

Transposition Note

Council Directive 2010/31/EU on the Energy Performance of Buildings.

Directive 2010/31/EU on the Energy Performance of Buildings was transposed in Scotland through amendment of The Building (Scotland) Regulations 2004 and The Energy Performance of Buildings (Scotland) Regulations 2008.

Subsequent review by the Commission identified issues with the original transposition which are now addressed by further amendment of regulations.

The Building (Energy Performance of Buildings) (Scotland) Amendment Regulations 2016 further amend The Building (Scotland) Regulations 2004 to address the introduction of two specific provisions under Articles 9 and 15 of the Directive.

Directive Article	Objective of Article	Transposition in Scotland
Article 9 – Nearly zero-energy buildings	Article 9(1) of the EPBD requires Member States to ensure that by 31 December 2020 all new buildings are nearly zero energy buildings (NZEB) and that all new buildings occupied and owned by public authorities are NZEB by 31 December 2018.	<p>In transposition of the Directive in 2012, Scottish authorities noted that it was not considered necessary that Article 9(1) of the Directive be transposed by legislation at that time and that regulatory provision would be made in advance of the dates specified through future review of energy standards within building regulations.</p> <p>The Commission subsequently concluded that identifying this goal in the national legislation is required for the issue to be correctly transposed in Scotland. Accordingly, Scotland amends legislation to include the timetable for delivery of nearly zero energy new buildings. The same legislative provisions on this matter are now made in all UK administrations.</p>
Article 15 – Inspection of air-conditioning systems	Article 15(1) requires that Member States must lay down the necessary measures to establish a regular inspection of the accessible parts of air-conditioning systems of an effective rated output of more than 12 kW.	<p>In transposition of the Directive in 2012, Scottish authorities included provisions defining the scope of inspection and maximum period between inspections in guidance issued in support of the regulatory requirement rather than in regulation.</p> <p>The Commission subsequently concluded that, as not all the obligations derived from Article 15 are embedded in legislation, the transposition of this provision is considered incorrect. Accordingly, Scotland amends</p>

		legislation to include provisions already published within guidance to regulation 17, citing inspection of accessible parts of systems and that inspections must be at intervals of not more than five years.
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1 February 2016