

EXPLANATORY MEMORANDUM TO
THE ENERGY PERFORMANCE OF BUILDINGS (ENGLAND AND WALES)
(AMENDMENT) REGULATIONS 2017

2017 No. 368

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 sets revised fees for entering data on the register of certificates and reports which is maintained by the Secretary of State under regulation 27 of the principal regulations. It also adds to 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 (recast) (“the Directive”), which establishes requirements concerning the assessment and certification of the energy performance of buildings, including the production of energy performance certificates (EPCs), display energy certificates (DECs), air conditioning inspection reports (ACIRs) and recommendation reports. The principal regulations provide additionally for the establishment and maintenance of a register of the data used to produce certificates and reports, 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 Regulation 27 of the principal regulations requires the Secretary of State to maintain a register of data from which EPCs, DEC, ACIRs and recommendation reports may be produced. The register is maintained on the Secretary of State's behalf by a register operator, with whom DCLG has entered into contracts for the maintenance of the register. Regulation 28 sets out the fees which are charged for entering EPC, DEC and ACIR data onto the register.
- 7.3 The fees for entering data onto the register are reviewed regularly in order that they suffice to cover the cost of operating the register. The review forecasts levels of demand for energy certificates in the property sale and rental markets. The projected levels of the entries is forecast to increase in the year starting 6th April 2017, allowing the following fee reductions:
- (a) the fee for entering data from which an EPC which relates to a dwelling may be produced, is reduced to £1.82 from £2.07;
 - (b) the fee for entering data from which the following documents may be produced is reduced to £10.12 from £12.82–
 - (i) an EPC which relates to a building other than a dwelling;
 - (ii) a DEC, or
 - (iii) an ACIR.

The level of the fees will ensure that the full cost of operating the register will be recovered from the fees that are charged.

- 7.4 This instrument also makes technical amendments and additions to the lists of bulk access data items that may be published on a website under regulation 30A of the principal regulations. The data is a significant DCLG information asset and adds greatly to the national data infrastructure. The data is of significant value to researchers, local authorities and environmental organisations in delivering national climate change objectives. The data may also be used by external researchers for information relating to housing starts and completions. It is in the public interest to publish a fuller range of data and to make it more readily available for these purposes.

Consolidation

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

8. Consultation outcome

- 8.1 This instrument does not implement any new EU obligations. It is limited to amending the principal regulations to reduce fees for entering and energy performance of buildings data on the registers and to broaden the scope of publication of that data in line with existing policy. Accordingly no consultation has been undertaken.

9. Guidance

- 9.1 Guidance about the online publication of energy performance of buildings bulk access data will be available to the public at www.opendatacommunities.org

10. Impact

- 10.1 The only impact on business, charities or voluntary bodies is that additional energy performance of buildings data will be made available online and free of charge.
- 10.2 The impact on the public sector is as that above in 10.1.
- 10.3 A privacy impact assessment regarding the opening up of access to data held on the registers was laid with the Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/284) and is published on www.legislation.gov.uk

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses, but imposes no burdens on those businesses.
- 11.2 The fees for entering data on the registers are reviewed annually and the businesses which are affected are aware of the need to take account of this in their plans and fee structures.

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.