

SCHEDULE 2

Regulation 8

Amendments relating to energy performance certificates on construction

Amendments to the Building Regulations 2000

- 1.—(1) The Building Regulations 2000 are amended as follows.
- (2) In regulation 2 (interpretation)—
 - (a) in the definition of “energy efficiency requirements”(1) for “and 17D” substitute “, 17D and 17E”; and
 - (b) omit the definition of “energy rating”.
- (3) In regulation 10(2) (the Metropolitan Police Authority), after “compliance with these Regulations” insert “, other than regulation 17E.”.
- (4) In regulation 11(3)(a)(2) (power to dispense with or relax requirements) after “regulation 17C” insert “or 17E”.
- (5) Omit regulation 16 (energy rating).
- (6) In regulation 17(3)(b)(3) (completion certificates) for “regulation 17C” substitute “regulations 17C and 17E”.
- (7) For regulation 17A (methodology of calculation of the energy performance of building) substitute—

“Methodology of calculation and expression of energy performance

- 17A.—(1) The Secretary of State shall approve—
 - (a) a methodology of calculation of the energy performance of buildings, including methods for calculating asset ratings and operational ratings of buildings; and
 - (b) ways in which the energy performance of buildings, as calculated in accordance with the methodology, shall be expressed.
- (2) In this regulation—

“asset rating” means a numerical indicator of the amount of energy estimated to meet the different needs associated with a standardised use of the building; and

“operational rating” means a numerical indicator of the amount of energy consumed during the occupation of a building over a period of time.”.
- (8) For regulation 17E(4) substitute—

“Energy performance certificates

- 17E.—(1) This regulation applies where—
 - (a) a building is erected; or
 - (b) a building is modified so that it has a greater or fewer number of parts designed or altered for separate use than it previously had, where the modification includes the provision or extension of any of the fixed services for heating, hot water, air conditioning or mechanical ventilation.

(1) Inserted by [S.I. 2006/652](#).

(2) Amended by [S.I. 2006/652](#).

(3) Amended by [S.I. 2006/3318](#).

(4) Inserted by [S.I. 2006/652](#).

Status: This is the original version (as it was originally made).

- (2) The person carrying out the work shall—
 - (a) give an energy performance certificate for the building to the owner of the building;
and
 - (b) give to the local authority notice to that effect.
- (3) The energy performance certificate shall be given not later than—
 - (a) the date on which the notice required by regulation 20B(5) is required to be given to the local authority, where that regulation applies; or
 - (b) in any other case, not later than five days after the work has been completed.
- (4) The energy performance certificate must be accompanied by a recommendation report containing recommendations for the improvement of the energy performance of the building, issued by the energy assessor who issued the energy performance certificate.
- (5) 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;
 - (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 17F(4);
 - (ii) the address of the building;
 - (iii) an estimate of the total useful floor area of the building;
 - (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.
- (6) 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.
- (7) 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.

(5) Inserted by [S.I. 2006/652](#).

Energy assessors

17F.—(1) An energy assessor must be a member of an accreditation scheme approved by the Secretary of State.

(2) The terms of approval of any accreditation scheme may be limited in relation to the categories of building for which members may produce certificates.

(3) Before approving an accreditation scheme the Secretary of State must be satisfied that the scheme contains adequate provision—

- (a) for ensuring that members of the scheme carry out consistent and accurate energy assessments in an independent manner;
- (b) for ensuring that members of the scheme are fit and proper persons who are qualified (by their education, training and experience) to carry out energy assessments;
- (c) for requiring members of the scheme to prepare energy performance certificates and recommendation reports using a standard form for each type of document;
- (d) for ensuring the production and publication of a code as regards the conduct required of its members;
- (e) for indemnity arrangements in relation to owners and prospective or actual buyers or tenants;
- (f) for facilitating the resolution of complaints against members of the scheme;
- (g) for requiring energy performance certificates and recommendation reports produced by members of the scheme to be entered on the relevant register referred to in paragraph (4); and
- (h) for the keeping of a register of the members of the scheme.

(4) Where an energy assessor issues an energy performance certificate and recommendation report he must ensure they are entered onto the relevant register maintained by the Secretary of State in accordance with regulation 31 of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 before he gives them to the person who requested that he issue them.

Related party disclosures

17G.—(1) An energy assessor must include in an energy performance certificate a declaration of any personal or business relationship (other than in relation to producing the certificate) that he has with—

- (a) the person who commissioned the certificate; and
- (b) any person who he believes—
 - (i) has or may have a personal or business relationship with the person who commissioned the certificate; or
 - (ii) has or may have an interest in the building.

Duty of care

17H.—(1) Energy assessors must carry out energy assessments with reasonable care and skill.

(2) The duty imposed by paragraph (1) shall be enforceable by the following persons—

- (a) the owner; and
- (b) any prospective or actual buyer or tenant of the building during the period of validity of the certificate.

Status: This is the original version (as it was originally made).

(3) Any cause of action arising in relation to the duty imposed by paragraph (1) is deemed not to be an action founded on tort for the purposes of the Limitation Act 1980(6).

Right to copy documents

17I. Any person may, for the purpose of complying with any duty imposed by these Regulations or the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007, copy or issue a copy of any document produced by an energy assessor.

Interpretation

17J.—(1) In this Part—

“building” means the building as a whole or parts of it that have been designed or altered to be used separately.

“energy assessor” means an individual who is a member of an accreditation scheme approved by the Secretary of State in accordance with regulation 17F; and

“recommendation report” means the report required by regulation 17E(4).

(2) In this Part a reference to “energy assessment” includes a reference to—

- (a) the preparation and issuing of energy performance certificates;
- (b) the preparation and issuing of recommendation reports; and
- (c) the carrying out of any inspections undertaken for the purposes of preparing energy performance certificates or recommendation reports.”.

(9) In regulation 20(7) (supervision of building work other than by local authorities)—

- (a) omit “16,”; and
- (b) after “17,” insert “17E”.

(10) In regulation 22(8) (contravention of certain regulations not to be an offence)—

- (a) omit “16,”; and
- (b) after “17,” insert “17E”.

Amendment to the Building (Approved Inspectors etc) Regulations 2000

2.—(1) The Building (Approved Inspectors etc) Regulations 2000(9) are amended as follows.

(2) For regulation 12 (energy rating) substitute—

“Energy performance certificates

12.—(1) This regulation applies where—

- (a) a building is erected; or
- (b) a building is altered so that it has a greater or fewer number of parts designed or altered for separate use than it previously had, where the modification includes the provision or extension of any of the fixed services for heating, hot water, air conditioning or mechanical ventilation,

(6) 1980 c. 58.

(7) There are amendments not relevant to these Regulations.

(8) There are amendments not relevant to these Regulations.

(9) S.I. 2000/2532; there are amendments not relevant to these Regulations.

and the building work in question is the subject of an initial notice.

- (2) The person carrying out the work shall—
 - (a) give an energy performance certificate for the building to the owner of the building; and
 - (b) give notice to that effect to the approved inspector who gave the initial notice.
- (3) The energy performance certificate shall be given not later than—
 - (a) the date on which the notice required by regulation 12B is required to be given to the approved inspector, where that regulation applies; or
 - (b) in any other case, not later than five days after the work has been completed.
- (4) The energy performance certificate must be accompanied by a recommendation report.
- (5) In this regulation—

“energy performance certificate” means a certificate complying with regulation 17E(5) of the Principal Regulations; and

“recommendation report” means a report complying with regulation 17E(4) of those Regulations.”.