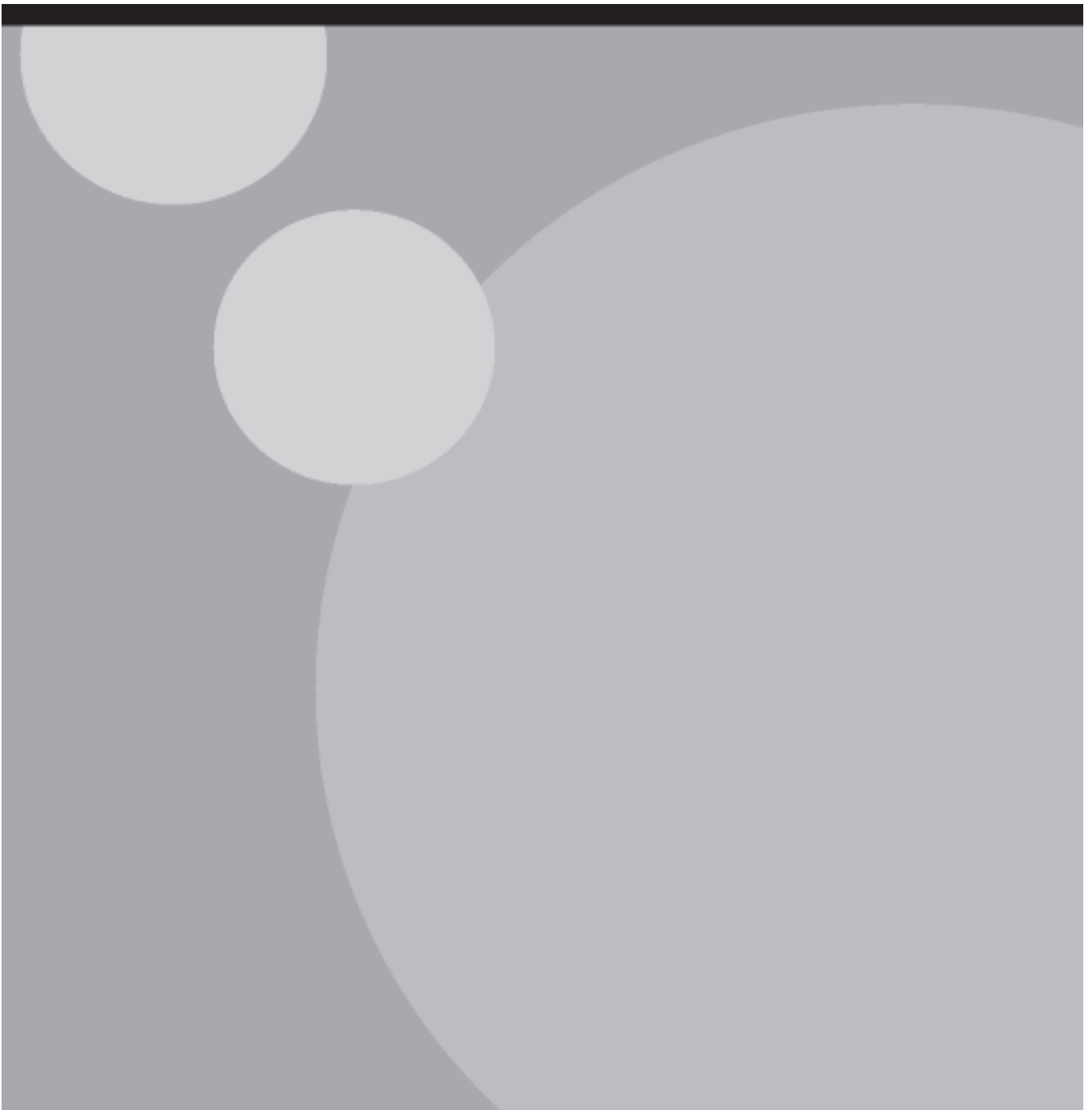


Consultation on the recast of the Energy Performance of Buildings Directive

Summary of responses



Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 0303 444 0000
Website: www.communities.gov.uk

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Introduction

1. The Energy Performance of Buildings Directive (EPBD) is an EU measure designed to tackle climate change by reducing the amount of carbon produced by buildings. It came into force in December 2002 and was implemented on a phased basis in England and Wales under the Energy Performance of Buildings (Certificates and Inspections) Regulations 2007.
2. Under the terms of the Directive:
 - An Energy Performance Certificate (EPC) must be produced whenever a building is sold, constructed or rented out. The EPC shows the energy efficiency of a property and includes recommendations on how it can be improved.
 - A Display Energy Certificate (DEC) must be produced every year for public buildings larger than 1,000m². The DEC shows the actual running costs of the building and must be displayed in a prominent place.
 - Air conditioning installations above a certain size must be inspected every five years.
 - Boiler installations above a certain size must either be inspected regularly or advice must be provided to users.
3. In November 2008, the European Commission published proposals for a recast of the Directive, which would:
 - extend the scope of the original Directive
 - strengthen certain provisions
 - clarify other aspects; and
 - give the public sector a leading role in promoting energy efficiency.
4. The key proposals of the recast as set out in the Commission's original proposal were:
 - DEC to be displayed in buildings larger than 250m² that are occupied by a public authority.
 - EPC to be displayed in commercial buildings larger than 250m² that (a) are frequently visited by public and (b) where an EPC has previously been produced on the sale, rent or construction of that building
 - the energy performance of existing buildings of any size that undergoes major renovations to be upgraded in order to meet minimum energy performance requirements

- minimum energy performance requirements to be set in respect of technical building systems, e.g. boilers, air-conditioning units etc
- Commission to establish common principles for definition of low and zero carbon (LZC) buildings
- requirement to set targets for increase in LZC buildings with separate targets for:
 - new and refurbished dwellings
 - new and refurbished commercial buildings
 - buildings occupied by public authorities
- Member States to aim for cost optimal levels of energy performance of their buildings using a methodology developed by the Commission.

The Commission proposed that the Directive should be implemented by 31 December 2010 where proposals affect the public sector and 31 January 2012 for other buildings.

Background

The consultation paper was published in July last year with responses required by early October. Responses were specifically sought on the key elements of the recast. Details are set out below.

There were 75 responses to the consultation paper. A majority of respondents supported the Government's position. Not all respondents answered all the questions. No respondent requested anonymity.

Although there wasn't a separate question on rolling out Display Energy Certificates to the commercial sector, 19 respondents took the opportunity to push for such a change.

We should like to thank all respondents for their comments and conclusions.

Responses to each question

1. Do you agree that Member States should retain the ability to introduce incentives for the construction and renovation of buildings which do not comply with the proposed minimum energy performance requirements?

Yes: 69%
No: 31%

Those who agreed said:

- abandoning incentives could affect regeneration
- a blanket exclusion of such incentives is heavy handed
- incentives should be provided to encourage improvements in energy performance.

Those who disagreed said:

- incentives should only be used to ensure buildings met minimum requirements
- by abandoning incentives more employment would be created at the SME level
- removal will send a clear message that the Government is serious about cutting emissions.

2. Do you agree that Article 5 needs further consideration?

Yes: 86%
No: 14%

Those who agreed said:

- very challenging to arrive at meaningful assessments of cost-effectiveness across member states
- given the widely different climatic conditions and building methods across the EU it is unlikely that any single, detailed methodology will be appropriate
- as properties start to be benchmarked more widely, the uncertainties begin to outweigh the meaningful variations.

Those who disagreed said:

- important that the EU should focus on a standardised cost-optimal methodology that will set a benchmark for the delivery of a low-carbon building stock
- seems logical that a comparative methodology should be established at EU level to ensure a consistent understanding (and trust) amongst property investors, managers and occupiers.

3. Do you agree that alternative energy systems should be considered before construction starts?

Yes: 96%

No: 4%

4. Do you agree that Article 9 needs further consideration?

Yes: 87%

No: 13%

Those who agreed said:

- careful consideration is needed alongside a well thought-out definition of low and zero-carbon buildings
- yes, it's currently confusing
- alternative energy systems should be overtly considered before construction starts.

Those who disagreed said:

- an ambitious plan to create zero-carbon buildings by renovation is needed
- in order to tackle carbon emissions, the existing building stock cannot be overlooked
- targets for low or zero carbon existing buildings will focus policy efforts on tackling major emissions.

5. Do you support widening the scope of the Directive so that DEC's must be displayed in buildings above 250sqm which are occupied by public authorities?

Yes: 63%

No: 37%

Those who agreed with widening the scope of the Directive said:

- strongly support wider implementation of DEC's

- an operational rating is the best way of providing accurate information on the actual energy performance of an occupied building
- we need to progress to a situation where all buildings above 250sqm...should have a DEC.

Those who disagreed said:

- a poor investment with about 12,000 tonnes of CO₂ saved for an investment of around £8m
- the focus should be on encouraging implementation of the recommendations contained within the Advisory Reports under the current remit.

6. Do you support the proposal that property advertisements should include the building's energy performance indicator?

Yes: 96%
No: 4%

Those who agreed said:

- yes but the responsibility for it and trigger point need to be clear to all
- whilst it adds a burden to the...agents it will have a positive effect of requiring an EPC to be produced earlier
- this will provide a vital step towards raising the public profile of EPCs.

7. Do you agree that for commercial buildings, which are frequently visited by the public an EPC should be displayed where it already exists?

Yes: 79%
No: 21%

Those who agreed said:

- buildings over 250sqm...which are frequently visited by the public be required to display the... (EPC) during their first year of occupancy. After the first year, the EPC should be supplemented with a... (DEC).

Those who disagreed said:

- the EPC gives information on the potential efficiency of a building not how well it is operated
- 250sqm is too small to have an effective impact.

8. Do you support improving the advice given in air-conditioning reports?

Yes: 94%
No: 6%

Those who agreed said:

- provision of good advice can only be beneficial in reducing emissions

- the proposal should include ways...to reduce air-conditioning operating hours and the degree of cooling, for example through relaxing dress policies, as was the experience in Japan in 2005 (Remove Your Tie And Save The Planet).

Those who disagreed said:

- measures such as this need to deliver guaranteed change rather than tick box behaviour and unconvinced that this will be the case.

9. Do you support the proposal that the Commission should evaluate the effectiveness of the Directive?

Yes: 100%

10. Do you agree that Member States shall provide information to building occupiers on improving energy efficiency?

Yes: 100%

Those who agreed said:

- a simple, cost-effective data-sharing and benchmarking product...would help here
- this should be accompanied with financial support to encourage such improvements to take place
- Government funding should... be limited to the provision of initial information
- all occupiers should be made aware of the energy efficiency of the property they occupy.

11. Do you agree that the Commission may modify thermal characteristics taken into account in the methodology?

Yes: 100%

Those who agreed said:

- need to be assured that good quality technology such as thermography will be used to inform the characteristics of the building
- important to keep EPBD up-to-date with technological advances; recommend that the methodology is changed no more than every five years. This would ensure... the value of the certificate as a comparative tool; sufficient time must be allowed for one set of rules and characteristics to be properly implemented and the effects assessed before further changes are made.

12. Do you agree that the Commission should be assisted by a committee made up from representatives of the Member States?

Yes: 98%

No: 2%

13. Do you agree that the proposed timetable is unrealistic?

Yes: 67%

No: 33%

Those who agreed said:

- the 2010 amendment to Part L is already being fully considered and introducing a recast so soon afterwards will only cause confusion
- it is crucial that councils have sufficient time to plan for the financial policy and training changes
- it is better to take time now...to ensure the successful delivery of the key energy performance objectives.

Those who disagreed said:

- it can be done if the political will is there; every effort should be made to stick to the original timetable
- the schedule for achieving low and zero carbon buildings needs to be an aggressive one
- it will provide a stimulus in the building and construction industries.

During our consultation period, the proposed re-cast was subject to intensive negotiations between the Commission, Member States and the European Parliament. MEPs alone proposed almost 500 initial amendments of which 93 were put forward.

Negotiations continued until mid-November last year. Political agreement on the recast was secured on 19 November 2009. The Directive is expected to be formally agreed in May this year and to come into force at the end of 2012.

Key differences between original proposal and final version

Setting of minimum energy performance requirements (Article 4)

The requirement to set minimum energy performance standards for both new and existing buildings has been amended. In addition to the original text, the Article now provides that Member States:

must set minimum performance standards in respect of building elements that form part of the building envelope;

shall not be required to set minimum energy performance requirements where it would not be cost-effective to do so.

The following provisions which were in the original proposal have now been deleted from the final version:

member States not permitted to provide incentives for the construction or renovation of buildings which do not comply with minimum energy performance requirements calculated in accordance with the cost-optimal methodology;

minimum energy performance requirements to be set in accordance with the results obtained through the cost-optimal methodology

Calculation of cost-optimal levels of minimum energy performance requirements (Article 5)

The text has now been amended to make it clear that the comparative methodology for calculating cost-optimal levels of energy performance will be a framework methodology, ie it will lay down broad principles for the methodology but it will be for Member States to determine the detailed factors or conditions to be taken into account when calculating cost-optimal levels of energy performance.

The interval between the submission of reports by Member States to the Commission on the data and assumptions used for calculating cost-optimal levels of energy performance has been increased from three to five years.

Where there is a significant gap between the level of energy performance achieved using the methodology adopted by a Member State and the level of energy performance that could be achieved through the cost-optimal methodology, the Member State will now be required to justify that difference and report on the steps it intends taking to reduce that gap.

New buildings (Article 6)

When considering the economic feasibility of alternative systems, Member States shall ensure that particular attention is paid to district heating or systems that would be based entirely or partially on renewable energy.

The final version provides that the analysis of alternative systems may be carried out for individual buildings, groups of buildings or for common typologies of buildings in the same area.

Existing buildings (Article 7)

Where an existing building undergoes major renovations, the energy performance of one of the following must be upgraded:

- the entire building; or
- the building unit that has been renovated; or
- the building elements.

Previously, the requirement had only applied to either the entire building or the building unit.

Nearly zero energy buildings (Article 9)

This Article was previously entitled “Buildings of which both carbon dioxide emissions and primary energy consumption are low or equal to zero”. References to buildings with low and zero carbon dioxide emissions and primary energy consumption have now been dropped and replaced with a reference to “nearly zero energy buildings” which is defined at Article 2.

The previous requirement to set targets for an increase in the number of buildings with low and zero carbon dioxide emissions and primary energy consumption has also been dropped. It has been replaced with a requirement that by 31 December 2020, all new buildings must be nearly zero energy buildings. Where the building is to be owned and occupied by a public sector authority, then this requirement will apply after 31 December 2018.

Member States must now draw up national plans to increase the number of nearly zero energy buildings. They must also take measures and develop policies to stimulate the transformation of refurbished buildings into nearly zero low energy buildings.

Financial Incentives and Market Barriers (Article 9a)

This is a new Article. It provides that Member States shall:

take steps to consider the most relevant financial and other instruments that would catalyze the energy performance of buildings and the transition to nearly zero energy buildings;

draw up a list of existing and, if appropriate, proposed measures and instruments, including those of a financial nature that promote the objectives of this Directive. Lists to be updated every 3 years and communicated to the Commission;

take account of the cost-optimal levels of energy performance when providing incentives for the construction or major renovation of buildings.

Energy Performance Certificates (Article 10)

Member States will now be required to encourage public authorities to take into account the leading role which they should play in the field of energy performance. Amongst other things, this may include implementing the recommendations in an EPC for buildings owned by them, within its validity period.

Issuing of DEC's (Article 11)

The revised Article retains the requirement that DEC's should be issued for buildings larger than 250m² that are occupied by public authorities and frequently visited by the public. However, this will now be introduced on a phased basis with the requirement initially applying to buildings larger than 500m², dropping to 250m² after 5 years.

Member States will be required to ensure that when a building is offered for sale or rent, the energy performance indicator of the EPC for the building is stated in the advertisement.

Display (Article 12)

The revised Article retains the requirement that DEC's should be displayed in buildings larger than 250m² that are occupied by public authorities and frequently visited by the public. However, this will now be introduced on a phased basis with the requirement initially applying to buildings larger than 500m², dropping to 250m² after 5 years.

The requirement that an EPC is displayed in commercial premises frequently visited by the public and where an EPC has previously been issued has been retained. However, the threshold has been increased from 250m² to 500m².

Inspection of air-conditioning systems (Article 14)

Member States may now reduce the frequency of air-conditioning systems, or lighten them, where an electronic monitoring and control system is in place.

When laying down the measures required to establish a regular inspection of air-conditioning systems, Member States shall ensure the inspections are carried out in accordance with the inspection of heating and other technical systems referred to in Article 14 of this Directive and the inspection of leakages referred to in Regulation (EC) No 846/2006 on certain fluorinated greenhouse gases.

Reports on the inspection of heating and air-conditioning systems

The revised Article now provides that an inspection report shall be issued after each inspection of a heating or air-conditioning system. Previously, it had provided that a report should be issued at regular intervals.

Implementation

The Lisbon Treaty introduced new provisions concerning the exercise by the Commission of powers conferred upon it by basic acts. This means that the transposition will not meet the original deadlines set out in November 2008. We, therefore, expect the re-cast to become domestic law at the end of 2012 or the beginning of 2013.

List of respondents

Association for the Conservation of Energy
ATOC
BEAMA
Bosch
Bradford Council
Bristol City Council
British Council of Shopping Centres
British Property Federation
British Retail Consortium
BRUFMA
Burcote
CAMCO
Carbon Planning
Central Association of Agricultural Valuers
CIBSE
Colin Bentley
Construction Products Association
Country Land and Business Association
Dave Bevan
David Mead
DEA Direct
Department for Culture, Media and Sport
Department of Health
EA Equestrian
Elmhurst
E-on UK
EST
ESTA
EURISOL
Euro NHS
Faithful and Gould
Flat Glass Manufacturers Association
Flintshire County Council
GI Services
Green Alliance
HHA
HHIC
Home Builders Federation
Home Retail Group
Hugh McKeeman
Ian Wells
ICOM
James Turner
JTEC Services
Keith Harrison
Kingspan
Land Security
LGA
London Borough of Enfield

MicroPower
Mineral Products Association
Ministry of Justice
National Energy Services Ltd
National Landlords Association
Network Rail
NHBC
North Yorkshire County Council
Patrick EPC Ltd
PFMA
Property and Energy Professionals Association
Richard Pyle
Rockwool
Saint-Gobain
Somerset County Council
SSE
Sunderland City Council
Taylor-Heath Energy Assessments
The Baptist Union of Great Britain
Thermal Insulation Manufacturers and Suppliers Association
Tim Richardson
Transport for London
Trevor Darbyshire
Worcestershire County Council
World Wildlife Fund
Yeovil College