

PROPOSED CHANGES TO THE ENERGY PERFORMANCE OF BUILDINGS (CERTIFICATES AND INSPECTIONS) (ENGLAND AND WALES) REGULATIONS 2007 (THE EPB REGULATIONS)

1. Summary of the changes to the EPB Regulations

The changes to the EPB Regulations can be summarised as follows:

- the changes will extend the current requirements to commission an EPC that apply to residential buildings to all residential and non residential buildings when sold or rented out;
- the requirements for the provision of an EPC with written particulars will be extended to all buildings sold or rented out and the option to attach the asset rating will be removed. The requirement will only extend to the first page of the EPC (the EPC consists of two pages, accompanied by four pages of recommendations); and
- the requirement for the statutory lodgement of air conditioning inspection reports onto the central EPC Register.

The following summary details the main changes that will be made in relation to EPCs.

2. Commissioning an EPC before marketing

A number of changes will be made to regulation 5A of the EPB Regulations. In general, the onus remains on the 'relevant person' (i.e. the seller or landlord) to commission an EPC before marketing. The main changes are as follows:

- the duty to commission an EPC before marketing will be extended to the sale and rent of residential and non-residential buildings;
- the current 28 day period within which an EPC is to be secured using 'reasonable efforts' will be reduced to 7 days;
- if after that 7 day period the EPC has not been secured the relevant person will have a further 21 days in which to do so.

3. Power to Require the Production of Documents

Trading Standards Officers (TSOs) currently have the power to require the 'relevant person' (i.e. the seller or landlord) to produce copies of the EPC for inspection and to take copies if necessary. The power to require the production of documents will be extended to include persons acting on behalf of the seller or landlord – e.g. estate agents and letting agents. This means, for example, that TSOs will be authorised to require estate agents to produce evidence showing that an EPC has been commissioned where they are marketing a building without one.

4 Clarifying when an EPC is required

This technical amendment to Regulation 5 is intended to remove the erroneous belief that the provision of the EPC can be delayed until shortly before the parties enter into a contract for sale or rent. This will be achieved by deleting the words *"before entering into a contract to sell or rent the building or, if sooner"* in Regulation 5(2)(b) of the EPB Regulations.

5. Consequential changes

A number of consequential changes will be made to enable TSOs to enforce the new duties.

6. EPC Information in Written Particulars

Currently, for residential sales only, the relevant person or his agent is under a duty to either attach the EPC to written particulars or include the asset rating on those particulars. The amendments will require the EPC to be attached to written particulars in relation to buildings sold or rented out. The option to include the asset rating will no longer apply.

The existing definition of 'written particulars' will be expanded to ensure that particulars produced for rented out buildings and commercial properties are captured by the new requirements.

As an exception to this requirement, provision is made to allow the person subject to the duty to provide the written particulars to omit the address of the building from a copy of the EPC where the address has been omitted from those particulars.

7. Commencement

We had aimed to bring most of these proposed changes into force on 1 July, with the exception of the change described in paragraph 6 which would have taken effect in relation to properties marketed after 1st October 2011.

It has not been possible to introduce changes on 1 July, however, and it is now our intention to bring the changes into force as soon as possible.