
STATUTORY INSTRUMENTS

2016 No. 284

The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016.

(2) These regulations come into force on 6th April 2016, except as provided in paragraphs (3) and (4).

(3) Regulations 18 and 19 come into force on 1st June 2016.

(4) Regulations 3(b), 20 and 22 come into force on 1st October 2016.

(5) These Regulations extend to England and Wales.

Amendment of the Energy Performance of Buildings (England and Wales) Regulations 2012

2. The Energy Performance of Buildings (England and Wales) Regulations 2012(1) are amended in accordance with the following regulations.

Amendments to regulation 2

3. In regulation 2 (interpretation)—

(a) for the definition “asset rating” substitute—

““asset rating” means an energy performance indicator determined from the amount of energy estimated to meet the different needs associated with a standardised use of a building;”;

(b) omit the definition “authorised recipient”;

(c) in the definition “bulk access data” after “regulation 27(2)” insert “, (3) or (4B)”;

(d) for the definition “display energy certificate” substitute—

““display energy certificate” means a certificate which—

(a) complies with regulation 15; or

(b) in the case of a certificate issued in respect of an excluded building under regulation 15A, complies with regulation 15A(2);”

(e) after the definition “energy from renewable sources” insert the following definition—

““energy performance” in relation to a building means the calculated or measured amount of energy needed to meet the energy demand associated with a typical use of the building, which includes, inter alia, energy used for heating, cooling, ventilation, hot water and lighting;”;

(f) in the definition “energy performance certificate”—

- (i) omit “or” after paragraph (b),
- (ii) after paragraph (b) insert—
 - “(ba) in the case of a certificate issued in respect of an excluded building under regulation 9A, complies with the requirements of regulation 9A(2) of these Regulations; or”, and
- (iii) in paragraph (c) before “complies” add “in the case of a certificate entered on the register before 6th April 2016”;
- (g) after the definition “energy performance certificate” insert the following definition—
 - ““excluded building” means a building owned, occupied or used by or for the purposes of—
 - (a) the Security Service, the Secret Intelligence Service or the Government Communications Headquarters;
 - (b) any of the armed forces;
 - (c) the Royal Family;
 - (d) a prison;
 - (e) a contracted out prison within the meaning of the Criminal Justice Act 1991(2); or
 - (f) a young offender institution;”;
- (h) for the definition “inspection report” substitute—
 - ““inspection report” means a report—
 - (a) issued by an energy assessor in accordance with regulation 19(1); or
 - (b) in the case of a report issued in respect of an excluded building, issued by an energy assessor in accordance with regulation 19A(2);”;
- (i) for the definition “operational rating” substitute—
 - ““operational rating” means an energy performance indicator determined from the amount of energy consumed during the occupation of a building over a period of time and the energy demand associated with a typical use of the building over that period;”;
- (j) in the definition “report reference number”—
 - (i) after “energy performance certificate” insert “issued by an energy assessor under regulation 9”, and
 - (ii) after “display energy certificate” insert “issued by an energy assessor under regulation 15”.

Amendment of regulation 4

- 4. For regulation 4(5)(a) (recommendation reports) substitute—
 - “(a) “building element” means a controlled service or fitting or a thermal element within the meaning of those expressions in regulation 2(1) and (3) respectively of the Building Regulations 2010(3).”.

(2) 1991 c. 53

(3) S.I. 2010/2214. There are amendments, but none is relevant to this provision.

Insertion of regulation 7A

5. After regulation 7 (energy performance certificates on marketing) insert—

“Energy performance certificates on construction

- 7A.**—(1) This regulation applies where—
- (a) a building is erected; or
 - (b) a building is modified so that it has a greater or lesser 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 services for heating, hot water, air conditioning or mechanical ventilation.
- (2) The person carrying out the building work must—
- (a) give an energy performance certificate for the building to the owner of the building;
 - (b) give to the local authority notice to that effect; and
 - (c) include in that notice the reference number under which the energy performance certificate has been registered in accordance with regulation 27(4), except in the case of an energy performance certificate issued under regulation 9A (energy performance certificates in respect of excluded buildings).
- (3) The energy performance certificate and notice must be given not later than five days after the building work has been completed.”.

Amendment of regulation 9

6. In regulation 9 (energy performance certificates)—
- (a) in paragraph (1)—
 - (i) at the beginning insert “Subject to paragraph (6),”,
 - (ii) for subparagraph (a) substitute—
 - “(a) show the asset rating of the building, calculated and expressed in accordance with the methodology approved by the Secretary of State under regulation 24 of the Building Regulations 2010;”,
 - (iii) in subparagraph (b) for “such as a current legal standard or benchmark” substitute “in order to make it possible to compare and assess the energy performance of the building”; and
 - (b) after paragraph (5) add—
 - “(6) This regulation does not apply to an energy performance certificate to which regulation 9A applies.”.

Insertion of regulation 9A

7. After regulation 9 (energy performance certificates) insert—

“Energy performance certificates in respect of excluded buildings

- 9A.**—(1) This regulation applies where—
- (a) a building in relation to which an energy performance certificate is requested to be issued is an excluded building; and
 - (b) the person who requests the energy performance certificate—

- (i) notifies the energy assessor (whether in writing or otherwise) that the building is an excluded building; and
 - (ii) requests (whether in writing or otherwise) that the energy performance certificate is issued under this regulation.
- (2) An energy performance certificate issued under this regulation must—
- (a) comply with the requirements set out in subparagraphs (a) to (e) of regulation 9(1), other than the requirement in subparagraph (e)(i) (reference number under which data entered onto register); and
 - (b) be valid for the purposes of this Part in accordance with paragraph (4).
- (3) An energy performance certificate must not contain any information or data (except the address of the building) from which a living individual (other than the energy assessor or energy assessor’s employer) can be identified.
- (4) An energy performance certificate issued under this regulation is only valid for the purposes of this Part if—
- (a) it was issued no more than 10 years before the date on which it is made available; and
 - (b) no other energy performance certificate for the building has since been issued under this regulation or entered onto the register.
- (4) Where this regulation applies, the energy assessor must not enter any data relating to the building onto the register.
- (5) Certification for building units may be based—
- (a) for a non-residential building, on a common certification of the whole building for blocks with a common heating system; or
 - (b) on the assessment of another representative building unit in the same block.
- (6) Certification for a building which consists of a single dwelling may be based on the assessment of another representative building of similar design and size with a similar actual energy performance quality if such correspondence is guaranteed by the energy assessor issuing the energy performance certificate.”.

Amendment of regulation 10

- 8.** In regulation 10(1)(c) (display of energy performance certificates)—
- (a) in subparagraph (i) after “6” add “or 7A”; and
 - (b) in subparagraph (ii) before “regulation” add “in the case of certificate entered on the register before 6th April 2016,”.

Amendment of regulation 11

- 9.—**(1) In regulation 11 (statement of energy performance indicator)—
- (a) in the heading to the regulation for “indicator” substitute “rating”; and
 - (b) in paragraphs (2) and (3) for “indicator” substitute “rating”.

Amendment of regulation 15

- 10.** In regulation 15 (display energy certificates)—
- (a) number the existing provision as paragraph (1);
 - (b) at the beginning insert “Subject to paragraph (2),”;

- (c) after “display energy certificate” insert “issued under this regulation”;
- (d) for subparagraph (a) substitute—
 - “(a) subject to regulation 16, show the operational rating of the building, calculated and expressed in accordance with the methodology approved by the Secretary of State under regulation 24 of the Building Regulations 2010, relating to the period of 12 months ending no earlier than three months before the nominated date;”;
- (e) in subparagraph (b) for “expressed” substitute “shown”;
- (f) in subparagraph (c) for “such as a current legal standard or benchmark” substitute “in order to make it possible to compare and assess the energy performance of the building”; and
- (g) after paragraph (1) insert—
 - “(2) This regulation does not apply to a display energy certificate issued under regulation 15A.”.

Insertion of regulation 15A

11. After regulation 15 (display energy certificates) insert—

“Display energy certificates for excluded buildings

15A.—(1) This regulation applies where—

- (a) a building in relation to which a display energy certificate is requested to be issued is an excluded building; and
- (b) the person who requests the display energy certificate—
 - (i) notifies the energy assessor (whether in writing or otherwise) that the building is an excluded building; and
 - (ii) requests (whether in writing or otherwise) that the display energy certificate is issued under this regulation.

(2) A display energy certificate issued under this regulation must comply with the requirements of subparagraphs (a) to (e) of regulation 15(1), other than the requirement in paragraph (e)(i) (reference number under which data entered onto register).

(3) Where this regulation applies, the energy assessor must not enter any data relating to the building onto the register.”.

Amendment of regulation 19

12. In regulation 19 (reports)—

- (a) at the beginning of paragraph (1) insert “Subject to paragraph (4),”; and
- (b) after paragraph (3) insert—

“(4) This regulation does not apply to inspection reports issued under regulation 19A.”.

Insertion of regulation 19A

13. After regulation 19 (reports) insert—

“Reports in respect of excluded buildings

19A.—(1) This regulation applies where—

- (a) a building in relation to which an inspection report is requested to be issued is an excluded building; and
- (b) the person who requests the inspection report—
 - (i) notifies the energy assessor (whether in writing or otherwise) that the building is an excluded building; and
 - (ii) requests (whether in writing or otherwise) that the inspection report is issued under this regulation.
- (2) Where an energy assessor undertakes an inspection of the system under regulation 18 he must make a written report of the inspection and give it to the relevant person as soon as practicable after completing the inspection.
- (3) An inspection report issued under this regulation must comply with the requirements of paragraphs (2) and (3) of regulation 19, other than the requirement in paragraph (3)(a) (reference number under which data entered onto register).
- (4) Where this regulation applies, the energy assessor must not enter any data relating to the building onto the register.”.

Amendment of regulation 22

- 14.** In regulation 22(3) (accreditation schemes) for subparagraph (g) substitute—

“(g) for requiring the sets of data from which there may be produced energy performance certificates (other than data relating to a certificate issued under regulation 9A), display energy certificates (other than data relating to a certificate issued under regulation 15A), recommendation reports (other than one to which regulation 27(7) applies) and inspection reports (other than data relating to a certificate issued under regulation 19A) prepared by members of the scheme to be entered onto the relevant register maintained by the Secretary of State pursuant to regulation 27; and”.

Amendment of regulation 27

- 15.** In regulation 27 (registration of certificates etc)—

- (a) in paragraph (1)—
 - (i) at the beginning insert “Subject to paragraph (6),”,
 - (ii) omit “and” at the end of subparagraph (b),
 - (iii) and after subparagraph (c) add—
 - “; and
 - (d) recommendation reports”;
- (b) after paragraph (4A) insert—
 - “(4B) An energy assessor who issues a recommendation report (whether as part of an energy performance certificate under regulation 9(1)(d) or as a separate document) must ensure that the data that is required to be included in the report by regulation 4(2) (recommendation reports) is entered onto the relevant register before the assessor gives the report to the person who requested that it be issued.”; and
- (c) after paragraph (5) add—
 - “(6) This regulation does not apply to—
 - (a) an energy performance certificate issued under regulation 9A (energy performance certificates in respect of excluded buildings);

- (b) a display energy certificate issued under regulation 15A (display energy certificates in respect of excluded buildings);
 - (c) an inspection report issued under regulation 19A (inspection reports in respect of excluded buildings); or
 - (d) a recommendation report to which paragraph (7) applies.
- (7) This paragraph applies to a recommendation report which—
- (a) is included in an energy performance certificate issued under regulation 9A (energy performance certificates in respect of excluded buildings);
 - (b) is issued in relation to a building together with a display energy certificate issued in relation to that building under regulation 15A (display energy certificates in respect of excluded buildings).”.

Amendment of regulation 28

16. In regulation 28 (fees for entering data onto the register)—
- (a) in paragraph (a), for “£1.27” substitute “£2.07”; and
 - (b) in paragraph (b) for “£11.66” substitute “£12.82”.

Amendment of regulation 30

17. In regulation 30 (disclosure of general access data)—
- (a) in paragraph (2)—
 - (i) at the end of subparagraph (b) omit the full stop and insert “; and”,
 - (ii) for subparagraph (c) substitute—
 - “(c) subject to paragraph (2ZA), no opt-out is in effect in respect of the data.”, and
 - (iii) omit subparagraph (d);
 - (b) after paragraph (2) insert—
 - “(2ZA) The condition in paragraph (2)(c) does not apply where the request—
 - (a) is for data that is required to be included in a display energy certificate; or
 - (b) includes the report reference number of the valid energy performance certificate that relates to the building.”;
 - (c) in paragraph (2A)—
 - (i) in subparagraph (a) for “, (c) and (d)” substitute “and (c)”, and
 - (ii) in subparagraph (b) for “, (c) and (d)” substitute “and (c)”.
 - (d) in paragraph (3)—
 - (i) at the end of subparagraph (a), omit “; and”, and
 - (ii) omit subparagraph (b).

Insertion of regulation 30A

18. After regulation 30 (disclosure of general access data) insert—

“Publication of bulk access data on a website

30A.—(1) Subject to paragraph (2), the keeper of the register may publish on a website such items of bulk access data relating to any building appearing on the register as are specified in Schedule B1.

(2) The keeper of the register may not publish any data under this regulation in relation to which an opt-out is in effect in accordance with regulation 30(3).”.

Insertion of Schedule B1

19. After Schedule A1 insert Schedule B1 as set out in the Schedule to these Regulations.

Revocation of regulation 31 and schedule 1

20. Regulation 31 (disclosure of bulk access data) and Schedule 1 are revoked.

Amendment of regulation 32

21. In regulation 32 (disclosure by keeper of the register)—

(a) in paragraph (1) at the end of subparagraph (d) insert—

“; or

(e) to the Office for National Statistics for statistical or research purposes”;

(b) in paragraph (2A), for the opening words preceding subparagraph (a) substitute—

“(2A) Where the keeper of the register discloses general access data or bulk access data to the Secretary of State or to the Office for National Statistics for statistical or research purposes, such data may be published by the Secretary of State or the Office of National Statistics (as the case may be) if—”; and

(c) in paragraph (8) omit subparagraph (a).

Revocation of regulation 33

22. Regulation 33 (fee for disclosure of bulk access data) and Schedule 2 are revoked.

Amendment of regulation 34

23. In regulation 34 (enforcement authorities)—

(a) in paragraph (2)—

(i) after “7(5)” insert “, 7A(2), 7A(3)”, and

(ii) omit “, and the EPC construction duty”; and

(b) omit paragraphs (3) to (5).

Amendment of regulation 34A

24. In regulation 34A (enforcement and local authority buildings)—

(a) in paragraph (1)—

(i) after “7(5)” insert “, 7A(2), 7A(3)”,

(ii) omit “, or to the EPC construction duty”;

(b) in paragraph (2)—

(i) after “7(5)” insert “, 7A(2), 7A(3)”,

- (ii) omit “and the EPC construction duty”;
- (c) in paragraph 3(a)—
 - (i) after “7(5)” insert “, 7A(2), 7A(3)”,
 - (ii) omit “and the EPC construction duty”; and
 - (iii) omit paragraph (8).

Amendment of regulation 35

- 25.** In regulation 35 (power to require production of documents)—
- (a) in paragraph (1)—
 - (i) after “6” insert “, 7A”, and
 - (ii) omit “, or the EPC construction duty,”; and
 - (b) omit paragraphs (7) to (9).

Amendment of regulation 36

- 26.** In regulation 36 (penalty charge notices)—
- (a) in paragraph (1)—
 - (i) after “7(5)” insert “, 7A(2), 7A(3)”, and
 - (ii) omit “or the EPC construction duty,”; and
 - (b) omit paragraphs (8) to (10).

Amendment of regulation 38

- 27.** In regulation 38 (penalty amount)—
- (a) in paragraph (1)—
 - (i) for “or 7(5), or of the EPC construction duty” substitute “7(5), 7A(2), or 7A(3)”, and
 - (ii) omit paragraph (4).

Signed by authority of the Secretary of State for Communities and Local Government

James Wharton
Parliamentary Under Secretary of State
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10th March 2016