



Department for Communities and Local Government

To: Accreditation schemes

17 March 2016

To whom it may concern,

Amendments to Energy Performance of Buildings (England and Wales) Regulations 2012

I am writing to inform you that the Department has now laid in Parliament amendments to the Energy Performance of Buildings Regulations (England and Wales) 2012.

These changes can be found at: <http://www.legislation.gov.uk/id/uksi/2016/284>

Lodgement fees

The statutory fees for lodging the data from which certificates and reports may be produced on to the Energy Performance of Buildings registers is changing on 6 April 2016, as follows:

- Domestic lodgements: currently £1.27, changing to £2.07
- Non-domestic lodgements: currently £11.66, changing to £12.82.

The level of the lodgement fees are set to cover the full costs of operating the Registers. Changes to the lodgement fee reflect a review of forecast lodgement levels during the coming year.

Policy changes

Further amendments to the Energy Performance of Buildings (England and Wales) Regulations 2012 have been made as follows:

- Enable free access to energy performance of buildings data. Any data requests not met by the planned free to access data will be considered under the provisions in the Environmental Information Regulations 2014;
- Removal of the regulations relating to the current Bulk Data Service from October, as this service will be replaced by the free access to data; Amend the existing provisions in the regulations for buildings treated as 'excluded' on the Registers.

Other changes

A number of clarifications have also been made as follows:

- Clarify that energy performance ratings must be calculated in a way approved under regulation 24 of the Building Regulations;
- Provide definitions of 'operational rating' and 'asset rating' to clarify that they are calculated/measured and mean the 'energy performance of a building'; and
- Resolve a discrepancy which limits the 'construction duty' to crown properties.

Bulk Data service and free to access data

We believe it is strongly in the public interest to enable more open access to some of the data held on the Registers. The decision about which data items will be made free to access reflects a privacy impact assessment and will be safeguarded by appropriate licence and copyright provisions. Individual property owners or occupiers can already opt out of data access arrangements. We will be publicising the intended changes and highlighting the opt out facility in this context before changes are implemented.

Excluded Buildings

A change has been made to the regulations to enable the owners or users of security sensitive buildings to decide not to enter relevant building data on the Registers if they judge it to be too sensitive. We recommend that energy assessors make customers requesting certificates relating to buildings that could fall into this category aware of this.

Excluded buildings, as defined in the regulations, would cover buildings owned, occupied or used from time to time by or for one of these purposes:

- (a) the Security Service, the Secret Intelligence Service or the Government Communications Headquarters,
- (b) any of the armed forces,
- (c) the Royal Family,
- (d) a prison,
- (e) a contracted out prison within the meaning of the Criminal Justice Act 1991, or
- (f) a young offender institution

Where there is a statutory requirement for an excluded building to have an Energy Performance Certificate or an air conditioning inspection report, but the customer does not want the data to be entered onto the Registers, the assessor should:

1. provide a printed copy of the certificate and/or report. These certificates and reports will contain a watermark to indicate they have been produced from data not lodged on the Registers;

2. ask whether the customer would like the underlying data, explaining the use of that data if the customer needs to query the assessment subsequently;
3. once certificates and reports have been provided, destroy all paper records, delete all the relevant data from their systems and files and
4. ensure that no data relating to the building and assessment is passed to their accreditation scheme(s).

In the circumstances where the customer has requested for data not to be lodged on the Registers, quality assurance and auditing processes will not apply. We will be reviewing the SORs to see if changes may be needed regarding this regulatory change, although would note that this provision is likely to affect only a small number of buildings.

Should the customer choose to register the data, they may of course choose to opt out of data access arrangements.

For further information about these amendments, please contact us through EPC.Enquiry@communities.gsi.gov.uk

Yours sincerely,

Hazel Grace