

To:

The Chief Executive  
Unitary, Metropolitan, District and  
London Borough Councils in England and  
County and County Borough Councils in Wales

The Town Clerk, City of London  
The Clerk, Council of the Isles of Scilly  
The Sub-Treasurer, Inner Temple  
The Under Treasurer, Middle Temple

The Head of Building Control  
Unity, Metropolitan, District and  
London Borough Councils in England and  
County and County Borough Councils in Wales  
City of London  
Council of the Isles of Scilly

Approved Inspectors

The Chief Fire Officer  
Fire and Rescue Authorities in England and Wales

cc. The Chief Executive:  
County Councils in England  
National Park Authorities in England and Wales

9 September 2008

Our ref: CI/43/1/22

Dear Sir or Madam

**ENERGY PERFORMANCE OF BUILDINGS REGULATIONS (CERTIFICATES  
AND INSPECTIONS) (ENGLAND AND WALES) (AMENDMENT) REGULATIONS  
2008 (S.I. 2008/647)**

**ENERGY PERFORMANCE OF BUILDINGS (CERTIFICATES AND INSPECTIONS)  
(ENGLAND AND WALES) (AMENDMENT NO.2) REGULATIONS 2008 (S.I.  
2008/2363)**

**BUILDING REGULATIONS 2000 (S.I. 2008/2351)**

**BUILDING (APPROVED INSPECTORS ETC) REGULATIONS 2000 (S.I.  
2008/2532)**

I am writing to inform you about the building regulations related aspects of:

(a) the Energy performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2008 (S.I. 2008/647), which were made on 6 March 2008 and came into force on 6 April 2008; and

(b) the Energy performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment No. 2 ) Regulations 2008 (S.I. 2008/2363), which were made on 4 September 2008, laid in Parliament today and come into force on 1 October 2008.

The principal purposes of these Amendment Regulations in respect of building regulations matters are to:

- Authorise building control bodies to accept as evidence of compliance with regulation 17C of the Building Regulations 2000 certificates from energy assessors who are members of an accreditation scheme approved under regulation 17F of the Building Regulations and accredited for the category of building concerned;
- Amend in regulation 20D of the Building Regulations 2000 and in regulation 12D of the Building (Approved Inspectors etc) Regulations 2000 the latest date by which notices specifying the target CO<sub>2</sub> emission rate and calculated CO<sub>2</sub> emission rate shall be provided to a building control body not later than five days after the completion of work. A similar amendment applies to certificates of regulation 17C compliance provided by an energy assessor which must also be provided not later than five days after the completion of work. There is one exception to this: where an approved inspector is the building control body and where the building is occupied before completion, the notice or certificate must be given not later than five days after the completion of work, or the date when the initial notice lapses under regulation 18(2) of the Building (Approved Inspectors etc) Regulations 2000, whichever is the earlier.
- Amend in regulation 17E(3) of the Building Regulations and regulation 12(3) of the Building (Approved Inspectors etc) Regulations 2000 the latest date on which a notice to a building control body that an energy performance certificate has been issued to be not later than five days after the completion

of work in all cases with the exception that where an approved inspector is the building control body and where the building is occupied before completion, the notice or certificate must be given not later than five days after the completion of work, or the date when the initial notice lapses under regulation 18(2) of the Building (Approved Inspectors etc) Regulations 2000, whichever is the earlier.

- To require that the building control body be given the unique registered reference number of an energy performance certificate as part of the notice to it that an energy performance certificate has been issued.
- To give building control bodies access to the register of energy performance certificates for the purposes of carrying out their functions in relation to building control and, in the case of a local authority, enforcement.

## **Publications**

The following publication is relevant to the amendments made:

Circular 06/2008, which is available on the Department's website, [www.communities.gov.uk](http://www.communities.gov.uk).

## **Transitional provisions**

There are no transitional provisions in respect of the amendments to the regulations but see transitional arrangements in respect of energy assessors below.

## **CO<sub>2</sub> emission rate calculation schemes for new buildings**

From 6 April 2006 Regulation 20D in the Building Regulations 2000 (regulation 12D in the Building (Approved Inspectors etc) Regulations 2000) authorised two schemes whose certificates attesting that the requirements of regulation 17C had been satisfied could be accepted by building control bodies as evidence of compliance. The two schemes were FAERO Limited (which has since ceased trading) and BRE Certification Limited. The Department had hoped that most people carrying out CO<sub>2</sub> emission rate calculations for the purpose of demonstrating compliance with regulation 17C would have joined a scheme, but this proved not to be the case.

In 2007 the Department introduced approved energy assessor accreditation schemes to carry out CO<sub>2</sub> emission rate calculations for the purpose of producing energy performance certificates. The calculations needed to demonstrate compliance with regulation 17C and to produce an energy performance certificate use the same approved calculation methodologies (SAP, SBEM or DSM as appropriate to the type of building).

The Department considered that it was not sensible to have two types of scheme to carry out essentially the same task. SI 2008/2363 therefore has amended regulation 20D (12D in the AI Regulations) to allow building control bodies to accept as evidence of compliance with regulations 17C certificates from members of approved energy assessor accreditation schemes, in place of the earlier arrangements. All

members of such schemes who carry out CO<sub>2</sub> emission rate calculations for the purposes of energy assessment in relation to energy performance certificates will also have to be able to carry out the calculations needed to demonstrate compliance with regulation 17C. As all new buildings must comply with regulation 17C and have an energy performance certificate it is likely that most regulation 17C calculations will be certificated, making the checking of compliance much easier for building control bodies.

Energy performance certificates can be produced only by members of an approved energy assessor accreditation scheme. However, it will remain possible for the calculations needed to demonstrate compliance with regulation 17C to be carried out by a person who is not a member of such a scheme.

If a building control body is doubtful whether the person carrying out the regulation 17C calculations is a member of an approved energy assessor accreditation scheme, this can be checked with the scheme to which the energy assessors state they belong. A list of the schemes is attached as an annex to this Circular Letter. The list is also available on the Department's website [www.communities.gov.uk](http://www.communities.gov.uk).

### **Transitional arrangements for energy assessors**

To ensure that all accredited energy assessors are fully competent to carry out the regulation 17C calculations the accreditation standards and National Occupational Standards for energy assessors have been amended. The amended standards are available on the Department's website [www.communities.gov.uk](http://www.communities.gov.uk).

Energy assessors will have six months (i.e. until 1 April 2009) to demonstrate to their scheme operators that they satisfy the revised standards but most should be able to do this much earlier.

### **Latest date for providing notices and certificates for regulation 17C calculations and for providing a notice that an energy performance certificate has been given**

In most cases the final date by which these notices and certificates had to be provided to building control bodies was seven days after the final pressure testing had been carried out. This has proved impracticable as the pressure testing and CO<sub>2</sub> emission calculations were carried out by different persons and the required co-ordination did not happen in all cases. SI 2008/2363 has therefore amended the latest date in almost all cases to be five days after the completion of work.

The one exception to this is where the building control body is an approved inspector and the building is occupied before completion. In such cases an approved inspector's initial notice will lapse if a final certificate cannot be given within a defined period as set out in regulation 18(2) of the AI Regulations. In such cases the notices and certificates must be provided not later than five days after the completion of work, or the date when the initial notice lapses under regulation 18(2) of the Building (Approved Inspectors etc) Regulations 2000, whichever is earlier.

Building control bodies are reminded that they must receive the appropriate notices and certificates before they can give completion or final certificates.

## Checking the validity of energy performance certificates

Until now, building control bodies had to be given a notice stating only that an energy performance certificate had been given. This made it difficult to check whether this was true. SI 2008/647 and SI 2008/2363 have made two changes to make it easier for building control bodies to check the validity of an energy performance certificate:

- From 1 October 2009 the notice to the building control body must include the unique reference number of the energy performance certificate on the register of such certificates; and
- Building control bodies are now given full access to the register.

Having the address of the property and the unique reference number of the energy performance certificate, building control bodies will be able easily and quickly to check the validity of the notice they have been given. The energy performance certificate register is at [www.epcregister.com](http://www.epcregister.com). If the unique reference number is entered the register will confirm the address of the property concerned. It is not possible simply to enter the address of the property to see whether there is an energy performance certificate as the search facility works only by the reference number.

## Enquiries

All enquiries on this Circular Letter should be addressed to:

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Yours faithfully



**Jessica Matthew**

Deputy Director  
Sustainable Buildings Division

## ANNEX

### Approved Energy Performance Accreditation Schemes

Accreditation scheme	Website (external)
NES	<a href="http://www.nher.co.uk">www.nher.co.uk</a>
BRE	<a href="http://www.bre.co.uk/accreditation">www.bre.co.uk/accreditation</a>
CIBSE	<a href="http://www.cibse.org">www.cibse.org</a>
Elmhurst	<a href="http://www.elmhurstenergy.co.uk">www.elmhurstenergy.co.uk</a>
Northgate	<a href="http://www.northgate-ispublicservices.com">www.northgate-ispublicservices.com</a>
Stroma	<a href="http://www.stroma.com">www.stroma.com</a>
RICS	<a href="http://www.rics.org/hips">www.rics.org/hips</a>
Knauf	<a href="http://www.knauf.co.uk">www.knauf.co.uk</a>
CIAT	<a href="http://www.ciat.org.uk">www.ciat.org.uk</a>
ECMK Ltd	<a href="http://www.ecmk.co.uk">www.ecmk.co.uk</a>
Quidos	<a href="http://www.quidos.co.uk">www.quidos.co.uk</a>
BESCA	<a href="http://www.besca.org.uk">www.besca.org.uk</a>
NAPIT	<a href="http://www.napit.org.uk">www.napit.org.uk</a>
Heating and Ventilation Certificated Associates	<a href="http://www.hicertification.co.uk">www.hicertification.co.uk</a>