

2016 No. 888

BUILDING AND BUILDINGS, ENGLAND AND WALES

**The Energy Performance of Buildings (England and Wales)
(Amendment) (No. 2) Regulations 2016**

<i>Made</i>	- - - -	<i>7th September 2016</i>
<i>Laid before Parliament</i>		<i>9th September 2016</i>
<i>Coming into force</i>	- -	<i>1st October 2016</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the environment.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by section 74 of the Energy Act 2011(c).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2016.

(2) These Regulations come into force on 1st October 2016.

(3) These Regulations extend to England and Wales.

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

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

(2) In regulation 2(1) (interpretation)—

(a) in the definition “accreditation scheme” omit—

(i) “; or” at the end of subparagraph (a), and

(ii) subparagraph (b);

(b) after the definition “energy assessor” insert the following definition—

““energy efficiency improvement” has the meaning given in section 2(4) of the Energy Act 2011(e);”.

(a) S.I. 2008/301.

(b) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(c) 2011 c.16.

(d) S.I. 2012/3118, as amended by S.I. 2013/10; S.I. 2013/181; S.I. 2013/603; S.I. 2014/880; S.I. 2015/609, S.I. 2015/1681 and S.I. 2016/284.

(e) 2011 c.16.

(3) For regulation 13 (electronic production of energy performance certificates) substitute—

“Electronic service of energy performance certificates etc

13.—(1) A document that is made available or given in accordance with the regulations listed in paragraph (2) may be made available or given electronically if the intended recipient consents to receiving it electronically.

(2) Those documents are—

- (a) an energy performance certificate made available in accordance with regulation 6(2);
- (b) an energy performance certificate given in accordance with regulation 6(5);
- (c) an energy performance certificate given in accordance with regulation 7A(2)(a);
- (d) a notice given to a local authority in accordance with regulation 7A(2)(b).”.

(4) In regulation 29(1) (disclosure of data: general), for “31” substitute “30A”.

(5) In regulation 32 (disclosure by keeper of register)—

(a) after paragraph (7) insert the following paragraphs—

“(7A) The keeper of the register may disclose bulk access data which relates to a building to a green deal relevant person if the data is to be used by that person solely for one or more of the following purposes—

- (a) promoting energy efficiency improvements in relation to buildings;
- (b) promoting and marketing energy efficiency improvements that may be made pursuant to a green deal plan;
- (c) determining whether energy efficiency improvements that may be made pursuant to a green deal plan have or have not been made in respect of a particular building or buildings.

(7B) The keeper of the register may disclose bulk access data which relates to a building to the Secretary of State, or to a person acting on behalf of the Secretary of State, for one or more of the following purposes—

(a) the carrying out of any function of the Secretary of State under—

- (i) sections 33BC (promotion of reductions in carbon emissions: gas transporters and gas suppliers) or 33BD (promotion of reductions in home-heating costs: gas transporters and gas suppliers) of the Gas Act 1986(a),
- (ii) sections 41A (promotion of reductions in carbon emissions: electricity distributors and electricity suppliers) or 41B (promotion of reductions in home-heating costs: electricity distributors and electricity suppliers) of the Electricity Act 1989(b),
- (iii) the Green Deal Framework Regulations, or
- (iv) the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015(c);

(b) promoting energy efficiency improvements in relation to buildings.

(a) 1986 c.44. Section 33BC was substituted by section 99 of the Utilities Act 2000 (c.27) for section 33BB, inserted by paragraph 36 of Schedule 3 to the Gas Act 1995 (c.45), and has been amended by section 15 of, and paragraphs 1 and 2 of the Schedule to, the Climate Change and Sustainable Energy Act 2006 (c.19); paragraph 1 of Schedule 8 to the Climate Change Act 2008 (c.27); section 66 of the Energy Act 2011 (c.16); and paragraph 4(1) and (11) of Schedule 1 to S.I. 2014/631. Section 33BD was inserted by section 68 of the Energy Act 2011.

(b) 1989 c.29. Section 41A was substituted for section 41 by section 70 of the Utilities Act 2000, and amended by section 16 of, and paragraphs 4 and 5 of the Schedule to, the Climate Change and Sustainable Energy Act 2006; paragraph 3 of Schedule 8 to the Climate Change Act 2008; and section 67 of, paragraphs 2 and 4 of Schedule 1 to, the Energy Act 2011; and paragraph 5(1) and (12) of Schedule 1 to S.I. 2014/631. Section 41B was inserted by section 69 of the Energy Act 2011.

(c) S.I. 2015/962, as amended by S.I. 2016/660.

(7C) The keeper of the register may disclose bulk access data which relates to a building to the Gas and Electricity Markets Authority^(a), or to a person acting on behalf of the Authority, for one or more of the following purposes—

- (a) the carrying out of any functions of the Authority under the Electricity and Gas (Energy Company Obligation) Order 2014^(b);
 - (b) promoting energy efficiency improvements in relation to buildings.”.
- (b) in paragraph (8), after “(7)” insert “, (7A), (7B) or (7C)”.
- (6) In Schedule B1 (specified data items for online publication)—
- (a) in paragraph 2—
 - (i) for item (l) substitute—

“(l) the current primary energy use of the building,”
 - (ii) for item (m) substitute—

“(m)the potential primary energy use of the building,” and
 - (iii) omit item (cc);
 - (b) in paragraph 3—
 - (i) omit—
 - (aa) item (c),
 - (bb) item (q),
 - (ii) for item (r) substitute—

“(r) the primary energy use of the building,” and
 - (iii) after item (x) insert—

“(xa) the building emission rate of the building,”.

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

Gavin Barwell
Minister of State

7th September 2016

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Energy Performance of Buildings (England and Wales) Regulations 2012 (S.I. 2012/3118, as amended by S.I. 2013/10; S.I. 2013/181; S.I. 2013/603; S.I. 2014/880; S.I. 2015/609, S.I. 2015/1681 and S.I. 2016/284) (“the Principal Regulations”), which implement Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings (recast) (OJ No L 153, 18.6.2010, p.13).

Regulation 2(2), (3) and (4) updates references that were overlooked in earlier amendments to the Principal Regulations.

Regulation 2(5) provides for the disclosure, by the keeper of the register of energy performance certificates, kept under regulation 27 of the Principal Regulations, of bulk access data, which is the whole set of data entered onto the register in respect of any building, to certain persons for stated purposes. Those persons and purposes are firstly to persons authorised as a green deal provider or as a green deal assessor certification body under Part 2 of the Green Deal Framework (Disclosure,

(a) The Gas and Electricity Markets Authority was established by section 1 of the Utilities Act 2000 (c.27).

(b) S.I. 2014/3219.

Acknowledgement, Redress etc) Regulations 2012 (S.I. 2012/2079), for purposes relating to energy efficiency improvements to buildings. This consolidates existing provision that would otherwise be included in revocations coming into force on 1st October 2016. Secondly, disclosure may be made to the Secretary of State, or to a person acting on behalf of the Secretary of State, for the purposes of carrying out certain functions under the Gas Act 1986 (c.44) and the Electricity Act 1989 (c.29), or of promoting energy efficiency improvements to buildings. Thirdly, disclosure may be made to the Gas and Electricity Markets Authority, or to a person acting on behalf of the Authority, for the purposes of carrying out functions under the Electricity and Gas (Energy Company Obligation) Order 2014 (S.I. 2014/3219), or of promoting energy efficiency improvements to buildings.

Regulation 2(6) amends the lists in Schedule B1 to the Principal Regulations of items of bulk access data that may be published on a website by virtue of regulation 30A(1) of those Regulations.

An impact assessment has not been prepared for these Regulations, as they have no impact, or minimal impact, on the public, private or voluntary sector.

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£4.25

UK2016090715 09/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/888>

ISBN 978-0-11-114952-2



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