
STATUTORY INSTRUMENTS

2009 No. 1900

**BUILDING AND BUILDINGS,
ENGLAND AND WALES**

**The Energy Performance of Buildings
(Certificates and Inspections) (England and
Wales) (Amendment) Regulations 2009**

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| <i>Made</i> | - - - - | <i>15th July 2009</i> |
| <i>Laid before Parliament</i> | | <i>20th July 2009</i> |
| <i>Coming into force</i> | - - | <i>10th August 2009</i> |

The Secretary of State is a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the environment, and makes these Regulations in exercise of the powers conferred by that section.

Citation, extent and commencement

1.—(1) These Regulations may be cited as the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2009.

(2) These Regulations extend to England and Wales.

(3) These Regulations shall come into force on 10th August 2009.

**Amendments to the Energy Performance of Buildings (Certificates and Inspections)
(England and Wales) Regulations 2007**

2.—(1) The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007⁽³⁾ are amended as follows.

(2) In regulation 14(2) (purposes for which certificates and recommendation reports may be disclosed) for sub-paragraph (de)⁽⁴⁾ substitute—

“(de) where the disclosure is by or to the Energy Saving Trust Limited in relation to a dwelling, provided that—

(i) it is made in the circumstances described in regulation 35B(2); and

(1) [S.I. 2008/301](#).

(2) [1972 c.68](#).

(3) [S.I. 2007/991](#), amended by [S.I. 2008/2363](#). There are other amendments not relevant to these Regulations.

(4) Inserted by [S.I. 2008/2363](#).

(ii) the disclosure is limited to the energy performance certificate and the accompanying recommendation report, and to information derived from either document;”.

(3) For regulation 35B(5) (disclosures to the Energy Saving Trust Limited) substitute—

“**35B.**—(1) The keeper of the register may disclose to the Energy Saving Trust Limited any energy performance certificate and the accompanying recommendation report relating to a dwelling in the circumstances described in paragraph (2).

(2) The circumstances are that—

- (a) the energy performance certificate has been produced in order to comply with regulation 5(2) or (5) as those provisions relate to sales;
- (b) the energy performance certificate shows an asset rating(6) in bands F or G; and
- (c) the disclosure is for the purposes of enabling the Energy Saving Trust Limited to provide information to the owner or occupier of the dwelling on measures that may be taken to improve its energy performance and on any financial assistance that may be available for taking such measures.”.

(4) For regulation 37 substitute—

“**37.**—(1) The keeper of the register may disclose to an officer of the Secretary of State for Communities and Local Government—

(a) any document or data—

(i) for the purpose of enabling the Secretary of State to monitor the application and enforcement of, and compliance with, the duties imposed by these Regulations; or

(ii) for statistical or research purposes,

provided that no particular property is identifiable from the document or data disclosed; and

(b) any display energy certificate.”.

Signed by authority of the Secretary of State

Ian Austin
Parliamentary Under Secretary of State
Department for Communities and Local
Government

15th July 2009

(5) Inserted by [S.I. 2008/2363](#).

(6) For the definition of “asset rating” see regulation 2 of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007.

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, which implement Articles 7 (energy performance certificate) and 10 (independent experts) of Directive 2002/91/EC of the European Parliament and of the Council of 16th December 2002 on the Energy Performance of Buildings (OJNo. L 1 4.1.2003 p.65). The amendments concern disclosure of energy performance certificates and recommendation reports, and of display energy certificates.

Regulation 2(2) substitutes the text of regulation 14(2)(de). It provides that the disclosure by or to the Energy Saving Trust Limited (“the Trust”) of an energy performance certificate and its accompanying recommendation report relating to a dwelling, and any information derived from either, is not an offence in the circumstances specified in regulation 35B(2).

Regulation 2(3) substitutes the text of regulation 35B to allow the keeper of the register of energy performance certificates to disclose to the Trust any energy performance certificate and the accompanying recommendation report relating to a dwelling in the circumstances specified in regulation 35B(2). The circumstances are that the certificate is produced to comply with duties arising on sale, that it shows an asset rating in bands F and G, and that disclosure is for the purpose of allowing the Trust to provide information to the owner or occupier of the dwelling on measures that are available to improve the energy performance of the dwelling and on any financial assistance that may be available for taking such measures.

Regulation 2(4) amends regulation 37 to allow the register keeper to disclose to an officer of the Secretary of State for Communities and Local Government any display energy certificate.

A transposition note setting out how the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 implement Articles 7 to 10 of the Directive is available from the Energy Performance of Buildings Division of the Department (Tel: 020 944 8324; Fax 020 7944 5719; e-mail: enquiries.br@communities.gsi.gov.uk) or on the Department website www.communities.gov.uk. An impact assessment has not been produced for this instrument as no significant impact on business or the public and voluntary sectors is foreseen. The explanatory memorandum to these Regulations is available alongside the Regulations on the OPSI website at www.opsi.gov.uk.