



# Energy Act 2023

## 2023 CHAPTER 52

### PART 10

#### ENERGY PERFORMANCE OF PREMISES

#### **250 Power to make energy performance regulations**

- (1) The appropriate authority may make regulations for any of these purposes—
  - (a) enabling or requiring the energy usage or energy efficiency of premises to be assessed, certified and publicised;
  - (b) enabling or requiring possible improvements in the energy usage or energy efficiency of premises to be identified and recommended;
  - (c) restricting or prohibiting the marketing and disposal of premises on the basis of whether their energy usage or energy efficiency has been assessed, certified or publicised.
- (2) In this Part regulations under [this section](#) are referred to as “energy performance regulations”.
- (3) Energy performance regulations may—
  - (a) provide for—
    - (i) the regulations to apply to specified descriptions of premises, or
    - (ii) specified descriptions of premises to be excluded from the application of the regulations;
  - (b) confer functions on any person;
  - (c) provide for functions to be exercisable only if specified conditions are met (including conditions as to the eligibility of persons to exercise the functions);
  - (d) provide for the energy usage or energy efficiency of premises to be assessed or certified by reference to information that is obtained, produced or kept otherwise than under energy performance regulations;
  - (e) impose requirements on any person;
  - (f) make provision for the purpose of securing compliance with requirements imposed by or under energy performance regulations (see [section 252](#));

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- (g) authorise or require, or restrict or prohibit, the supply or keeping of information (including authorising or requiring supply or keeping of information that would otherwise be prohibited);
  - (h) provide for the charging of fees.
- (4) A reference in this Part to publicising the energy usage and energy efficiency of premises includes—
- (a) displaying energy performance information in the premises to which it relates;
  - (b) arranging for energy performance information to be entered into a record of such information (including a record that is publicly accessible);
  - (c) reporting energy performance information;
  - (d) supplying energy performance information.
- (5) In this Part—
- “the appropriate authority” means—
    - (a) in relation to England and Wales, the Secretary of State;
    - (b) in relation to Scotland, the Scottish Ministers;
    - (c) in relation to Northern Ireland, the Department;
  - “certified” means certified in accordance with energy performance regulations;
  - “the Department” means the Department of Finance in Northern Ireland;
  - “disposal of premises” includes leasing or letting of premises;
  - “energy performance information” means information about the energy usage or energy efficiency of premises;
  - “premises” means—
    - (a) a building or a part of a building (including any equipment, systems or facilities used by the building or the part), or
    - (b) any equipment, systems or facilities used by a building or a part of a building;
  - “specified” means specified in energy performance regulations.

#### Commencement Information

**II** S. 250 in force at 26.12.2023, see s. 334(3)(h)

### 251 Energy performance regulations relating to new premises

- (1) The power to make energy performance regulations is exercisable in relation to new premises.
- (2) Accordingly, in [section 250](#) (except in the definition of “premises” in [section 250\(5\)](#))—
  - (a) a reference to premises includes new premises;
  - (b) a reference to the energy usage and energy efficiency of premises includes the anticipated energy usage and energy efficiency of new premises.
- (3) In [this section](#) “new premises” means premises—
  - (a) which are being constructed or adapted, or
  - (b) which it is proposed to construct or adapt.

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### Commencement Information

**12** S. 251 in force at 26.12.2023, see s. 334(3)(h)

## 252 Sanctions

- (1) The enforcement provision that may be made includes provision—
  - (a) for a person with public functions to enforce a requirement imposed by or under energy performance regulations;
  - (b) about the sanctions for non-compliance with a requirement imposed by or under energy performance regulations;
  - (c) about the sanctions for the provision of false information in connection with such a requirement;
  - (d) about the sanctions for obstruction of, or impersonation of, an enforcement authority or a person acting for an enforcement authority.
- (2) Energy performance regulations may provide for the imposition of civil penalties by enforcement authorities in relation to cases falling within [subsection \(1\)\(b\), \(c\) or \(d\)](#); but the regulations may not provide for a civil penalty that exceeds £15,000.
- (3) Energy performance regulations may provide for the creation of criminal offences in relation to cases falling within [subsection \(1\)\(b\), \(c\) or \(d\)](#); but the regulations may not provide for a criminal offence to be punishable—
  - (a) with imprisonment for a term exceeding 12 months, or
  - (b) with a fine of more than level 5 on the standard scale.
- (4) Where energy performance regulations make provision for a civil penalty, the regulations must also include provision for a right of appeal to a court or tribunal against the imposition of the penalty.
- (5) Provision falling within [subsection \(4\)](#) includes, in particular, provision—
  - (a) as to the jurisdiction of the court or tribunal to which an appeal may be made;
  - (b) as to the grounds on which an appeal may be made;
  - (c) as to the procedure for making an appeal (including any fee which may be payable);
  - (d) suspending the imposition of the penalty, pending determination of the appeal;
  - (e) as to the powers of the court or tribunal to which an appeal is made;
  - (f) as to how any sum payable in pursuance of a decision of the court or tribunal is to be recoverable.
- (6) The provision referred to in [subsection \(5\)\(e\)](#) includes provision conferring on the court or tribunal to which an appeal is made power—
  - (a) to confirm the penalty;
  - (b) to withdraw the penalty;
  - (c) to vary the amount of the penalty;
  - (d) to award costs.
- (7) The appropriate authority may, by regulations, amend the amount specified in [subsection \(2\)](#) for the purpose of reflecting inflation.
- (8) In [this section](#)—

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“enforcement authority” means a person on whom energy performance regulations confer the function of enforcing any requirement imposed by or under energy performance regulations;

“enforcement provision” means provision falling within [section 250\(3\)\(f\)](#).

#### Commencement Information

**I3** [S. 252](#) in force at 26.12.2023, see [s. 334\(3\)\(h\)](#)

### 253 Regulations under [Part 10](#)

- (1) Regulations under this Part may amend, repeal or revoke provision made by or under primary legislation.
- (2) Regulations under this Part containing provision within subsection [\(3\)](#) (with or without other provision)—
  - (a) if made by the Secretary of State, are subject to the affirmative procedure (see [section 332](#));
  - (b) if made by the Scottish Ministers, are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act [2010 \(asp 10\)](#));
  - (c) if made by the Department, may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.
- (3) The provision within this subsection is—
  - (a) provision creating a criminal offence or civil penalty (but excluding provision modifying the circumstances in which a person is guilty of an existing offence or liable for an existing civil penalty);
  - (b) provision specifying a civil penalty amount (but excluding provision made by virtue of [section 252\(7\)](#) (inflation-related adjustments));
  - (c) provision amending or repealing provision made by primary legislation.
- (4) Any other regulations under this Part—
  - (a) if made by the Secretary of State, are subject to the negative procedure (see [section 332](#));
  - (b) if made by the Scottish Ministers, are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act [2010 \(asp 10\)](#));
  - (c) if made by the Department, are subject to negative resolution within the meaning given by section 41(6) of the Interpretation Act (Northern Ireland) [1954 \(c. 33 \(N.I.\)\)](#).
- (5) Regulations under this Part—
  - (a) may make provision about application to the Crown; and
  - (b) may also, to the extent that they bind the Crown, restrict or modify the application of the regulations.
- (6) A power of the Department to make regulations under this Part is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 ([S.I. 1979/1573 \(N.I. 12\)](#)).

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- (7) In this section “primary legislation” means—
- (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - (c) an Act or Measure of Senedd Cymru, or
  - (d) Northern Ireland legislation.

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**Commencement Information**

**I4** [S. 253](#) in force at 26.12.2023, see [s. 334\(3\)\(h\)](#)

**Status:**

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**Changes to legislation:**

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