
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (“the principal regulations”) in relation to various requirements related to energy performance certificates and recommendation reports. The principal regulations implement Articles 7 (energy performance certificate), and 10 (independent experts) of Directive [2002/91/EC](#) of the European Parliament and of the Council of 16 December 2002 on the Energy Performance of Buildings (OJ No L 1 4.1.2003 p.65).

Regulations 2(2) and 2(4) amend regulations 14 and 36 of the principal regulations to provide access to the register of energy performance certificates and associated documents for local authorities and to allow disclosures of the information contained in it by and to those authorities. This is to ensure that local authorities can carry out their duty to enforce those parts of the building regulations which provide for energy performance certificates on construction.

Regulation 2(3) amends regulation 32 of the principal regulations to provide for different fees for entering different types of document on the register.

The principal regulations provide for phased commencement of the requirement to have an energy performance certificate. Regulation 2(5) inserts transitional arrangements which last until a building is taken off the market or until 1st October 2008, whichever occurs first. It provides that, for future phases, no energy performance certificate need be made available for buildings which are on the market at the date of commencement of the requirement for so long as they are continuously marketed. An exemption also applies if buildings are put back on the market following withdrawal or rejection of an offer within 28 days. An energy performance certificate must be requested when contracts are entered into for a sale or rental of such a building and supplied to the new owner when received.

Regulation 2(6) corrects an error made in the previous amending regulations to ensure that paragraphs (1) and (3) of regulation 7 of the principal regulations are ultimately brought into force in respect of all categories of building.

A transposition note setting out how these Regulations implement the Directive and an impact assessment of the effect that these Regulations will have on the costs of business and the public and voluntary sectors are available from the Department for Communities and Local Government website or from the Sustainable Buildings Division of the Department (Tel: 020 7944 8324; Fax: 020 7944 5719; e-mail: enquiries.br@communities.gsi.gov.uk). A copy is also annexed to the explanatory memorandum to these Regulations which is available alongside the Regulations on the OPSI website at www.opsi.gov.uk.