STATUTORY RULES OF NORTHERN IRELAND

# 2008 No. 170

# EUROPEAN COMMUNITIES

## The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008

| | |
|---|---|
| *Made - - - -* | *10th April 2008* |
| *Coming into operation* | *30th June 2008* |

The Department of Finance and Personnel, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to the energy performance of buildings and in exercise of the powers conferred by section 2(2) of the said Act, hereby makes the following Regulations.

## PART 1

## INTRODUCTORY

### Citation and commencement

**1.**—(1) These Regulations may be cited as the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008.

(2) Subject to regulation 4 and 6(1) and notwithstanding regulation A5 of the Building Regulations (Northern Ireland) 2000(**3**), these Regulations apply to all buildings including buildings which would otherwise be exempt from building regulations by virtue of regulation A5.

(3) Each provision of these Regulations referred to in column (2) of the Table in the Schedule shall come into operation on the date referred to in column (1) of that Table, for the purposes referred to in column (3).

### Interpretation

**2.**—(1) In these Regulations—

"accreditation scheme" means a scheme approved by the Department in accordance with regulation 19;

(**1**) S.I. 2004 No. 3328
(**2**) 1972 c. 68
(**3**) S.R. 2000 No. 389, as amended by S.R. 2005 No. 295, S.R. 2006 No. 355 and S.R. 2006 No. 440

"advisory report" means a report issued by an energy assessor, after his energy assessment of the building, which contains recommendations for the cost-effective improvement of the energy performance of the building;

"air-conditioning system" means a combination of all the components required to provide a form of air treatment in which the temperature is controlled or can be lowered, and includes systems which combine such air treatment with the control of ventilation, humidity and air cleanliness;

"asset rating" means a numerical indicator of the amount of energy estimated to meet the different needs associated with a standardised use of a building, calculated according to a methodology approved by the Department;

"building" means a roofed construction having walls, for which energy is used to condition the indoor climate, and a reference to a building includes a reference to a part of a building which has been designed or altered to be used separately;

"Department" means the Department of Finance and Personnel;

"display energy certificate" means a certificate that complies with regulation 12;

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling;

"effective rated output" means the maximum calorific output (expressed in kilowatts) specified and guaranteed by the manufacturer of the system as being deliverable during continuous operation while complying with the useful efficiency indicated by the manufacturer;

"energy assessor" means an individual who is a member of an accreditation scheme in accordance with regulation 19;

"energy performance certificate" means a certificate that complies with regulation 8;

"inspection report" means a report issued by an energy assessor in accordance with regulation 16;

"nominated date" means, in relation to a display energy certificate, a date not more than 3 months after the end of the period over which the operational rating is calculated, which is nominated by the energy assessor who issued the certificate;

"operational rating" means a numeric indicator of the amount of energy consumed during the occupation of the building over a period of 12 months (unless regulation 13(3) applies), ending not earlier than 3 months before the nominated date, calculated according to a methodology approved by the Department;

"recommendation report" means a report that contains recommendations for the cost-effective improvement of the energy performance of the building issued by the energy assessor who issued the energy performance certificate;

"relevant person" means—

(a) in relation to a building which is to be sold, the seller;

(b) in relation to a building which is to be rented out, the prospective landlord;

(c) in relation to a building in circumstances where regulation 6 applies, the person responsible for having the construction work carried out ; and

(d) in relation to an air-conditioning system, the person who has control of the operation of the system.

(2) Unless otherwise defined in these Regulations, terms used in these Regulations have the same meaning as in Directive 2002/91/EC of the European Parliament and the Council on the energy performance of buildings(**4**).

(**4**) O.J. No. L1, 4.1.2003, p. 65

**Prospective buyer or tenant**

**3.** A person becomes a prospective buyer or tenant in relation to a building when he—

(a) requests any information about the building from the relevant person or his agent for the purposes of deciding whether to buy or rent the building;

(b) makes a request to view the building for the purposes of deciding whether to buy or rent the building; or

(c) makes an offer, whether oral or written, to buy or rent the building.

# PART 2

## DUTIES TO PRODUCE ENERGY PERFORMANCE CERTIFICATES

**Application of Part 2**

**4.**—(1) This Part does not apply to—

(a) buildings that are used primarily or solely as places of worship;

(b) temporary buildings with a planned time of use of 2 years or less;

(c) industrial sites, workshops and non-residential agricultural buildings with low energy demand; and

(d) stand-alone buildings with a total useful floor area of less than 50 $m^2$ that are not dwellings.

(2) Nothing in this Part requires an energy performance certificate to be given or made available to an owner, a prospective buyer or tenant at any time before the construction of the building has been completed.

**Energy performance certificates on sale and rent**

**5.**—(1) Subject to paragraph (4), this regulation applies where a building is to be sold or rented out.

(2) The relevant person shall make available free of charge a valid energy performance certificate to any prospective buyer or tenant—

(a) at the earliest opportunity; and

(b) in any event before entering into a contract to sell or rent out the building or, if sooner, whichever is the earlier of—

(i) in the case of a person who requests information about the building, the time at which the relevant person first makes available any information in writing about the building to the person; or

(ii) in the case of a person who makes a request to view the building, not later than the time at which the person views the building.

(3) The relevant person shall ensure that a valid energy performance certificate has been given free of charge to the person who ultimately becomes the buyer or tenant.

(4) This regulation does not apply in relation to a building that is to be sold where the relevant person can show that the building is to be demolished or he believes on reasonable grounds that the prospective buyer of the building intends to demolish the building.

**Energy performance certificates on construction**

**6.**—(1) This regulation applies to all buildings to which this part applies, including buildings in relation to which the Building Regulations (Northern Ireland) 2000(**5**) do not apply, other than buildings which are exempt from those Regulations by virtue of regulation A5(1)(b) and (c) of those Regulations, where—

(a) a building is constructed; or

(b) a building is so modified that the number of parts designed or altered for separate use is changed and where such modification includes the provision or extension of any fixed services for heating, hot water, air-conditioning and mechanical ventilation.

(2) The relevant person shall give an energy performance certificate for the building to the owner of the building not more than five days after the work has been completed.

**Recommendation reports**

**7.** Where a relevant person is required by regulations 5(2) or 6(2) to make available or give an energy performance certificate to any person, the certificate shall be accompanied by a recommendation report.

**Energy performance certificates**

**8.**—(1) An energy performance certificate shall—

(a) be in a form approved by the Department;

(b) state the asset rating of the building;

(c) include reference values such as current legal standards and benchmarks;

(d) be issued by an energy assessor who is accredited to produce energy performance certificates for that category of building; and

(e) include the following information—

(i) the reference number under which the certificate has been registered in accordance with regulation 25;

(ii) the address of the building;

(iii) the total useful floor area of the building;

(iv) the name of the energy assessor who issued it;

(v) the name and address of the energy assessor's employer, or if he is self-employed, the name under which he trades and his address;

(vi) the date on which it was issued; and

(vii) the name of the approved accreditation scheme of which the energy assessor is a member.

(2) An energy performance certificate shall not contain any information or data except for the address of the building from which a living individual (other than the energy assessor or his employer) can be identified.

(3) An energy performance certificate is only valid for the purposes of this Part if—

(a) the issue date is not more than 10 years old; and

(b) no other energy performance certificate for the building has since been obtained by or provided to the relevant person.

(**5**) S.R. 2000 No. 389, as amended by S.R. 2005 No. 295, S.R. 2006 No. 355 and S.R. 2006 No. 440

(4) Certificates for apartments or units designed or altered for separate use in blocks may be based—

(a) on the assessment of another representative apartment or unit in the same block; or

(b) except in the case of a dwelling, on a common certification of the whole building for blocks with a common heating system.

(5) Where—

(a) a block with a common heating system is divided into parts designed or altered for separate use; and

(b) one or more, but not all, of the parts are dwellings,

certification for those parts that are not dwellings may be based on a common certification of all the parts that are not dwellings.

**Production of copies of energy performance certificates**

**9.** Where this Part requires a relevant person to give or make available a valid energy performance certificate it is sufficient for the relevant person to—

(a) give or make available a copy of a valid certificate; or

(b) with the consent of the intended recipient, give or make available electronically a read-only certificate.

**Purposes for which certificates and recommendation reports may be disclosed**

**10.**—(1) Where any person has in his possession or control a document to which this regulation applies, it is an offence for that person to disclose, or permit the disclosure of, the document or any information derived from it except in the circumstances specified in paragraph (2).

(2) Those circumstances are—

(a) where the disclosure is necessary to comply with any duty imposed by these Regulations;

(b) where the disclosure is authorised by Part 6;

(c) where the disclosure is by or to an enforcement authority for a purpose legitimately connected to their duty under regulation 31(2);

(d) where the disclosure is for a legitimate purpose connected with a prospective buyer's or tenant's decision whether to buy or rent the building;

(e) where the disclosure is for a legitimate purpose related to the making of improvements to the energy efficiency of the building;

(f) where the disclosure is by or to an accreditation scheme operator for a purpose legitimately connected to its accreditation functions;

(g) where the disclosure is by the Department for—

(i) the purpose of enabling it to monitor the application and enforcement of, and compliance with, the duties imposed by these Regulations; or

(ii) statistical or research purposes,

provided that no particular property is identifiable from the information disclosed; or

(h) where the disclosure is for the purpose of—

(i) preventing or detecting crime;

(ii) apprehending or prosecuting offenders;

(iii) establishing, exercising or defending legal rights; or