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STATUTORY INSTRUMENTS

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**2007 No. 991**

**The Energy Performance of Buildings (Certificates and  
Inspections) (England and Wales) Regulations 2007**

**PART 2**

Duties relating to energy performance certificates

**Application of Part 2**

4.—(1) This Part does not apply to—

- (a) buildings which are used primarily or solely as places of worship;
- (b) temporary buildings with a planned time of use of two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand;
- (c) stand-alone buildings with a total useful floor area of less than 50m<sup>2</sup> which are not dwellings.

(2) Nothing in this Part requires an energy performance certificate to be given or made available to 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 regulation 7, 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, no later than 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, the time at which the person views the building.

(3) Paragraph (2) does not apply if the relevant person believes on reasonable grounds that the prospective buyer or tenant—

- (a) is unlikely to have sufficient means to buy or rent the building;
- (b) is not genuinely interested in buying or renting a building of a general description which applies to the building; or
- (c) is not a person to whom the relevant person is likely to be prepared to sell or rent out the building.

(4) Nothing in paragraph (3) authorises the doing of anything which constitutes an unlawful act of discrimination.

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

### **Providing energy information with particulars**

- 6.—(1) Subject to regulation 7, this regulation applies where—
- (a) a building is to be sold or rented out in circumstances where section 155(1) or 159(2) of the Housing Act 2004 imposes a duty on any person in relation to that building;
  - (b) written particulars about the building are prepared for the purpose of providing information about the building to persons who may be interested in buying or renting the building; and
  - (c) the written particulars are given to such a person by—
    - (i) the relevant person; or
    - (ii) another person on his behalf.
- (2) The person giving the particulars must ensure that—
- (a) the particulars include the asset rating of the building expressed in the way required by regulation 11(1)(a); or
  - (b) a copy of an energy performance certificate for the building is attached to the particulars.
- (3) In this regulation—
- “written particulars” means any written description of the property which includes at least two of the following—
- (a) a photograph of the building or any room in the building;
  - (b) a floor plan of the building; or
  - (c) a description of the size of the rooms in the building,
- and a reference to giving particulars includes a reference to giving or making available particulars electronically.

### **Buildings to be demolished**

- 7.—(1) Regulations 5 and 6 do not apply in relation to a dwelling which is to be sold or rented out where the relevant person can demonstrate that—
- (a) the dwelling is suitable for demolition;
  - (b) the resulting site is suitable for redevelopment;
  - (c) all the relevant planning permissions, listed building consents, and conservation area consents exist in relation to the demolition; and
  - (d) in relation to the redevelopment—
    - (i) either outline planning permission or planning permission exists, or both; and
    - (ii) where relevant, listed building consent exists.
- (2) Regulation 5 does not apply in relation to any prospective buyer or tenant of a building other than a dwelling which is to be sold or rented out where—
- (a) the relevant person can demonstrate that—
    - (i) the building is to be sold or rented out with vacant possession;
    - (ii) the building is suitable for demolition; and
    - (iii) the resulting site is suitable for redevelopment; and

(b) the relevant person believes on reasonable grounds that the prospective buyer or tenant intends to demolish the building.

(3) In this regulation, “outline planning permission” has the same meaning as in article 1(2) of the Town and Country Planning (General Development Procedure) Order 1995(1).

### **Amendments relating to energy performance certificates on construction**

8. The enactments referred to in Schedule 2 are amended in accordance with that Schedule.

### **Construction of Crown and statutory undertakers’ buildings**

9.—(1) Paragraph (2) applies to all buildings in relation to which the Building Regulations 2000 do not apply, other than—

- (a) buildings which are exempt from those Regulations by virtue of regulation 9(2) of those Regulations;
- (b) buildings which are used primarily or solely as places of worship;
- (c) temporary buildings with a planned time of use of two years or less, 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 50m<sup>2</sup> which are not dwellings.

(2) When a building is constructed the relevant person shall, no later than five days after the construction work has been completed, give to the owner of the building an energy performance certificate for the building.

### **Recommendation reports**

10.—(1) Where a relevant person is under a duty under regulation 5(2), 5(5) or 9(2) to make available or give an energy performance certificate to any person, the certificate must be accompanied by a recommendation report.

(2) A recommendation report is a report containing recommendations for the improvement of the energy performance of the building issued by the energy assessor who issued the energy performance certificate.

### **Energy performance certificates**

11.—(1) An energy performance certificate must—

- (a) express the asset rating of the building in a way approved by the Secretary of State under regulation 17A of the Building Regulations 2000;
- (b) include a reference value such as a current legal standard or benchmark;
- (c) be issued by an energy assessor who is accredited to produce energy performance certificates for that category of building; and
- (d) include the following information—
  - (i) the reference number under which the certificate has been registered in accordance with regulation 31;
  - (ii) the address of the building;
  - (iii) an estimate of the total useful floor area of the building;

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(1) S.I. 1995/419, there are amendments not relevant to these Regulations.

(2) Amended by S.I. 2004/3210 and 2006/652.

- (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) A certificate which complies with regulation 17E of the Building Regulations 2000 is also an energy performance certificate.

(3) Subject to paragraph (4), an energy performance certificate is only valid for the purposes of this Part if—

- (a) it was issued no more than 10 years before the date on which it is made available; and
- (b) no other energy performance certificate for the building has since been obtained by or provided to the relevant person.

(4) If a building is to be sold or rented out in circumstances where section 155(1) or 159(2) of the Housing Act 2004 imposes a duty on any person in relation to that building, an energy performance certificate for the building is only valid for the purposes of this Part if it was issued no earlier than the date that falls three months before the first point of marketing of the building.

(5) For the purposes of paragraph (4) “first point of marketing” shall be construed in accordance with regulations 4, 17(3), 22(3) and 23(5) of the Home Information Pack Regulations 2007(3).

(6) An energy performance certificate must not contain any information or data from which a living individual (other than the energy assessor or his employer) can be identified.

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

- (a) except in the case of a dwelling, on a common certification of the whole building for blocks with a common heating system; or
- (b) on the assessment of another representative apartment or unit in the same block.

(8) 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 which are not dwellings may be based on a common certification of all the parts which are not dwellings.

### **Production of copies of energy performance certificates**

**12.** Where this Part requires a relevant person to give or make available a valid energy performance certificate to any person, it is sufficient for the relevant person to give or make available a copy of a valid certificate.

### **Electronic production of energy performance certificates**

**13.** Where regulation 5(2), 5(5) or 9(2) requires a valid energy performance certificate to be given or made available to any person, the certificate may be given or made available electronically if the intended recipient consents to receiving the certificate electronically.

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

**14.**—(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—
  - (i) any duty imposed by these Regulations; or
  - (ii) any duty imposed by Part 5 of the Housing Act 2004 or any regulations made under that Part;
- (b) where the disclosure is authorised by Part 7;
- (c) where the disclosure is for a purpose legitimately connected with a prospective buyer's or tenant's decision whether to buy or rent the building;
- (d) where the disclosure is by or to an accreditation scheme operator for a purpose legitimately connected to its accreditation functions;
- (e) where the disclosure is by or to an enforcement authority for a purpose legitimately connected to their duty under regulation 38(2);
- (f) where the disclosure is by or to the Secretary of State for—
  - (i) the purpose of enabling her 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;
- (g) 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
  - (iv) complying with an order of a court.

(3) Paragraph (1) does not apply to any disclosure of a document or any information derived from it by any person who, at the time of the disclosure, is, or is acting on behalf of, an owner or tenant of the building to which the document relates.

(4) This regulation applies to the following documents—

- (a) an energy performance certificate or a copy of such a certificate; and
- (b) a recommendation report or a copy of such a report,

and any data collected by an energy assessor for the purposes of preparing such a document shall be treated as part of that document for the purposes of this regulation.

(5) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.