

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 buildings sold or rented out;
- the requirements for the provision of an EPC with written particulars are extended to all buildings sold or rented out and the option to attach the asset rating is removed; and
- the regime for lodgement of EPCs and DEC on the Register is extended to air conditioning inspection reports.

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

2. Commissioning an EPC before marketing

A number of changes are 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 is 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' is reduced to 7 days;
- if after that 7 day period the EPC has not been secured the relevant person has a further 21 days to do so.

3. Power to Require the Production of Documents

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 have been 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 to the EPB Regulations 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' has been expanded to ensure that particulars produced for rented out buildings and commercial properties are captured by the new requirements.

7. Commencement

The changes described in paragraphs numbered 2 to 4 will have effect in relation to properties marketed after the expected coming into force date of 1st July 2011.

The change described in paragraph 6 will have effect in relation to properties marketed after of 1st October 2011.

Home Buying, Selling & Energy Performance Division
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12 April 2011