PART 2

Duties relating to Energy Performance Certificates

**Application of Part 2**

5. — (1) This Part does not apply to—

(a) buildings officially protected as part of a designated environment or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance;

(b) buildings used as places of worship and for religious activities;

(c) temporary buildings with a time of use of two years or less;

(d) industrial sites, workshops and non-residential agricultural buildings with low energy demand;

(e) non-residential agricultural buildings which are in use by a sector covered by a national sectoral agreement on energy performance;

(f) residential buildings which are used or intended to be used—

(i) for less than four months of the year, or

(ii) for a limited annual time of use and with an expected energy consumption of less than 25% of what would be the result of all-year use; and

(g) stand-alone buildings with a total useful floor area of less than 50m².

(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**

6. — (1) Subject to regulation 8, 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 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.

**Energy performance certificates on marketing**

7.—(1) Subject to regulation 8, this regulation applies where—
   (a) a building is to be sold or rented out; and
   (b) no valid energy performance certificate is available for that building.

(2) Before the building is put on the market, the relevant person must secure that an energy performance certificate is commissioned for the building.

(3) Before marketing the building, a person acting on behalf of the relevant person must be satisfied that an energy performance certificate has been commissioned for the building.

(4) The relevant person and a person acting on behalf of the relevant person must use all reasonable efforts to secure that a valid energy performance certificate is obtained for the building before the end of a period of 7 days starting with the day on which the building was first put on the market.

(5) Where any person subject to the duty in paragraph (4) is unable, despite using all reasonable efforts, to secure that a valid energy performance certificate is obtained for the building before the end of the 7 day period specified in that paragraph, the person shall secure that the certificate is obtained before the end of the period of 21 days immediately following the 7 day period.

(6) In this regulation—
   (a) “the market” means the property market in England and Wales;
   (b) a building is put on the market when the fact that it is or may become available for sale or rent is, with the intention of marketing the building, first made public in England and Wales by or on behalf of the relevant person;
   (c) a fact is made public when it is advertised or otherwise communicated (in whatever form and by whatever means) to the public or to a section of the public;
   (d) an energy performance certificate is commissioned when a request is made—
      (i) which is properly addressed to an energy assessor who is accredited to produce energy performance certificates for the category of building in question, and
      (ii) which is in such form, contains all such information and is accompanied by such payment or undertaking to make such payment as is usually necessary to obtain a certificate.

**Buildings to be demolished**

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

Energy performance certificates

9.—(1) An energy performance certificate entered on the register on or after 9th January 2013 must—
(a) express the asset rating of the building in a way approved by the Secretary of State under regulation 24 of the Building Regulations 2010(1);
(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 the category of building to which the certificate relates;
(d) include a recommendation report(2) unless there is no reasonable potential for energy performance improvements compared to the energy performance requirements in force;
(e) include the following information—
   (i) the reference number under which the set of data from which the certificate may be produced has been entered onto the register in accordance with regulation 27;
   (ii) the address of the building;

(1) S.I. 2010/2214.
(2) “Recommendation report” is defined in regulation 4.
...an estimate of the total useful floor area of the building; and
(iv) the date on which it was issued; and
(f) be valid in accordance with paragraph (2).

(2) An energy performance certificate is only valid for the purposes of this Part if—
(a) it was entered on the register 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 entered on the register.

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

(4) Certification for building units on or after 9th January 2013 may be based—
(a) for a non-residential building, 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.

(5) Certification on or after 9th January 2013 for a building which consists of a single dwelling may be based on the assessment of another representative building of similar design and size with a similar actual energy performance quality if such correspondence is guaranteed by the energy assessor issuing the energy performance certificate.

Display of energy performance certificates

10.—(1) This regulation applies to a building, other than a dwelling, which satisfies all the following requirements—
(a) it has a total useful floor area of more than 500m²;
(b) it is frequently visited by the public; and
(c) an energy performance certificate has been made available in accordance with—
(i) regulation 6, or
(ii) regulation 29(2)(3) of the Building Regulations 2010.

(2) In a building to which this regulation applies, the energy performance certificate must be valid, and must be displayed in a prominent place clearly visible to members of the public who visit the building.

Statement of energy performance indicator

11.—(1) This regulation applies to—
(a) a building having a valid energy performance certificate
(b) a building unit in such a building, and
(c) a building unit having a valid energy performance certificate.

(2) Where a building or building unit to which this regulation applies is offered for sale or rent on or after 9th January 2013, the asset rating of the building expressed in the energy performance certificate must be stated in any advertisement of the sale or rental in commercial media.

(3) Regulation 29 of the Building Regulations 2010 is amended by S.I. 2012/3119.
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 6(2) or 6(5) 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.