

THE ENERGY PERFORMANCE OF BUILDINGS (CERTIFICATES AND  
INSPECTIONS) REGULATIONS (NORTHERN IRELAND) 2008

**ENERGY PERFORMANCE OF BUILDINGS  
(CERTIFICATES AND INSPECTIONS)  
(AMENDMENT) REGULATIONS  
(NORTHERN IRELAND) 2014**

**Consultation**

**Proposals for amendment regulations**

**(Closing date for receipt of responses is 4:00 pm on 4 February 2014)**

**December 2013**

# CONSULTATION ARRANGEMENTS

This consultation outlines the Department's proposals to amend The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008, No. 170 (as amended) to ensure compliance with the obligations of Articles 2(9), 11(2)(a) and 11(2)(b), 11(3) and 13(2) of the recast Energy Performance of Buildings Directive (2010/31/EU) of 19 May 2010 (EPBD2).

We look forward to receiving your comments and views concerning any of the proposals contained in this document. In order to assist our analysis of responses please use the Response Form available to download from the consultation page of the Energy Performance of Buildings website ([www.epb.dfpni.gov.uk](http://www.epb.dfpni.gov.uk)) and submit your reply electronically to [noeleen.o'neill@dfpni.gov.uk](mailto:noeleen.o'neill@dfpni.gov.uk)

Alternatively your response may be posted or faxed to:

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The Department will consider all responses to this consultation received on or before the closing date, which is **4.00 pm on 4 February 2014**.

***Submissions made after this date cannot be considered.***

## Code of practice on consultations

In light of the requirements of the Code of Practice on Access to Government and the Freedom of Information Act, responses may be made available to the public on request. We may also wish to make responses to this consultation available to the Northern Ireland Assembly and for public inspection either at the Energy Performance Unit office or on the website.

You have the option of indicating that you wish your response to remain confidential and the Department will generally respect your request. Should it be decided that the public interest must override your request, the Department will contact you before disclosure and, if appropriate, provide you with an opportunity for your response to be withdrawn.

If you have any comments about the consultation process itself (rather than the content of the document) these should be directed to the consultation co-ordinator at the postal or e-mail address, or fax number given above.

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# 1. INTRODUCTION

The Directive on the Energy Performance of Buildings (2002/91/EC) (EPBD) came into force on 16 December 2002. The objective of the Directive is to promote the improvement of the energy performance of buildings within the European Union taking into account outdoor climatic and local conditions as well as indoor climate requirements and cost-effectiveness.

A recast of EPBD, 2010/31/EU (EPBD2), came into force on 19 May 2010. The purpose of the recast is to extend the scope of the original Directive, strengthen certain provisions, and clarify other aspects. It also gives the public sector a lead role in improving the energy efficiency of its building stock.

This consultation document proposes to amend the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 (as amended)<sup>1</sup> (the 2008 Regulations) to comply with the obligations of Articles 2(9), 11(2)(a) and 11(2)(b), 11(3) and 13(2) of EPBD2.

The purpose of this consultation is to obtain the comments and views of interested parties on these proposals. A full list of the consultation questions is available in the Response Form included with this consultation pack.

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<sup>1</sup> As amended by S.R. 2008 No. 241, S.R. 2009 No. 369 and S.R. 2013 No. 12.

## 2. BACKGROUND

### EPBD2

In the United Kingdom, transposition of the EPBD2 was taken forward on a regional basis as a significant part of compliance required an amendment to building regulations which is a devolved responsibility. England and Wales, Scotland and Northern Ireland each set their own building regulations.

A number of Articles of EPBD2 were implemented in Northern Ireland by The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2013 (the 2013 Regulations).

The key changes which came into operation with these regulations on 18th February 2013 were:

- an Energy Performance Certificate (EPC) must be produced before a building is marketed for sale or rent;
- the energy performance indicator from an EPC must be included in commercial media used to market a property for sale or rent;
- an EPC may be produced for a dwelling based on the assessment of another representative building of a similar design and size and with a similar energy performance;
- commercial buildings with a total useful floor area of 500m<sup>2</sup> or more, that are frequently visited by the public must display an EPC where one has been issued on or after 18th February 2013;
- the requirement for public buildings frequently visited by the public to display a Display Energy Certificate (DEC) is extended to include buildings with a total useful floor area of 500m<sup>2</sup> or more. This will be further extended to include buildings with a total useful floor area greater than 250m<sup>2</sup> with effect from 9th July 2015;
- landlords of buildings occupied by public bodies where energy is included in the overall service charge will be required to provide an energy statement to the occupier to enable the production of an accurate DEC;
- a requirement to lodge air-conditioning inspection reports on the Northern Ireland Register is introduced;
- a facility to extend the search options for documents stored on the Northern Ireland Register to enable the public to search by address and postcode will be made available; and
- new penalties are introduced for breaches of some of the new requirements.

### 3. SUMMARY OF EPBD2 ARTICLES TO BE IMPLEMENTED

A number of Articles in EPBD2 remain to be implemented in Northern Ireland and require amendments to the 2008 Regulations. These are:

- (a) to define “building element” (Article 2(9)) and “thermal element” as a consequence of defining “building element”;
- (b) in relation to recommendation reports:
  - these reports must include cost-effective measures that could be carried out in connection with a major renovation of the building envelope or technical building systems (Article 11(2)(a));
  - these reports must include cost-effective measures for individual building elements that could be carried out without the necessity for a major renovation of the building envelope or technical building systems (Article 11(2)(b));
  - any cost-effective measure which the energy assessor recommends must be technically feasible for the building to which the recommendation report relates (Article 11(3)); and
- (c) to correct a deficiency in the implementation of Article 13(2) in the 2013 Regulations. The current implementation covers the cases where an EPC was issued on sale or rental, but does not address on construction.

The Articles in EPBD2 can be viewed at: [http://www.dfpni.gov.uk/directive\\_2010-31-eu\\_energy\\_performance\\_of\\_buildings\\_19\\_may\\_2010.pdf](http://www.dfpni.gov.uk/directive_2010-31-eu_energy_performance_of_buildings_19_may_2010.pdf)

## **4. PROPOSALS FOR AMENDMENT**

### **4.1 Definitions**

The Department is proposing to define “building element” as a technical building system or a thermal element of the building envelope”.

The term “technical building system” is already defined in the 2013 Regulations. The term “thermal element” will be defined with reference to the meaning assigned to it in the Building Regulations (Northern Ireland) 2012.

### **4.2 Recommendation reports**

The Department is proposing to re-insert the previously deleted Regulation 7 controlling recommendation reports.

In the proposals for the new Regulation 7, the wording will reflect the requirement for recommendation reports to include:

- cost-effective measures that could be carried out in connection with the major renovation of the building envelope or technical building systems; and
- cost-effective measures for individual building elements that could be carried out without the necessity for a major renovation of the building envelope or technical building systems.

It is also proposed to require any cost-effective measure which the energy assessor recommends in a recommendation report must be technically feasible for the building to which the recommendation report relates.

### **4.3 Displaying an EPC in buildings over 500m<sup>2</sup> frequently visited by the public where an EPC has been issued on construction**

Article 13(2) of EPBD2 requires that where an EPC has been issued for a building for the purposes of sale, rent or on construction, and where the building has a total useful floor area greater than 500m<sup>2</sup> and is frequently visited by members of the public, a copy of the EPC must be displayed in a prominent position clearly visible to the public. This requirement extends to any building frequently visited by the public that meets these requirements (this should not be confused with the separate requirement for public sector buildings relating to display energy certificates). Buildings likely to fall into this category include, but are not limited to, retail premises, banks, restaurants, cinemas and other venues for which a valid EPC has been issued.

The 2013 Regulations made provision for the issue on sale or rental but did not address where an EPC had been issued on construction. To correct this, the Department is proposing to amend Regulation 8A to ensure that where an EPC has been issued pursuant to Regulation 6 (on construction) in addition to Regulation 5 (on sale or rent), that the occupier shall ensure it is displayed in a prominent place, clearly visible to members of the public.

## **5. IMPACT OF PROPOSALS**

### **5.1 Costs**

The amendment of the 2008 Regulations is in response to the recast of EPBD, 2010/31/EU.

Implementing the requirements of Item 4.2 required amendments to the standard calculation software packages (Standard Assessment Procedure for dwellings and the Simplified Building Energy Model for non-dwellings). This exercise was undertaken by colleagues in Central Government, when responding to EPBD2, at no cost to the Department. Therefore, Energy Assessors will not require any additional training to cover these enhancements as they will be produced automatically by the software.

As the proposals impose no costs, a Regulatory Impact Assessment for this amending SR is not required.