

**EXPLANATORY MEMORANDUM TO**  
**THE ENERGY PERFORMANCE OF BUILDINGS (CERTIFICATES AND INSPECTIONS)**  
**(ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2008**

**2008 No. 647**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This instrument amends the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991) (“the principal regulations”). The amendments are to the fees for lodgement of energy performance certificates (EPCs) and recommendation reports, and display energy certificates (DECs) and advisory reports on the register, to correct certain minor omissions in the regulations, and to provide an additional transitional relief relating to the duty to make an EPC available to prospective purchasers and prospective rental tenants. The principal regulations were amended previously by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2007 (S.I. 2007/1669) and by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment No. 2) Regulations 2007 (S.I. 2007/3302).

2.2 The principal regulations implemented Articles 7, 9 and 10 of the Energy Performance of Buildings Directive (OJ No L 1, 4.1.2004 (“the Directive”), and Article 7 relates to energy performance certificates (“EPCs”) on the sale, renting out and construction of buildings and display energy certificates (“DECs”) for public buildings.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 The background to the principal regulations was covered fully in the Explanatory Memorandum which accompanied them.

4.2 A copy of the Directive can be found at [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2003/l\\_001/l\\_00120030104en00650071.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2003/l_001/l_00120030104en00650071.pdf)

4.3 A transposition note for the Directive was attached to the Explanatory Memorandum which accompanied the principal regulations and was revised on each previous occasion when the regulations were amended. An amended transposition note accompanies this memorandum. The amendment relating to these regulations is shown in italics in footnote 8 on page 15.

4.4 The principal regulations, so far as relevant to these amendments:

a. require that an EPC, and a report providing recommendations as to how the energy efficiency of the building can be improved is made available to a prospective buyer or tenant on the sale or rent respectively of a building (regulations 5 and 10);

- b. provide for the creation of a register of EPCs and DEC;
- c. provide that access to the register is limited to specified persons and bodies with a legitimate need to access it; and
- d. provide for a phased implementation of the requirements of the Directive.

4.5 The requirement for an EPC on sale, rental or construction of commercial buildings will commence on a staged basis on 6 April and continue on 1 July and 1 October 2008. The fee currently provided for in regulation 32 of the principal regulations relates, in practice, to the lodgement of certificates and associated documents for domestic properties, because there has not yet been a requirement to lodge other types of certificate. It is now necessary to specify the fees applicable to the lodgement of all other types of certificate and the associated documents on the register.

4.6 Local authorities are responsible for enforcing the application of the principal regulations in respect of certificates to be issued on construction. Due to an oversight, the principal regulations do not allow them access to the register, which they will need in order to carry out their enforcement responsibilities.

4.7 When the previous amendments were made, the commencement of regulations 7(1) and 7(3) in respect of properties other than those for which there is a requirement under the Housing Act 2004 to provide a HIP was omitted, again by oversight.

## **5. Territorial Extent and Application**

5.1 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**

7.1 The European Directive on the Energy Performance of Buildings (EPBD) sets out that all buildings which are rented, sold or constructed must have an Energy Performance Certificate (EPC) provided in an independent manner by an assessor.

7.2 The first phase of implementation of the Directive, provision of EPCs on homes which are sold on the market (other than newly built homes constructed to the standards set out in the 2006 amendments to the Building Regulations) has already taken place alongside the introduction of Home Information Packs. The remainder of the measures required by Directive will be implemented during 2008:

- it will be extended to the construction and marketed sale of all newly built homes on 6 April 2008
- it will be extended to non-domestic buildings in three phases: to those over 10,000m<sup>2</sup> on 6 April 2008, those over 2,500m<sup>2</sup> on 1 July 2008, and remaining buildings as required by the Directive on 1 October 2008
- it will be extended to non-marketed sales and all rentals of homes on 1 October 2008.

7.3 In England and Wales certificates will be produced by an assessor approved by an accreditation scheme; they will be entered on a central register. Enforcement will be through trading standards officers (TSOs) for rent and sale, and through building control for construction.

7.4 The regulations attached to this impact assessment make two technical changes and one transitional provision. The technical changes:

- i) specify the level of the fees charged for the lodgement of EPCs and DEC on the register. The fee for lodgement of an EPC, together with its related recommendations report, in respect of a dwelling remains at £1.15. The fee for lodgement of any other EPC together with its related recommendations report, for a DEC and its related advisory report, or for a DEC alone is £5.36. (Since an advisory report is valid for 7 years, in contrast to a DEC which is only valid for a year, the DEC will often be lodged without an advisory report.) These fees have been fixed as a result of negotiations with the contractor who is operating the register following an open tendering exercise. The Regulatory Impact Assessment carried out in respect of the principal regulations was clear that the fee for an EPC in respect of a commercial property would be higher than the fee for a certificate in respect of a dwelling, reflecting that there will be fewer such lodgements. In the event, the fee is well below our original estimates. The fee for lodging a DEC is the same as the fee for lodging a DEC together with an advisory report because the cost to the contractor of lodging the data concerned is the same in each case;
- ii) clarify that building control officers should have access to the register in the same way as TSOs, in order to facilitate enforcement.

The transitional provision helps manage the introduction of EPCs in the non-domestic sector. Under this provision properties over 10,000m<sup>2</sup> which were already on the market before 6 April will until 1 October not require an EPC if they remain on the market during this period. If a contract for sale is entered into during this period, an EPC must be commissioned and given as soon as reasonably practicable to the purchaser or new tenant, if that has not already been done. Similar provision, again effective until 1 October, applies to properties over 2,500 m<sup>2</sup>, which are already on the market before their commencement date of 1 July.

## **8. Impact**

8.1 An Impact Assessment is attached to this memorandum

8.2 This instrument has a minimal favourable impact, in comparison with that anticipated in the Regulatory Impact Assessment carried out in respect of the principal regulations, on the public sector. This is as a result of the fees for lodgement of DEC and advisory reports being lower than anticipated.

## **9. Contact**

Rob Moore at Communities and Local Government Tel: 0207 944 8324 or e-mail:  
Robert.Moore@Communities.gsi.gov.uk can answer any queries regarding the instrument.

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>CLG</b>	<b>Title:</b> <b>Impact Assessment of EPBD Amendment Regulations Number 3</b>	
<b>Stage:</b>	<b>Version:</b>	<b>Date:</b> 6 March 2008
<b>Related Publications:</b> Regulatory Impact Assessment: EPBD, Articles 7-10 (March, 2007)		

### Available to view or download at:

<http://www.communities.gov.uk/epbd>

**Contact for enquiries:** Robert Moore

**Telephone:** 0207-944-8324

### What is the problem under consideration? Why is government intervention necessary?

The European Directive on the Energy Performance of Buildings requires an Energy Performance Certificate to be provided on the sale, rent or construction of all new buildings. These regulations make minor changes to the existing EPBD regulations. They:

- i) specify the level of fee to be charged by the register for non-domestic EPCs
- ii) clarify that building control officers are included amongst enforcement officials who have access to the registers
- iii) make a transitional provision to allow a smooth introduction of EPCs on non-domestic buildings

### What are the policy objectives and the intended effects?

(i) and (ii) are technical provisions. (iii) responds to views from stakeholders by ensuring that any building of over 10,000m<sup>2</sup> on the market at 6 April and any building of over 2,500 m<sup>2</sup> on the market at 1 July has a sufficient period in which an EPC can be procured. This must be no later than 30 September for a building which is still on the market. If a building is sold in the interim period an EPC must still be commissioned and produced as part of the sale process. The effect will be to ensure that the market in these buildings has time to adjust to the introduction of a new provision.

### What policy options have been considered? Please justify any preferred option.

(i) has been negotiated with the register provider: it could not be put into the original regulations because the contract had not been let. It is lower than our original estimate. (ii) clarifies the original policy intention. Neither raise questions of policy.

A number of options for achieving the policy intention for (iii) have been considered. The preferred option ensures both that the market is given time to adjust and that all buildings sold after the coming into force date will receive an EPC.

### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be monitored throughout its introduction and formally evaluated from 2009 onwards.

### Ministerial Sign-off For SELECT STAGE Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:

Kay Andrews

.....Date: 6<sup>th</sup> March 2007

## Summary: Analysis & Evidence

<b>Policy Option:</b>	<b>Description:</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups'  There are no additional costs to the proposals. The lodgement fee in the register is lower than originally estimated.	
	One-off (Transition)	Yrs		
	£			
	<b>Average Annual Cost</b> (excluding one-off)	<b>Cost</b>		
£		<b>Total Cost (PV)</b>	<b>£ none</b>	
Other <b>key non-monetised costs</b> by 'main affected groups'				

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups'  There is a minimal effect on benefits. EPCs will be provided from April 2008 in line with the provisions set out in the regulations: the only difference is that more time will be allowed for their provision.	
	One-off	Yrs		
	£			
	<b>Average Annual Benefit</b> (excluding one-off)	<b>Benefit</b>		
£		<b>Total Benefit (PV)</b>	<b>£ minimal</b>	
Other <b>key non-monetised benefits</b> by 'main affected groups'				

<b>Key Assumptions/Sensitivities/Risks</b>
The analysis is based on the impact assessment published in March 2007, updated to reflect latest market conditions.

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
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What is the geographic coverage of the policy/option?	England and Wales			
On what date will the policy be implemented?	April 2008			
Which organisation(s) will enforce the policy?	TSOs; building control			
What is the total annual cost of enforcement for these organisations?	£ already provided			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ Minimal			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro None	Small None	Medium None	Large None
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	<b>Net Impact</b> £ None

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The European Directive on the Energy Performance of Buildings (EPBD) sets out that all buildings which are rented, sold or constructed must have an Energy Performance Certificate (EPC) provided in an independent manner by an assessor.

The first phase of the Directive, provision of EPCs on homes which are sold, has already been implemented as part of the introduction of Home Information Packs. The remainder of the Directive will be implemented during 2008:

- it will be extended to all newly built homes in April 2008
- it will be extended to non-domestic buildings in three phases: to those over 10,000m<sup>2</sup> from 6 April, those over 2,500m<sup>2</sup> from 1 July and remaining buildings caught by the Directive from 1 October.

In England and Wales certificates will be produced by an assessor approved by an accreditation scheme; they will be entered on a central register. Enforcement will be through TSOs for rent and sale, and through building control for construction.

The regulations attached to this impact assessment make two technical changes and one transitional provision:

- iii) they specify the level of the fee charged by the register for the lodgement of a non-domestic certificate. This needs to be set in legislation; it cannot be set in guidance;
- iv) they clarify that building control officers should have access to the register in the same way as TSOs for enforcement purposes
- v) They introduce a transitional provision to help manage the introduction of EPCs in the non-domestic sector. Under this provision properties over 10,000m<sup>2</sup> which were on the market before 6 April will be allowed up to 30 September to get an EPC if they remain on the market during this period. If they are sold during this period, an EPC must have been commissioned by the time contracts are exchanged and must be handed over at exchange or as soon as reasonably possible thereafter. Similar dates apply to properties over 2,500 m<sup>2</sup> which come onto the market before 1 July.

A full impact assessment setting out costs and benefits on the introduction of EPBD was published in March 2007. That analysis forms the basis for this, and includes all relevant impact tests. The only change as a result of these regulations is a minimal reduction in carbon savings. This is outweighed in terms of benefits by the need for a smooth introduction of a major change to the market, and reflects stakeholder wishes.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	Yes	No

## Annexes



**TRANSPOSITION NOTE FOR EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 2002/91/EC OF 16 DECEMBER 2002 ON  
THE ENERGY PERFORMANCE OF BUILDINGS**

**This transposition note sets out the way in which Articles 7-10 of the Directive are to be implemented through the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991) in England and Wales only. These Regulations were amended by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2007 (S.I. 2007/1669) (“the amendment regulations”), the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment No. 2) Regulations 2007 (S.I. 2007/3302) (“the second amendment regulations”) and are now further amended by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2008 (S.I. 2008/xxxx) (“the third amendment regulations”). The amendments in question are described in the footnotes to this note.**

**Scotland, Northern Ireland and Gibraltar are implementing separately.**

**These Regulations do more than is necessary to implement the Directive in the following areas:**

- 1. Most, but not all permissible exemptions have been taken up (regulation 4).**
- 2. As well as requiring energy performance certificates (EPCs) to be made available to prospective buyers or tenants, the Regulations also require a copy of the EPC to be given to the ultimate buyer or tenant (regulation 5(5)).**
- 3. Where the Housing Act 2004 requires the production of a Home Information Pack in relation to the sale of a building-**
  - a. EPCs must be no more than twelve months old at the first point of marketing of the building<sup>1</sup> (as that term is defined in the Home Information Pack Regulations 2007) (regulation 11(4)); and**
  - b. written particulars made available to prospective buyers must have the asset rating included in the particulars or an EPC attached to the particulars (regulation 6).**
- 4. EPCs must be accompanied by recommendations for improvement of energy performance which are not limited to recommendations which are cost-effective relating to the fabric of the building and its heating services, but include higher cost measures which will improve performance (regulation 10(2)).**
- 5. Energy certificates displayed in public buildings are only valid for 12 months (regulation 16(3)).**

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<sup>1</sup> Three months was specified in the original regulations. This is extended by the amendment regulations to twelve months.

- 6. Recommendations for improvement of public buildings are only valid for 7 years (regulation 16(4)).
- 7. A central register of certificates and reports is required to be maintained by the Secretary of State (Part 6).
- 8. Regular air conditioning inspections are required where the aggregate installed cooling capacity of multiple air-conditioning units under the relevant person's control exceeds 12kW (regulation 20(2)).

Transposition of Articles 3-6 of the Directive was notified on 20<sup>th</sup> March 2006.

Main elements of the Directive	Objective	Implementation	Responsibility
<p>Article 3</p> <p>Adoption of a methodology</p>	<p>Requires the adoption of a methodology of calculation of the energy performance of buildings on the basis of a general framework.</p> <p>The energy performance of a building shall be expressed in a transparent manner and may include a CO<sub>2</sub> emission indicator.</p>	<p>Article 3 was initially implemented by regulation 17A of the Building Regulations 2000.</p> <p>Paragraph 1(7) of Schedule 2 amends regulation 17A to require the Secretary of State to approve:</p> <ul style="list-style-type: none"> <li>• methods for calculating asset ratings and operational ratings of buildings as part of the methodology for calculating the energy performance of buildings; and</li> <li>• ways in which the energy performance of buildings, as calculated in accordance with the methodology, shall be expressed.</li> </ul> <p>The asset rating of a building is defined in regulation 17A(2) as a numerical indicator of the amount of energy estimated to meet the different needs associated with a standardised use of the building. The operational rating is defined as a numerical indicator of the amount of energy consumed during the occupation of a building over a period of time.</p>	<p>Secretary of State</p>

<p>Article 7</p> <p>Energy Performance Certificates</p>	<p>Article 7(1). When buildings are constructed, sold or rented out an Energy Performance Certificate (EPC), must be made available to the owner or by the owner to the prospective buyer or tenant. The certificate must not be more than ten years old.</p> <p>The following categories of building may be excluded:</p> <ul style="list-style-type: none"> <li>• buildings and monuments officially protected as part of a designated environment or because of their special architectural or historic merit, where compliance with the requirements would unacceptably alter their character or appearance</li> <li>• buildings used as places of worship and for religious activities</li> <li>• temporary buildings with a planned time of use of two years or less, industrial sites, workshops and agricultural buildings with low energy demand and non-residential agricultural buildings which are in</li> </ul>	<p>Part 2 of, and Schedule 2 to, the Regulations implement Articles 7(1) and (2).</p> <p>Regulation 4 adopts all of the exemptions permitted by Article 7(1) other than:</p> <ul style="list-style-type: none"> <li>• historic buildings (compliance with the requirement to produce an EPC cannot alter the character or appearance of such buildings);</li> <li>• buildings used as places of worship where that is not their sole or primary use, and buildings used for religious activities;</li> <li>• non-residential agricultural buildings covered by a national sectoral agreement on energy performance (there are no such agreements in England and Wales);</li> <li>• residential buildings which are intended to be used less than four months of the year;</li> <li>• stand-alone dwellings with a total useful floor area of less than 50m<sup>2</sup>.</li> </ul> <p>Regulation 5 requires an EPC to be made available free of charge by the seller or landlord to any prospective buyer or tenant. The EPC must be made available at the earliest opportunity and no later than:</p> <ul style="list-style-type: none"> <li>• the time at which further information about the building is</li> </ul>	<p>Secretary of State</p>
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<sup>2</sup> Regulation 11(4), as amended by the amendment regulations, provides that an EPC included in a Home Information Pack required by the Housing Act 2004 shall be no more than twelve months old at the first point of marketing of the dwelling.

<sup>3</sup> See footnote 4 concerning the commencement of Home Information Pack requirements under the Housing Act 2004.

	<p>use by a sector covered by a national sectoral agreement on energy performance</p> <ul style="list-style-type: none"> <li>• residential buildings which are intended to be used less than four months of the year</li> <li>• stand-alone buildings with a total useful floor area of less than 50m<sup>2</sup></li> </ul> <p>Article 7(2). EPCs must include reference values such as current legal standards and benchmarks in order to make it possible for consumers to compare and assess the energy performance of the building. The EPC must be accompanied by recommendations for the cost effective improvement of energy performance.</p>	<p>provided in response to a request from a prospective buyer or tenant for further information;</p> <ul style="list-style-type: none"> <li>• when a prospective buyer or tenant views the building; or</li> <li>• entering into a contract to sell or rent out the building.</li> </ul> <p>Regulation 5(5) requires the seller or landlord to ensure that the ultimate purchaser or tenant has been given an EPC.</p> <p>Regulation 8 and Schedule 2 require EPCs on construction of buildings by amending the Building Regulations 2000. In particular paragraph 1(8) of Schedule 2 inserts Regulation 17E into the Building Regulations 2000, which requires the production of an EPC where a new building is erected or an existing building undergoes major modifications so that it has a greater or fewer 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 heating, hot water, air conditioning or mechanical ventilation. Paragraph 2 of that Schedule substitutes regulation 12 of the Building (Approved Inspectors etc) Regulations 2000 in similar terms (those regulations apply where an approved inspector has been appointed in respect of the work).</p> <p>Regulation 9 requires EPCs to be produced when buildings are constructed where the Building Regulations 2000 do not apply.</p> <p>Regulation 10 requires that EPCs be accompanied by a recommendations report containing recommendations for the improvement of the energy performance of the building. Regulation 17E(4) of the Building Regulations 2000 and</p>	
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		<p>regulation 12(4) of the Building (Approved Inspectors etc) Regulations 2000 require such a report to accompany EPCs on construction.</p> <p>Regulation 11 prescribes the minimum requirements for EPCs, and in particular the EPC must:</p> <ul style="list-style-type: none"> <li>• express the asset rating of the building in the way approved by the Secretary of State pursuant to regulation 17A of the Building Regulations 2000;</li> <li>• include a reference value such as a current legal standard or benchmark;</li> <li>• be issued by an accredited energy assessor.</li> </ul> <p>Regulation 17E(5) of the Building Regulations 2000 imposes the same requirements on EPCs on construction.</p> <p>Regulation 11(3) provides that an EPC is only valid if it is not more than ten years old, and no other EPC has since been produced. Regulation 11(4) makes an exception to paragraph (3), which applies only where regulations under the Housing Act 2004 require EPCs to have a validity period shorter than 10 years<sup>2</sup>.</p> <p>Regulation 6 requires either the asset rating of the building to be included in any written particulars or that the EPC be attached to the written particulars. This regulation only applies to those sales of dwellings where a Home Information Pack is required under the Housing Act 2004.<sup>3</sup></p>	
	Article 7(3) requires that buildings with a	Part 3 implements Article 7(3).	Secretary of

	<p>total useful floor area over 1,000m<sup>2</sup> occupied by public authorities and by institutions providing public services to a large number of persons and therefore frequently visited by these persons have an energy certificate, not older than 10 years, displayed in a prominent place clearly visible to the public.</p>	<p>Regulation 16 applies to buildings over 1000m<sup>2</sup> occupied by public authorities or by institutions providing public services to a large number of persons and therefore frequently visited by those persons, and requires the occupiers of such buildings to:</p> <ul style="list-style-type: none"> <li>• display at all times a display energy certificate (“DEC”) in a prominent place clearly visible to the public; and</li> <li>• have in its possession or control at all times an advisory report, no older than seven years, containing recommendations for improvement of the energy performance of the building.</li> </ul> <p>Regulation 17 prescribes the minimum requirements for DEC’s, and in particular the DEC must:</p> <ul style="list-style-type: none"> <li>• (subject to regulation 18) express the operational rating and the asset rating of the building in the way approved by the Secretary of State pursuant to regulation 17A of the Building Regulations 2000;</li> <li>• include a reference value such as a current legal standard or benchmark; and</li> <li>• be issued by an accredited energy assessor.</li> </ul> <p>Regulation 18 makes various alternative provisions as to what rating is expressed on the DEC in cases where, due to changes of occupier, the data necessary to produce an operational rating does not exist, or an EPC was not provided to the occupier upon sale or rent.</p>	<p>State</p>
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<p>Article 8 Inspection of boilers</p>	<p>Members States are required to either:</p> <p>(a) lay down the necessary measure to establish a regular inspection of certain types of boilers and the one-off inspection of heating systems that are more than 15 years old and served by boilers with an output of more than 20 kW; or</p> <p>(b) take steps to ensure the provision of advice to the users on the replacement of boilers, other modifications to the heating system and on alternative solutions which may include inspections to assess the efficiency and appropriate size of the boiler. The overall impact of this approach should be broadly equivalent to that arising from the provisions set out in (a). Member States that choose this option shall submit a report on the equivalence of their approach to the Commission every two years.</p>	<p>In England and Wales a decision has been made to adopt the option in Article 8(b). A report to the Commission by January 2008 will be made to demonstrate that the impact of this approach is broadly equivalent to regulating.</p> <p>Accordingly, no provision is made in these regulations.</p>	<p>Secretary of State</p>
<p>Article 9 Inspection of air- conditioning systems</p>	<p>Member States are required to lay down the necessary measures to establish a regular inspection of air-conditioning systems of an effective rated output of more than 12kW.</p>	<p>Part 4 implements Article 9.</p> <p>Regulation 21 requires the person with control of the operation of the air-conditioning system (“the relevant person”) to ensure that the system is inspected by an accredited energy assessor at regular intervals not exceeding five years. Systems first put into service</p>	<p>Secretary of State</p>

	<p>The inspection shall include an assessment of the air-conditioning efficiency and the sizing compared to the cooling requirements of the building. Appropriate advice shall be provided to the users of the air-conditioning system on possible improvement or replacement of the air-conditioning system and on alternative solutions.</p>	<p>on or after 1st January 2008 must be inspected within 5 years of the date of putting into service. In all other cases the first inspection of a system must take place:</p> <ul style="list-style-type: none"> <li>• in the case of systems with an effective rated output of more than 250kW, by 4th January 2009; and</li> <li>• in the case of smaller systems, by 4th January 2011.</li> </ul> <p>Regulation 22 requires energy assessors to produce a written inspection report including an assessment of the efficiency and sizing of the system compared to the cooling requirements of the building, and advice on possible improvements, replacement and alternative solutions.</p> <p>Regulation 23 requires the relevant person to keep the most recent report and, where the relevant person changes, give it to the new relevant person.</p> <p>Regulation 24 requires that a new relevant person who is not given a report by the previous relevant person must ensure an inspection is carried out within three months of arrival.</p>	
<p>Article 10 Independent Experts</p>	<p>Requires that the certification of buildings, the drafting of the accompanying recommendations and the inspection of air-conditioning systems are carried out in an independent manner by</p>	<p>Part 5 and Schedule 2 of the Regulations implement Article 10.</p> <p>Regulation 25:</p> <ul style="list-style-type: none"> <li>• requires energy assessors to be a member of an accreditation scheme approved by the Secretary of State; and</li> </ul>	<p>Secretary of State</p>



	<p>qualified and/or accredited experts.</p>	<ul style="list-style-type: none"> <li>• sets out the matters of which the Secretary of State must be satisfied before approving an accreditation scheme.</li> </ul> <p>In particular regulation 25(3) requires the Secretary of State to be satisfied that any scheme contains adequate provision for:-</p> <ul style="list-style-type: none"> <li>• ensuring members carry out consistent and accurate energy assessments in an independent manner, and</li> <li>• ensuring members are qualified to carry out energy assessments.</li> </ul> <p>Regulation 26 requires energy assessors to disclose any personal or business relationship with any person with an interest in the building.</p> <p>National Occupational Standards are being developed for the various categories of energy assessment.</p>	
<p>Article 12 Information</p>	<p>Member States may take measures to inform the users of buildings as to the different measures and practices that serve to enhance energy performance.</p>	<p>Marketing campaigns are planned:</p> <ul style="list-style-type: none"> <li>• To inform stakeholders about the new requirements and changes in the law, and provide them with the information they need to comply</li> <li>• To raise awareness of the impact of buildings on emissions</li> <li>• To encourage individuals and organisations to improve their buildings' energy ratings where possible and use energy for lighting, heating, hot water and air conditioning more effectively and efficiently.</li> </ul> <p>Each campaign will have two parts: general awareness of the need for energy assessment and certificates and their obligations prior to</p>	<p>Secretary of State</p>

		<p>the relevant coming into force dates; and energy aware campaigns to improve building performance and adopt more effective and efficient energy management.</p> <p>Five campaigns are planned:</p> <ul style="list-style-type: none"> <li>• Domestic properties (campaign already underway for the need for an EPC on sale from 1 June 2007). Further waves planned for construction and rental.</li> <li>• Commercial properties (including recruitment of assessors)</li> <li>• Display certification (including the raising of awareness of the need to start data collection at least a year before the requirement to certify comes into effect.</li> <li>• Air conditioning inspections (including recruitment of inspectors)</li> <li>• Boilers (sustained campaigns for domestic and non-domestic property owners and the heating maintenance insurance and contracting industries as part of the implementation of Art. 8)</li> </ul>	
<p>Article 15 Transposition</p>	<p>Article 15(1) requires Member States to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive at the latest on 4 January 2006 and to forthwith notify the Commission thereof.</p> <p>Article 15(2) allows for an additional 3 years to apply fully the provisions of Articles 7, 8 &amp; 9 if there is a lack of qualified inspectors.</p>	<p>Articles 3, 4, 5 &amp; 6 were implemented in another instrument, the Building and Approved Inspectors (Amendment) Regulations 2006, which came into force on 6th April 2006, subject to certain transitional provisions. This was notified to the Commission on 20 March 2006</p> <p>These Regulations come into force gradually over the period up to 1 October 2008, at which point the Regulations will be fully in force.</p> <p>The substantive duties imposed by these regulations come into</p>	<p>Secretary of State</p>

		operation as set out below:	
	1 June 2007 <sup>4</sup>	EPCs required for the sale of existing dwellings where a Home Information Pack is required under the Housing Act 2004 (other than dwellings built to 2006 standards)	
	1 October 2007 <sup>5</sup>	EPCs required on the sale of dwellings built to 2006 standards.	
	1 January 2008 <sup>6</sup>	EPCs required on construction for all dwellings	
	6 April 2008	EPCs required for the sale or rent of buildings other than dwellings with a floor area over 500m <sup>2</sup>  EPCs required on construction for all buildings other than dwellings. <sup>8</sup>	

<sup>4</sup> The effective date for this is 1st August 2007, when the Housing Act requirements in question commence in respect of a first class of dwellings. In addition, a temporary exception in the regulations governing home information packs permits the marketing of a dwelling without an EPC where an EPC is not obtainable by all reasonable efforts. Regulation 4 of the amending regulations provides transitionally that, even where this exception applies, if the Regulations would otherwise require that an EPC be made available then an EPC shall nonetheless be given to the prospective buyer or tenant before a contract for sale or letting out is entered into.

<sup>5</sup> The effective date for this will be determined by the commencement of the Housing Act requirements in question.

<sup>6</sup> This date was postponed from 1st October 2007 to 1st January 2008 by the amending regulations, and then again to 6th April 2008 by the second amending regulations.

<sup>7</sup> This date has been changed by the second amendment regulations, so that EPCs are required on the sale or rent of such buildings over 10,000m<sup>2</sup> from 6th April 2008, for such buildings over 2,500m<sup>2</sup> from 1st July 2008 and for all other such buildings from 1st October 2008.

<sup>8</sup> This date has been changed by the second amendment regulations, so that EPCs are required on the construction of such buildings over 10,000m<sup>2</sup> from 6th April 2008, for such buildings over 2,500m<sup>2</sup> from 1st July 2008 and for all other such buildings from 1st October 2008. *A transitional relief under the third amendment regulations, effective until 1 October 2008, applies to buildings in the first two phases and allows the certificate to be provided after contracts are entered into for a sale or rental.*

			Display certificates required for all buildings >1,000 m <sup>2</sup> occupied by public authorities and public institutions providing public services to a large number of persons and therefore frequently visited by these persons <sup>9</sup> .
		1 October 2008	EPCs required on the sale or rent of all remaining dwellings.  EPCs required on the sale or rent of all remaining buildings other than dwellings.
		4 January 2009	First inspection of all existing air-conditioning systems over 250 kW must have occurred by this date.
		4 January 2011	First inspection of all remaining air-conditioning systems over 12 kW must have occurred by this date.

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<sup>9</sup> This date was postponed to 1st October 2008 by the second amendment regulations.

