

Title: Increasing the fees for entering Energy Performance Certificates and Related Documents onto the Energy Performance Certificate Registers IA No: Lead department or agency: DCLG Other departments or agencies:	Impact Assessment (IA)			
	Date: 31/01/2013			
	Stage: Final			
	Source of intervention: EU			
	Type of measure: Secondary legislation			
Contact for enquiries: Mark Cousens				

Summary: Intervention and Options	RPC Opinion: Green
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as One-Out?
£0m	-£6.3m	£0.66m	No	NA

What is the problem under consideration? Why is government intervention necessary?

All Energy Performance Certificates, Display Energy Certificates and Air Conditioning Inspection Reports must be entered on to the relevant Energy Performance Certificate Register to meet the requirements of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012. Regulation 28 permits the Register Operator to charge fees of £1.15 for entering certificates relating to dwellings and £5.36 for certificates relating to non-dwellings onto the Registers. The Register Contracts operate on a cost recovery basis. The fees need to rise to £1.67 and £11.81 respectively to cover and take account of service enhancements and much lower than anticipated revenues.

What are the policy objectives and the intended effects?

The policy objective is to provide a sound financial basis for the Energy Performance Certificate Registers to continue to support effective implementation of the Energy Performance of Buildings Directive in England and Wales through providing a central hub for, and reliable record of, all activity required by the Directive. The intended effect is to achieve a better balance between the revenue generated from lodgements of Energy Performance Certificates and associated documents in England and Wales with the cost of operating the Energy Performance Certificate Registers. Failure to address this will expose the taxpayer to additional liabilities over time.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The two policy options that have been considered are:

a) to do nothing and leave the fees as they are currently set; or

b) the preferred option - to increase the fees to £1.67 for entering domestic Energy Performance Certificates and £11.81 for entering non-domestic Energy Performance Certificates, Display Energy Certificates and Air Conditioning Inspection Reports onto the Energy Performance Certificate Registers.

The increase in fees is the preferred option because failure to increase lodgement fees so as to better match revenue from Energy Performance Certificate lodgements with the cost of operating the Energy Performance Certificate Registers would lead to mounting liabilities for the taxpayer and may lead to disruption in provision of Register services.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 01//2014					
Does implementation go beyond minimum EU requirements?			Yes		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: 0	Non-traded: 0	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ Don Foster _____ Date: 13th March 2013 _____

Summary: Analysis & Evidence

Policy Option 1

Description: To increase the fees to £1.67 for entering domestic Energy Performance Certificates and £11.81 for entering non-domestic Energy Performance Certificates, Display Energy Certificates and Air Conditioning Inspection Reports.

FULL ECONOMIC ASSESSMENT

Price Base Year: 2013	PV Base Year: 2013	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £0.00m	High: £0.00m	Best Estimate: £0.00m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0m	£0.78m	£6.49m
High	£0m	£2.34m	£19.47m
Best Estimate	£0m	£1.56m	£13.44m

Description and scale of key monetised costs by 'main affected groups'

Total additional costs of £1.56m arising from the increased fees per annum of which £0.73m is additional costs to businesses, £0.56m is a cost to individual households and £0.27m is a cost to the public sector. We include a 50% range either way on the number of lodgements made in future years to recognise the uncertainty over these projections - gross annual costs to business would be between £0.37m and £1.1m.

Other key non-monetised costs by 'main affected groups'

N/A

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0m	£0.78m	£6.49m
High	£0m	£2.34m	£19.47m
Best Estimate	£0m	£1.56m	£13.44m

Description and scale of key monetised benefits by 'main affected groups'

The recipient of the increased fees will be Landmark Information Group Ltd, which operate the Domestic and Non-Domestic Energy Performance Certificate Registers on behalf of the Secretary of State for Communities and Local Government. Since DCLG is contractually obliged to cover any losses the annual benefit of £1.56m accrues to DCLG. We include a 50% range either way on the number of lodgements made in future years to recognise the uncertainty over these projections.

Other key non-monetised benefits by 'main affected groups'

N/A.

Key assumptions/sensitivities/risks

Lodgement numbers were taken from historical data.

Without fee increases there is a risk of (i) an increased liability to the taxpayer and (ii) temporary disruption and suspension of the registers or some of the services they provide. This would result in a lack of continuity in the provision of Energy Performance Certificates and related services and disruption to the residential and commercial property markets and the Green Deal, the Government's programme for improving the energy performance of buildings. There could also be a loss to the revenues for accredited Energy Assessors of £164.5m.

Discount rate (%)

3.5%

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual)			In scope of OIOO?	Measure qualifies as
Costs: £0.73m	Benefits:	Net: -£0.73m	No	NA

Evidence Base (for summary sheets)

Context

The Energy Performance of Buildings Directive was adopted in 2002 by the European Parliament and the Council. A recast of the Energy Performance of Buildings Directive was adopted in 2010 by the European Parliament and the Council. It is designed to improve the energy efficiency of buildings and thus reduce carbon emissions, and lessen the impact of climate change. Government has agreed to an 80% reduction of greenhouse gas emissions by 2050 relative to 1990 levels, which is legally binding under the Climate Change Act. This is in response to the overwhelming body of scientific evidence that indicates that climate change poses one of the greatest threats to modern society, with long term, persistent and costly effects.¹ It is predominantly caused by emissions of greenhouse gases from human activities,² particularly carbon dioxide. Reducing energy demand also contributes to reducing fuel bills and depletion of energy resources.

Articles 11-14 of the EU Energy Performance of Buildings Directive³ require:

- making Energy Performance Certificates available to prospective purchasers or tenants of buildings sold, rented out or constructed;
- display of Energy Performance Certificates for public buildings over 500m²;
- regular inspection of air conditioning installations with outputs over 12kW; and
- regular inspection of boilers or voluntary provision of advice coupled with a report demonstrating equivalence submitted to the Commission every three years.

The Energy Performance of Buildings Directive has been implemented into law in England and Wales by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012 (S.I. 2012/3118) in respect of sales and lettings, public buildings and air conditioning inspections, and in regulation 29 of the Building Regulations 2010 (S.I. 2010/2214) in respect of the duty on construction. Full implementation in England and Wales was completed on 1 October 2008. Implementation of the Recast was completed on 9 January 2013.

An Energy Performance Certificate is valid for 10 years and is intended to inform a potential purchaser or tenant about the energy performance of buildings being marketed for sale or rent, or that are newly constructed, so they can consider energy efficiency and fuel costs as part of their decision on whether to buy or rent a property. An Energy Performance Certificate provides an energy rating for a building based on the fabric and its services (such as heating, ventilation and lighting). The Energy Performance Certificate is accompanied by a recommendations report (from this point forward both are referred to collectively as the Energy Performance Certificate), which provides recommendations on how the energy performance of the building could be enhanced, together with an indication of the payback period.

A Display Energy Certificate for a building between 500-1,000m² is valid for 10 years and for a building over 1,000m² is valid for one year. A Display Energy Certificate provides information about the energy rating of a building based on the energy it consumes during operational use and factors such as size, use category and building fabric. The Display Energy Certificate is accompanied by a recommendations report (from this point forward both are referred to collectively as the Display Energy Certificate), which provides recommendations on how changes to the way in which the building is operated could improve its energy performance in use.

An Air Conditioning Inspection Report is prepared in a standard format prescribed by DCLG and is valid for 5 years. An Air Conditioning Inspection Report contains information about the type and energy performance characteristics of the air conditioning system to which it relates, and must be prepared using the methodology described in "Inspection of Air Conditioning Systems: A Guide to EPBD Compliance" (Chartered Institute of Building Engineers, 2012) or equivalent. The Air Conditioning Inspection Report must provide information about the energy efficiency of the air conditioning system and make recommendations about measures that could improve its energy performance.

¹ Stern Review on the Economics of Climate Change: http://www.hm-treasury.gov.uk/sternreview_index.htm

² IPCC Fourth Assessment Report: http://www.ipcc.ch/publications_and_data/publications_and_data_reports.shtml

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:153:0013:0035:EN:PDF>

Both the Energy Performance Certificate and Display Energy Certificate are broadly similar to the labels provided with domestic appliances such as refrigerators and washing machines. The energy efficiency rating is a measure of a property's overall efficiency. The rating a property receives depends on the energy costs associated with fixed space heating, water heating, ventilation and lighting, less any cost savings from energy generation technology installed in the property. The rating scale is from A to G with A representing very energy efficient and low running costs and G representing not energy efficient and higher running costs. For non domestic Energy Performance Certificates the rating scale is from A + to G. For Display Energy Certificates the rating scale is from A to G.

An Energy Performance Certificate is only valid for the purposes of the Energy Performance of Buildings Regulations once it has been entered onto the relevant Energy Performance Certificate Register. The only person able to conduct an energy assessment, produce the Energy Performance Certificate and submit it to an Accreditation Scheme for them to enter it onto the Register is an accredited Energy Assessor. The Energy Assessor is responsible for ensuring the latest version of the approved calculation methodology software is used to produce the Energy Performance Certificate and recommendation report. Once the Energy Performance Certificate has been produced the Energy Assessor's Accreditation Scheme is responsible for lodging the Energy Performance Certificate on the EPC Register and also for monitoring the quality of the Energy Performance Certificates produced by their members. Approved Accreditation Schemes, who manage Energy Assessors, are responsible for ensuring that the energy assessor has the appropriate energy assessment skills and knowledge.

Problem under consideration

The Domestic and Non-Domestic Energy Performance Certificate Registers are operated by Landmark Information Group on behalf of the Secretary of State for Communities and Local Government by virtue of Regulations 27, 28 and 29 of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012 and implemented by virtue of two separate ten year concession contracts, which commenced in 2007 for the domestic Register and 2008 for the non-domestic Register.

The concession contracts are intended to operate on the basis that the Register Operator will recover all of the costs of establishing and operating the Energy Performance Certificate Registers by charging fees for all Energy Performance Certificates, Recommendation Reports, Display Energy Certificates, Advisory Reports and Air Conditioning Inspection Reports that are entered onto the Registers.

Regulation 28 of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012 permits that the keeper of the register may charge the following fees for entering data onto the register—

(a) for entering data from which an energy performance certificate which relates to a dwelling may be produced, a fee of £1.15;

(b) for entering data from which—

(i) an energy performance certificate which relates to a building other than a dwelling,

(ii) a display energy certificate, or

(iii) an inspection report,

may be produced, a fee of £5.36;

The concession contracts for the operation of the Energy Performance Certificate Registers provide that the fees for entering these documents onto the Register will be reviewed periodically. The purpose of the fee review is to ensure that the Operator of the Registers is assured of recovering all of the cost of establishing and operating the Energy Performance Certificate Registers and associated services from the fees that are charged for entering documents onto the Registers. A review has not been done since the fees were set at their current levels.

The contract stipulates that when a review of fees is conducted the Secretary of State and the Register Operator shall agree a review panel and that the review panel will:

- assess actual Income and Eligible Expenditure from the Service Commencement Date against the previously agreed Financial Model;

- determine whether the actual rate of return achieved was higher or lower than the Agreed Rate of Return; and
- ascertain the level of the Lodgement Fee to be recommended to achieve the Agreed Rate of Return.

The contract also specifies that the Review will also consider the following (without limitation):

- volumes and associated revenues received over the Term to date;
- the Project Account for preceding years and the year to date;
- the Operator's returns when compared to expected ARR;
- additional or reduced costs as a result of Changes;
- additional or reduced costs as a result of Authority Specific Changes in Law and Authority Specific Changes in Standards;
- review of Operator's underlying costs, costs model and service levels including by reference to comparable schemes;
- (as necessary) review of the pro forma project account (and the Eligible Expenditure for inclusion therein);
- direct losses and / or expenses incurred by the Operator as referred to in paragraph 8.4 of Schedule 3 (Implementation); and
- direct losses and/or expenses incurred by the Operator as a result of its compliance with the provisions of Schedule 8 (Exit Plan) pursuant to Clause 40.1 where this Agreement is subsequently extended by the Authority pursuant to Clause 2 or by mutual agreement.

The contract also stipulates that any changes in costs as a result of Changes, Authority Specific Changes in Law and Authority Specific Changes in Standards shall be adjusted to take into account the obligation of the Operator to mitigate the effects of such Changes, Authority Specific Changes in Law or Authority Specific Changes in Standards (as the case may be) and shall be further reduced by any savings in costs achieved by the Operator as a result of the Change, Authority Specific Change in Law or Authority Specific Change in Standards (as the case may be).

Finally, the contract also stipulates that any alteration to the Lodgement Fee will be subject to decision by the Secretary of State for Communities and Local Government and implementation of an appropriate statutory instrument in accordance with and subject to the usual parliamentary process.

The Registers are currently operating at a deficit, the ultimate liability for which rests with the taxpayer. There are two reasons for the deficits.

Firstly, the number of Energy Performance Certificates entered onto the Registers is proportionate to the number of transactions, including sales and rentals, in the housing and commercial property markets. The contracts were let prior to the global economic downturn and so the number of lodgements, and therefore the amount of revenue generated, is significantly less than anticipated at the time. Tables 1-4 below illustrate the extent of the shortfall.

Secondly, the Register Operator has enhanced the services being delivered via the Register contracts beyond the service specification defined in the original contract. The enhanced services provided include items such as the introduction of the Management Information System (MIS), which transforms the raw data in the Registers into a database, the introduction of the EPC Adviser Tool, the operation of an EPBD helpdesk for members of the public, management and secretariat services for key industry working groups (there are 8 groups which meet on a quarterly basis) and development and maintenance of OrCalc and AirCon, the software tools for generating DEC's and ACIR's respectively.

This deficit will continue to grow unless fees are adjusted in line with the actual level of operational costs.

In line with contractual requirements, and in view of the cumulative impact of the continuing shortfall of revenue in comparison to cost/expenditure on the Register balance sheets, the Department for Communities and Local Government and Landmark Information Group commissioned an independent review of the fees that are charged for entering documents onto the Registers. The review has identified that, unless the fees are increased to cover the forecast annual cost of providing the services from April 2013, the full cost of providing register services will not be met in future. It is not sustainable for the

Taxpayer to continue to underwrite the risk that the Registers will be operating at a deficit.

Comparison of Predicted against Actual Lodgements

Table 1: Domestic EPC Register Lodgements to August 2012

Predicted Lodgements	Actual Lodgements	Shortfall in Lodgements
14.19m	8.02m	6.18m

Table 2: Adjusted Projection of Domestic EPC Register Lodgements over the ten year Life of the Contract

Predicted Lodgements	Revised Projected Lodgements	Shortfall in Lodgements
22.86m	16.02m	6.85m

Table 3: Non-Domestic EPC Register Lodgements to August 2012

Predicted Lodgements	Actual Lodgements	Shortfall in Lodgements
1.29m	0.53m	0.76m

Table 4: Adjusted Projection of Non-Domestic EPC Register Lodgements over the ten year Life of the Contract

Predicted Lodgements	Revised Projected Lodgements	Shortfall in Lodgements
2.58m	1.18m	1.40m

(sources: (i) figures included in the original Register contracts for the number of predicted lodgements and (ii) the EPC Registers).

Rationale for intervention

All Energy Performance Certificates, Display Energy Certificates or Air Conditioning Inspection Reports must be entered on to the relevant Energy Performance Certificate Register to meet the requirements of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012. Regulation 28 permits the Register Operator to charge fees of £1.15 for entering certificates relating to dwellings and £5.36 for certificates relating to non-dwellings onto the Registers. The Register Contracts operate on a cost recovery basis. These fees need to rise to £1.67 and £11.81 respectively to cover operational running and capital costs because of much lower than anticipated revenues over the life of the contracts and some service enhancements.

Policy objective

The policy objective is to ensure that the Energy Performance Certificate Registers operate on a cost recovery basis as originally intended. To achieve this, the fees for entering documents and data onto the Energy Performance Certificate Registers must be set at a sufficient level to enable the Registers to continue operating in an effective and efficient manner without any direct funding in the future from the Exchequer. The fees are currently too low to enable this to happen. The revised fees will achieve a better balance between the cost of establishing and maintaining the Energy Performance Certificate Registers and the revenue that has been or is expected to be generated from entering documents or data onto the Energy Performance Certificate Registers. Failure to address this will expose the taxpayer to additional liabilities over time.

Description of options considered (including do nothing)

The following options have been considered:

- 1) Do nothing and leave the fees as they are currently set; and
- 2) Increase the lodgement fees to ensure that the fees being charged will better meet the cost of establishing and operating the Registers.

Monetised and non-monetised costs

The Department for Communities and Local Government has a contractual obligation to review the fees for lodging EPCs, DECs and ACIRs onto the EPC Registers. In line with this obligation, a review of the fee for lodging EPCs, DECs and ACIRs onto both the domestic and non-domestic EPC Registers has been carried out. The review has concluded that the fee for lodging domestic EPCs onto the domestic EPC Register should increase from £1.15 to £1.67 and the fee for lodging non-domestic EPCs, DECs and ACIRs onto the non-domestic EPC Registers should increase from £5.36 to £11.81. The policy intervention seeks to take the urgent action needed to address the financial disparity between the revenues from transactions and the cost to the Register Operator of establishing and maintaining the Energy Performance Certificate Registers.

Domestic Energy Performance Certificate

We focus first on the domestic Energy Performance Certificate and different transaction types to allocate relevant costs to business, households and government. Definitions of the transaction types are given in Table 5 below. It is important to note that the “Not Recorded” transaction type relates only to historic data and that it is not anticipated that there will be any lodgements under this transaction type in future. The percentages of lodgements by transaction type for predicted future EPC lodgements have therefore been adjusted to take account of this. It should also be noted that new transaction types were introduced on 30 September 2012, in order to accommodate the introduction of the Green Deal and Feed in Tariffs, which do not correspond with those in use for the preceding period. However, the sample period for the new transaction types is short so the previous period and transaction types were used to determine the share of business involved.

Table 5: Definition of Transaction Types

Transaction Type*	Description
1 marketed sale	Properties sold through conventional means. This includes all EPC commissions from estate agents and similar.
2 non marketed sale	Change of ownership but not through marketed sale. This includes right-to-buy but should rarely be used otherwise.
3 rental (social)	Properties owned by local authorities, social landlords that are registered with the Homes and Communities Agency (most are housing associations, but there are also trusts and co-operatives).
4 rental (private)	Rented properties not owned by organisations at 3.
5 not sale or rental	Property not being sold and not for rental market. For example, a house owner might have improved the property and wants to lodge an improved EPC. EPCs are not required by the regulations under these circumstances and so lodgements under this category are expected to be extremely rare. Note that if the property is a rented one, it should always be transaction type 3 or 4 irrespective of the circumstances.
6 new dwelling	A dwelling that has not previously been occupied. Mainly new construction assessed off-plan using SAP
7 not recorded	This exists in the schema only for backwards compatibility (EPCs lodged before version 12). It must <u>never</u> be used for new lodgements from now on.

*New transaction types were also introduced on 30 September 2012, which include transaction types for Green Deal and Feed in Tariffs.

The key transaction types for determining the number of Energy Performance Certificates that are paid for by businesses are new dwellings, private rentals and social rentals. Of these, all Energy Performance

Certificates for new dwellings are paid for by businesses (house builders), as they are the party obligated to provide the Energy Performance Certificate as part of the completion of a new dwelling. 29% of all private rented dwellings lodgements are paid for by business. This is based on the proportion of private rented stock owned by businesses (15%) as described in the Private Landlords Survey 2010 (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7249/2010380.pdf), plus the 14% owned by 'other organisations'. The report defines 'other organisations' as "landlords who have responded they are either a group of individuals or some other organisation". Therefore this category is likely to also include charities (e.g. churches), university halls of residence, etc. ONS classifications include separate classifications for charities, but they have advised that at least some of these 'other organisations' will

Table 6: Breakdown of Domestic Energy Performance Certificates for Dwellings Paid for by Businesses and Households

Breakdown of Domestic Energy Performance Certificates for Dwellings paid for by Businesses or Individuals									
Transaction Type	Total Number of Lodgements by Transaction Type (all years)	Percentage of Total Lodgements by Transaction Type (%)	Percentage of Total Lodgements by Transaction Type Adjusted to Exclude Not Recorded (%)	Percentage of Total Lodgements Paid for by Individual Householders	Lodgements per Year Paid for by Individual Householders Based on 1,600,000 Lodgements per Year ¹	Additional Cost to Individual Households per Year Based on 1,600,000 Lodgements per Year (£) ²	Percentage of Total Lodgements Paid for by Business by Transaction Type (%)	Lodgements per Year Paid for by Business by Transaction Type Based on 1,600,000 lodgements per year	Additional Cost to Business per Year Based on 1,600,000 lodgements per year (£)
Marketed Sale	3,149,517	37.6	47.8	100	764,471	397,525	0	0	0
New Dwelling	530,477	6.3	8.0	0	0	0	100	128,761	66,956
Non Marketed Sale	80,992	1.0	1.2	100	19,659	10,223	0	0	0
Not Recorded	1,777,214	21.2							
Not Sales or Rental	105,786	1.3	1.6	100	25,677	13,352	0	0	0
Rental (Private)	1,535,727	18.4	23.3	71	264,661	137,623	29	108,101	56,212
Rental (Social)	1,189,287	14.2	18.0	0	0	0	55	158,769	82,560
Total	8,369,000	100	100		1,074,467	558,723		395,631	205,728

¹ It is estimated that on average there will be 1,600,000 domestic Energy Performance Certificates lodged onto the Domestic EPC Register. This is based on average lodgement over the past two years. (Source: the Domestic EPC Register)

² This is based on the additional cost per lodgement if fees are increased from £1.15 to £1.67.

count under costs to business. Given there is no way to ascertain the exact proportion of 'other organisations' which would count in this way, ONS have advised us to count all these organisations under costs to business, in order to present a conservative (pessimistic) figure for the costs to business of the policy intervention. Finally the proportion of social rentals where the lodgement fee is paid for by businesses is 55%. This is because 55% of social lettings between 2007/8 and 2010/11 were made by Housing Associations

(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7406/2055495.xls)

, which are classed as private businesses

(<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/housing/doc/321585.doc>).

The proportions of lodgements paid for by individuals for various transaction types are as follows. 100% of 'marketed sales', 'non-marketed sales', and 'not sales or rental' (this final category covers EPCs voluntarily commissioned by the home owner) are paid for by individuals as these are the responsibility of the individual households in question. Finally, 71% of private rentals are by individuals, according to the Private Landlords Survey 2010

(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7249/2010380.pdf).

Table 6 gives a breakdown of all domestic Energy Performance Certificates that have been entered onto the Register for dwellings by transaction type up to 29 September 2012 (source: Energy Performance Certificates Register). This is based on data for the period 20 April 2007 to 29 September 2012.

All Lodgements: Domestic Energy Performance Certificate and other Documents

Estimates of future lodgements have been based on an average of the total actual lodgements over the last two annual accounting periods on each Register and rounding as appropriate. The annual accounting period for the Domestic Register runs from 1 June to 31 May and the annual accounting period for the Non-Domestic Register runs from 1 January to 31 December. Therefore the accounting periods for the Domestic EPC Register from which the average is taken is 1 June 2010 to 31 May 2011, during which time there were a total of 1,596,728 lodgements, and 1 June 2011 to 31 May 2012, during which time there were 1,541,932 lodgements. The equivalent for the Non-Domestic Register would be 1 January to 31 December 2010, during which time there were 107,518 lodgements, and 1 January to 31 December 2011, during which time there were 119,474 lodgements. Prior to June 2010 the numbers of lodgements were more volatile and less likely to be representative of the future trend. To take account of the uncertainty over the numbers of lodgements in future years, we include high and low sensitivities in our headline cost-benefit analysis figures (p. 2), using an illustrative 50% range either way.

The estimate of the numbers of non-domestic Energy Performance Certificates, Display Energy Certificates and Air Conditioning Reports are based on total lodgements onto the Non-Domestic EPC Register from 1 December 2011 up to 20 November 2012, the date on which they were accessed for the purposes of the calculations in this document, (source:

<https://www.ndepcregister.com/lodgementStats.html>). The percentage shares of this total, 72% of which were non-domestic Energy Performance Certificates, 23% were Display Energy Certificates and 5% were Air Conditioning Inspection Reports, were applied to the future estimated figures for total predicted annual lodgements to the Non-Domestic EPC Register of 113,000 used in Tables 5 (above) and 7, 8 and 10 below.

Table 7 sets out the costs to government of the increases in lodgement fees. The numbers of each type of document registered per year are based on historic lodgements (source: Energy Performance Certificate Registers) and verified by the independent review of lodgement fees conducted by Moore Stephens LLP. For domestic EPCs, the proportion of lodgements paid for by government are based on the remaining proportion of social rentals conducted by local authorities (45%)

(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7406/2055495.xls)

. Combined with the proportion of lodgements for social rented transactions (source: Energy Performance Certificate Register), this provides the proportion of all domestic Energy Performance Certificates paid for by government. All Display Energy Certificates and Advisory Reports are paid for by Government since only public organisations are required to display them, in line with the Energy Performance of Buildings Regulations. Finally, the proportion of affected building stock owned by

government is 6% for non-domestic Energy Performance Certificates and Air Conditioning Inspection Reports (source: <http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/archived/publications/planningandbuilding/regulatoryimpactenergyperformanc>). We would not anticipate there to have been major changes in the proportion of stock owned by the public and private sectors since this document was prepared.

Table 7: Cost to Government of Increases in Lodgement Fees

Costs to Government of Increases in Lodgement Fees						
Document Type	Extra Cost of Registration per Document (£)	Number of Documents Registered per Year	Total Additional Cost per Year (£)	Percentage of Total Lodgements Paid for by Government	Number of Documents Registered for Buildings Owned by Public Sector per Year	Total Additional Cost to Public Sector Per Year (£)
Domestic Energy Performance Certificates	0.52	1,600,000	832,000	8.1%	129,902	67,549
Non-Domestic Energy Performance Certificates and Recommendation Reports	6.45	81,000	522,450	6%	4,860	31,347
Display Energy Certificates and Advisory Reports	6.45	26,000	167,700	100%	26,000	167,700
Air Conditioning Inspection Reports	6.45	6,000	38,700	6%	360	2,322
Totals		1,713,000	1,560,850		161,122	268,918

Table 8 uses the following sources to calculate the total additional costs to business per year. The numbers of each type of document registered per year are based on historic lodgements (source: Energy Performance Certificate Registers) and verified by the independent review of lodgement fees conducted by Moore Stephens LLP. All Display Energy Certificates and Advisory Reports are paid for by Government since only public organisations are required to display them, in line with the Energy Performance of Buildings Regulations. The proportion of affected building stock owned by business is 94% for non-domestic Energy Performance Certificates and Air Conditioning Reports (source: <http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/archived/publications/planningandbuilding/regulatoryimpactenergyperformanc>). We would not anticipate there to have been major changes in the proportion of stock owned by the public and private sectors since this document was prepared.

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Document Type	Extra Cost of Registration per Document (£)	Number of Documents Registered per Year	Total Additional Cost per Year (£)	Percentage of Total Lodgements Paid for by Businesses	Number of Documents Registered for Buildings Owned by Businesses per Year	Total Additional Cost to Business Per Year (£)
Domestic Energy Performance Certificates	0.52	1,600,000	832,000	24.7%	395,631	205,728
Non-Domestic Energy Performance Certificates and Recommendation Reports	6.45	81,000	522,450	94%	76,140	491,103
Display Energy Certificates and Advisory Reports	6.45	26,000	167,700	0%	0	0
Air Conditioning Inspection Reports	6.45	6,000	38,700	94%	5,640	36,378
Totals		1,713,000	1,560,850		477,411	733,209

There will also be a small initial administrative cost associated with implementation that will involve the 12 Accreditation Schemes approved by the Secretary of State in accordance with Regulation 22 of the Energy Performance of Buildings (Certificates and Inspections)(England and Wales) 2012 (SI 2012/3118) notifying their members of the change in fees. The Department will write a letter to all 12 Accreditation Schemes that are currently approved by the Secretary of State, which they can choose either to reproduce in full on the relevant part of their websites and/or forward on to their Energy Assessor members. The cost of this is likely to be negligible because it is likely to involve no more than an hour of time for a junior member of staff in each Scheme. For illustrative purposes, taking the minimum wage as an indication of the hourly costs of such a staff member's time, this is likely to cost no more than approximately £6.19 per Accreditation Scheme in total (source: <https://www.gov.uk/national-minimum-wage-rates>). Therefore these costs are considered negligible.

The benefits of the policy intervention accrue to DCLG via Landmark Information Group Ltd, who operate the Domestic and Non-Domestic Energy Performance Certificate Registers on behalf of the Secretary of State for Communities and Local Government. This is because the liability for any shortfall in funding ultimately rests with DCLG. The annual additional benefits amount to £1.56m – Table 9 sets out this calculation, using sources already identified in this impact assessment.

Table 9: Annual Additional Revenue to Landmark Information Group Ltd.

Annual Additional Revenue to Landmark Information Group Ltd.			
Document Type	Additional Cost per Document (£)	Number of Documents Registered per Year	Additional Revenue per Year (£)
Domestic Energy Performance Certificate	0.52	1,600,000	832,000
Non-Domestic Energy Performance Certificates and Recommendation Reports	6.45	81,000	522,450
Display Energy Certificates and Advisory Reports	6.45	26,000	167,700
Air conditioning Inspection Reports	6.45	6,000	38,700
Total		1,713,000	1,560,850

Risks and assumptions

A risk identified is that, if the increase in the fees for entering Energy Performance Certificates, Display Energy Certificates and Air Conditioning Inspection Reports onto the Energy Performance Certificate Registers is not introduced in April 2013, or as soon as possible thereafter, the cost of operating the Registers will not be covered by the fees. Since DCLG is contractually obliged to cover any losses this would expose the taxpayer to future financial liabilities.

In addition, should the cost of providing register services not be met through lodgement fees in future we have assumed there is a potential risk of short or longer term disruption to services. Any disruption in the provision of register services would have a number of serious consequences including:

- Loss of business and income for Accreditation Schemes and Energy Assessors who will not be able to issue Energy Performance Certificates, Display Energy Certificates or Air Conditioning Inspection Reports;
- Impaired functioning of the domestic and commercial property markets due to an inability to meet the requirements of the Energy Performance of Buildings (Certificates and Inspections)(England

and Wales) Regulations 2012 to make an Energy Performance Certificate available to the prospective buyer or tenant of any building that is sold, rented out or constructed; and

- Disruption to the Green Deal, the Government's programme for improving the energy performance of the UK's building stock because of the role of Energy Performance Certificates in providing the front end assessment for Green Deal purposes and the central role of the Energy Performance Certificate Registers in storing a number of key Green Deal documents including occupancy assessments.

This is further explained in the 'Wider Impact' section.

The key assumptions are: The number of Energy Performance Certificates, Display Energy Certificates and Air Conditioning Inspection Reports produced varies according to property transaction rates and compliance rates (source: latest EPC registers data). The cost of producing Energy Performance Certificates, Display Energy Certificates and Air Conditioning Inspection Reports varies according to market conditions and the complexity and size of the building or system (source: latest market data). Proportions of lodgements paid for by businesses, individuals and government vary according to market conditions (sources: latest EPC registers data, official DCLG classification of lodgement transaction types, DCLG social lettings statistics, DCLG Private Landlords Survey).

There is also a risk that the actual number of Energy Performance Certificates, Display Energy Certificates and Air Conditioning Inspection Reports that will be lodged in the future will differ from the figures presented here. This risk is inherent to setting a fee to obtain appropriate total revenues to recover costs from an uncertain level of future demand. The figures above are based on the best available data at this time (from the Energy Performance Certificate Registers themselves). We include a 50% range either way on the number of lodgements made in future years to recognise the uncertainty over these projections. This risk is also mitigated by the plans to re-examine the fees annually.

Direct costs and benefits to business calculations (following OIOO methodology);

OIOO is not applicable because the change in regulations does not introduce a new regulatory burden but introduces an increase to the amount already being charged via an existing regulation to enter documents onto the Energy Performance Certificate Registers to ensure that the Operator of the Energy Performance Certificate Registers is able to achieve cost recovery and that register provision is on a sustainable basis.

This is in line with the OIOO Methodology,¹ which on page 5 states that:

"16. Measures that are out-of-scope of the OIOO Rule, include: ...

x. **fees and charges** - except where they result from an expansion or reduction in the level of regulatory activity;

xi. **contractual obligations** - costs associated with obligations on business and civil society organisations which result from negotiating or entering into contractual arrangements with government and public sector organisations;"

The policy intervention (revising the fees levels) will not change the level of regulatory activity, since the requirements for EPCs, DECAs and ACIRs are unchanged.

Wider impacts

The EPC Registers help to underpin property markets as they play a pivotal role in ensuring that building owners and landlords are able to make an EPC available to prospective buyers or tenants whenever a building is sold or rented out and the builder can make an EPC available to the owner of any building that is constructed. Table 10 gives an indication of the average price of EPCs, DECAs and ACIRs, based on market data generally available via the internet, and what percentage of cost is represented by both the current and the revised lodgement fees.

Table 10: Old and New Fee Compared to Average Cost of Document

¹ <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/o/11-671-one-in-one-out-methodology>

Document	Est Av Cost	Old Fee	% of Cost	New Fee	% of Cost
Domestic EPC	£50	£1.15	2.3	£1.67	3.3
Non-Domestic EPC	£850	£5.36	0.6	£11.81	1.4
DEC	£550	£5.36	0.9	£11.81	2.1
ACIR	£230	£5.36	2.3	£11.81	5.1

On this basis, it is considered that the increase in fees is likely to have a negligible impact on property markets.

The monetised and non-monetised cost of doing nothing is difficult to calculate because it would entail the potential risk that there would be disruption to the provision of Register services. Any disruption in provision of Register services could mean that:

a) Energy Assessors would suffer a loss of revenue as they would no longer be able to produce Energy Performance Certificates, Display Energy Certificates or Air Conditioning Inspection Reports. This is calculated in Table 11.

Table 11: Potential Loss of Revenue to Energy Assessors

Potential Loss of Income to Energy Assessors			
Document Type	Estimate Average Cost of Document (£)	Number of Documents Registered per Year	Total Loss of Income for Energy Assessors per Year (£)
Domestic Energy Performance Certificate	50	1,600,000	80,000,000
Non-Domestic Energy Performance Certificates and Recommendation Reports	850	81,000	68,850,000
Display Energy Certificates and Advisory Reports	550	26,000	14,300,000
Air conditioning Inspection Reports	230	6,000	1,380,000
Total		1,713,000	164,530,000

Average costs for the various document types are based on estimates of market prices. It should be noted that DCLG does not monitor the cost of providing Energy Performance Certificates, Display Energy Certificates or Air Conditioning Inspection Reports, which is determined by the market, and will vary according to factors such as the size and complexity of the building or air conditioning system to which it relates. The average price of Domestic Energy Performance Certificates is based on a trawl of general information about Energy Performance Certificate providers on the internet. There are no recent sources of data on the average price of Display Energy Certificates, Non-Domestic Energy Performance Certificates or Air Conditioning Inspection Reports, and providers of energy assessment services are

reluctant to provide estimates of average because of the scale of variability in the size and complexity of non-domestic building stock, so the estimated prices are based on historic evaluations of the cost of these documents (source:

<http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/archived/publications/planningandbuilding/regulatoryimpactenergyperformanc>). The numbers of each type of document registered per year are based on historic lodgements (source: Energy Performance Certificate Registers) and verified by the independent review of lodgement fees conducted by Moore Stephens LLP. On this basis, total potential loss of revenue is calculated at £164.5m per year. However, these figures are not monetised in the headline costs and benefits as it is matched by resource costs of providing Energy Performance Certificates, Display Energy Certificates and Air Conditioning Inspection Reports. Nevertheless these figures give an indication of the disruption that would be caused to accredited Energy Assessors.

b) Accreditation Schemes would suffer a loss of income as their members, the Energy Assessors described above, would no longer undertake any of the activity that generates either some or all of their income, including lodgement and quality assurance activity in relation to Energy Performance Certificates, Display Energy Certificates and Air Conditioning Inspection Reports.

c) The functioning of both the housing and commercial property markets would be impaired because building owners, landlords and builders would not be able to comply with the requirement in the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012 to make an EPC available to the prospective buyers or tenants of any building being sold or rented out or to the owner of any building that is constructed. In order to comply with these Regulations, Energy Assessors must enter any Certificate that is issued onto the relevant Register before it is issued.

d) The main market failure the policy option ultimately seeks to address is the externality of climate change. The Energy Performance Certificate Registers support the Government's targets to tackle climate change by making available information about the energy performance of buildings, and providing information about the scale and type of intervention that may be needed in order to meet Government targets for reducing the level of carbon dioxide emissions from the building stock in England, Wales and Northern Ireland. Disruption to Register services may lead to reduced and less consistent information on energy efficiency for prospective buyers and tenants.

e) Disclosure of the Green Deal, the Government's programme for improving the energy performance of the UK's building stock, would be undermined because of the role of Energy Performance Certificates in providing the front end assessment for Green Deal purposes and the central role of the Energy Performance Certificate Registers in storing a number of key Green Deal documents including occupancy assessments.

f) Another reason for intervention is to address information asymmetries in the housing market. Prospective buyers or tenants of buildings may have incomplete information on the energy efficiency of the building, and in particular may be less informed about it than the seller or landlord of that building. This could lead to allocative inefficiency as buyers and tenants make suboptimal decisions over which buildings to buy or rent and how much to pay. The Energy Performance Certificate Registers allow buyers and tenants to easily check online whether the Energy Performance Certificate they are provided with is genuine. Without an increase in the lodgement fees provision of these services may be disrupted.

g) Another reason for intervention is that the Energy Performance of Buildings (Certificates and Inspections)(England and Wales) Regulations 2012 (SI 2012/3118) require that the seller or landlord of a building must make available an Energy Performance Certificate to the prospective buyer or tenant of any building that is sold, rented out or constructed and the Building Regulations 2010 (S.I. 2010/2214) require that the builder must make an Energy Performance Certificate available to the owner of any newly constructed building. Any such Energy Performance Certificate must be entered onto the appropriate Register in order to be a valid document for the purposes of the completion, selling or letting process. This would not be possible without operational Energy Performance Certificate Registers. This would cause unintended consequences for the housing and non-domestic buildings markets, including an inability for building owners and landlords to comply with the requirements of the Regulations.

h) One further reason for intervention is because the Registers are an important part of demonstrating compliance with the Energy Performance of Buildings Directive by maintaining a complete record of all buildings for which an Energy Performance Certificate has been produced, thus providing incontrovertible evidence that the Energy Performance of Buildings Directive is being complied with in England, Wales and Northern Ireland. The risk of infraction for the UK for not complying would increase

significantly without this source of evidence. The Registers also help to ensure compliance with the requirements in the Building Regulations 2010 (S.I. 2010/2214) in respect of the requirement for the builder to make an EPC available to the owner of a newly constructed building.

If the EU Commission were to take action for non compliance, resulting in successful infraction proceedings, it could request the European Court to impose a daily penalty charge or a lump sum. There is a formula for working out the final sanctions that could be imposed on a Member State and for the UK this would amount to approximately £10,000,000 in the case of a lump sum. There is also a formula for working out the daily penalty amount, based on the following variables; the seriousness of the infringement, its duration and the need to ensure that the sanction itself is a deterrent to further infringements. It is not possible, however, to state what the daily penalty amount is likely to be. It will be for the EU Commission to advance a case for a daily penalty amount and an amount based upon the seriousness and duration of the breach.

Summary and preferred option with description of implementation plan

The Department for Communities and Local Government has a contractual obligation to review the fees for lodging EPCs, DECs and ACIRs onto the EPC Registers. In line with this obligation, a review of the fee for lodging EPCs, DECs and ACIRs onto both the domestic and non-domestic EPC Registers has been carried out. The review has concluded that the fee for lodging domestic EPCs onto the domestic EPC Register should increase from £1.15 to £1.67 and the fee for lodging non-domestic EPCs, DECs and ACIRs onto the non-domestic EPC Registers should increase from £5.36 to £11.81 and be subject to annual review. The policy intervention seeks to take the urgent action needed to address the financial disparity between the revenues and the cost to the Register Operator of establishing and maintaining the Energy Performance Certificate Registers.

Annex 1: Post Implementation Review (PIR) Plan

Basis of the review: To review existing policy
Review objective: To enable fee levels for lodging documents onto the Registers to be adjusted to ensure that all costs can be met from the revenue generated when lodgements take place
Review approach and rationale: Yet to be decided
Baseline: The review will be carried out against the baseline as set out in this Impact Assessment
Success criteria: Yet to be decided
Monitoring information arrangements: The Domestic and non-Domestic Registers described in this document will be used to collect and store relevant information
Reasons for not planning a PIR: N/A