

**EXPLANATORY MEMORANDUM TO**  
**THE ENERGY EFFICIENCY (ELIGIBLE BUILDINGS) REGULATIONS**  
**2013**

**2013 No. 3220**

**1.** This explanatory memorandum has been prepared by the Department of Energy and Climate Change (“DECC”) and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument puts in place an energy saving target of 163.6 Gigawatt hours to be achieved by the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Northern Ireland departments (together, the “competent authorities”) in buildings that are owned and occupied by central government. The target must be achieved by 31<sup>st</sup> December 2020. The instrument also places a duty on the competent authorities to encourage public bodies to develop energy efficiency plans which include specific actions to promote energy efficiency.

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

3.1 None

**4. Legislative Context**

4.1 This instrument transposes the requirements of Article 5 of the Energy Efficiency Directive (“the Directive”)<sup>1</sup>. Article 5 requires Member States either to renovate, each year from 2014 to 2020, 3% of the floor space of their central government building stock that does not meet minimum energy performance standards, or to take alternative measures to achieve equivalent energy savings by 2020 in buildings owned and occupied by central government. Article 5 also requires Member States to encourage public bodies to improve their energy efficiency through the adoption of energy efficiency plans.

4.2 The UK is transposing Article 5 by adopting the alternative approach of achieving a specified level of energy savings in buildings owned and occupied by central government. This will be given effect by putting in place an energy savings target which is equivalent to the energy savings that would have been achieved were 3% of the building stock to have been renovated each year. The target will be achieved through a range of existing administrative policies. Separately, the instrument will impose a statutory duty to encourage public bodies to improve their energy efficiency through the adoption of energy efficiency plans.

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<sup>1</sup> Directive 2012/27/EU. OJ No L 315, 14.11.2012, p1.

4.3 It is a requirement of European law that the provisions of a Directive be given effect in the national legal system of Member States law. Whilst there are existing administrative policies which generate energy savings in central government buildings, there is no existing legal requirement to achieve the energy savings required by Article 5 of the Directive. The legal obligation is imposed by this instrument.

4.6 A Transposition Note is attached at Annex A.

## **5. Territorial Extent and Application**

This instrument applies to England and Wales, Scotland and Northern Ireland.

## **6. European Convention on Human Rights**

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 aim of the Directive is to drive improvements in energy efficiency across the EU. It is intended to put the EU on track to reduce energy use by 20% by 2020. Article 5 of the Directive relates to the need for central government to play an exemplary role and to lead by example in renovating the central government estate.

7.2 Article 5 of the Directive requires the UK either to renovate, each year from 2014 to 2020, 3% of the floor space of the buildings owned or occupied by central government which do not meet minimum energy performance standards, or take alternative measures to achieve equivalent energy savings in central government buildings by 2020. DECC has carried out analysis to estimate the energy savings that would be achieved by the 3% annual renovation obligation. The figure generated by this analysis represents the energy savings that need to be achieved under the alternative approach and is being transposed by a single UK-wide energy savings target of 163.6 Gigawatt hours.

7.3 The DECC analysis indicates that existing administrative policies put the UK comfortably on course to achieve this energy savings target and comply with the alternative approach set out in Article 5 of the Directive. The energy savings that are projected to be delivered by the Greening Government Commitments and separate initiatives in Scotland, Wales and Northern Ireland are estimated to amount to 441.5 Gigawatt hours. This is considerably in excess of the target of 163.6 Gigawatt hours.

7.4 The separate requirement in Article 5 to encourage public bodies to improve their energy efficiency through the adoption of energy efficiency plans and associated actions will be delivered by the competent authorities through promotional activity, including the publication of guidance, the use of stakeholder workshops and other methods of awareness raising. In addition, the provision by DECC of a model energy performance

contract and information on best practices for energy performance contracting will serve to encourage public bodies.

## **8. Consultation outcome**

There has been no public consultation on the policy implemented by this instrument since the requirements only affect central government. Other government departments and the devolved administrations were consulted and were supportive of the approach to transposing the requirements of Article 5 of the Directive.

## **9. Guidance**

There is no intention to publish guidance as the required energy savings will be achieved through existing administrative policies and guidance is not considered necessary in relation to the requirement to encourage public bodies to improve their energy efficiency.

## **10. Impact**

An impact assessment has not been prepared for this instrument as there is no impact on business, charities or voluntary bodies. No impact on the public sector is foreseen over and above existing administrative policies.

## **11. Regulating small business**

The instrument does not apply to small business.

## **12. Monitoring & review**

12.1 The instrument requires the Secretary of State to report to the Commission on an annual basis the amount of energy savings achieved in in central government buildings in that year

12.2 The Secretary of State is also required to carry out a review of the operation and effect of the instrument and publish an assessment.

## **13. Contact**

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