
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations ensure the continued implementation in England and Wales of article 7 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) (“the Directive”). The Directive lays down the requirements for the production of energy performance certificates when buildings are constructed, sold or rented out, display of certificates in large public buildings and regular inspections of air-conditioning systems.

These Regulations make amendments to the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 ([S.I. 2007/991](#)) (“the 2007 Regulations”) consequent upon the Home Information Packs (Suspension) Order 2010 ([S.I.XXXX](#)) (“the 2010 Order”) which suspends the operation of the duties imposed by sections 155 to 159 of the Housing Act 2004 ([c.34](#)) relating to the content and provision of home information packs.

The main changes made by these Regulations are as follows.

- A new duty for sellers of residential property in England and Wales to secure the commissioning of an energy performance certificate (“EPC”) before putting the property on the market (new regulation 5A(2) of the 2007 Regulations).
- A new duty for persons such as estate agents acting on behalf of a seller of residential property not to market the property unless satisfied that an EPC has been commissioned (new regulation 5A(3) of the 2007 Regulations).
- Regulation 6 of the 2007 Regulations imposes a duty on persons providing written particulars of a building to include with those particulars either an asset rating of the building or an EPC. This duty is amended. Instead of arising where a duty under section 155(1) or 159(2) of the Housing Act 2004 applies, the duty arises where a residential property is to be sold; and the duty only arises once a valid EPC has been obtained.
- The provision in regulation 11 of the 2007 Regulations for an EPC to be valid for a period of three years in cases where a duty under section 155(1) or 159(2) of the Housing Act 2004 applies is revoked. Under regulation 11 as amended the period of validity of all EPCs is now ten years.
- Consequential amendments are made to the enforcement provisions of the 2007 Regulations.

An impact assessment of the effect of these Regulations and the 2010 Order on the costs of business and the public and voluntary sectors is annexed to the explanatory memorandum to these Regulations which will be placed on the OPSI website www.opsi.gov.uk and copies have also been placed in the Library of each House of Parliament. A transposition note for the Directive is available on the OPSI website, annexed to the explanatory memorandum to the 2007 Regulations.