EXPLANATORY NOTE

(This note is not part of the Regulations)


For the purposes of transposition of the recast Directive, these Regulations should be read in conjunction with the Building Regulations 2010 (“the Building Regulations”) as amended by the Building Regulations etc (Amendment) Regulations 2012.

Only Parts 1, 2 and 3 of these Regulations contain new provision enacting requirements of the recast Directive.

Part 1 of these Regulations contains several new definitions, including new regulation 4 regarding recommendation reports which enacts article 11(2), (3) and (4) of the recast Directive.

Part 2 of these Regulations concerns requirements relating to energy performance certificates when buildings are sold, rented out or marketed. It includes new provision enacting requirements of article 4(2) (in regulation 5), article 11(2), (3), (4) and (7) (in regulation 9), article 12(4) (in regulation 11) and article 13(2) (in regulation 10) of the recast Directive. Details of exceptions under the recast Directive, and with respect to buildings to be demolished, are in regulation 5 and regulation 8. The content of an energy performance certificate is specified in regulation 9. Other Part 2 provisions include the following requirements:

1. Subject to exceptions, a valid energy performance certificate must be made available free of charge to a prospective buyer or tenant at the earliest opportunity; and where appropriate the asset rating of the building must be stated in any advertisement of its sale or rental in commercial media.

2. A valid energy performance certificate (if one does not already exist) must be commissioned before a building is marketed.

3. A valid energy performance certificate must be prominently displayed in a building over a specified size which is frequently visited by the public.

Part 3 of these Regulations concerns display energy certificates, and includes in regulation 15 new provision enacting requirements of articles 11(2), 12(1)(b) and 13(1) of the recast Directive. A display energy certificate must give operational and other information relating to energy performance of buildings of specified sizes which are occupied by public authorities and frequently visited by the public.

Part 4, concerning inspection of air-conditioning systems, provides that the person who has control of the operation of an air-conditioning system over a specified output must ensure the system is inspected at regular intervals not exceeding 5 years (regulation 18).
Part 5 requires that energy assessors who produce specified certificates or inspect air-conditioning systems must be members of an accreditation scheme approved by the Secretary of State (regulation 22).

Part 6 requires certain documents produced by energy assessors to be entered onto a register maintained by the Secretary of State. Regulations 30 to 32 set out who may be given information from the register.

Part 7 deals with enforcement and makes provision for enforcement by way of civil penalties. Regulation 34 imposes a duty on local weights and measures authorities to enforce in their area duties relating to certificates and air-conditioning system inspections. Regulation 36 empowers enforcement authorities to issue penalty charge notices for any breach.

In Part 8, regulation 44 deals with application to the Crown, and regulation 45 imposes a duty to allow access to, and co-operate with, persons subject to duties regarding certificates and air-conditioning system inspections, so far as is reasonably necessary.

A transposition note setting out how these Regulations implement the recast Directive, and a full regulatory impact assessment of the effect that they will have on the costs of business and the voluntary sector, are available from the Department for Communities and Local Government website or from that Department (contact Jonathan Bramhall on 030344 41803 or email jonathan.bramhall@communities.gsi.gov.uk). A copy is also annexed to the Explanatory Memorandum which is available alongside the Regulations on the website at https://www.gov.uk/government/organisations/department-for-communities-and-local-government.