

EXPLANATORY MEMORANDUM TO
THE ENERGY PERFORMANCE OF BUILDINGS (ENGLAND AND WALES)
(AMENDMENT) (NO. 2) REGULATIONS 2016

2016 No. 888

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government (“DCLG”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Energy Performance of Buildings (England and Wales) Regulations 2012 (“the principal regulations”). It updates certain references that were overlooked in earlier amendments; it makes provision for the disclosure from the register of energy performance certificates of data used to prepare certificates to stated persons and bodies for purposes related to Government policy to promote the energy efficiency of buildings; and it amends the lists of data items from the register that may be published on a website.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The principal regulations implement Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings (“the Directive”), which establishes requirements concerning the inspection and certification of the energy performance of buildings. The principal regulations include provision as a matter of national policy for the establishment and maintenance of a register of energy performance certificates, and for the disclosure of data from the register.

5. Extent and Territorial Application

- 5.1 This instrument extends to England and Wales.
5.2 This instrument applies to England and Wales.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 On 23rd June 2016 the EU referendum took place and the people of the United Kingdom voted to leave the European Union. It will be for the Prime Minister to begin negotiations to exit the EU, and until exit negotiations are concluded the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.
- 7.2 This instrument updates certain references that were overlooked when the principal regulations were amended by the Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (“the first 2016 regulations”).
- 7.3 This instrument contains provision for disclosure of bulk access data, that is all the information entered onto the register in respect of any building from the register of energy performance certificates kept under regulation 27 of the principal regulations to various persons and bodies for stated purposes, all relating to the energy efficiency of buildings, as described in the next paragraph.
- 7.4 Firstly this instrument consolidates provision for disclosure to green deal providers and green deal assessor certification bodies authorised under Part 2 of the Green Deal Framework (Disclosure, Acknowledgement, Redress etc) Regulations 2012, for the purposes of promoting and marketing energy efficiency improvements, and determining whether energy efficiency improvements that may be made under a green deal have or have not been made. This provision would otherwise be included in revocations made by the first 2016 regulations that come into force on 1st October 2016. Second, it provides for disclosure to the Secretary of State, or a person acting on its behalf, for the purposes of exercise of its functions under various enactments concerning energy efficiency, and of promoting energy efficiency improvements. Third, it provides for disclosure to the Gas and Electricity Markets Authority, or a person acting on its behalf, for the purposes of exercise of its functions under the Energy Company Obligation Order 2014 (S.I. 2014/3219) and of promoting energy efficiency improvements.
- 7.5 Finally, the instrument makes technical amendments to the lists of the bulk access data items that may be published on a website under regulation 30A of the principal regulations.

Consolidation

- 7.6 DCLG has no current plans to consolidate the principal regulations.

8. Consultation outcome

- 8.1 As this instrument makes amendments that are either limited to updating and consolidation of existing provision, or provide for lawful data sharing within Government, or with a body implementing Government policy, no consultation has been undertaken.

9. Guidance

- 9.1 Guidance about the energy performance of buildings bulk access data available to the public will accompany the website data releases at www.opendatacommunities.org

10. Impact

- 10.1 There is no impact, or minimal impact, on business, charities or voluntary bodies.
- 10.2 There is no impact, or minimal impact, on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses, but imposes no burdens on those businesses.

12. Monitoring & review

- 12.1 This instrument contains no provision for review, review provision being included already in the principal regulations.

13. Contact

- 13.1 Katherine Higley at the Department for Communities and Local Government
Telephone: 030 3444 1793 or email: katherine.higley@communities.gsi.gov.uk can answer any queries regarding the instrument.