STATUTORY INSTRUMENTS

2016 No. 284

BUILDING AND BUILDINGS, ENGLAND AND WALES

The Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016

Made - - - -	*10th March 2016*
Laid before Parliament	*15th March 2016*
Coming into force in accordance with regulation 1(2)	

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 measures relating to the environment.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by section 74 of the Energy Act 2011(**3**).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2016.

(2) These regulations come into force on 6th April 2016, except as provided in paragraphs (3) and (4).

(3) Regulations 18 and 19 come into force on 1st June 2016.

(4) Regulations 3(b), 20 and 22 come into force on 1st October 2016.

(5) These Regulations extend to England and Wales.

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

2. The Energy Performance of Buildings (England and Wales) Regulations 2012(**4**) are amended in accordance with the following regulations.

(**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 Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).
(**3**) 2011 c.16.
(**4**) S.I. 2012/3118, as amended by S.I. 2013/10; S.I. 2013/181; S.I. 2013/603; S.I. 2014/880; S.I. 2015/609 and S.I. 2015/1681.

Amendments to regulation 2

3. In regulation 2 (interpretation)—

(a) for the definition "asset rating" substitute—

""asset rating" means an energy performance indicator determined from the amount of energy estimated to meet the different needs associated with a standardised use of a building;";

(b) omit the definition "authorised recipient";

(c) in the definition "bulk access data" after "regulation 27(2)" insert ", (3) or (4B)";

(d) for the definition "display energy certificate" substitute—

""display energy certificate" means a certificate which—

(a) complies with regulation 15; or

(b) in the case of a certificate issued in respect of an excluded building under regulation 15A, complies with regulation 15A(2);"

(e) after the definition "energy from renewable sources" insert the following definition—

""energy performance" in relation to a building means the calculated or measured amount of energy needed to meet the energy demand associated with a typical use of the building, which includes, inter alia, energy used for heating, cooling, ventilation, hot water and lighting;";

(f) in the definition "energy performance certificate"—

(i) omit "or" after paragraph (b),

(ii) after paragraph (b) insert—

"(ba) in the case of a certificate issued in respect of an excluded building under regulation 9A, complies with the requirements of regulation 9A(2) of these Regulations; or", and

(iii) in paragraph (c) before "complies" add "in the case of a certificate entered on the register before 6th April 2016";

(g) after the definition "energy performance certificate" insert the following definition—

""excluded building" means a building owned, occupied or used by or for the purposes of—

(a) the Security Service, the Secret Intelligence Service or the Government Communications Headquarters;

(b) any of the armed forces;

(c) the Royal Family;

(d) a prison;

(e) a contracted out prison within the meaning of the Criminal Justice Act 1991(**5**); or

(f) a young offender institution;";

(h) for the definition "inspection report" substitute—

""inspection report" means a report—

(a) issued by an energy assessor in accordance with regulation 19(1); or

(**5**) 1991 c. 53

(b) in the case of a report issued in respect of an excluded building, issued by an energy assessor in accordance with regulation 19A(2);";

(i) for the definition "operational rating" substitute—

""operational rating" means an energy performance indicator determined from the amount of energy consumed during the occupation of a building over a period of time and the energy demand associated with a typical use of the building over that period;";

(j) in the definition "report reference number"—

(i) after "energy performance certificate" insert "issued by an energy assessor under regulation 9", and

(ii) after "display energy certificate" insert "issued by an energy assessor under regulation 15".

Amendment of regulation 4

4. For regulation 4(5)(a) (recommendation reports) substitute—

"(a) "building element" means a controlled service or fitting or a thermal element within the meaning of those expressions in regulation 2(1) and (3) respectively of the Building Regulations 2010(**6**).".

Insertion of regulation 7A

5. After regulation 7 (energy performance certificates on marketing) insert—

"**Energy performance certificates on construction**

7A.—(1) This regulation applies where—

(a) a building is erected; or

(b) a building is modified so that it has a greater or lesser 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 services for heating, hot water, air conditioning or mechanical ventilation.

(2) The person carrying out the building work must—

(a) give an energy performance certificate for the building to the owner of the building;

(b) give to the local authority notice to that effect; and

(c) include in that notice the reference number under which the energy performance certificate has been registered in accordance with regulation 27(4), except in the case of an energy performance certificate issued under regulation 9A (energy performance certificates in respect of excluded buildings).

(3) The energy performance certificate and notice must be given not later than five days after the building work has been completed.".

Amendment of regulation 9

6. In regulation 9 (energy performance certificates)—

(a) in paragraph (1)—

(**6**) S.I. 2010/2214. There are amendments, but none is relevant to this provision.

(i) at the beginning insert "Subject to paragraph (6),",

(ii) for subparagraph (a) substitute—

"(a) show the asset rating of the building, calculated and expressed in accordance with the methodology approved by the Secretary of State under regulation 24 of the Building Regulations 2010;",

(iii) in subparagraph (b) for "such as a current legal standard or benchmark" substitute "in order to make it possible to compare and assess the energy performance of the building"; and

(b) after paragraph (5) add—

"(6) This regulation does not apply to an energy performance certificate to which regulation 9A applies.".

Insertion of regulation 9A

7. After regulation 9 (energy performance certificates) insert—

"**Energy performance certificates in respect of excluded buildings**

9A.—(1) This regulation applies where—

(a) a building in relation to which an energy performance certificate is requested to be issued is an excluded building; and

(b) the person who requests the energy performance certificate—

(i) notifies the energy assessor (whether in writing or otherwise) that the building is an excluded building; and

(ii) requests (whether in writing or otherwise) that the energy performance certificate is issued under this regulation.

(2) An energy performance certificate issued under this regulation must—

(a) comply with the requirements set out in subparagraphs (a) to (e) of regulation 9(1), other than the requirement in subparagraph (e)(i) (reference number under which data entered onto register); and

(b) be valid for the purposes of this Part in accordance with paragraph (4).

(3) An energy performance certificate must not contain any information or data (except the address of the building) from which a living individual (other than the energy assessor or energy assessor's employer) can be identified.

(4) An energy performance certificate issued under this regulation is only valid for the purposes of this Part if—

(a) it was issued no more than 10 years before the date on which it is made available; and

(b) no other energy performance certificate for the building has since been issued under this regulation or entered onto the register.

(4) Where this regulation applies, the energy assessor must not enter any data relating to the building onto the register.

(5) Certification for building units may be based—

(a) for a non-residential building, on a common certification of the whole building for blocks with a common heating system; or

(b) on the assessment of another representative building unit in the same block.

(6) Certification for a building which consists of a single dwelling may be based on the assessment of another representative building of similar design and size with a similar actual energy performance quality if such correspondence is guaranteed by the energy assessor issuing the energy performance certificate.".

Amendment of regulation 10

8. In regulation 10(1)(c) (display of energy performance certificates)—

(a) in subparagraph (i) after "6" add "or 7A"; and

(b) in subparagraph (ii) before "regulation" add "in the case of certificate entered on the register before 6th April 2016,".

Amendment of regulation 11

9.—(1) In regulation 11 (statement of energy performance indicator)—

(a) in the heading to the regulation for "indicator" substitute "rating"; and

(b) in paragraphs (2) and (3) for "indicator" substitute "rating".

Amendment of regulation 15

10. In regulation 15 (display energy certificates)—

(a) number the existing provision as paragraph (1);

(b) at the beginning insert "Subject to paragraph (2),";

(c) after "display energy certificate" insert "issued under this regulation";

(d) for subparagraph (a) substitute—

"(a) subject to regulation 16, show the operational rating of the building, calculated and expressed in accordance with the methodology approved by the Secretary of State under regulation 24 of the Building Regulations 2010, relating to the period of 12 months ending no earlier than three months before the nominated date;";

(e) in subparagraph (b) for "expressed" substitute "shown";

(f) in subparagraph (c) for "such as a current legal standard or benchmark" substitute "in order to make it possible to compare and assess the energy performance of the building"; and

(g) after paragraph (1) insert—

"(2) This regulation does not apply to a display energy certificate issued under regulation 15A.".

Insertion of regulation 15A

11. After regulation 15 (display energy certificates) insert—

"**Display energy certificates for excluded buildings**

15A.—(1) This regulation applies where—

(a) a building in relation to which a display energy certificate is requested to be issued is an excluded building; and

(b) the person who requests the display energy certificate—