

2007 No. 1669

BUILDING AND BUILDINGS, ENGLAND AND WALES

The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2007

<i>Made</i>	- - - -	<i>8th June 2007</i>
<i>Laid before Parliament</i>		<i>11th June 2007</i>
<i>Coming into force</i>	- -	<i>2nd July 2007</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the energy performance of buildings. She makes the following Regulations in exercise of the powers conferred by that section and by sections 1(1), 8(6), 35 and 47 of, and paragraphs 1, 2, 4, 7, 8 and 10 of Schedule 1 to, the Building Act 1984(c).

Citation, extent and commencement

1.—(1) These Regulations may be cited as the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2007.

(2) These Regulations extend to England and Wales.

(3) These Regulations shall come into force on 2nd July 2007.

Definition

2. In these Regulations “the principal regulations” means the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007(d).

Amendments of the principal regulations

3.—(1) The principal regulations are amended as follows.

(2) In regulation 2(1) (interpretation) omit the definition “home information pack”.

(3) In regulation 6(1)(a) (providing energy information with particulars)—

(a) after the word “where” insert “a duty under”; and

(b) for “imposes a duty on” substitute “applies to”.

(a) S.I. 2004/3328.

(b) 1972 c. 68.

(c) 1984 c. 55. Section 1(1) was amended by the Sustainable and Secure Buildings Act 2004 (c.22), section 1(1) and (2); section 47 was amended by section 8(2) of that Act and S.I. 1996/1905; paragraph 7 of Schedule 1 was amended by section 3(1) and (5) of that Act, and there are other amendments to that paragraph but none is relevant; paragraph 8 of Schedule 1 was amended by section 3(1) and (7) of that Act.

(d) S.I. 2007/991.

- (4) In regulation 11 (energy performance certificates)—
- (a) in paragraph (4) for “three months” substitute “twelve months”;
 - (b) for paragraph (5), substitute—
 - “(5) For the purposes of paragraph (4), “first point of marketing” shall be construed in accordance with regulations 3, 16(3), 21(3), 22(3) and 34(5) of the Home Information Pack (No. 2) Regulations 2007(a).”;
 - (c) in paragraph (6), after “any information or data”, insert “(except for the address of the building)”.
- (5) In regulation 31(2) (registration of certificates etc.), for “data that was collected to produce it”, substitute “the data which was used to calculate any asset rating or operational rating in it”.
- (6) In Schedule 1 (commencement)—
- (a) in column 4 of paragraphs 5 and 7—
 - (i) after the word “where” insert “a duty under”, and
 - (ii) for “imposes a duty on” substitute “applies to”;
 - (b) in column 2 of paragraphs 8 and 9 for “1st October 2007” substitute “1st January 2008”;
 - (c) in column 3 of paragraph 8 after “Schedule 2” add “and, for these purposes only, regulation 8 and paragraph 1(1) of that Schedule”.

Transitional provision

4.—(1) In respect of a building in relation to which, but for the provisions of regulation 34 (exception- first day marketing during a temporary period) of the Home Information Pack (No. 2) Regulations 2007—

- (a) a duty under section 155(1) or 159(2) of the Housing Act 2004(b) would apply to any person; and
- (b) a duty under the principal regulations to make available a valid energy performance certificate to any prospective buyer or tenant would apply to the relevant person,

the relevant person shall before entering into a contract to sell or rent out that building ensure that a valid energy performance certificate is given free of charge to the prospective buyer or tenant.

(2) The principal regulations, other than regulation 5(2) and (5) (energy performance certificates on sale or rent), shall have effect in relation to the duty imposed by paragraph (1) as if it were a duty under regulation 5(2) or 5(5).

(3) Words and expressions used both in this regulation and in the principal regulations shall have the same meaning in this regulation as they have in the principal regulations.

8th June 2007

Kay Andrews
Parliamentary Under-Secretary of State
Department for Communities and Local Government

(a) S.I. 2007/1667.
(b) 2004 c.34.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (“the principal regulations”) in relation to various requirements related to energy performance certificates and recommendation reports. The principal regulations implement Articles 7 (energy performance certificates), 9 (air-conditioning system inspections) and 10 (energy assessors) of Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the Energy Performance of Buildings (OJ No L 1 4.1.2003 p.65).

Regulation 3(4)(a) extends from 3 months to 12 months the validity of an energy performance certificate where the property is first marketed in circumstances where the Housing Act 2004 requires a home information pack.

Paragraphs (2), (3), (4)(b) and (c), (5) and (6)(a) and (c) of regulation 3 make changes by way of minor correction or clarification or consequential amendment.

Paragraph 3(6)(b) postpones from 1st October 2007 to 1st January 2008 the coming into force of the provisions listed in paragraphs 8 and 9 of Schedule 1 to the principal regulations. Paragraphs 8 and 9 replace the energy rating requirements of the Building Regulations 2000 (S.I. 2000/2531) with requirements for energy assessment and energy performance certificates, in order to implement requirements of Directive 2002/91/EC in respect of newly constructed dwellings.

Regulation 4(1) provides that in circumstances where, but for the temporary exception in regulation 34 of the Home Information Pack (No. 2) Regulations 2007, both a duty under section 155(1) or 159(2) of the Housing Act 2004 would apply to any person, and a duty under the principal regulations to make available a valid energy performance certificate to any prospective buyer or tenant would apply to the relevant person, the relevant person shall, before entering into a contract to sell or rent out a building, ensure that a valid energy performance certificate is given free of charge to the prospective buyer or tenant. The regulation 34 exception disapplies the requirement to have a home information pack where an energy performance certificate cannot be obtained by the responsible person despite all reasonable efforts before a property is placed on the market or thereafter.

Paragraphs (2) and (3) of regulation 4 ensure that the interpretation, enforcement and all other ancillary provisions in the principal regulations relating to an energy performance certificate shall have effect in relation to a certificate provided under the duty imposed by regulation 4(1).

A transposition note for the principal regulations, updated to show the amendments in these Regulations, and a regulatory impact assessment of the effect that these Regulations will have on the costs of business and the voluntary sector are available from the Department for Communities and Local Government website or from the Sustainable Buildings Division of the Department (Tel: 020 7944 5755; Fax: 020 7944 5719; e-mail: enquiries.br@communities.gsi.gov.uk). Copies are also annexed to the explanatory memorandum to these Regulations which is available alongside the Regulations on the OPSI website at www.opsi.gov.uk.

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