas over 10,000 m² will now be 6 April 2008. These largest buildings are likely to be assessed by people who need to be highly qualified in building energy efficiency and the use of software for this and their recruitment and accreditation will be based largely on approved prior learning and experience (APEL). This means that they will already have the knowledge required to undertake assessments of this type of building and need little further training before they can be accredited energy assessors.

7.4 The second phase of implementation of the EPC requirement is for EPCs on the sale, rental and construction of buildings over 2500m² and is scheduled for 1 July 2008. There are more of these sizes of buildings but they are mostly likely to be fairly simple and capable of assessment by less qualified assessors. The accreditation schemes will need time to train and accredit sufficient numbers of assessors however and therefore the timetable for training and accrediting these energy assessors is being extended.

7.5 The final phase of implementation of the EPC requirements for buildings other than dwellings is for EPCs on the sale, rental and construction of all remaining buildings, and will come into effect on 1 October 2008. This remaining phase will require assessors with the same skills as set out above in paragraph 7.4 but it involves the largest number of buildings and so again accreditation schemes need more time to increase the numbers of assessors on strength.

7.6 The change in coming into force date from 1 April 2008 to 1 October 2008 for Display Energy Certificates has been made to make sure that the software, appropriate guidance, training, accreditation and publicity are all in place so that the required number of appropriately qualified DEC energy assessors are in place.

8. Impact

8.1 An Impact Assessment is attached to this memorandum.

8.2 There is an impact on the public sector in that there will now be an additional six months in which the public sector can collate data and prepare for the implementation of the Display requirement. This should result in more meaningful Display Energy Certificates. Against this, there will be some loss of carbon savings but these are deemed to be negligible over the impact assessment period.

9. Contact

Robert Moore at Communities and Local Government Tel: 0207 944 8624 or e-mail: robert.moore@communities.gsi.gov.uk can answer any queries regarding the instrument.

**TRANSPOSITION NOTE FOR EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 2002/91/EC OF 16 DECEMBER 2002 ON
THE ENERGY PERFORMANCE OF BUILDINGS**

This transposition note sets out the way in which Articles 7-10 of the Directive are to be implemented through the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991) in England and Wales only. These Regulations were amended by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2007 (S.I. 2007/1669) (“the amendment regulations”) and are now further amended by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment No. 2) Regulations 2007 (S.I. 2007/3302) (“the second amendment regulations”). The amendments in question are described in the footnotes to this note.

Scotland, Northern Ireland and Gibraltar are implementing separately.

These Regulations do more than is necessary to implement the Directive in the following areas:

- 1. Most, but not all permissible exemptions have been taken up (regulation 4).**
- 2. As well as requiring energy performance certificates (EPCs) to be made available to prospective buyers or tenants, the Regulations also require a copy of the EPC to be given to the ultimate buyer or tenant (regulation 5(5)).**
- 3. Where the Housing Act 2004 requires the production of a Home Information Pack in relation to the sale of a building-**
 - a. EPCs must be no more than twelve months old at the first point of marketing of the building² (as that term is defined in the Home Information Pack Regulations 2007) (regulation 11(4)); and**
 - b. written particulars made available to prospective buyers must have the asset rating included in the particulars or an EPC attached to the particulars (regulation 6).**
- 4. EPCs must be accompanied by recommendations for improvement of energy performance which are not limited to recommendations which are cost-effective relating to the fabric of the building and its heating services, but include higher cost measures which will improve performance (regulation 10(2)).**
- 5. Energy certificates displayed in public buildings are only valid for 12 months (regulation 16(3)).**

² Three months was specified in the original regulations. This is extended by the amendment regulations to twelve months.

- 6. Recommendations for improvement of public buildings are only valid for 7 years (regulation 16(4)).
- 7. A central register of certificates and reports is required to be maintained by the Secretary of State (Part 6).
- 8. Regular air conditioning inspections are required where the aggregate installed cooling capacity of multiple air-conditioning units under the relevant person's control exceeds 12kW (regulation 20(2)).

Transposition of Articles 3-6 of the Directive was notified on 20th March 2006.

Main elements of the Directive	Objective	Implementation	Responsibility
<p>Article 3</p> <p>Adoption of a methodology</p>	<p>Requires the adoption of a methodology of calculation of the energy performance of buildings on the basis of a general framework.</p> <p>The energy performance of a building shall be expressed in a transparent manner and may include a CO₂ emission indicator.</p>	<p>Article 3 was initially implemented by regulation 17A of the Building Regulations 2000.</p> <p>Paragraph 1(7) of Schedule 2 amends regulation 17A to require the Secretary of State to approve:</p> <ul style="list-style-type: none"> • methods for calculating asset ratings and operational ratings of buildings as part of the methodology for calculating the energy performance of buildings; and • ways in which the energy performance of buildings, as calculated in accordance with the methodology, shall be expressed. <p>The asset rating of a building is defined in regulation 17A(2) as a numerical indicator of the amount of energy estimated to meet the different needs associated with a standardised use of the building. The operational rating is defined as a numerical indicator of the amount of energy consumed during the occupation of a building over a period of time.</p>	<p>Secretary of State</p>

<p>Article 7</p> <p>Energy Performance Certificates</p>	<p>Article 7(1). When buildings are constructed, sold or rented out an Energy Performance Certificate (EPC), must be made available to the owner or by the owner to the prospective buyer or tenant. The certificate must not be more than ten years old.</p> <p>The following categories of building may be excluded:</p> <ul style="list-style-type: none"> • buildings and monuments officially protected as part of a designated environment or because of their special architectural or historic merit, where compliance with the requirements would unacceptably alter their character or appearance • buildings used as places of worship and for religious activities • temporary buildings with a planned time of use of two years or less, industrial sites, workshops and agricultural buildings with low 	<p>Part 2 of, and Schedule 2 to, the Regulations implement Articles 7(1) and (2).</p> <p>Regulation 4 adopts all of the exemptions permitted by Article 7(1) other than:</p> <ul style="list-style-type: none"> • historic buildings (compliance with the requirement to produce an EPC cannot alter the character or appearance of such buildings); • buildings used as places of worship where that is not their sole or primary use, and buildings used for religious activities; • non-residential agricultural buildings covered by a national sectoral agreement on energy performance (there are no such agreements in England and Wales); • residential buildings which are intended to be used less than four months of the year; • stand-alone dwellings with a total useful floor area of less than 50m². <p>Regulation 5 requires an EPC to be made available free of charge by the seller or landlord to any prospective buyer or tenant. The EPC must be made available at the earliest opportunity and no later than:</p> <ul style="list-style-type: none"> • the time at which further information about the building is 	<p>Secretary of State</p>
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³ Regulation 11(4), as amended by the amendment regulations, provides that an EPC included in a Home Information Pack required by the Housing Act 2004 shall be no more than twelve months old at the first point of marketing of the dwelling.

⁴ See footnote 4 concerning the commencement of Home Information Pack requirements under the Housing Act 2004.

	<p>energy demand and non-residential agricultural buildings which are in use by a sector covered by a national sectoral agreement on energy performance</p> <ul style="list-style-type: none"> • residential buildings which are intended to be used less than four months of the year • stand-alone buildings with a total useful floor area of less than 50m² <p>Article 7(2). EPCs must include reference values such as current legal standards and benchmarks in order to make it possible for consumers to compare and assess the energy performance of the building. The EPC must be accompanied by recommendations for the cost effective improvement of energy performance.</p>	<p>provided in response to a request from a prospective buyer or tenant for further information;</p> <ul style="list-style-type: none"> • when a prospective buyer or tenant views the building; or • entering into a contract to sell or rent out the building. <p>Regulation 5(5) requires the seller or landlord to ensure that the ultimate purchaser or tenant has been given an EPC.</p> <p>Regulation 8 and Schedule 2 require EPCs on construction of buildings by amending the Building Regulations 2000. In particular paragraph 1(8) of Schedule 2 inserts Regulation 17E into the Building Regulations 2000, which requires the production of an EPC where a new building is erected or an existing building undergoes major modifications so that it has a greater or fewer 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 heating, hot water, air conditioning or mechanical ventilation. Paragraph 2 of that Schedule substitutes regulation 12 of the Building (Approved Inspectors etc) Regulations 2000 in similar terms (those regulations apply where an approved inspector has been appointed in respect of the work).</p> <p>Regulation 9 requires EPCs to be produced when buildings are constructed where the Building Regulations 2000 do not apply.</p> <p>Regulation 10 requires that EPCs be accompanied by a recommendations report containing recommendations for the improvement of the energy performance of the building.</p>	
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		<p>Regulation 17E(4) of the Building Regulations 2000 and regulation 12(4) of the Building (Approved Inspectors etc) Regulations 2000 require such a report to accompany EPCs on construction.</p> <p>Regulation 11 prescribes the minimum requirements for EPCs, and in particular the EPC must:</p> <ul style="list-style-type: none"> • express the asset rating of the building in the way approved by the Secretary of State pursuant to regulation 17A of the Building Regulations 2000; • include a reference value such as a current legal standard or benchmark; • be issued by an accredited energy assessor. <p>Regulation 17E(5) of the Building Regulations 2000 imposes the same requirements on EPCs on construction.</p> <p>Regulation 11(3) provides that an EPC is only valid if it is not more than ten years old, and no other EPC has since been produced. Regulation 11(4) makes an exception to paragraph (3), which applies only where regulations under the Housing Act 2004 require EPCs to have a validity period shorter than 10 years³.</p> <p>Regulation 6 requires either the asset rating of the building to be included in any written particulars or that the EPC be attached to the written particulars. This regulation only applies to those sales of dwellings where a Home Information Pack is required under the Housing Act 2004.⁴</p>	
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	<p>Article 7(3) requires that buildings with a total useful floor area over 1,000m² occupied by public authorities and by institutions providing public services to a large number of persons and therefore frequently visited by these persons have an energy certificate, not older than 10 years, displayed in a prominent place clearly visible to the public.</p>	<p>Part 3 implements Article 7(3).</p> <p>Regulation 16 applies to buildings over 1000m² occupied by public authorities or by institutions providing public services to a large number of persons and therefore frequently visited by those persons, and requires the occupiers of such buildings to:</p> <ul style="list-style-type: none"> • display at all times a display energy certificate (“DEC”) in a prominent place clearly visible to the public; and • have in its possession or control at all times an advisory report, no older than seven years, containing recommendations for improvement of the energy performance of the building. <p>Regulation 17 prescribes the minimum requirements for DEC’s, and in particular the DEC must:</p> <ul style="list-style-type: none"> • (subject to regulation 18) express the operational rating and the asset rating of the building in the way approved by the Secretary of State pursuant to regulation 17A of the Building Regulations 2000; • include a reference value such as a current legal standard or benchmark; and • be issued by an accredited energy assessor. <p>Regulation 18 makes various alternative provisions as to what rating is expressed on the DEC in cases where, due to changes of</p>	<p>Secretary of State</p>
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		occupier, the data necessary to produce an operational rating does not exist, or an EPC was not provided to the occupier upon sale or rent.	
Article 8 Inspection of boilers	<p>Members States are required to either:</p> <p>(a) lay down the necessary measure to establish a regular inspection of certain types of boilers and the one-off inspection of heating systems that are more than 15 years old and served by boilers with an output of more than 20 kW; or</p> <p>(b) take steps to ensure the provision of advice to the users on the replacement of boilers, other modifications to the heating system and on alternative solutions which may include inspections to assess the efficiency and appropriate size of the boiler. The overall impact of this approach should be broadly equivalent to that arising from the provisions set out in (a). Member States that choose this option shall submit a report on the equivalence of their approach to the Commission every two years.</p>	<p>In England and Wales a decision has been made to adopt the option in Article 8(b). A report to the Commission by January 2008 will be made to demonstrate that the impact of this approach is broadly equivalent to regulating.</p> <p>Accordingly, no provision is made in these regulations.</p>	Secretary of State
Article 9	Member States are required to lay down	Part 4 implements Article 9.	Secretary of

<p>Inspection of air-conditioning systems</p>	<p>the necessary measures to establish a regular inspection of air-conditioning systems of an effective rated output of more than 12kW.</p> <p>The inspection shall include an assessment of the air-conditioning efficiency and the sizing compared to the cooling requirements of the building. Appropriate advice shall be provided to the users of the air-conditioning system on possible improvement or replacement of the air-conditioning system and on alternative solutions.</p>	<p>Regulation 21 requires the person with control of the operation of the air-conditioning system (“the relevant person”) to ensure that the system is inspected by an accredited energy assessor at regular intervals not exceeding five years. Systems first put into service on or after 1st January 2008 must be inspected within 5 years of the date of putting into service. In all other cases the first inspection of a system must take place:</p> <ul style="list-style-type: none"> • in the case of systems with an effective rated output of more than 250kW, by 4th January 2009; and • in the case of smaller systems, by 4th January 2011. <p>Regulation 22 requires energy assessors to produce a written inspection report including an assessment of the efficiency and sizing of the system compared to the cooling requirements of the building, and advice on possible improvements, replacement and alternative solutions.</p> <p>Regulation 23 requires the relevant person to keep the most recent report and, where the relevant person changes, give it to the new relevant person.</p> <p>Regulation 24 requires that a new relevant person who is not given a report by the previous relevant person must ensure an inspection is carried out within three months of arrival.</p>	<p>State</p>
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<p>Article 10 Independent Experts</p>	<p>Requires that the certification of buildings, the drafting of the accompanying recommendations and the inspection of air-conditioning systems are carried out in an independent manner by qualified and/or accredited experts.</p>	<p>Part 5 and Schedule 2 of the Regulations implement Article 10.</p> <p>Regulation 25:</p> <ul style="list-style-type: none"> • requires energy assessors to be a member of an accreditation scheme approved by the Secretary of State; and • sets out the matters of which the Secretary of State must be satisfied before approving an accreditation scheme. <p>In particular regulation 25(3) requires the Secretary of State to be satisfied that any scheme contains adequate provision for:-</p> <ul style="list-style-type: none"> • ensuring members carry out consistent and accurate energy assessments in an independent manner, and • ensuring members are qualified to carry out energy assessments. <p>Regulation 26 requires energy assessors to disclose any personal or business relationship with any person with an interest in the building.</p> <p>National Occupational Standards are being developed for the various categories of energy assessment.</p>	<p>Secretary of State</p>
<p>Article 12 Information</p>	<p>Member States may take measures to inform the users of buildings as to the different measures and practices that serve to enhance energy performance.</p>	<p>Marketing campaigns are planned:</p> <ul style="list-style-type: none"> • To inform stakeholders about the new requirements and changes in the law, and provide them with the information they need to comply 	<p>Secretary of State</p>

		<ul style="list-style-type: none"> • To raise awareness of the impact of buildings on emissions • To encourage individuals and organisations to improve their buildings' energy ratings where possible and use energy for lighting, heating, hot water and air conditioning more effectively and efficiently. <p>Each campaign will have two parts: general awareness of the need for energy assessment and certificates and their obligations prior to the relevant coming into force dates; and energy aware campaigns to improve building performance and adopt more effective and efficient energy management.</p> <p>Five campaigns are planned:</p> <ul style="list-style-type: none"> • Domestic properties (campaign already underway for the need for an EPC on sale from 1 June 2007). Further waves planned for construction and rental. • Commercial properties (including recruitment of assessors) • Display certification (including the raising of awareness of the need to start data collection at least a year before the requirement to certify comes into effect. • Air conditioning inspections (including recruitment of inspectors) • Boilers (sustained campaigns for domestic and non-domestic property owners and the heating maintenance insurance and contracting industries as part of the implementation of Art. 8) 	
Article 15	Article 15(1) requires Member States to	Articles 3, 4, 5 & 6 were implemented in another instrument, the	Secretary of

Transposition	bring into force the laws, regulations and administrative provisions necessary to comply with the Directive at the latest on 4 January 2006 and to forthwith notify the Commission thereof. Article 15(2) allows for an additional 3 years to apply fully the provisions of Articles 7, 8 & 9 if there is a lack of qualified inspectors.	Building and Approved Inspectors (Amendment) Regulations 2006, which came into force on 6th April 2006, subject to certain transitional provisions. This was notified to the Commission on 20 March 2006		State
		These Regulations come into force gradually over the period up to 1 October 2008, at which point the Regulations will be fully in force.		
		The substantive duties imposed by these regulations come into operation as set out below:		
		1 June 2007 ⁵	EPCs required for the sale of existing dwellings where a Home Information Pack is required under the Housing Act 2004 (other than dwellings built to 2006 standards)	
		1 October 2007 ⁶	EPCs required on the sale of dwellings built to 2006 standards.	
1 January 2008 ⁷	EPCs required on construction for all dwellings			
6 April 2008	EPCs required for the sale or rent of buildings			

⁵ The effective date for this is 1st August 2007, when the Housing Act requirements in question commence in respect of a first class of dwellings. In addition, a temporary exception in the regulations governing home information packs permits the marketing of a dwelling without an EPC where an EPC is not obtainable by all reasonable efforts. Regulation 4 of the amending regulations provides transitionally that, even where this exception applies, if the Regulations would otherwise require that an EPC be made available then an EPC shall nonetheless be given to the prospective buyer or tenant before a contract for sale or letting out is entered into.

⁶ The effective date for this will be determined by the commencement of the Housing Act requirements in question.

⁷ This date was postponed from 1st October 2007 to 1st January 2008 by the amending regulations, and then again to 6th April 2008 by the second amending regulations.

			<p>other than dwellings with a floor area over 500m²⁸</p> <p>EPCs required on construction for all buildings other than dwellings.⁹</p> <p>Display certificates required for all buildings >1,000 m² occupied by public authorities and public institutions providing public services to a large number of persons and therefore frequently visited by these persons¹⁰.</p>	
		1 October 2008	<p>EPCs required on the sale or rent of all remaining dwellings.</p> <p>EPCs required on the sale or rent of all remaining buildings other than dwellings.</p>	
		4 January 2009	<p>First inspection of all existing air-conditioning systems over 250 kW must have occurred by this date.</p>	

⁸ This date has been changed by the further amendment regulations, so that EPCs are required on the sale or rent of such buildings over 10,000m² from 6th April 2008, for such buildings over 2,500m² from 1st July 2008 and for all other such buildings from 1st October 2008.

⁹ This date has been changed by the further amendment regulations, so that EPCs are required on the construction of such buildings over 10,000m² from 6th April 2008, for such buildings over 2,500m² from 1st July 2008 and for all other such buildings from 1st October 2008.

¹⁰ This date was postponed to 1st October 2008 by the further amendment regulations.

		4 January 2011	First inspection of all remaining air-conditioning systems over 12 kW must have occurred by this date.	
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Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: EPBD(Amendment No.2)	
Stage: Final	Version: 1	Date: 26 October 2007
Related Publications: Home Information Pack (Amendment) Regulations 2007		

Available to view or download at:

<http://www.communities.gov.uk>

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What is the problem under consideration? Why is government intervention necessary?

The objective of this Implementation Stage Impact Assessment (IA) is to estimate the impact of the amendment to the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 necessary to bring into effect some changes to the coming into force dates. These reflect the lessons learned from implementing the first phase of the Energy Performance of Buildings Directive ("EPBD") and the need to allow enough time to get trained and accredited assessors in place.

The changes are:

- to implement Energy Performance Certificates (EPCs) for new build dwellings on 6 April 2008
- to implement EPCs on the construction, sale and rent of non-domestic buildings in three stages:
 - o for buildings of more than 10,000m² from 6 April 2008
 - o for buildings of more than 2,500m² from 1 July 2008
 - o for all other buildings in this category from 1 October 2008
- to make it compulsory for public buildings to display a Display Energy Certificate (DEC) no later than 1 October 2008

This document is supplementary to and to be read in conjunction with the final RIA for the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 which was published on 29 March 2007.

What are the policy objectives and the intended effects?

The measures considered in this Impact Assessment are intended to ensure the smooth introduction of EPCs to fulfil our remaining obligations under the EPBD. They reflect the lessons learned from implementing the first phase of the Directive and the need to allow enough time to get trained and accredited assessors in place.

What policy options have been considered? Please justify any preferred option.

The do nothing option was considered and rejected because of the reasons set out above. The revised dates reflect consultation with stakeholders and the need to ensure a smooth introduction of the Directive.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The Department is putting in place a monitoring strategy for the implementation of the EPBD.

Ministerial Sign-off:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Yvette Cooper

Date: 22nd November 2007

Summary: Analysis & Evidence

Policy Option: Amend	Description: Coming into force dates
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COSTS	ANNUAL COSTS		Description and scale of key non-monetised costs by 'main affected groups' The three groups affected will be: - homebuilders. Their costs will be reduced by an estimated £1.3m - those renting, selling or building non-domestic buildings. Their costs will be reduced by an estimated £25m. - public authorities responsible for producing display energy certificates
	One-off (Transition)	Yrs	
	£ - 26.3m	0.5	
	Average Annual Cost (excluding one-off)		
£ 0m		Total Cost (PV)	£ -26.3m

BENEFITS	ANNUAL BENEFITS		Description and scale of key non-monetised benefits by 'main affected groups' There will be a small reduction in tonnes of carbon saved. These are insignificant in the context of the overall amount of carbon saved over the 13.5 years calculated in the original RIA.
	One-off (Transition)	Yrs	
	£ -	0.5	
	Average Annual Benefit (excluding one-off)		
£ -		Total Benefit (PV)	£ -

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	NET BENEFIT (NPV Best estimate) £
What is the geographic coverage of the policy/option?		England & Wales
On what date will the policy be implemented?		April, July and October 2008
Which organisation(s) will enforce the policy?		Building Control and Trading Standards
What is the total annual cost of enforcement for these organisations?		£ 3.4m in the first year
Does enforcement comply with Hampton principles?		Yes
Will implementation go beyond minimum EU requirements?		No
Will the proposal have a significant impact on competition?		No

Date changes

Costs and benefits

i) *Implementation of EPCs on new build dwellings from 6 April 2008*

Implementation of this measure is three months later than the date currently specified in the regulations. This reflects the need to allow enough time to ensure readiness and capacity to deliver.

This means that EPCs will be supplied on approximately 45,000 fewer houses completed in this period than would otherwise have been the case. The cost of generating EPCs for construction is lower than the cost of EPCs for existing buildings as it is based on calculations already carried out for compliance with building regulations. We estimate the savings at around £1.3 million.

Consumers who would otherwise have received an EPC in these three months will not do so. However they will receive a predicted energy assessment that gives the predicted SAP rating if they are buying a home built to pre-2006 Building Regulations off plan; and all homes built to post-2006 Building Regulations must have a SAP rating which is signed off by building control. So most consumers will receive an energy

rating. Those not receiving an EPC will not be given recommendations about how to make energy efficiency improvements. However arguably this is less significant for a newly built property which has to meet the standards laid down in building regulations than it is for an existing property.

It is the minimum energy efficiency standards in building regulations and the Code for Sustainable Homes that are recognised as the primary influencing factor in the design of new homes. The benefits lost from around 45,000 EPCs not received during this period will be limited to those arising from consumer behaviour in the way they use their homes and will be very marginal.

We therefore consider the changes too small to have any impact on the calculations in the original RIA covering the period up to 2020.

ii) Implementation of EPCs for non-domestic buildings

Under the original plans all newly built non-dwellings were required to have EPCs from January 2008. EPCs were required on non-dwellings of more than 500m² on sale and rent from April 2008 and on the remainder from October 2008. Under the amended regulations EPCs for non-domestic buildings will be required on sale, rent or construction in three phases starting in April 2008 and concluding in October 2008.

The changes in commencement dates reduce the number of EPC's expected in the commercial sector by an expected 31,000: this estimate depends on market conditions. This equates to a 1.2% overall reduction throughout the 13.5 year period to 2020. These changes will reduce the cost to the industry by an estimated £25m.

The carbon savings benefits are reduced by a small amount (1.2%) if factored over the 13.5 year period to 2020. This is considered too small an amount to have any impact on the calculations in the original RIA.

In practice the industry may start to provide certificates earlier than the deadline. The estimates above therefore represent the top end of the range.

iii) Provision of display certificates in public buildings to be compulsory no later than 1 October 2008

This provision allows an additional six months for public authorities to produce display certificates before the final deadline. The number of buildings which will need certificates is unchanged and many will be provided voluntarily before the deadline.

There is no measurable impact on cost. EPCs will still have to be provided for these buildings. Many public authorities are likely to have their own staff trained and provided to produce certificates. If anything the additional phasing should generate a very small saving because the longer period to produce certificates lessens any risk of demand pushing up prices.

The carbon impact over the 13.5 years to 2020 depends heavily on assumptions made about behaviour and is too small to measure reliably.

Conclusion

From the above, it can be seen that the estimated impact arising from these amendments is considered to make a small reduction in costs of around £26.3m.

The impact on the benefits is too small to be measurable compared to the 13.5 year period over which the original costs and benefits were calculated.