

EXPLANATORY MEMORANDUM TO
THE ENERGY PERFORMANCE OF BUILDINGS (ENGLAND AND WALES)
(AMENDMENT) (No. 2) REGULATIONS 2015

2015 No. 1681

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the Energy Performance of Buildings (England and Wales) Regulations 2012 (S.I. 2012/3118, as amended by S.I. 2013/10, S.I. 2013/181, S.I. 2013/603, S.I. 2014/880 and S.I. 2015/609) (“the Principal Regulations”), which came into force on 9th January 2013.

2.2 This instrument inserts new regulations 34A, 34B and 34C in Part 7 (enforcement) of the Principal Regulations.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Principal Regulations implement Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings (recast) (OJ No L 153, 18.6.2010, p. 13) (“the Directive”).

4.2 This instrument introduces further measures to implement Article 27 (penalties) of the Directive to ensure that the enforcement of the Principal Regulations is effective and robust.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Directive establishes common measures within EU member states to increase the energy efficiency of buildings, reduce their carbon emissions and lessen their impact on climate change. The Directive is implemented in England and Wales by the Principal Regulations, and requires that an energy performance certificate (EPC) be provided when a building is constructed, sold or made available for rent, and be displayed in buildings above a specified size occupied by public authorities and open to the public .

7.2 Enforcement of the Principal Regulations is a duty of Local Weights and Measures Authorities (LWMAs) who are service departments within local authorities. In order to provide for enforcement in relation to buildings where it is the local authority that is under a duty, and to promote greater clarity and consistency in local enforcement regimes, the amendments in this instrument will require LWMAs to take the following actions:

- a) arrange for the enforcement of obligations under the Principal Regulations in relation to buildings where their parent authority is the dutyholder by agreement with the local weights and measures authority of another area, and notify the Secretary of State that they have done so.
- b) collect sufficient information concerning buildings for which it has enforcement responsibilities under the Principal Regulations to enable the planning of effective enforcement action..
- c) record all enforcement activity and report on this annually to the Secretary of State..

7.3 The Department does not plan to consolidate at this time.

8. Consultation outcome

8.1 There has not been a consultation on these amendments. This is because the amendments made by this instrument to the Principal Regulations do not introduce any new regulatory burdens on business, the voluntary sector or individuals, and any additional burden on local authorities is thought not to be significant.

9. Guidance

9.1 Revised guidance for the enforcement of the Principal Regulations will be published alongside this instrument.

10. Impact

10.1 There is no impact on businesses, charities or voluntary bodies. The amendments made by this instrument do not seek to introduce any additional regulatory burdens that would adversely impact these bodies.

10.2 The impact on the public sector is insignificant. We have completed a new burdens assessment and concluded that there is minimal impact on how enforcement bodies operate and therefore no new burden implications.

10.3 An impact assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The amendments made by this instrument do not apply to small business.

12. Monitoring & review

12.1 The Principal Regulations contain provision for review at least every five years, with the first review taking place by January 2018. Accordingly there is no need to provide in these Regulations for review in accordance with section 28 of the Small Business, Enterprise and Employment Act 2015.

13. Contact

Toby Parker at the Department for Communities and Local Government (Tel: 0303 444 1520 email: toby.parker@communities.gsi.gov.uk) can answer any queries regarding the instrument.