2012 No. 3118

The Energy Performance of Buildings
(England and Wales) Regulations 2012

PART 1
Introductory

Citation, application, extent and commencement

1.—(1) These Regulations may be cited as the Energy Performance of Buildings (England and Wales) Regulations 2012.

(2) Subject to regulation 5 and any other exemptions in these Regulations, and notwithstanding section 4 of the Building Act 1984 (1), these Regulations apply to all buildings including buildings which are exempt from building regulations by virtue of that section.

(3) These Regulations extend to England and Wales.

(4) These Regulations shall come into force on 9th January 2013.

Interpretation

2.—(1) In these Regulations—

“accreditation scheme” means a scheme approved by the Secretary of State in accordance with —

(a) regulation 22; or

(b) regulation 30 of the Building Regulations 2010(2);

“air-conditioning system” means a combination of all the components required to provide a form of air treatment in which the temperature is controlled or can be lowered, and includes systems which combine such air treatment with the control of ventilation, humidity and air cleanliness;

“asset rating” means a numerical indicator of the amount of energy estimated to meet the different needs associated with a standardised use of a building, calculated according to the methodology approved by the Secretary of State pursuant to regulation 24 of the Building Regulations 2010;

“authorised recipient” means—

(a) either House of Parliament (or a member or officer thereof);
(b) a government department;
(c) a person or body (other than a government department or the Welsh Ministers) to which section 6 of the National Audit Act 1983(3) applies;
(d) the Welsh Ministers;
(e) the National Assembly for Wales;
(f) the Scottish Parliament, the Scottish Executive, an office-holder in the Scottish Administration or a Scottish Public Authority;
(g) the Northern Ireland Assembly or a Northern Ireland Department;
(h) a county council, district council or parish council in England;
(i) a London borough council;
(j) the Common Council of the City of London;
(k) the Greater London Authority;
(l) a local authority within the meaning of section 61 of the Local Government in Scotland Act 2003(4);
(m) a local authority within the meaning of section 175 of the Local Government (Wales) Measure 2011(5);
(n) a council of a district or borough within the meaning of the Local Government Act (Northern Ireland) 1972(6);
(o) a university, including a university college (or any institution in the nature of a college in a university) or a school or hall of a university;
(p) a provider of higher education as defined in section 579(1) of the Education Act 1996(7) ("the 1996 Act") (other than one mentioned in paragraph (o) above);
(q) a provider of further education as defined in section 2(3) to (5) of the 1996 Act(8);
(r) a charity whose purposes include—
   (i) the conduct of research into the earth’s climate or environment or research into the construction, design or use of buildings, or
   (ii) the promotion of energy efficiency in buildings;
(s) a registered provider of social housing;
(t) a person who operates an accreditation scheme approved by the Secretary of State under regulation 22;
(u) a green deal relevant person;
(v) the holder of a licence under section 6(1)(c) or (d) of the Electricity Act 1989(9) (distribution and supply licences) which has been modified by the Secretary of State under section 41(1) of the Energy Act 2008(10) (power to amend licence conditions etc: feed-in tariffs); and

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(3) 1983 c.44. Section 6 was amended by Schedule 1 to the Government Resources and Accounts Act 2000 (c.20); by Schedule 10 to the Government of Wales Act 2006 (c.32); by Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43); and by Schedule 4 to the Health and Social Care (Community Health and Standards) Act 2003 (c.43). There are other amendments to section 6 which are not relevant to these Regulations.

(4) 2003 asp.1. Section 61 was amended by Schedule 3 to the Fire (Scotland) Act 2005 (asp.5); and by Schedule 1 to the Transport (Scotland) Act 2005 (asp.12).

(5) 2011 nawm 4.

(6) 1972 c.9.

(7) 1996 c.56. There are amendments to section 569(1) which are not relevant to the definition of “higher education”.

(8) Section 2(3) and (4) were respectively amended by Schedule 22 and Schedule 21 to the Education Act 2002 (c.32).

(9) 1989 c.29. Section 6(1)(c) was amended by Schedule 23 to the Energy Act 2004 (c.20).

(10) 2008 c.32.
a person (other than a natural person) who is certificated under the scheme known as the “Microgeneration Certification Scheme”;{11} “building” means a roofed construction having walls, for which energy is used to condition the indoor climate; “building envelope” means the integrated elements of a building which separate its interior from the outdoor environment; “building unit” means a section, floor or apartment within a building which is designed or altered to be used separately; “bulk access data” means any data entered onto a register as required by regulation 27(2); “display energy certificate” means a certificate which complies with regulation 15; “dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling; “energy assessor” means an individual who is a member of an accreditation scheme; “energy from renewable sources” means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases; “energy performance certificate” means a certificate which—

(a) in the case of a certificate entered on the register before 9th January 2013 complied with the requirements of regulation 11(1) of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007;{12}
(b) in the case of a certificate entered on the register on or after 9th January 2013 complies with the requirements of regulation 9(1) of these Regulations; or
(c) complies with the requirements of regulation 29 of the Building Regulations 2010;
“general access data” means information that is required by these Regulations to be included in an energy performance certificate, a display energy certificate, an inspection report, or a recommendation report;
“green deal plan” means an energy plan which is a green deal plan in accordance with section 1(3) of the Energy Act 2011; “green deal relevant person” means a person who, after the coming into force of framework regulations made under section 3(1) of the Energy Act 2011—
(a) is authorised by the Secretary of State to act as a green deal provider pursuant to those regulations,
(b) is a body specified or authorised for the purposes of subsection (1)(a) of that section, or
(c) operates a scheme for the purpose of assessing whether persons are qualified to act as advisors in relation to green deal plans;
“inspection report” means a report issued by an energy assessor in accordance with regulation 19(1); “keeper of the register” means the Secretary of State, or the person keeping a register on the Secretary of State’s behalf; “nominated date”, in relation to a display energy certificate, means a date no later than three months after the end of the period over which the operational rating is calculated, which is nominated by the energy assessor who issued the certificate;

{11} For details of this scheme see: http://www.microgenerationcertificate.org.
{12} S.I. 2007/991, revoked by these Regulations (see regulation 46 and Schedule 3).
{13} Regulation 29 of the Building Regulations 2010 was amended by S.I. 2012/809 and by S.I. 2012/3119.
“operational rating” means a numeric indicator of the amount of energy consumed during the occupation of the building over a period of 12 months ending no earlier than three months before the nominated date, calculated according to the methodology approved by the Secretary of State for the purposes of regulation 24 of the Building Regulations 2010;

“penalty charge notice” means a notice given pursuant to regulation 36;

“personal data” has the meaning given in section 1(1) of the Data Protection Act 1998 (14);

“register” means a register required to be maintained under regulation 27;

“relevant person” (other than in the phrase “green deal relevant person”) means—
(a) in relation to a building which is to be sold, the seller;
(b) in relation to a building which is to be rented out, the prospective landlord;
(c) in relation to an air-conditioning system, the person who has control of the operation of the system; and
(d) in relation to a building which is constructed, the person who carries out the construction;

“report reference number” means the unique number assigned by the keeper of the register to each energy performance certificate or display energy certificate;

“total useful floor area” means the gross floor area as measured in accordance with the guidance issued from time to time by the Royal Institution of Chartered Surveyors or by any body replacing that Institution.

Meaning of “prospective buyer or tenant”

3. A person becomes a prospective buyer or tenant in relation to a building when he or she—
(a) requests any information about the building from the relevant person or the relevant person’s agent for the purpose of deciding whether to buy or rent the building;
(b) makes a request to view the building for the purpose of deciding whether to buy or rent the building; or
(c) makes an offer, whether oral or written, to buy or rent the building.

Recommendation reports

4.—(1) In these Regulations, a “recommendation report” means recommendations made by an energy assessor for the cost-effective improvement of the energy performance of a building or building unit.

(2) A recommendation report made on or after 9th January 2013 must include—
(a) recommended cost-effective measures that could be carried out in connection with a major renovation of the building envelope or technical building systems;
(b) recommended cost-effective measures for individual building elements that could be carried out without the necessity for a major renovation of the building envelope or technical building systems;
(c) an indication as to how the owner or tenant can obtain more detailed information about improving the energy efficiency of the building, including more detailed information about the cost-effectiveness of the recommendations; and
(d) information on the steps to be taken to implement the recommendations.

(14) 1998 c.29. Section 1(1) was amended by section 68 of and Schedule 8 to the Freedom of Information Act 2000 (c.36), and by S.I. 2004/3089. There are other amendments to section 1 of the Data Protection Act 1998 which are not relevant to these Regulations.
(3) Any cost-effective measure which the energy assessor recommends must be technically feasible for the building to which the recommendation report relates.

(4) A recommendation report made on or after 9th January 2013 ceases to be valid at the end of the following periods—

(a) for a report which is included in an energy performance certificate, ten years from the date of that certificate;

(b) for a report which is required to be held in respect of the building under regulation 14(3)(a)—

   (i) where the nominated date applying to the report is before 9th January 2013, seven years, or

   (ii) where the nominated date applying to the report is on or after 9th January 2013, ten years.

(5) In this regulation—

(a) “building envelope” has the meaning given in regulation 29A(4) of the Building Regulations 2010(15).

(b) “major renovation” means the renovation of a building where more than 25% of the surface area of the building envelope undergoes renovation; and

(c) “technical building systems” means technical equipment for the heating, cooling, ventilation, hot water, lighting (or for any combination thereof) of a building or building unit.

(15) Regulation 29A is inserted into the Building Regulations 2010 by regulation 19 of the Building Regulations etc. (Amendment) Regulations 2012, S.I. 2012/3119.