



Department for  
Business, Energy  
& Industrial Strategy

# Energy Bill Policy Statement

Energy Performance of Premises

December 2022



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## Summary

The Energy Security Bill was introduced into Parliament on 6 July 2022. This Bill will deliver a cleaner, more affordable and more secure energy system for the long term. It builds on the ambitious commitments in the British Energy Security Strategy to invest in homegrown energy and maintain the diversity and resilience of the UK's energy supply.

The Energy Security Bill makes provisions to enable changes to the Energy Performance of Buildings (EPB) Regulations 2012, replacing powers lost with the repeal of the European Communities Act 1972, section 2(2).

The existing EPB Regulations provide the regulatory framework for Energy Performance Certificates (EPCs), Display Energy Certificates (DECs) and Air-Conditioning inspection reports (ACIRs). In 2020, the government published the EPC action plan<sup>1</sup>, which builds on views expressed as part of a call for evidence<sup>2</sup>. The plan set out actions intended to ensure EPCs are fit for the future. A number of these actions, which government has committed to, will require changes to the EPB Regulations. A separate consultation<sup>3</sup> in 2020 which specifically covered the inspection of heating and air conditioning systems also led to a number of proposals which government committed to consult on.

The new primary powers are sought to enable the government to improve the regulations to ensure that the EPB regime is fit for purpose and contributes effectively to improve the energy performance of premises. This will, in turn, help reduce energy costs and advance the achievement of the government's target of net zero carbon emissions by 2050.

The government is planning on launching a full consultation in early 2023 on proposed changes, as well as to set out future thinking on areas such as enforcement and metrics used in EPCs. Subject to the outcomes of the consultation, the government would expect to lay amendment regulations next year.

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/922660/EPC\\_Action\\_Plan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/922660/EPC_Action_Plan.pdf)

<sup>2</sup> <https://www.gov.uk/government/consultations/energy-performance-certificates-in-buildings-call-for-evidence>

<sup>3</sup> <https://www.gov.uk/government/consultations/energy-performance-of-buildings-changes-to-the-energy-performance-of-buildings-regulations-2012-no-3118>

## Power to make energy performance regulations

This clause gives the Secretary of State the power to make regulations (energy performance regulations) to enable or require the energy usage or the energy efficiency of premises to be assessed, certified and published and to require that improvements in energy usage or efficiency are identified and recommended. It enables regulations to restrict or prohibit the marketing or disposal of premises where their energy performance has not been assessed, certified, or publicised. Under this clause, the Secretary of State may by regulations confer functions on any person and impose requirements or make provision for securing compliance with requirements under the regulations.

The existing EPB regulations set out when EPCs are required (trigger points), their validity period, the buildings within scope of EPC requirements, the role of energy assessors, who are responsible for undertaking the assessments which generate EPCs, the information to be provided by EPCs and the need to provide a recommendations report, and the requirements for the EPC rating to be calculated according to a calculation method approved by the Secretary of State.

The powers in the Bill will allow these requirements to be replicated or amended in new regulations. The EPC Action Plan indicated that the government would be considering whether to make changes to trigger points and validity periods and to clarify existing exemptions from requirements. Depending on the outcome of that consideration, the government will consult on any proposals for change in its planned consultation.

Regulations made under this clause may also authorise, restrict or prohibit the supply or keeping of information relating to the energy performance of premises. This is a replacement power to enable the existing requirements for EPB data to be collected, registered, held and made available appropriately. The power enables government to replicate or amend these requirements. The EPC Action Plan said that the government would consider additional provisions to ensure a data infrastructure fit for the future of EPCs by enabling better availability of data for building owners and occupiers to encourage the improvement of energy efficiency of their premises. This will also encourage research into energy efficiency for policy use.

## Energy performance regulations relating to new premises

This clause provides that the Secretary of State may make energy performance regulations in relation to new premises. This is a replacement power to make energy performance regulations for new premises.

The existing powers in the Energy Performance of Buildings Regulations concerning new buildings set out the requirement for an EPC to be produced on completion of the construction of a new building or where a building has been modified to create a new building designed for separate use.

The power in this clause will allow these requirements to be replicated or amended in the Energy Performance of Building Regulations 2012 in relation to new premises to ensure that both the anticipated energy usage and energy efficiency of the new premises are accounted for.

## Sanctions

This clause provides that the Secretary of State may by regulations make provision with respect to the enforcement of energy performance regulations, including the imposition of civil penalties up to a specified maximum amount and for the creation of criminal offences and associated penalties (subject to the limitation set out in the clause). Regulations made under this clause must provide for a right of appeal against the imposition of a penalty.

The existing Energy Performance of Buildings Regulations provide sanctions of set civil penalty charges for breaches of the requirements in the regulations relating to the production and provision of Energy Performance Certificates (EPC), Display Energy Certificates (DEC) and Air Conditioning Inspection Reports (ACIR). The levels of these penalty charges were set in 2007 and have not been amended. The EPB Regulations set criminal offences relating to obstructing an enforcement officer, impersonating an enforcement officer and unauthorised disclosure of data from an energy performance register. There is no intention to amend or extend any criminal offences in the Regulations and any such amendments would have to be approved by Parliament under the affirmative procedure.

In the EPC Action Plan the government said it would review the penalties for EPC non-compliance so that they act as an effective deterrent and encourage EPC compliance. The government has held discussions with stakeholders to explore compliance and enforcement penalties alongside compliance and enforcement amendments. There were issues raised on the level and consistency of penalties between Energy Performance of Buildings and Private Rented Sector Minimum Energy Efficiency Regulations. The government is considering amendments to civil penalties, subject to consultation, that are proportionate and reflective of the changes to the EPB regime since 2007.

The power in this clause will allow these requirements to be replicated or amended in new regulations.

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