
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (“the principal regulations”) in relation to various requirements related to energy performance certificates and recommendation reports. The principal regulations implement Articles 7 (energy performance certificates), 9 (air-conditioning system inspections) and 10 (energy assessors) of Directive [2002/91/EC](#) of the European Parliament and of the Council of 16 December 2002 on the Energy Performance of Buildings (OJ No L 1 4.1.2003 p.65).

Regulation 3(4)(a) extends from 3 months to 12 months the validity of an energy performance certificate where the property is first marketed in circumstances where the Housing Act 2004 requires a home information pack.

Paragraphs (2), (3), (4)(b) and (c), (5) and (6)(a) and (c) of regulation 3 make changes by way of minor correction or clarification or consequential amendment.

Paragraph 3(6)(b) postpones from 1st October 2007 to 1st January 2008 the coming into force of the provisions listed in paragraphs 8 and 9 of Schedule 1 to the principal regulations. Paragraphs 8 and 9 replace the energy rating requirements of the Building Regulations 2000 ([S.I. 2000/2531](#)) with requirements for energy assessment and energy performance certificates, in order to implement requirements of Directive [2002/91/EC](#) in respect of newly constructed dwellings.

Regulation 4(1) provides that in circumstances where, but for the temporary exception in regulation 34 of the Home Information Pack (No. 2) Regulations 2007, both a duty under section 155(1) or 159(2) of the Housing Act 2004 would apply to any person, and a duty under the principal regulations to make available a valid energy performance certificate to any prospective buyer or tenant would apply to the relevant person, the relevant person shall, before entering into a contract to sell or rent out a building, ensure that a valid energy performance certificate is given free of charge to the prospective buyer or tenant. The regulation 34 exception disapplies the requirement to have a home information pack where an energy performance certificate cannot be obtained by the responsible person despite all reasonable efforts before a property is placed on the market or thereafter.

Paragraphs (2) and (3) of regulation 4 ensure that the interpretation, enforcement and all other ancillary provisions in the principal regulations relating to an energy performance certificate shall have effect in relation to a certificate provided under the duty imposed by regulation 4(1).

A transposition note for the principal regulations, updated to show the amendments in these Regulations, and a regulatory impact assessment of the effect that these Regulations will have on the costs of business and the voluntary sector are available from the Department for Communities and Local Government website or from the Sustainable Buildings Division of the Department (Tel: 020 7944 5755; Fax: 020 7944 5719; e-mail: enquiries.br@communities.gsi.gov.uk). Copies are also annexed to the explanatory memorandum to these Regulations which is available alongside the Regulations on the OPSI website at www.opsi.gov.uk.