

<b>Title:</b> The Energy Efficiency (Eligible Buildings) Regulations 2013 Post Implementation Review  <b>PIR No:</b> BEIS011(PIR)-20-EECC  <b>Original IA/RPC No:</b> N/A <b>Lead department or agency:</b> BEIS <b>Other departments or agencies:</b> N/A  <b>Contact for enquiries:</b> Tim Schein	<b>Post Implementation Review</b>
	<b>Date:</b> 08/06/2020
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 15/01/2014
	<b>Recommendation:</b> Keep
<b>RPC Opinion:</b> N/A Choose an item.	

**1. What were the policy objectives of the measure? (Maximum 5 lines)**

The Energy Efficiency (Eligible Buildings) Regulations 2013 transpose the requirements of Article 5 of the Energy Efficiency Directive (EED). The Regulations put in place a government buildings energy savings target of 163.6 Gigawatt hours to be achieved by the Secretary of State, Scottish and Welsh Ministers and the Northern Ireland departments. They are also required to encourage public bodies to improve their energy efficiency by adopting energy efficiency plans.

**2. What evidence has informed the PIR? (Maximum 5 lines)**

BEIS has used two main publications to assess progress & gather evidence against the objectives of these Regulations: the UK's [2019 EED annual report](#) and [the UK's 2017 National Energy Efficiency Action Plan \(NEEAP\)](#). Both report on progress toward the UK's obligations under the EED 2012. The NEEAP also details the further action that will be taken to realise our energy efficiency goals.

**3. To what extent have the policy objectives been achieved?** (Maximum 5 lines)

As of end December 2018 the UK has achieved 442 GWh of savings against its 163.6 GWh target, a surplus of 278 GWh. The UK reported on the adoption of energy efficiency action plans by public bodies in the 2014 and 2017 NEEAPs. The EED is still in force during the Transition Period, and so the Energy Efficiency (Eligible Buildings) Regulations 2013 remain best placed to continue meeting the requirements set out in Article 5.

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: ***Kwasi Kwarteng***

Date: 15/07/2020

## **Further information sheet**

Please provide additional evidence in subsequent sheets, as required.

### **4. What were the original assumptions? (Maximum 5 lines)**

The original assumption was that the Regulations would have no direct impact on business, charities or voluntary bodies, with the main impacts coming from the action required by the public sector to promote energy efficiency and meet an energy savings target for government buildings. If action was required to meet the targets, over and above what would be required by existing policy, then separate action would be brought forward.

### **5. Were there any unintended consequences? (Maximum 5 lines)**

As the Regulations transpose requirements in EU law which were broadly in line with existing domestic energy efficiency policy, unintended consequences were not expected. The evidence within this Post Implementation Review concurs with the original projections in that no unintended consequences were observed.

### **6. Has the evidence identified any opportunities for reducing the burden on business? (Maximum 5 lines)**

These Regulations place obligations on the public sector to improve energy efficiency. As a result, no burden was forecasted for business, charities or voluntary bodies. The evidence in this Post Implementation Review maintains this finding.

### **7. For EU measures, how does the UK's implementation compare with that in EU member states in terms of costs to business? (Maximum 5 lines)**

Article 5 of the EED obliges all EU Member States to promote energy efficiency in the public sector. Implementation of this Article has had no cost to business for the UK. In light of this, there is unlikely to be any difference across Member States with regards to the costs to business.

Member States similarly report their progress against Article 5 of the EED within their [EED annual reports and NEEAP](#).

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## 1) Introduction

This document is a Post Implementation Review of The Energy Efficiency (Eligible Buildings) Regulations 2013.<sup>1</sup> It provides an overview and assessment of how the UK has performed since the inception of the Regulations.

The Energy Efficiency (Eligible Buildings) Regulations 2013<sup>2</sup> transpose the requirements of Article 5 of the EED.<sup>3</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. The Regulations also put in place the Article 5 requirement for Member States to encourage public bodies to improve their energy efficiency through the adoption of energy efficiency plans. These have been met without introducing policies directly to achieve the Regulations' requirements. This Post Implementation Review is a legal requirement within the Regulations.

## 2) Scope of this PIR

This Post Implementation Review will:

- i) Set out the objectives intended to be achieved by regulation
- ii) Assess the extent to which those objectives have been achieved
- iii) Assess whether those objectives remain appropriate and, if so, the extent to which they could be more effectively achieved, such as by a system that imposes less regulation.

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<sup>1</sup> Available at: <http://www.legislation.gov.uk/ukxi/2013/3220/contents>

<sup>2</sup> Available at: <https://www.legislation.gov.uk/ukxi/2013/3220/introduction>

<sup>3</sup> Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0027>

### 3) Energy Efficiency (Eligible Buildings) Regulations 2013 Objectives

The objective of the Energy Efficiency (Eligible Buildings) Regulations 2013 is to implement part of the requirements of the EED, concerning the exemplary role of the public sector in becoming more energy efficient.

The Regulations establish an energy savings target for eligible government buildings. Article 5 of the EED requires annual renovations (from 2014 to 2020) of 3% of all central government owned and occupied buildings that fail to meet national minimum energy efficiency requirements. The Energy Efficiency (Eligible Buildings) Regulations 2013 ensure that the UK meets its commitments under the alternative approach outlined within Article 5 of the EED.

The alternative approach to meeting the 3% requirement requires Member States to make equivalent savings through appropriate measures, including deep renovations and measures for behavioural change of occupants. The United Kingdom opted to utilise the alternative approach as permitted under Article 5.

Additionally, Article 5 also requires Member States to encourage public bodies to take steps to improve efficiency in energy use through the adoption of energy efficiency plans. The Regulations therefore place a responsibility on the 'competent authorities' to encourage public bodies to adopt energy efficiency plans. The competent authorities are the Secretary of State in England, the Welsh Ministers in Wales, the Scottish Ministers in Scotland and the Northern Ireland departments in Northern Ireland.

Separately, the UK's commitments to Article 5 of the EED have been articulated by means of The Energy Efficiency (Eligible Buildings) Regulations 2013 through the provisions laid out within (see Table 1):

**Table 1: Summary of provisions within Energy Efficiency (Eligible Buildings) Regulations 2013**

Component of the Energy Efficiency (Eligible Buildings) Regulations 2013	Objective / Remit	Reporting Requirement
Provision 1	Regards how the regulation is cited, when it comes into force and the parts of the UK to which it extends to.	No
Provision 2	Regards interpretation of the regulation, containing definitions and explanations of the terminology used within the regulation.	No
Provision 3	<p>Places duty on the competent authorities to ensure that a total of 163.6 GWh of energy consumption savings are achieved by 31st December 2020 in buildings that are owned and occupied by central government that are heated or cooled (or both) which have a floor area of 250 square metres or more.</p> <p>This is the UK's required equivalent to the 3% annual renovations.</p> <p>Additionally, provision 3 also places duty on the Secretary of State to report to the Commission of the European Union by 31st December of each year in the reporting period (2014 to 2020), the amount of energy savings that have been achieved in eligible buildings in that year.</p>	Yes
Provision 4	Places duty on the Competent Authorities to encourage public bodies to develop energy efficiency plans with specific action to improve energy efficiency.	Yes
Provision 5	Places duty on the secretary of state to carry out a review of the operation and effect of these Regulations, set out the conclusions of the review in a report and publish the report.	Yes

#### 4) Impact Assessments related to The Energy Efficiency (Eligible Buildings) Regulations 2013.

When the legislation was laid, no impact assessment was produced because there was no direct impact to business, charities or voluntary bodies. The Regulations specify a target for the public sector to achieve; they do not specify how such a target could be met – the target has been met without requiring further legislative action from Government. No costs / benefits are presented in the Post Implementation Review. Progress towards the energy savings target and fulfilment of the duty to encourage adoption of energy efficiency plans have been achieved through government policies that were not specifically introduced to meet these Regulations (evidenced further in section 5), imposing no additional costs or benefits on the public sector.

#### 5) Progress against The Energy Efficiency (Eligible Buildings) Regulations 2013

The UK has reported progress towards Article 5 of the EED as transposed through the Energy Efficiency (Eligible Buildings) Regulations 2013 within annual energy efficiency progress reports, as well as the NEEAPs published in 2014 and 2017.<sup>4</sup>

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<sup>4</sup> Both the Energy Efficiency Directive Reports and National Energy Efficiency Plans are available at: <https://ec.europa.eu/energy/en/topics/energy-efficiency/energy-efficiency-directive/national-energy-efficiency-action-plans>



**Table 2: Summary of actions and impacts as a result of Energy Efficiency (Eligible Buildings) Regulations 2013**

Component of the Energy Efficiency (Eligible Buildings) Regulations 2013	Progress made
Provision 1 & 2	Not applicable – citation, commencement and extent and interpretation provisions
Provision 3	<p>The UK has achieved 442 GWh of energy consumption savings up to 31<sup>st</sup> December 2018. The UK as at 31<sup>st</sup> December 2018 has therefore exceeded the 2020 target by 278 GWh (Further details on methodology behind saving calculations can be found in <a href="#">Annex A</a>). Relevant energy savings come from three separate government policies. Those policies are the UK Government’s Greening Government Commitments<sup>5</sup>, the Scottish Government’s Carbon Management Plan<sup>6</sup>, and the Welsh Government’s Climate Change Strategy<sup>7</sup>.</p>
Provision 4	<p>Progress towards this objective has been reported in The UK’s NEEAPs in 2014 and 2017, which detail the information on frameworks that encourage public bodies at regional and local level to improve their energy efficiency. Information with regards to this objective from the most recent NEEAP can be found in <a href="#">Annex B</a>.</p> <p>In addition to the progress reported in the NEEAP reports, the UK Government published a model Energy Performance Contract<sup>8</sup> on 15 January 2015, providing guidance and information on best practices for energy performance contracting to encourage public bodies in setting up their own EPCs.</p>
Provision 5	<p>The publication of this Post Implementation Review satisfies the requirement with regards to the Duty to Review.</p>

<sup>5</sup> The Greening Government Commitments set a target for the UK government to reduce its greenhouse gas emissions by 43% by 2019/2020 from a 2009/2010 baseline. Available at: <https://www.gov.uk/government/collections/greening-government-commitments>

<sup>6</sup> Available at: <https://www.gov.scot/publications/scottish-government-carbon-management-plan-2014/pages/6/>

<sup>7</sup> Available at: <https://gov.wales/topics/environmentcountryside/climatechange/emissions/climate-change-strategy-for-wales/?lang=en>

<sup>8</sup> Available at: <https://www.gov.uk/government/publications/energy-performance-contract-epc>

## 6) Next steps for The Energy Efficiency (Eligible Buildings) Regulations 2013

Based on the evidence within this Post Implementation Review, the objectives remain appropriate, and it is necessary to retain the Regulations in order to continue to comply with the requirements of Article 5 of the EED.

The energy savings target for government buildings within the Energy Efficiency (Eligible Buildings) Regulations runs until end 2020, when the Transition Period will also end. In April 2020, the UK Government updated on progress towards this 2020 target in the final annual energy efficiency progress report<sup>9</sup>.

The actions and measures outlined in Part 5 of this Post Implementation Review demonstrate the ways in which the Regulations have achieved their objectives. There have been no unintended consequences as a result of the Regulations.

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<sup>9</sup> [https://ec.europa.eu/energy/sites/ener/files/documents/uk\\_annual\\_report\\_eed\\_2020.zip](https://ec.europa.eu/energy/sites/ener/files/documents/uk_annual_report_eed_2020.zip)

## Annex A – Methodology behind eligible savings

Energy savings are calculated annually and added to previous cumulative savings during the relevant period. In order to calculate energy savings, energy consumption data for buildings within scope of the relevant policies is collected for the previous year (e.g. 2016) and most recent year (e.g. 2017). Total energy savings are then calculated at the most granular level possible and adjusted in order to calculate energy savings as referred to in Article 5(6) of the EED. Energy savings are adjusted using data on the floor area of Central Government buildings. Floor area data is collected using the ePIMS database, Ministry of Defence data, Scottish Government data, Welsh Government data, and Northern Irish Executive data. These data sets have been combined in order to calculate the total floor area of each individual Central Government Department.

For each Central Government Department, the floor area of buildings meeting the requirements of Article 5(6) has then been calculated by removing data on:

- buildings referred to in Article 5(2),
- buildings that are not owned and occupied, and
- buildings with a floor area less than or equal to 250 square meters.

For each Central Government Department, the floor area of buildings meeting the requirements of Article 5(6) is then been divided by the total floor area of that Central Government Department. This calculation gives the proportion of floor area that meets the requirements of Article 5(6). For each Central Government Department, the proportion of floor area that meets the requirements of Article 5(6) is then been multiplied by the relevant energy savings from the Greening Government Commitments, Carbon Management Plan or Climate Change Strategy. These calculations give the energy savings meeting the requirements of Article 5(6) for each Central Government Department.

## Annex B – Specific information related to Provision 4 of The Energy Efficiency (Eligible Buildings) Regulations 2013

The following information was presented in the National Energy Efficiency Action Plan 2017<sup>10</sup>

Regulation 4 of the Energy Efficiency (Eligible Buildings) Regulations 2013 imposes a duty on the competent authorities to encourage public bodies to adopt an energy efficiency plan. The competent authorities are the Secretary of State, the Welsh Ministers, the Scottish Ministers and the Northern Ireland departments. A central list of public bodies with energy efficiency plans is not held, as public bodies are not required to inform the government when they adopt an energy efficiency plan. Below are frameworks that encourage public bodies at regional and local level to improve their energy efficiency.

### **Central Government**

All central government departments and their agencies in the whole of the UK are required to meet greenhouse gas reduction targets under the Greening Government Commitments, and progress towards these and other sustainability indicators is reported in the GGC annual report.

### **England**

All local authorities in England are required to assess and report biannually on measures to enhance energy conservation of all residential properties within their area under the Home Energy Conservation Act 1995.

### **Wales**

The Welsh Government has an energy efficiency strategy for Wales, as well as for its own operations. The Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016 both place duties upon Welsh public bodies to deliver future decarbonisation, including duties to publish reports annually on progress made with achieving all of the well-being goals. The Welsh Government is supporting Welsh public bodies to deliver through Re:fit Cymru, the

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<sup>10</sup> <https://ec.europa.eu/energy/en/topics/energy-efficiency/energy-efficiency-directive/national-energy-efficiency-action-plans>

energy performance contracting approach supported by the Intelligent Energy Europe programme of the EU, and Green Growth Wales investment support.

## Scotland

The Climate Change (Scotland) Act 2009 places duties on public bodies relating to climate change. Further to the Act, in 2015 the Scottish Government introduced an Order<sup>11</sup> requiring all 150 Public Bodies who appear on the Major Player<sup>12</sup> list to report annually to Scottish Ministers on their compliance with the climate change duties. The first mandatory reports were submitted on 30 November 2016. Annual reporting supports compliance with the public bodies duties and consolidates climate change information from the public sector.

This Public Bodies Climate Change Duties Reporting mechanism provides a solid basis for tracking public sector action on climate change and driving continuous improvement. The reporting platform introduces standard methodology to improve data consistency. Reports and analysis are publicly available, increasing accountability and transparency, and making it easier for the public and other parties to understand an organisation's climate performance. This in turn is helping improve leadership and engagement, while raising awareness of the impact of climate change with senior management, ensuring climate change objectives are integrated in corporate business plans and action embedded across all departments.

The reporting framework also assists better decision making and strategic planning and helps identify opportunities for financial efficiencies and cost savings. A baseline from the 2016 reporting data will be established to identify future trends in performance.

The Scottish Government funds the Sustainable Scotland Network (SSN) to provide operational support for this reporting process. SSN acts as a single point of contact for all public bodies on reporting, providing training and support to bodies completing their reports, coordinating returns and analysing the data. For the first year (2015/16) of mandatory public sector climate change reporting return of 146 climate change reports were received. For the second year (2016/17), 180 public bodies submitted their reports, which included the 150 public bodies plus 30 Integration

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<sup>11</sup> <http://www.legislation.gov.uk/ssi/2015/347/contents/made>

<sup>12</sup> <https://www.webarchive.org.uk/wayback/archive/20170701234954/http://www.gov.scot/Topics/Environment/climatechange/howyoucanhelp/publicbodies/majorplayers>

Joint Boards who reported for the first time. These reports are publicly available at: <https://sustainablescotlandnetwork.org/reports>

The Scottish government published the Route Map for Energy Efficient Scotland in May 2018. This 20-year programme will see the energy efficiency of all of Scotland's buildings improved, including those in the public sector. The work that the public sector has already done to support climate change means they are well placed to lead by example.

## **Northern Ireland**

In Northern Ireland, the Department of Finance encourages public bodies to adopt energy efficiency measures through a requirement to produce annual Display Energy Certificates on all public authority buildings frequently visited by the public over 250m<sup>2</sup> total useful floor area, with advisory reports required at least every seven years. These are based on energy use in operation and are required under the Energy Performance of Buildings (Certificates and Inspection) Regulations (Northern Ireland) 2008 (as amended).

In addition, the Department promotes energy efficiency for public bodies through its manual, "Energy management in public sector buildings," as empowered by the Energy Efficiency Order (Northern Ireland) 1999.

The Northern Ireland Housing Executive (NIHE) is required to assess and report annually on measures to enhance energy conservation of all residential properties in Northern Ireland under the Home Energy Conservation Act 1995.<sup>13</sup> NIHE also produces an Energy Efficiency Good Practice Guide to encourage efficiency measures in dwellings and administers extensive programmes of improvement measures to social housing under its control in Northern Ireland. As part of the government's efforts to raise the energy efficiency of social housing stock, the Department for Communities in Northern Ireland provides additional grant funding for new dwellings which meet certain energy efficiency standards in excess of building Regulations requirements.

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<sup>13</sup> [https://www.nihe.gov.uk/home\\_energy\\_conservation\\_2016\\_twentieth\\_annual\\_report.pdf](https://www.nihe.gov.uk/home_energy_conservation_2016_twentieth_annual_report.pdf)