

EXPLANATORY MEMORANDUM TO

The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2016

2016 No. 395

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Finance ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations amend the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 (as amended) ("the principal Regulations"), which came into operation on 30th June 2008. The overall objective of the principal Regulations is to promote awareness of the energy efficiency of buildings through the production and display of certificates and reports in conformity with EU Directive 2010/31/EU on the energy performance of buildings ("the Directive"). Articles 2(1), 2(3), 2(4), 2(8), 2(9), 2(12), 2(15), 2(17), 3, 11(1), 11(2), 11(3), 11(4), 11(8), 12, 13, 15(1), 15(3), 16, 17, 18(1), 20 and 27 of the Directive are implemented through the principal Regulations.
- 2.2. The Regulations made under this Statutory Rule clarify the implementation of Article 3 of the Directive by adding a new definition to suitably define the Government's "national calculation methodology" and by amending definitions to ensure this methodology applies to the energy assessments required by the principal Regulations. The national calculation methodology ensures that assessments of the energy performance of buildings can be calculated in an approved and consistent manner.
- 2.3. These Regulations clarify that the reference values on certificates make it possible to compare and assess the energy performance of the building. They further clarify that when a building is marketed for sale or rent, the indicator of performance should be displayed on a scale of A+ to G (A to G in the case of dwellings). These clarifications are intended to ensure that appropriate reference values are noted, in compliance with Article 11(1) and 12(4) of the Directive.
- 2.4. These Regulations also clarify aspects of Article 15(1) requirements to inspect accessible parts of those air-conditioning systems subject to regular inspection requirements. This is intended to more explicitly reflect the wording of the Directive.
- 2.5. These Regulations make provisions for energy assessor accreditation schemes to provide for the production of air-conditioning inspection

reports and to ensure that any certificates and reports required, use a standard format, approved by the Department. This accords with requirements of Articles 17 and 18 of the Directive.

3. Background

- 3.1. The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 originally implemented parts of Directive 2002/91/EC on the energy performance of buildings ("the 2002 Directive"), which came into force on 16 December 2002. This Directive's objective was to promote the improvement of the energy performance of buildings within the European Community taking into account outdoor climatic and local conditions as well as indoor climate requirements and cost-effectiveness.
- 3.2. The Directive came into force on 19 May 2010. The purpose of the Directive is to extend the scope of the 2002 Directive, strengthen certain provisions, and clarify other aspects. It also gives the public sector a lead role in improving the energy efficiency of its building stock.
- 3.3. In the United Kingdom, transposition of the Directive was taken forward on a regional basis as a significant part of compliance required an amendment to each region's building regulations.

4. Consultation

- 4.1. As these regulatory changes are considered to be of no or minimal impact, with no change to existing working practices, a formal public consultation has not been undertaken.

5. Equality Impact

- 5.1. A screening exercise was undertaken which indicated that an Equality Impact Assessment was not required.

6. Regulatory Impact

- 6.1. The Department considers that, given the nature of the proposals, there will be no costs or no savings, or negligible costs or savings on business, charities, social economy enterprises or the voluntary sector.
- 6.2. The Department does not consider that the proposals will place any further significant impact on enforcement officers in carrying out their duties. District councils already have a statutory duty to enforce the principal Regulations within their district. Energy assessors and District Councils will have to bear the minimal cost of understanding the minor changes brought about by the proposed Statutory Rule. They should not need to acquire any new skills as the Department anticipates that any minimal costs will relate to initial familiarisation. The Department also considers that the Energy Performance of Buildings Team in Belfast City Council, which is grant funded by the Department, will assist councils in this area.

7. Financial Implications

- 7.1. None

8. Section 24 of the Northern Ireland Act 1998

- 8.1. It is the view of the Department that these Regulations are compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. These Regulations clarify certain minimum requirements in relation to Articles 3, 11, 12, 15, 17 and 18 of the Directive. A transposition note has been deemed unnecessary as these regulations clarify existing requirements rather than newly transposing Articles from the Directive.

10. Parity or Replicatory Measure

- 10.1. These Regulations have been made subsequent to The Energy Performance of Buildings (England and Wales) (Amendment) Regulations S.I. 2016 No. 284 which included similar measures to clarify aspects of the implementation of the Directive within England and Wales.

11. Additional Information

- 11.1. Not applicable.