STATUTORY INSTRUMENTS

2015 No. 1681

BUILDING AND BUILDINGS, ENGLAND AND WALES

The Energy Performance of Buildings (England and Wales) (Amendment) (No. 2) Regulations 2015

Made - - - -	*10th September 2015*
Laid before Parliament	*15th September 2015*
Coming into force - -	*9th October 2015*

The Secretary of State is a Minister designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the environment, and makes the following Regulations in exercise of the powers conferred by that section.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Energy Performance of Buildings (England and Wales) (Amendment) (No.2) Regulations 2015, and come into force on 9th October 2015.

(2) These Regulations extend to England and Wales.

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

2.—(1) The Energy Performance of Buildings (England and Wales) Regulations 2012(**3**) are amended as follows.

(2) In regulation 34(3) (enforcement authorities) after "regulation" insert "and in regulation 34A".

(3) After regulation 34 (enforcement authorities) insert the following regulations—

"**Enforcement and local authority buildings**

34A.—(1) This regulation applies in relation to all buildings in respect of which a local authority is subject to a duty under any of regulations 6(2), 6(5), 7(2), 7(3), 7(4), 7(5),

(**1**) S.I. 2008/301.
(**2**) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).
(**3**) S.I. 2012/3118, as amended by S.I. 2013/10, S.I. 2013/181, S.I. 2013/603, S.I. 2014/880 and S.I. 2015/609.

10(2), 11(2), 14(3), 18(1), 20, 21 and 35(5), or to the EPC construction duty ("local authority buildings").

(2) The local weights and measures authority for an area ("Authority 1") must agree in writing with the local weights and measures authority for another area ("Authority 2") that Authority 2 will enforce regulations 6(2), 6(5), 7(2), 7(3), 7(4), 7(5), 10(2), 11(2), 14(3), 18(1), 20, 21 and 35(5) and the EPC construction duty in respect of local authority buildings in the area of Authority 1.

(3) Once an agreement made under paragraph (2) comes into effect—

(a) it is the duty of Authority 2 to enforce regulations 6(2), 6(5), 7(2), 7(3), 7(4), 7(5), 10(2), 11(2), 14(3), 18(1), 20, 21 and 35(5) and the EPC construction duty in respect of local authority buildings in the area of Authority 1; and

(b) Authority 1 must publish that fact.

(4) Authority 1 must notify an agreement made under paragraph (2) to the Secretary of State in writing.

(5) An agreement under paragraph (2) may relate to part only of the area of Authority 1, but in that case Authority 1 must make one or more other agreements under that paragraph to ensure that there are such agreements in place in respect of the whole of its area.

(6) Where more than one agreement under paragraph (2) is in place in respect of the area of Authority 1—

(a) the references to Authority 2 in paragraph (3) apply to each authority with which Authority 1 has made such an agreement, but only within the part of the area of Authority 1 to which the agreement relates; and

(b) Authority 1 must publish information in relation to every such agreement in accordance with paragraph (3)(b), and notify every such agreement to the Secretary of State in accordance with paragraph (4), stating in each case the part of its area to which the agreement relates.

(7) Every local weights and measures authority must have complied with paragraphs (2), (3)(b) and (4) by the end of the period of three months beginning on the day after these Regulations come into force, or, if it is not reasonably practicable to do so within that time, as soon as is reasonably practicable after that time.

(8) In this regulation "the EPC construction duty" has the meaning given in regulation 34(3).

Enforcement plans

34B.—(1) Every enforcement authority must ensure that it collects sufficient information concerning the buildings for which it has enforcement duties under regulations 34(2) and 34A(3) to enable it to plan effective enforcement action under this Part.

(2) Enforcement action under this Part must be planned in accordance with guidance issued by the Secretary of State.

Annual reports by enforcement authorities

34C.—(1) Every enforcement authority must make and keep a record of all action that it takes under this Part.

(2) Every enforcement authority must make in respect of every financial year of the authority a report ("the annual report") to the Secretary of State on the actions that it has taken under this Part during that year.

(3) The annual report must—

(a) be made by the end of the period of two months beginning on the day after the end of the financial year concerned.

(b) be in a form and contain information in accordance with guidance issued by the Secretary of State;

(c) identify such agreements as the enforcement authority has entered into with any other enforcement authority under regulation 34A(2) to act as enforcement authority in relation to local authority buildings in the area of either; and

(d) state any changes in the responsibility of enforcement authorities under such agreements.

(4) A report made under this paragraph may be published by the enforcement authority by which it is made or by the Secretary of State.".

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

James Wharton
Parliamentary Under Secretary of State
Department for Communities and Local Government

10th September 2015

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 and S.I. 2015/609) ("the principal Regulations") to supplement the implementation by those Regulations of Article 27 (penalties) of 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) and (3) inserts new regulations 34A, 34B and 34C into the principal Regulations. Regulation 34A requires that local authorities arrange for the enforcement of obligations under the principal Regulations against them in relation to their own buildings by agreement with the local weights and measures authority of another area. Such agreements must be in place by the end of three months after these Regulations come into force, or as soon as is reasonably practicable.

New regulation 34B provides for the collection by enforcement authorities of sufficient information concerning buildings to enable them to plan effective enforcement action in accordance with guidance from the Secretary of State.

New regulation 34C provides for the annual reporting to the Secretary of State by enforcement authorities of action taken in relation to enforcement of the principal Regulations. The reports must be made in accordance with guidance from the Secretary of State, and may be published by the authority or by the Secretary of State. The reports must also provide information on agreements made between enforcement authorities under regulation 34A.

An impact assessment has not been prepared for these Regulations as there is no impact on businesses, individuals or the voluntary sector.