



# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 3

#### OTHER PROVISIONS

PROSPECTIVE

#### CHAPTER 1

##### SUSTAINABILITY CERTIFICATES

###### *General*

#### **279 Certificates for new homes**

- (1) A person who is selling a residential property as a new property must supply the purchaser with—
  - (a) a sustainability certificate, or
  - (b) a written statement to the effect that there is no sustainability certificate for the property.
- (2) If the seller is to supply a sustainability certificate, the seller must supply it before the sale is agreed if it is reasonably practicable to do so.
- (3) If it is not reasonably practicable to do so, the seller must—
  - (a) supply an interim certificate before the sale is agreed, and
  - (b) supply the sustainability certificate at such time, or within such period, as may be prescribed.
- (4) If the seller is to supply a statement, the seller must supply it before the sale is agreed.

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- (5) The appropriate national authority may by regulations require sellers to supply certificates or statements to purchasers earlier than required by subsection (2), (3)(a) or (4).
- (6) The appropriate national authority may by regulations provide for exceptions from any duty imposed by virtue of subsections (1) to (5) in such cases and circumstances, and to such extent, as may be specified in the regulations.
- (7) Regulations under subsection (6) may impose alternative duties in relation to the supply of certificates or statements.
- (8) The seller is not required to comply with a requirement imposed by virtue of this section if the seller has a reasonable excuse for not complying with the requirement.
- (9) The seller may not charge for supplying a certificate or statement by virtue of this section.
- (10) The power conferred by subsection (3)(b) may, in particular, be exercised so as to prescribe a time, or a period which ends, after the completion of the sale.
- (11) In this Chapter—
  - “interim certificate” means a document which—
    - (a) contains an interim assessment of the sustainability of a residential property, and
    - (b) complies with the requirements of regulations under this Chapter,
  - “sustainability certificate” means a document which—
    - (a) contains a final assessment of the sustainability of a residential property, and
    - (b) complies with the requirements of regulations under this Chapter.

## **280 Meaning of sustainability**

- (1) For the purposes of this Chapter the sustainability of a residential property relates to the extent to which—
  - (a) the materials used in the property,
  - (b) other aspects of the design and construction of the property, and
  - (c) any services, fittings and equipment provided in, or in connection with, the property,
 meet any sustainability standards.
- (2) Sustainability standards are standards prescribed by the appropriate national authority for any of the following purposes—
  - (a) ensuring the health, safety, welfare and convenience of persons in or about the property and of others who may be affected by the property or matters connected with it,
  - (b) furthering the efficient management of the property and of its construction,
  - (c) furthering energy efficiency,
  - (d) furthering the efficient use of water and minimising flood risk,
  - (e) furthering efficient waste management,
  - (f) furthering the protection or enhancement of the environment, and
  - (g) furthering the prevention or detection of crime.

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- (3) The appropriate national authority may by regulations amend subsection (2) so as to add, remove or alter purposes for the time being contained there.
- (4) The references in this section to the construction of the property include references to any related demolition and any off-site activities relating to the construction or demolition.

## **281 Authorised assessors**

- (1) The assessment of the sustainability of a residential property is to be carried out for the purposes of this Chapter by an authorised assessor.
- (2) The appropriate national authority may by regulations make provision about authorised assessors.
- (3) The regulations must specify the persons or descriptions of persons who are to be authorised assessors.
- (4) Subsections (5) to (9) apply if regulations under subsection (2) provide for authorised assessors to be persons accredited under an approved accreditation scheme.
- (5) The regulations may make provision about accreditation schemes.
- (6) The regulations may, in particular, provide for—
  - (a) the approval by the appropriate national authority of one or more accreditation schemes (whether established by the appropriate national authority or another person),
  - (b) the withdrawal by the appropriate national authority of any such approval,
  - (c) the charging of fees under accreditation schemes.
- (7) Any regulations of the kind mentioned in subsection (6)(a) must require the appropriate national authority to be satisfied, before approving an accreditation scheme, that the scheme contains appropriate provision—
  - (a) for ensuring that members of the scheme are fit and proper persons who are qualified (by their education, training and experience) to carry out assessments,
  - (b) for ensuring that a code of conduct for members of the scheme is maintained and published,
  - (c) for ensuring that members of the scheme have in force suitable indemnity insurance,
  - (d) for facilitating the resolution of complaints against members of the scheme,
  - (e) for requiring certificates or other documents given by members of the scheme to be entered on a register under section 282,
  - (f) for the keeping of a public register of the members of the scheme, and
  - (g) for such other purposes as may be specified in the regulations.
- (8) Subsection (7) does not limit the matters which the regulations may require the appropriate national authority to be satisfied about before approving an accreditation scheme.
- (9) Regulations under subsection (5) may, in particular, require or authorise an approved accreditation scheme to contain provision about any matter relating to sustainability

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certificates or other documents with which the scheme is concerned (including the terms on which members of the scheme may undertake to produce such documents).

## **282 Register of certificates**

- (1) The appropriate national authority may by regulations make provision about a register of sustainability certificates.
- (2) The regulations may, in particular, make provision of the kind mentioned in subsections (3) to (7).
- (3) The regulations may provide for a register to be kept—
  - (a) by (or on behalf of) the appropriate national authority, or
  - (b) by such other person as the regulations may specify or describe.
- (4) The regulations may require a person wishing to enter a document onto a register to pay such fee as may be prescribed.
- (5) No person may disclose—
  - (a) a register or any document (or part of a document) contained in it, or
  - (b) any information contained in, or derived from, a register,
 except in accordance with any provision of the regulations which authorises or requires such a disclosure to be made.
- (6) The regulations may make provision as to circumstances in which, or purposes for which, a person or a person of a prescribed description—
  - (a) may (on payment of such fee, if any, as may be prescribed)—
    - (i) inspect a register or any document (or part of a document) contained in it,
    - (ii) take or be given copies of a register or any document (or part of a document) contained in it, or
    - (iii) be given information contained in, or derived from, a register, or
  - (b) may disclose anything obtained by virtue of provision made under paragraph (a).
- (7) The purposes which may be so prescribed may be public purposes or purposes of private undertakings or other persons.
- (8) A person who contravenes subsection (5) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (9) The appropriate national authority may by regulations provide for interim certificates or other documents to be included on a register.
- (10) In such a case, subsections (1) to (8) apply in relation to the interim certificates or other documents concerned as they apply in relation to sustainability certificates.

### *Enforcement*

## **283 Enforcement authorities**

- (1) Every local weights and measures authority is an enforcement authority for the purposes of this Chapter.

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- (2) It is the duty of each enforcement authority to enforce in its area the duties imposed by virtue of section 279.

#### **284 Power to require production of certificates or statements**

- (1) Subsection (2) applies if an authorised officer of an enforcement authority believes that a person is, or has been, subject to a duty imposed by virtue of section 279 to supply a certificate or statement in relation to a particular property.
- (2) The officer may require the person to produce for inspection a copy of the certificate or statement.
- (3) The power conferred by subsection (2) includes power—
- (a) to require the production of a legible hard copy of any certificate or statement which is held in electronic form, and
  - (b) to take copies of any hard copy produced for inspection.
- (4) A requirement under this section may not be imposed more than 6 months after the last day for supplying the certificate or statement concerned in pursuance of the duty imposed by virtue of section 279.
- (5) A person is not required to comply with a requirement under this section if the person has a reasonable excuse for not complying with the requirement.
- (6) Subject to this, a person subject to such a requirement must comply with it within the period of 7 days beginning with the day after that on which it is imposed.

#### **285 Penalty charge notices**

- (1) An authorised officer of an enforcement authority may give a penalty charge notice to a person if the officer believes that the person has committed a breach of—
- (a) any duty imposed by virtue of section 279, or
  - (b) any duty under section 284.
- (2) A penalty charge notice may not be given after the end of the period of 6 months beginning with the day (or, in the case of a continuing breach, the last day) on which the breach of duty was committed.
- (3) Schedule 10 (which makes further provision about penalty charge notices) has effect.

#### **286 Offences relating to enforcement officers**

- (1) A person who, without reasonable excuse, obstructs an officer of an enforcement authority who is acting in pursuance of duties imposed by virtue of this Chapter is guilty of an offence.
- (2) A person who, not being an authorised officer of an enforcement authority, purports to act as such in pursuance of section 284 or 285 is guilty of an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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## Supplementary

### 287 Grants

- (1) The appropriate national authority may make grants towards expenditure incurred by any person in connection with the development of proposals for, or the operation of—
  - (a) a register under section 282, or
  - (b) accreditation schemes or any other provision which may be made by regulations under this Chapter.
- (2) A grant under this section may be made on conditions, which may include (among other things)—
  - (a) conditions as to the purposes for which the grant or any part of it may be used, and
  - (b) conditions requiring the repayment (with or without interest) of the grant or any part of it in such circumstances as may be specified in the conditions.

### 288 Suspension of duties

- (1) The appropriate national authority may by regulations suspend (or later revive) the operation of any duty imposed by virtue of section 279.
- (2) Such regulations may provide for the suspension of a duty to take effect only for a period specified in the regulations.
- (3) A duty which is (or is to any extent) revived after being suspended may be suspended again.

### 289 Disclosure of certificates etc.

- (1) The appropriate national authority may by regulations make provision about the disclosure of—
  - (a) sustainability certificates, interim certificates or statements of the kind mentioned in section 279(1)(b),
  - (b) copies of any such documents,
  - (c) any information contained in, or derived from, any such documents or copies, or
  - (d) any information collected by an authorised assessor for the purposes of preparing a sustainability certificate or an interim certificate.
- (2) A person who, without reasonable excuse, discloses anything whose disclosure is prohibited by regulations under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### 290 General powers to make regulations

- (1) The appropriate national authority may by regulations make such provision as the authority considers appropriate—
  - (a) for the general purposes, or any particular purpose, of this Chapter,
  - (b) in consequence of any provision made by virtue of this Chapter or for giving full effect to it.

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- (2) Such regulations may, in particular, provide for—
- (a) the form and content of sustainability certificates and interim certificates,
  - (b) the form and content of written statements of the kind mentioned in section 279(1)(b),
  - (c) ways in which sustainability standards may be met,
  - (d) the issue of guidance for the purposes of this Chapter,
  - (e) the relationship between any provision made by virtue of this Chapter and any provision<sup>F1</sup>... in relation to energy performance certificates.
- (3) Regulations made by virtue of subsection (2)(a) or (b) may, in particular, provide for the form or content of the documents concerned to be such as may be approved by the appropriate national authority.
- (4) In subsection (2)(e) “energy performance certificate” has the same meaning as in the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991) (see regulation 2(1)) or any corresponding subsequent regulations.

#### Textual Amendments

- F1** Words in s. 290(2)(e) repealed (15.1.2012) by [Localism Act 2011 \(c. 20\), s. 240\(1\)\(k\), Sch. 18 para. 3, Sch. 25 Pt. 29](#)

## 291 Powers to extend Chapter

- (1) The appropriate national authority may by regulations provide for this Chapter to apply, with or without prescribed modifications, to—
- (a) buildings which are not residential properties, or
  - (b) prescribed descriptions of buildings falling within paragraph (a),
- as it applies to residential properties.
- (2) The appropriate national authority may by regulations provide for this Chapter to apply, with or without prescribed modifications, to—
- (a) newly converted residential properties,
  - (b) newly converted buildings which are not residential properties, or
  - (c) prescribed descriptions of residential properties falling within paragraph (a) or buildings falling within paragraph (b),
- as it applies to new residential properties.
- (3) For the purposes of this Chapter a residential property or other building is newly converted if—
- (a) it has been converted but has never been used for its intended purpose,
  - (b) it is being converted, or
  - (c) its conversion is being designed.
- (4) The appropriate national authority may by regulations provide for circumstances in which a residential property or other building is to be treated as having been converted.
- (5) The references in subsections (1)(a) and (b), (2)(b) and (c) and (3) and (4) to buildings include references to—

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- (a) ancillary land, and
  - (b) buildings and ancillary land which are being designed or constructed or are to be constructed.
- (6) The appropriate national authority may by regulations amend the definition of “purchaser” in section 292(1).
- (7) Regulations under subsection (6)—
- (a) must ensure that the descriptions of persons falling within the definition on the passing of this Act continue to fall within the definition (but this is without prejudice to the power to amend the text of the definition), and
  - (b) may, in particular, ensure that descriptions of persons who are taking steps with a view to deciding whether to purchase residential properties are included within the definition.

## 292 Chapter 1: interpretation etc.

- (1) In this Chapter—
- “ancillary land”, in relation to a building, means any land intended to be occupied and enjoyed together with the building,
  - “appropriate national authority” means—
    - (a) in relation to England, the Secretary of State, and
    - (b) in relation to Wales, the Welsh Ministers,
  - “building” includes part of a building,
  - “modifications” includes omissions,
  - “prescribed” means prescribed by regulations made by the appropriate national authority,
  - “purchase”, in relation to a residential property, means acquire, or agree to acquire, by way of purchase a relevant interest in the property,
  - “purchaser”, in relation to a residential property, means a person who has—
    - (a) made an offer to purchase it, or
    - (b) purchased it,
  - “relevant interest”, in relation to a residential property, means—
    - (a) the freehold interest in the property,
    - (b) such leasehold interests as may be prescribed, or
    - (c) an option to acquire the freehold interest or any such prescribed leasehold interest,
  - “residential property” means a building which is, or is intended to be, occupied as a separate dwelling (including one that is being designed or constructed or is to be constructed) and includes any ancillary land, but it does not include a newly converted residential property,
  - “sell”, in relation to a residential property, means—
    - (a) dispose, or agree to dispose, by way of sale of a relevant interest in the property, or
    - (b) offer such an interest for sale,
  - “sustainability”, in relation to residential properties, is to be read in accordance with section 280.
- (2) Any reference in subsection (1) or (5) to the disposal of a relevant interest includes a reference to the creation of such an interest.



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- (3) For the purposes of this Chapter a person who is selling a residential property is to be treated as selling it as a new property if, at the time in question—
- (a) the property is being designed,
  - (b) the property is being constructed, or
  - (c) the construction of the property has been finished but the property has never been occupied as a dwelling.
- (4) For the purposes of this Chapter, the construction of a residential property is to be treated as finished if the property—
- (a) is wind and weather proof,
  - (b) is safe and sanitary for any occupiers or visitors,
  - (c) has facilities for the supply of space heating, hot and cold water and electricity,
  - (d) has washing and drainage facilities, and
  - (e) meets any other prescribed requirements.
- (5) For the purposes of this Chapter a sale is agreed—
- (a) in the case of a legally binding agreement to dispose by way of sale, when the agreement is entered into, and
  - (b) in the absence of such an agreement, when the disposal is made.
- (6) Any requirement imposed by virtue of section 279 to supply a certificate or statement—
- (a) may be met by supplying a copy of the certificate or statement, and
  - (b) may be met by supplying the certificate or statement (or copy) in electronic form if the intended recipient consents to receiving it in that form.
- (7) For the purposes of this Chapter a certificate, statement or copy supplied in electronic form is only to be treated as being received if the recipient is readily able (using equipment available to the recipient)—
- (a) to view the document in a form that is legible, and
  - (b) to produce hard copies of it in a legible form.
- (8) The sale or purchase of a residential property is not invalid merely because of a failure to comply with any requirement imposed by virtue of this Chapter.

## 293 Index of defined expressions: Chapter 1

In this Chapter, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

<i>Expression</i>	<i>Provision</i>
Agreed (in relation to a sale)	Section 292(5)
Ancillary land	Section 292(1)
Appropriate national authority	Section 292(1)
Building	Section 292(1)
Enforcement authority	Section 283(1)

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Finished (in relation to construction of residential property)	Section 292(4)
Interim certificate	Section 279(11)
Modifications	Section 292(1)
Newly converted	Section 291(3)
Prescribed	Section 292(1)
Purchase	Section 292(1)
Purchaser	Section 292(1)
Relevant interest	Section 292(1)
Residential property	Section 292(1)
Sell	Section 292(1)
Sell as new property	Section 292(3)
Supply (in relation to certificates or statements)	Section 292(6) and (7)
Sustainability	Section 280
Sustainability certificate	Section 279(11)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(6A) inserted by [2023 c. 55 s. 138](#)
- s. 107(2A) inserted by [2023 c. 36 s. 3\(2\)\(c\)](#)
- s. 107(4A)(4B) inserted by [2023 c. 36 s. 3\(2\)\(f\)](#)
- s. 107(6A) inserted by [2023 c. 36 s. 3\(2\)\(i\)](#)
- s. 115(6A) inserted by [2023 c. 36 s. 8\(d\)](#)
- s. 117(1A) inserted by [2023 c. 36 s. 4\(3\)](#)
- s. 117(4A) inserted by [2023 c. 36 s. 4\(5\)](#)
- s. 126A-126D inserted by [2023 c. 36 s. 10\(2\)](#)
- s. 146(2B) inserted by [2023 c. 36 s. 12\(3\)\(e\)](#)
- s. 153(1)(ba) inserted by [2023 c. 36 s. 12\(6\)\(a\)](#)
- s. 153(1A) inserted by [2023 c. 36 s. 12\(6\)\(b\)](#)
- s. 154(2)(ab) inserted by [2023 c. 36 Sch. 1 para. 18](#)
- s. 161A inserted by [2023 c. 36 s. 18\(2\)](#)
- s. 163A applied (with modifications by [S.I. 2023/1311 reg. 9](#))
- s. 163A inserted by [2023 c. 36 s. 17\(3\)](#)
- s. 163B inserted by [2023 c. 36 s. 18\(3\)](#)
- s. 169CA inserted by [2023 c. 36 s. 19\(4\)](#)
- s. 169CB-169CD and cross-heading inserted by [2023 c. 36 s. 20\(2\)](#)
- s. 169ZA inserted by [2023 c. 36 Sch. 5 para. 14](#)
- s. 199(9) inserted by [2023 c. 36 s. 28\(2\)\(c\)](#)
- s. 199A-199B inserted by [2023 c. 36 s. 28\(3\)](#)
- s. 200(4A) inserted by [2023 c. 36 s. 28\(4\)\(d\)](#)
- s. 201A inserted by [2023 c. 36 s. 29\(2\)](#)
- s. 203A inserted by [2023 c. 36 s. 30\(4\)](#)
- s. 215(1A) inserted by [2023 c. 36 s. 29\(3\)](#)
- s. 218(2)(e) inserted by [2023 c. 36 Sch. 5 para. 26\(b\)](#)
- s. 218A-218D and cross-heading inserted by [2023 c. 36 s. 31\(2\)](#)
- s. 220(11B) inserted by [2023 c. 36 s. 10\(3\)](#)
- s. 220(11D)(11E) inserted by [2023 c. 36 s. 31\(3\)](#)
- s. 225A-225H and cross-heading inserted by [2023 c. 36 s. 32](#)
- s. 227(7B) inserted by [2023 c. 36 s. 10\(4\)](#)
- s. 227(7D)(7E) inserted by [2023 c. 36 s. 31\(4\)](#)
- s. 237(5)(6) inserted by [2023 c. 36 s. 31\(5\)](#)
- s. 247(1)(c) and word inserted by [2023 c. 36 s. 31\(6\)](#)
- s. 247(1)(ab)(ac) inserted by [2023 c. 36 s. 10\(5\)](#)
- s. 249(1)(c) and word inserted by [2023 c. 36 Sch. 3 para. 7\(b\)](#)
- s. 251(1)(c) and word inserted by [2023 c. 36 s. 31\(7\)](#)
- s. 251(1)(ab)(ac) inserted by [2023 c. 36 s. 10\(6\)](#)
- s. 252(2A) inserted by [2023 c. 36 Sch. 3 para. 9\(b\)](#)
- s. 252A(2)(c)(d) inserted by [2023 c. 36 s. 10\(7\)\(b\)](#)
- s. 252A(2)(e) inserted by [2023 c. 36 Sch. 3 para. 10\(b\)](#)
- s. 252A(2)(f) and word inserted by [2023 c. 36 s. 31\(8\)](#)
- s. 253(1)(c) and word inserted by [2023 c. 36 Sch. 3 para. 11\(b\)](#)
- s. 255(1)(c) and word inserted by [2023 c. 36 Sch. 3 para. 12\(b\)](#)

- s. 259(3A) inserted by 2023 c. 36 Sch. 3 para. 15(d)
- s. 266(9) inserted by 2023 c. 36 Sch. 3 para. 17(b)
- s. 269(1)(ba)(bb) inserted by 2023 c. 36 Sch. 3 para. 18(c)
- s. 269(1A) inserted by 2023 c. 36 Sch. 3 para. 18(d)