

SUBSIDIARY LEGISLATION 623.01**ENERGY PERFORMANCE OF
BUILDINGS REGULATIONS**

13th February, 2018

LEGAL NOTICE 47 of 2018, as amended by Legal Notices 134 of 2020, 409 of 2021 and 231 of 2022.

1. (1) The title of these regulations is the Energy Performance of Buildings Regulations. Citation and scope.

(2) The scope of these regulations is to transpose Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings and to give effect to its provisions. These regulations promote the improvement of the energy performance of buildings within the territory of Malta, taking into account outdoor climatic and local conditions, as well as indoor climate requirements and cost-effectiveness.

2. (1) Unless otherwise stated in these regulations, the definitions prescribed in the Act and in the Technical Document F referred to in regulation 5, shall also apply. Interpretation. Amended by: L.N. 134 of 2020; L.N. 231 of 2022.

(2) For the purpose of these regulations and unless the context otherwise requires, the following definitions shall apply:

"Act" means the Building and Construction Authority Act; Cap. 623.

"advisory report" means a report made by an energy performance of building (EPB) assessor, accompanying an Energy Performance Certificate (EPC), worked on the basis of an assessment of the energy performance of a building or heating or cooling installations, and containing recommendations on how the energy performance of the building or heating or cooling installations may be improved in a cost-effective manner;

"air-conditioning system" means a combination of the components required to provide a form of indoor air treatment, by which temperature is controlled or lowered;

"asset rating" means an energy performance rating based on:

- (a) data for the building as actually constructed;
- (b) calculations of the energy used in a building for heating, cooling, ventilation, hot water and lighting; and
- (c) standard input data in relation to internal and external climates and building occupation, and representing the intrinsic energy performance potential of the building under standardised conditions of weather and building

occupation;

"authorised officer" means a person authorised by the Head of the Building and Construction Authority to monitor and ensure compliance with these regulations;

"body corporate" means a body or legal entity, such as an association, company, person, the government, government agencies, corporation, or institution, identified by a particular name and bearing a distinct and separate legal personality or legal status from that of its members, also known as corporate entity;

"boiler" means the combined boiler body-burner unit, designed to transmit to fluids the heat released from burning;

"building" means a roofed construction having walls, for which energy is used to condition the indoor climate, and which may refer to the building as a whole or part thereof which has been designed or altered to be used separately;

"building automation and control system" means a system comprising all products, software and engineering services that can support energy efficient, economical and safe operation of technical building systems through automatic controls and by facilitating the manual management of those technical building systems;

"building element" means a technical building system or an element of the building envelope;

"building envelope" means the integrated elements of a building which separate its interior from the outdoor environment;

"the Building and Construction Board" means the Board as established by article 3 of the Act;

Cap. 623.

"the Building and Construction Authority" shall have the same meaning as assigned to it under article 5 of the Building and Construction Authority Act;

"building unit" means a section, floor or apartment within a building which is designed or altered to be used separately;

"cogeneration" means the simultaneous generation in one process of thermal energy and electrical and, or mechanical energy;

"competent authority" means the Building and Construction Authority established under article 5 of the Act, and includes any body or other person acting on its behalf under powers delegated by the Authority under the Act;

"compliance certificate" means a certificate issued by a competent person certifying that the completed building is compliant

with these regulations and associated Technical Document F (Parts 1 and 2) and any other instructions issued by the Building Regulations Office;

"the Commission" means the European Commission as established by the Treaty on the European Union as amended by the Lisbon Treaty of 2009;

"cost-optimal level" means the energy performance level which leads to the lowest cost during the estimated economic lifecycle, where:

(a) the lowest cost is determined taking into account energy-related investment costs, maintenance and operating costs including, where applicable, energy costs and savings, the category of building concerned, earnings from energy produced, throughout the estimated economic lifecycle together with any disposal costs, if applicable; and

(b) the estimated economic lifecycle is determined according to the remaining estimated economic lifecycle of a building where energy performance requirements are set for the building as a whole, or to the estimated economic lifecycle of a building element where energy performance requirements are set for building elements. The cost-optimal level shall be deemed to be obtained where the cost benefit analysis within the range of performance levels, calculated over the estimated economic lifecycle, is positive;

"design rating" is an energy performance rating based on:

(a) calculations, done at the design stage, of the energy used in a building for heating, cooling, ventilation, hot water and lighting;

(b) standard input data related to internal and external climates and building occupancy; and

(c) the design characteristics of the building as complete with permanently installed finishes, fixtures, fittings and mechanical and electrical installations to render that building habitable and good for its intended use under standardised conditions of weather and building occupancy;

"development permission application" means an application for a development permit issued by the Planning Authority;

"district heating" or "district cooling" means the distribution of thermal energy in the form of steam, hot water or chilled liquids or other fluids, from a central source of production through a network to multiple buildings or sites, for the use of space or process heating or

cooling;

"dwelling" means a building or building unit used or intended to be used for domestic purposes and usually containing eating, living, sleeping and sanitary facilities;

"effective rated output" means the maximum calorific output, expressed in kW, specified and guaranteed by the manufacturer as being deliverable during continuous operation while complying with the useful efficiency indicated by the manufacturer;

Cap. 536.

"Enemalta" means the Enemalta plc as established by the Enemalta (Transfer of Assets, Rights, Liabilities and Obligations) Act;

"energy from renewable sources" means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

"energy performance assessment (EPA)" means an assessment of the energy performance of a building carried out by an EPB assessor for the purpose of assigning an EPC;

"energy performance certificate (EPC)" means a certificate issued by an EPB assessor recognised by the Building and Construction Authority or by a person designated by it and authorised to act on its behalf. The methodology used by the EPB assessor shall conform with the methodology adopted in accordance with regulation 4;

"energy performance of a building (EPB)" means the calculated or measured amount of energy, needed to meet the energy demand associated with a typical use of the building, which includes, *inter alia*, energy used for heating, cooling, ventilation, hot water and lighting;

"EPB assessor" means a person who is duly registered with the Building and Construction Authority after it has taken into consideration that such person is in possession of:

(a) a warrant to practice the profession of architect and, or civil/structural engineer, or the warrant to practice the profession of mechanical or electrical engineer, and who has also successfully undertaken a period of training on the assessment of the energy performance of buildings built in Malta, and such training is approved by the Building and Construction Authority; or

(b) in the case of an EU citizen, a registration certificate as an EPB assessor in any other Member State, and

a warrant to practice the profession of architect and, or civil/ structural engineer, or the warrant to practice the profession of mechanical or electrical engineer:

Provided that in the case of a person who comes to Malta to provide such services for the first time, the service provider or EPB assessor shall, in terms of regulation 9(1) of the Recognition of Professional Qualifications Regulations, inform the Building and Construction Authority in a written declaration to be made at least two weeks in advance. Such declaration shall be renewed each year if the service provider intends to provide temporary or occasional services during that year:

S.L. 451.03.

Provided also that for the first provision of services whether on a temporary or permanent basis, or if there is a material change in the situation substantiated by the documents, the Building and Construction Authority may, in terms of regulation 9(2) of the Recognition of Professional Qualifications Regulations, require that the declaration and the registered certificate be accompanied by the following documents:

S.L. 451.03.

(a) proof of the nationality of the service provider;

(b) an attestation certifying that the holder is legally established in a Member State for the purpose of pursuing the activities concerned and that he is not prohibited, even temporarily, from practising the relevant profession and that of an EPB assessor;

(c) evidence of professional qualifications;

"EPC data file" means an electronic file which contains a report on the outcome of an EPA, which is completed by an EPB assessor and provided to the Building and Construction Authority for the purpose of notifying it of the record to be made or updated on the EPC register in respect of a particular building, and it shall be deemed to include any calculations and related data or documents accompanying such report;

"EPC record" means the current and any previous EPC, any advisory report, any EPC data file and any related data or documents, as the case may be, pertaining to a building;

"EPC register" means a database of EPC records and related data or documents established, operated, and maintained by the Building and Construction Authority;

"EPC system" means the registers, procedures and rules established, operated, and maintained by the Building and Construction Authority for the purpose of administering EPCs and related activities in accordance with these regulations;

"European standard" means a standard adopted by the European Committee for Standardisation, the European Committee for Electro-technical Standardisation or the European Telecommunications Standards Institute and made available for public use;

"existing building" means any building which:

(a) is already constructed prior to the date of entry into force of these regulations; or

(b) is in the course of construction or earmarked for construction and has a valid development permit in terms of these regulations prior to the date of entry into force of these regulations;

"heat generator" means the part of a heating system that generates useful heat using one or more of the following processes:

- (a) the combustion of fuels in, for example, a boiler;
- (b) the Joule effect, taking place in the heating elements of an electric resistance heating system;
- (c) capturing heat from ambient air, ventilation exhaust air, or a water or ground heat source using a heat pump;

"heat pump" means a machine, a device or installation that transfers heat from natural surroundings such as air, water or ground to buildings or industrial applications by reversing the natural flow of heat, such that it flows from a lower to a higher temperature. In the case of reversible heat pumps, it may also move heat from the building to the natural surroundings;

"heating system" means a combination of the components required to provide a form of indoor air treatment, by which the temperature is increased;

"independent air-conditioning systems inspector" means a registered air-conditioning systems inspector who is not the owner or tenant of the air-conditioning system being inspected, or an employee of the owner, or of any contractor responsible for the installation or maintenance of an air-conditioning system for which an inspection is made;

"independent energy performance assessor" means a registered assessor of energy performance of building, who is not the owner or tenant of the building being assessed, or an employee of the owner, or of any contractor responsible for the construction, finishing and, or installation of mechanical or electrical services of a building for which an EPC is being requested or inspections of boilers, or lighting, space heating or space cooling systems are made;

"independent heating systems inspector" means a registered heating systems inspector who is not the owner or tenant of the heating system being inspected, or an employee of the owner, or of any contractor responsible for the installation or maintenance of a heating system for which an inspection is made;

"installation" means a system providing artificial lighting, water heating, space heating or space cooling or space ventilation in any combination;

"major renovation or alteration" means a renovation or alteration:

(a) which affects a building by 25% or more of its volume before such an intervention; or

(b) where renovation of 25% or more of windows or roofs or external walls is made; or

(c) where renovation of 25% or more of any energy consuming installations for artificial lighting, or heating or cooling of air or water or space ventilation is made; or

(d) where a change-of-use development permission application and, or notification concerning buildings, is submitted to the Planning Authority;

"Member State" means a state which is a member of the European Union;

"micro isolated system" means any system with consumption less than 500 GWh where there is no connection with other systems;

"the Minister" means the Minister responsible for the building industry and policy;

"nearly zero-energy building" means a building that has a very high energy performance, as determined in accordance with Schedule I. The nearly zero or very low amount of energy required shall be covered to a very significant extent by energy from renewable sources, including energy from renewable sources produced on-site or nearby;

"new building" means any building which does not fall under any of the categories of existing building;

"non-residential building or premises" means any building or premises, or any part of a building or premises, which is not used or is unsuitable for use as a residential building or habitation, and includes industrial buildings, places of assembly, offices, schools and shops;

"owner" means:

(a) a person who has the exclusive and full ownership of the building and who is acting in his own name, or as an agent for or on behalf of another person, who is entitled or shall be so entitled to receive the rent of the building;

(b) where the building is subject to usufruct, the bare owner or the usufructuary;

(c) an emphyteuta;

(d) any one of the spouses, where the building to which the EPC relates forms part of the community of acquests;

"owner of an air-conditioning system" means a person acting in his own name, or as an agent for or on behalf of another person, who has the exclusive and full ownership of the air-conditioning system;

"owner of a heating system" means a person acting in his own name, or as an agent for or on behalf of another person, who has the exclusive and full ownership of the heating system;

"person" means any natural or legal person;

Cap. 552.

"Planning Authority" means the authority established under article 5 of the Development Planning Act;

"primary energy" means energy from renewable and non-renewable sources and which has not undergone any conversion or transformation process;

"prospective buyer or tenant" means a person who:

(a) is in the process of entering a sale agreement with another person or with the agent of such other person for the purpose of purchasing a building; or

(b) enters a promise of sale agreement with another person or the agent of such other person for the purpose of purchasing a building; or

(c) enters a contract of letting and hiring, whether verbally or written, to rent a building;

"register of EPB assessors" means a database containing a list of EPB assessors registered with the Building and Construction Authority and any other related data established, operated, maintained and owned by the Building and Construction Authority;

"registered air-conditioning systems inspector" means a person who is duly registered with the Building and Construction Authority as an air-conditioning systems inspector;

"registered heating systems inspector" means a person who is duly registered with the Building and Construction Authority as a heating systems inspector;

"technical building system" means technical equipment for space heating, space cooling, ventilation, domestic hot water, built-in lighting, building automation and control, on-site electricity generation, or a combination thereof, including those systems using energy from renewable sources, of a building or building unit;

"unincorporated body" means a body or business which is privately owned, often owned by one person having unlimited liability owing to the non-registration of the business as a company and which on the contrary of corporate bodies lacks legal personality;

"useful floor area" means the area of the building relevant to the official calculation methodology relevant to that building category.

3. These regulations provide for requirements as regards: Applicability.

(a) the common general framework for a methodology for calculating the integrated energy performance of buildings and building units;

(b) the application of minimum requirements for the energy performance of new buildings and new building units;

(c) the application of minimum requirements for the energy performance of:

(i) existing buildings, building units and building elements which are subject to major renovation;

(ii) building elements which form part of the building envelope and that have a significant impact on the energy performance of the building envelope when they are retrofitted or replaced; and

(iii) technical building systems whenever they are installed, replaced or upgraded;

(d) national plans for increasing the number of nearly zero-energy buildings;

(e) energy certification of buildings or building units;

(f) regular inspection of heating and air-conditioning systems in buildings; and

(g) independent control systems for energy performance certificates and inspection reports.

Adoption of a methodology for calculating the energy performance of buildings.

4. The methodology for calculating the energy performance of buildings shall be in accordance with the common general framework set out in Schedule I as established and implemented through the Energy Performance Rating of Dwellings in Malta (EPRDM) and Simplified Building Energy Model (iSBEMmt), supplemented by the User's Guide to iSBEMmt and the Technical Guide to iSBEM, as issued and updated from time to time and as communicated in the Gazette.

Setting of minimum energy performance requirements.

5. (1) The Building and Construction Authority shall take the necessary measures to establish minimum energy performance requirements for buildings or building units, with a view to achieving cost-optimal levels. The energy performance shall be calculated in accordance with the methodology referred to in regulation 4. Cost-optimal levels shall be calculated in accordance with the comparative methodology framework referred to in regulation 6. Building design should be compliant with the Technical Document F on the EPB published by the Conservation of Fuel, Energy and Natural Resources (Minimum Requirements on the Energy Performance of Buildings) Regulations, as may from time to time be amended, as the Building and Construction Authority shall determine.

S.L. 623.04

(2) The Building and Construction Authority shall take the necessary measures to establish minimum energy performance requirements for building elements that form part of the building envelope and which have a significant impact on the energy performance of the building envelope when they are replaced or retrofitted, with a view to achieving cost-optimal levels.

(3) When setting requirements, the Building and Construction Authority shall differentiate between new and existing buildings and between different categories of buildings. These requirements shall take into account general indoor climate conditions, in order to avoid possible negative effects such as inadequate ventilation, as well as local conditions and the designated function and the age of the building.

(4) Minimum energy performance requirements shall be reviewed at regular intervals which shall not be longer than five years and, if necessary, shall be updated in order to reflect technical progress in the building sector.

(5) The following categories of buildings shall be exempted from the requirements of sub-regulations (1), (2), (3) and (4):

- (a) buildings classified as scheduled property (Grade 1 or 2) by the Planning Authority under article 57 of the Development Planning Act and buildings officially protected as part of a designated environment or because of their special architectural or historical or contextual merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance; Cap. 552.
- (b) buildings used as places of worship;
- (c) temporary buildings with a time of use of two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand, and non-residential agricultural buildings which are in use by a sector covered by a national sectoral agreement on energy performance;
- (d) stand-alone buildings with a total useful floor area of less than 50m²;
- (e) a building constructed for the Enemalta plc, the Water Services Corporation or any other similar entity, and used as a generation, transmission or distribution station.

6. (1) The Building and Construction Authority shall establish standard cost-optimal levels based on macro-economic scale and micro-economic scale of minimum energy performance requirements using the comparative methodology framework established in accordance with Schedule III and relevant parameters, such as climatic conditions and the practical accessibility of energy infrastructure, and compare the results of such standards with the minimum energy performance requirements set out in the Technical Document F. Calculation of cost-optimal levels of minimum energy performance requirements.

(2) The Building and Construction Authority shall report to the Commission, at regular intervals, which shall not be longer than five years, all input data and assumptions used for such standards and the results thereof. The report may be included in the Energy Efficiency Action Plans (EEAP) referred to in regulation 24(2) of the Energy Efficiency and Cogeneration Regulations. S.L. 545.16.

(3) If the result of the comparison performed in accordance with sub-regulation (2) shows that the minimum energy performance requirements in force are significantly less energy efficient than cost-optimal levels of minimum energy performance requirements, the Building and Construction Authority shall justify this difference in writing to the Commission in the report referred to in sub-regulation (2). Such report shall, to the extent that the difference cannot be justified, be accompanied by a plan outlining appropriate steps to significantly reduce the difference by the next review of the energy

performance requirements as referred to in regulation 5(1), (2), (3) and (4).

New buildings.

7. (1) The Building and Construction Authority shall take the necessary measures to ensure that new buildings meet the minimum energy performance requirements as currently set in Technical Document F. As from 1st January 2016 all newly completed buildings that are subject to these regulations are to be certified for compliance with these regulations with regards to the applicable minimum energy performance requirements as set in Technical Document F. The compliance certificate drawn up by the responsible architect/engineer has to be submitted by the owner to the Building and Construction Authority within one month of completion and before the use of the building.

(2) For new buildings, the designer shall ensure that before construction starts, the technical, environmental and economic feasibility of high-efficiency alternative systems such as those listed below, if available, is considered and taken into account:

(a) decentralized energy supply systems based on energy from renewable sources;

(b) cogeneration;

(c) district or block heating or cooling, if available, particularly where it is based entirely or partially on energy from renewable sources;

(d) heat pumps.

(3) The analysis of alternative systems referred to in sub-regulation (2) shall be documented and available for verification purposes and presented to the Building and Construction Authority prior to construction:

(a) for small developments, the architect will be required to make a self declaration following the consideration of the alternative systems;

(b) for major developments, an engineer's report will be submitted that shows the considerations taken with regard to the alternative systems feasibility.

Such analysis of alternative systems may be carried out for individual buildings or for groups of similar buildings or for common typologies of buildings in the same area. As far as collective heating and cooling systems are concerned, the analysis may be carried out for all buildings connected to the system in the same area.

8. (1) When buildings undergo major renovation, in order to ensure that the renovated part thereof is upgraded to meet the minimum energy performance requirements in force at the time, the owner has to provide to the Building and Construction Authority a compliance certificate drawn up by a warranted architect (*perit*) or engineer or both, as the case may be, certifying such compliance, within one month of completion of works and before the use of the building.

Existing buildings.
Amended by:
L.N.134 of 2020.

(2) means technical equipment for space heating, space cooling, ventilation, domestic hot water, built-in lighting, building automation and control, on-site electricity generation, or a combination thereof, including those systems using energy from renewable sources, of a building or building unit;

(3) When a building element that forms part of the building envelope which is -

(a) greater than 10% of the whole building envelope area in case of opaque elements; or

(b) greater than 5% of the whole building envelope area in case of glazed elements,

and is retro-fitted or replaced, in order to ensure that it meets the minimum energy performance requirements, the owner has to provide to the Building and Construction Authority a compliance certificate by a warranted architect (*perit*) certifying such compliance within one month of completion of works and before the use of the building.

8A. (1) The Building and Construction Authority shall establish a long-term renovation strategy to support the renovation of the national stock of residential and non-residential buildings, both public and private, into a highly energy efficient and decarbonised building stock by 2050, facilitating the cost-effective transformation of existing buildings into nearly zero-energy buildings. Each long-term renovation strategy shall be submitted in accordance with the applicable planning and reporting obligations and shall encompass:

Strategy to support renovation.
Added by:
L.N. 134 of 2020.

(a) an overview of the national building stock, based, as appropriate, on statistical sampling and expected share of renovated buildings in 2020;

(b) the identification of cost-effective approaches to renovation relevant to the building type and climatic zone, considering potential relevant trigger points, where applicable, in the life-cycle of the building;

(c) policies and actions to stimulate cost-effective deep renovation of buildings, including staged deep renovation,

and to support targeted cost-effective measures and renovation for example by introducing an optional scheme for building renovation passports;

(d) an overview of policies and actions to target the worst performing segments of the national building stock, split-incentive dilemmas and market failures, and an outline of relevant national actions that contribute to the alleviation of energy poverty;

(e) policies and actions to target all public buildings;

(f) an overview of national initiatives to promote smart technologies and well-connected buildings and communities, as well as skills and education in the construction and energy efficiency sectors; and

(g) an evidence-based estimate of expected energy savings and wider benefits, such as those related to health, safety and air quality:

Provided that to support the mobilisation of investments into the renovation needed to achieve the goals referred to in this regulation, the competent authorities or bodies to which the competent authorities have delegated responsibility, shall facilitate access to appropriate mechanisms for:

(i) the aggregation of projects, including by investment platforms or groups, and by consortia of small and medium-sized enterprises, to enable investor access as well as packaged solutions for potential clients;

(ii) the reduction of the perceived risk of energy efficiency operations for investors and the private sector;

(iii) the use of public funding to leverage additional private-sector investment or address specific market failures;

(iv) guiding investments into an energy efficient public building stock, in line with Eurostat guidance; and

(v) accessible and transparent advisory tools, such as one-stop-shops for consumers and energy advisory services, on relevant energy efficiency renovations and financing instruments.

(2) In its long-term renovation strategy, the Building and Construction Authority shall set out a roadmap with measures and

domestically established measurable progress indicators, with a view to the long-term 2050 goal of reducing greenhouse gas emissions in the Union by 80-95% compared to 1990, in order to ensure a highly energy efficient and decarbonised national building stock and in order to facilitate the cost-effective transformation of existing buildings into nearly zero-energy buildings. The roadmap shall include indicative milestones for 2030, 2040 and 2050, and specify how they contribute to achieving the Union's energy efficiency targets in accordance with Directive 2012/27/EU.

(3) To support the development of the long-term renovation strategy, the Building and Construction Authority shall carry out a public consultation on its long-term renovation strategy prior to submitting it to the Commission. A summary of the results of the public consultation to the long-term renovation strategy shall be annexed to the document intended to be submitted the Commission:

Provided that the modalities for consultation shall be established in an inclusive way during the implementation of its long-term renovation strategy:

Provided further that the details of the implementation of its most recent long-term renovation strategy shall be annexed to the long-term renovation strategy, including on the planned policies and actions:

Provided further that the long-term renovation strategy to address fire safety and risks related to intense seismic activity affecting energy efficiency renovations and the lifetime of buildings may be made use of.

9. (1) For the purpose of optimising the energy use of technical building systems, establish system requirements in respect of the overall energy performance, the proper installation, and the appropriate dimensioning, adjustment and control of the technical building systems which are installed in buildings, the system designer is required to follow Technical Document F (Part 2) as updated and approved from time to time by the Building and Construction Authority.

Technical building systems.
Amended by:
L.N. 134 of 2020;
L.N. 231 of 2022.

(2) System requirements are established for new, replacement and upgrading of technical building systems and shall be applied in so far as they are technically, economically and functionally feasible, in accordance with Technical Document F (Part 2).

(3) *Repealed by Legal Notice 231 of 2022.*

(4) Where the guidance contained in any technical document issued in connection with these regulations relates only to the particular requirements of these regulations, any construction

works and the installation of any permanent mechanical or electrical services shall also comply with the requirements of any other laws and regulations that are operative for the control of construction works and installations.

(5) When new building services are installed in buildings the owner has to provide the Building and Construction Authority with a certificate, issued by a warranted engineer, declaring compliance with the applicable minimum energy performance requirements as set in Technical Document F (Part 2).

(6) *Repealed by Legal Notice 231 of 2022.*

(7) Where technically and economically feasible, new buildings shall be equipped with self-regulating devices for the separate regulation of the temperature in each room or, where justified, in a designated heated zone of the building unit. In existing buildings, the installation of such self-regulating devices shall be required when heat generators are replaced, where technically and economically feasible.

(8) New non-residential buildings and non-residential buildings undergoing major renovation, with more than ten parking spaces, shall be installed with at least one recharging point within the meaning of Directive 2014/94/EU of the European Parliament and of the Council and ducting infrastructure, namely conduits for electric cables, for at least one in every five parking spaces to enable the installation at a later stage of recharging points for electric vehicles where:

(a) the car park is located inside the building, and, for major renovations, renovation measures include the car park or the electrical infrastructure of the building; or

(b) the car park is physically adjacent to the building, and, for major renovations, renovation measures include the car park or the electrical infrastructure of the car park.

(9) The Minister shall lay down requirements for the installation of a minimum number of recharging points for all non-residential buildings with more than twenty parking spaces, by 1 January 2025:

Provided that the Minister may decide not to lay down or apply the requirements described in sub-regulations (8) and (9) of this regulation to buildings owned and occupied by small and medium-sized enterprises as defined in Title I of the Annex to Commission Recommendation 2003/361/EC.

(10) New residential buildings and residential buildings undergoing major renovation, with more than ten parking spaces, shall

be installed with ducting infrastructure, namely conduits for electric cables, for every parking space to enable the installation, at a later stage, of recharging points for electric vehicles, where:

(a) the car park is located inside the building, and, for major renovations, renovation measures include the car park or the electric infrastructure of the building; or

(b) the car park is physically adjacent to the building, and, for major renovations, renovation measures include the car park or the electrical infrastructure of the car park:

Provided that the Minister may decide not to apply sub-regulations (8), (9) and (10) to specific categories of buildings where:

(i) with regard to sub-regulations (8) and (10), building permit applications or equivalent applications have been submitted by 10 March 2021;

(ii) the cost of the recharging and ducting installations exceeds 7% of the total cost of the major renovation of the building;

(iii) a public building is already covered by comparable requirements according to the transposition of Directive 2014/94/EU;

(iv) the ducting infrastructure required would rely on micro isolated systems if this would lead to substantial problems for the operation of the local energy system and would endanger the stability of the local grid.

(11) The Minister shall:

(a) provide for measures in order to simplify the deployment of recharging points in new and existing residential and non-residential buildings and address possible regulatory barriers, including permitting and approval procedures, without prejudice to the property and tenancy law.

(b) consider the need for coherent policies for buildings, soft and green mobility and urban planning.

(c) ensure that, when a technical building system is installed, replaced or upgraded, the overall energy performance of the altered part, and where relevant, of the complete altered system, is assessed. The results shall be documented and passed on to the building owner, so that they remain available and can be used for the verification of compliance with the minimum requirements laid down pursuant to sub-regulation (1) of this Regulation and the issue of energy performance certificates. Without prejudice to Regulation 13,

the Building and Construction Authority shall decide whether to require the issuing of a new energy performance certificate.

Nearly zero-energy buildings.

10. (1) The Building and Construction Authority shall establish a system to monitor and enforce that:

(a) by 31st December 2020 all new buildings are nearly zero-energy buildings; and

(b) new buildings occupied and owned by public authorities are nearly zero-energy buildings by 31st December 2018.

(2) The Building and Construction Authority, in collaboration, co-ordination with, and the participation of, the Building and Construction Authority, shall draw up national plans for the purpose of increasing the number of nearly zero-energy buildings. The national plans may include targets differentiated according to the category of building.

(3) The Board shall also develop policies and take measures such as the setting of targets in order to stimulate the transformation of buildings that are refurbished into nearly zero-energy buildings, and shall draw up reports including such measures and inform the Building and Construction Authority and the Commission about such reports. Upon notification of the reports, the Building and Construction Authority shall include the mentioned targets in the national plans as set out in regulation 24(2) of the Energy Efficiency and Cogeneration Regulations and inform the Commission about such targets.

S.L. 545.16.

(4) The national plans shall include, *inter alia*, the following elements:

(a) the detailed application, in accordance with the definition thereof, of nearly zero-energy buildings, reflecting the national conditions, and including a numerical indicator of primary energy use expressed in kWh/m² per year. Primary energy factors used for the determination of the primary energy use may be based on national yearly average values and may take into account relevant European standards;

(b) intermediate targets for improving the energy performance of new buildings, with a view to preparing the implementation of sub-regulation (2);

(c) information on the policies and financial or other measures adopted in the context of sub-regulations (2) and (3) for the promotion of nearly zero-energy buildings, including details of national requirements and measures concerning the use of energy from renewable sources in new buildings and existing buildings undergoing major renovation in the context of regulations 7, 8, 10, 11 and 17(5) of the Promotion of Energy from Renewable Sources Regulations.

S.L. 545.11.

11. (1) In view of the importance of providing appropriate financing and other instruments to catalyse the energy performance of buildings and the transition to nearly zero-energy buildings, the Building and Construction Authority shall take all appropriate steps to consider the most relevant instruments in the light of national circumstances.

Financial incentives and market barriers.
Amended by:
L.N. 134 of 20120.

(2) The Building and Construction Authority shall draw up a list of existing and, if appropriate, proposed measures and instruments, including those of a financial nature, other than those required by these regulations, which promote the objectives of these regulations. The Building and Construction Authority shall update this list every three years and communicate these lists to the EU Commission which may be included in the Energy Efficiency Action Plans referred to in Directive 2006/32/EC.

(3) The Building and Construction Authority shall link its financial measures for energy efficiency improvements in the renovation of buildings to the targeted or achieved energy savings, as determined by one or more of the following criteria:

(a) the energy performance of the equipment or material used for the renovation; in which case, the equipment or material used for the renovation is to be installed by an installer with the relevant level of certification or qualification;

(b) standard values for calculation of energy savings in buildings;

(c) the improvement achieved due to such renovation by comparing energy performance certificates issued before and after renovation;

(d) the results of an energy audit;

(e) the results of another relevant, transparent and proportionate method that shows the improvement in energy performance:

Provided that databases for energy performance certificates shall allow data to be gathered on the measured or calculated energy consumption of the buildings covered, including at

least public buildings for which an energy performance certificate, as referred to and have been issued in accordance with regulation 12 and regulation 13.

Provided further that at least aggregated anonymised data compliant with Union and national data protection requirements shall be made available on request for statistical and research purposes and to the building owner..

(4) The provisions of these regulations shall not prevent the Building and Construction Authority from providing incentives for new buildings, renovations or building elements which go beyond the cost-optimal levels.

Energy
performance
certificates
(EPCs).

12. (1) The Building and Construction Authority shall provide all necessary measures to establish and maintain a system of registration of the EPC. The EPC shall include the EPB and reference values such as minimum energy performance requirements, in order to make it possible for owners or tenants of the building or building unit to compare and assess its energy performance.

(2) The EPC may include additional information such as the annual energy consumption for buildings and the percentage of energy from renewable sources in the total energy consumption.

(3) The EPC shall include recommendations for the cost-optimal or cost-effective improvement of the EPB or building unit, unless there is no reasonable potential for such improvement compared to the energy performance requirements in force. The recommendations included in the EPC shall cover:

(a) measures to be carried out in connection with a major renovation of the building envelope or technical building system(s); and

(b) measures for individual building elements independent of a major renovation of the building envelope or technical building system(s).

(4) The recommendations included in the EPC shall be technically feasible for the specific building and may provide an estimate for the range of payback periods or cost-benefits over its economic lifecycle.

(5) The EPC shall provide an indication as to where the owner or tenant can receive more detailed information, including as regards the cost-effectiveness of the recommendations made in the EPC. The evaluation of cost effectiveness shall be based on a set of standard conditions, such as the assessment of energy savings and underlying energy prices and a preliminary cost forecast.

(6) In addition, the EPC shall contain information on the steps to be taken to implement the recommendations. Other information, such as energy audits or incentives of a financial or other nature and financing possibilities, may also be provided to the owner or tenant.

(7) Certification for building units shall be based:

(a) on the assessment of an individual building unit when it deals with residential buildings;

(b) for all other non-residential uses, delineation shall be based on use factor or ownership.

(8) Certification for single-family houses may be based on the assessment of another representative building of similar design and size with a similar and actual energy performance quality if such correspondence can be guaranteed by the expert issuing the EPC.

13. (1) The Building and Construction Authority shall ensure that an EPC is issued for:

Issue of energy performance certificates (EPCs).

(a) buildings or building units which are constructed, sold or rented out to a new tenant; and

(b) buildings where a total useful floor area over 250m² is occupied by a public authority and frequently visited by the public.

(2) The requirement to issue an EPC does not apply where a certificate, issued in accordance with these regulations, for the building or building unit concerned, is available and valid.

(3) The owner of a building shall ensure that when buildings or building units are constructed, sold or rented out, the EPC or a copy thereof is shown to the prospective new tenant or buyer and handed over to the buyer or new tenant, at the latest, before the date of entering the promise of sale or rent agreement. As a derogation from this same sub-regulation (3), if the new owner intends to make a major renovation or demolish the building, the owner may request an exemption to issue an EPC subject to the new owner making a declaration to the Building and Construction Authority that at no time will the existing building be used until such renovation or new construction would have taken place. A new EPC will be required in accordance with such renovation or new built.

(4) Where a building is sold or rented out prior to construction, the seller shall provide a design rating EPC for the building, and which in such case shall be handed over to the buyer or tenant, at the latest, before the date of entering the promise of sale, deed or rent agreement. A copy of the design rating EPC shall also be

attached to the promise of sale/deed. If alterations which change the energy performance characteristics of the building have been made during construction, a new EPC has to be provided to the buyer or tenant. These alterations can only be effected by mutual agreement between the parties and have to be recorded by a notarial deed.

(5) The owner or his agent shall ensure that where buildings, building units and building units in a building having an EPC are offered for sale or for rent, the energy performance indicator of the EPC of the building or the building unit, as the case may be, is stated in the advertisements in commercial media in compliance with the Advertising Requirements Guidelines published by the Building and Construction Authority and updated from time to time.

(6) The provisions of this regulation shall be implemented in accordance with applicable national rules on joint ownership or common property.

(7) The categories of buildings referred to in regulation 5(5) shall be excluded from the application of sub-regulations (1), (3), (5) and (6).

Energy
Performance
Certificate (EPC)
and Energy
Performance
Assessment
(EPA).

14. (1) An owner or his agent shall obtain an EPC in the form prescribed by these regulations when a building is constructed, sold or rented.

(2) To be valid, the EPC shall be obtained from an independent EPB assessor after it is registered with the Building and Construction Authority.

(3) As from the date indicated in this sub-regulation, a person or agent acting on behalf of the owner who commissions the design of a new building shall have in his possession an EPC based on the design rating of the building and in the form prescribed by these regulations just prior to obtaining a full development permit from the Planning Authority:

(a) in relation to dwellings whose development permit application was submitted after 2nd January 2009; and

(b) in relation to all other buildings whose development permit application was submitted after 1st June 2009.

(4) As from the date indicated in this sub-regulation, a person or agent acting on behalf of the owner who offers a building for sale or letting, shall provide an EPC to the prospective buyer or tenant prior to the promise of sale or at the time of signing of the rent agreement. The EPC shall be in the form prescribed in these regulations and shall be based on the design rating of the building if the building is not yet constructed and finished, or on the asset rating,

if the building is already constructed and finished:

- (a) as from 2nd January 2009, in relation to dwellings; and
- (b) as from 1st June 2009, in relation to all other buildings.

(5) In the event that the person or agent indicated in sub-regulation (4) does not provide the prospective buyer or the tenant with an EPC within the period indicated in sub-regulation (4), the buyer or the tenant shall have the right to engage an assessor to issue the necessary certificate and, in all cases, the prospective buyer or tenant shall have the right to deduct the expenses incurred for the issue of the EPC from the amount of the sum agreed for the sale or the payments of the rent due.

(6) Notwithstanding the provisions of sub-regulations (1), (2), (3) and (4), the procurement of an EPC shall not apply to the following categories of buildings:

(a) buildings classified as scheduled property (Grade 1 or 2) by the Planning Authority under article 57 of the Development Planning Act and buildings officially protected as part of a designated environment or because of their special architectural or historical or contextual merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance;

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(b) buildings used as places of worship;

(c) temporary buildings with a time of use of two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand, and non-residential agricultural buildings which are in use by a sector covered by a national sectoral agreement on energy performance;

(d) stand-alone buildings with a total useful floor area of less than 50m²;

(e) a building constructed for the Enemalta plc, the Water Services Corporation or any other similar entity, and used as a generation, transmission or distribution station.

15. (1) An EPC issued in terms of these regulations shall be valid for a period of ten years from the date of its first issue, provided that no major renovation or alteration occur in the building.

Provisions relating to an EPC.

(2) The EPC shall include reference values and shall be accompanied by a recommendation report. The recommendation report shall indicate cost-effective measures for improving the EPB.

(3) Any report or data file in connection with the production of an EPC shall conform to national data protection laws in force.

(4) If after the construction of the building or the installation of mechanical and electrical services in new buildings it results that such construction or installation of services is different from the design on which a design rating EPC has been obtained, a new EPC based on the asset rating of the building shall have to be secured by the owner before the expiry of the periods indicated in regulation 14(4) or before the building is used. The provisions of regulation 14(5) shall also apply.

Display of energy performance certificates.

16. (1) Where a total useful floor area over 500m² of a building for which an EPC has been issued in accordance with regulation 13(1)(b) is occupied by public authorities and frequently visited by the public, the EPC shall be displayed in a prominent place clearly visible to the public. In such a case the threshold shall be lowered to 250m² by 9 July, 2015.

(2) Where a total useful floor area over 250m² of a building, for which an EPC has been issued in accordance with regulation 13(1)(b), is frequently visited by the public, the EPC shall also be displayed in a prominent place clearly visible to the public.

(3) Public authorities are encouraged to take into account the leading role which they should exercise in the field of EPB, *inter alia*, by implementing the recommendations included in the EPC issued for buildings occupied by them within its validity period.

Inspection of heating systems. Substituted by: L.N. 134 of 2020.

17. (1) The Building and Construction Authority shall provide all the necessary measures to establish regular inspections of the accessible parts of heating systems or of systems for combined space heating and ventilation, with an effective rated output of over 70kW, such as the heat generator, control system and circulation pump(s) used for heating buildings. The inspection shall include an assessment of the efficiency and sizing of the heat generator compared with the heating requirements of the building and, where relevant, consider the capabilities of the heating system or of the system for combined space heating and ventilation to optimise its performance under typical or average operating conditions:

Provided that where no changes have been made to the heating system or to the system for combined space heating and ventilation or to the heating requirements of the building following an inspection carried out pursuant to this regulation, the Building and Construction Authority may choose not to require the assessment of the heat generator sizing to be repeated.

(2) Technical building systems that are explicitly covered by an agreed energy performance criterion or a contractual arrangement specifying an agreed level of energy efficiency improvement, such as

energy performance contracting, or that are operated by a utility or network operator and therefore subject to performance monitoring measures on the system side, shall be exempt from the requirements laid down in sub-regulation (1), provided that the overall impact of such an approach is equivalent to that resulting from sub-regulation (1).

(3) As an alternative to sub-regulation (1) and provided that the overall impact is equivalent to that resulting from sub-regulation (1), the Building Regulations Office may opt to take measures to ensure the provision of advice to users concerning the replacement of heat generators, other modifications to the heating system or to the system for combined space heating and ventilation and alternative solutions to assess the efficiency and appropriate size of those systems. Before applying these alternative measures, the Building and Construction Authority shall, by means of submitting a report to the Commission, document the equivalence of the impact of those measures to the impact of the measures referred to in sub-regulation (1). Such a report shall be submitted in accordance with the applicable planning and reporting obligations.

(4) The Building and Construction Authority shall lay down requirements to ensure that, where technically and economically feasible, non-residential buildings with an effective rated output for heating systems or systems for combined space heating and ventilation of over 290kW are equipped with building automation and control systems by 2025. The building automation and control systems shall be capable of:

(a) continuously monitoring, logging, analysing and allowing for adjusting energy use;

(b) benchmarking the building's energy efficiency, detecting losses in efficiency of technical building systems, and informing the person responsible for the facilities or technical building management about opportunities for energy efficiency improvement; and

(c) allowing communication with connected technical building systems and other appliances inside the building, and being interoperable with technical building systems across different types of proprietary technologies, devices and manufacturers.

(5) the Building and Construction Authority may lay down requirements to ensure that residential buildings are equipped with:

(a) the functionality of continuous electronic monitoring that measures systems' efficiency and informs building owners or managers when it has fallen significantly and when system servicing is necessary; and

(b) effective control functionalities to ensure optimum generation, distribution, storage and use of energy.

(6) Buildings that comply with sub-regulation (4) or sub-regulation (5) shall be exempt from the requirements laid down in sub-regulation (1).

Inspection of air-conditioning systems.
*Substituted by:
L.N. 134 of 2020.*

18. (1) The Building and Construction Authority shall provide the necessary measures to establish regular inspections of the accessible parts of air-conditioning systems or of systems for combined air-conditioning and ventilation, with an effective rated output of over 70kW. The inspection shall include an assessment of the efficiency and sizing of the air-conditioning system compared with the cooling requirements of the building and, where relevant, consider the capabilities of the air-conditioning system or of the system for combined air-conditioning and ventilation to optimise its performance under typical or average operating conditions:

Provided that where no changes have been made to the air-conditioning system or to the system for combined air-conditioning and ventilation or to the cooling requirements of the building following an inspection carried out pursuant to this paragraph, the Building and Construction Authority may choose not to require the assessment of the sizing of the air-conditioning system to be repeated:

Provided further that in the event that the Building and Construction Authority maintains more stringent requirements pursuant to Article 1(3) of Directive 2010/31/EU these shall be exempt from the obligation to notify them to the Commission.

(2) Technical building systems that are explicitly covered by an agreed energy performance criterion or a contractual arrangement specifying an agreed level of energy efficiency improvement, such as energy performance contracting, or that are operated by a utility or network operator and therefore subject to performance monitoring measures on the system side, shall be exempt from the requirements laid down in sub-regulation (1), provided that the overall impact of such an approach is equivalent to that resulting from sub-regulation (1).

(3) As an alternative to sub-regulation (1) and provided that the overall impact is equivalent to that resulting from sub-regulation (1), the Building and Construction Authority may opt to take measures to ensure the provision of advice to users concerning the replacement of air-conditioning systems or systems for combined air-conditioning and ventilation, other modifications to the air-conditioning system or system for combined air-conditioning and ventilation and alternative solutions to assess the efficiency and appropriate size of those systems:

Provided that before applying these alternative measures,

the Building and Construction Authority shall, by means of submitting a report to the Commission, document the equivalence of the impact of those measures to the impact of the measures referred to in sub-regulation (1). Such a report shall be submitted in accordance with the applicable planning and reporting obligations.

(4) The Building and Construction Authority shall provide requirements to ensure that, where technically and economically feasible, non-residential buildings with an effective rated output for systems for air-conditioning or systems for combined air-conditioning and ventilation of over 290kW are equipped with building automation and control systems by 2025. The building automation and control systems shall be capable of:

(a) continuously monitoring, logging, analysing and allowing for adjusting energy use;

(b) benchmarking the building's energy efficiency, detecting losses in efficiency of technical building systems, and informing the person responsible for the facilities or technical building management about opportunities for energy efficiency improvement; and

(c) allowing communication with connected technical building systems and other appliances inside the building, and being interoperable with technical building systems across different types of proprietary technologies, devices and manufacturers.

(5) The Building and Construction Authority may lay down requirements to ensure that residential buildings are equipped with:

(a) the functionality of continuous electronic monitoring that measures systems' efficiency and informs building owners or managers when it has fallen significantly and when system servicing is necessary, and

(b) effective control functionalities to ensure optimum generation, distribution, storage and use of energy.

(6) Buildings that comply with sub-regulation (4) or sub-regulation (5) shall be exempt from the requirements laid down in sub-regulation (1).

(7) The owner of an air-conditioning system shall obtain an inspection report by commissioning an independent air-conditioning systems inspector, from the list of registered air-conditioning system inspectors as published and updated by the Building and Construction Authority at the time of inspection.

(8) The Building and Construction Authority shall establish

the methodology for the inspection of air-conditioning systems. The Building and Construction Authority shall also set-up and approve training courses for air-conditioning systems inspectors.

Reports on the inspection of heating or air-conditioning systems.
*Amended by:
L.N. 134 of 2020.*

19. (1) Inspectors of heating or air-conditioning systems shall issue an inspection report after each inspection of a heating or air-conditioning system. The inspection report shall contain the result of the inspection performed in accordance with regulations 17 and 18 and shall include recommendations for the cost-effective improvement of the energy performance of the inspected system.

(2) The EPC assessor and the registered inspectors, respectively, shall in particular provide information to the owners or tenants of buildings on energy performance certificates, including their purpose and objectives, on cost-effective measures and, where appropriate, financial instruments, to improve the energy performance of the building, and on replacing fossil fuel boilers with more sustainable alternatives. Building and Construction Authority shall provide the information through accessible and transparent advisory tools such as renovation advice and one-stop-shops.

(3) Inspectors of heating or air-conditioning systems shall register each inspection report with the Building and Construction Authority prior to handing over this inspection report to the owner of the heating or air-conditioning system. Inspection reports will not be considered valid unless this procedure is adhered to.

Production of an EPC or inspection report.

20. (1) The Building and Construction Authority may demand, from the owner of a building in terms of these regulations, or the agent of such owner, the production of an EPC in respect of the building or an inspection report with respect to the heating and, or air-conditioning systems as required by these regulations, and if the building owner or the agent of such owner, as the case may be, refuses or fails to produce without reasonable cause the EPC or inspection report, such person shall be guilty of an offence, unless such person provides the requested EPC or inspection report within sixty days after the request was made.

(2) Where a person produces an EPC or inspection report to an authorised officer but refuses or fails to permit the said officer to read and examine the EPC or the inspection report, such person or other persons involved in such a case shall be guilty of an offence, and the authorised officer may demand of the person or persons their name and identification card number and official address.

21.(1) (a) The EPA and certification shall be carried out using procedures, including calculation methods and software approved by the Building and Construction Authority, as notified in the Gazette.

Energy performance assessment (EPA) and certification (EPC) /Inspection procedure and inspection report for heating or air-conditioning systems.

(b) The inspection procedure and inspection report for heating or air-conditioning systems shall be carried out using procedures, approved by the Building and Construction Authority, as notified in the Gazette.

(2) (a) In carrying out the EPA of a building or installation, an assessor shall comply with any direction given by the Building and Construction Authority in relation to the manner in which the assessment is to be carried out.

(b) In carrying out the inspection of a heating or air-conditioning system, an inspector shall comply with any direction given by the Building and Construction Authority in relation to the manner in which this procedure is to be carried out.

(3) (a) An EPB assessor may refuse to carry out an EPA of a building or installation if in the opinion of the assessor any part of the building or installation is in such a condition that it would not be safe or practicable to carry out that assessment.

(b) An inspector of heating or air-conditioning systems may refuse to carry out an inspection procedure if in the opinion of the inspector any part of the building or installation is in such a condition that it would not be safe or practicable to carry out that inspection.

(4) (a) An endorsed EPC shall not be issued by the assessor to the building owner or his agent, as the case may be, unless and until it is accepted in the register maintained by the Building and Construction Authority.

(b) Inspection reports of heating or air-conditioning systems shall be handled in accordance with regulation 19(3).

22.(1) (a) The Building and Construction Authority may revoke an EPC and EPC data file compiled by an EPB assessor where it has reasonable grounds for believing that the EPC or data file was not completed or issued in accordance with these regulations, and shall enter such revocation in the EPC record of that building and the register maintained by the Building and Construction Authority.

Revocation of an EPC or inspection report.

(b) Where an EPC or EPC data file is revoked, the Building and Construction Authority shall inform the EPB assessor, giving reasons for the revocation, and shall also inform the person who commissioned the EPC, the owner or tenant of the building, as the case may be.

(c) Where an EPC or EPC data file is revoked under

this sub-regulation:

(i) a request for the reimbursement of the administrative fee or part thereof may be made by the person who paid an administrative fee or contributed in the administrative fee for the relevant EPB assessment to the EPB assessor who carried out the assessment; and

(ii) the EPB assessor shall be obliged to make the reimbursement in whole or in part, as the case may be, referred to in sub-paragraph (i), within twenty-eight days of the receipt of the request, if such assessor is satisfied that the fee or a contribution to the fee was paid by the person making the request.

(2) (a) The Building and Construction Authority may revoke an inspection report either during the registration procedure or during the verification process in accordance with regulation 32. The Building and Construction Authority shall inform the respective heating or air-conditioning systems inspector about this revocation.

(b) The inspection report will be reinstated only once the requested corrections are carried out to the satisfaction of the Building and Construction Authority. All expenses related to these corrections shall be borne by the respective heating or air-conditioning systems inspector.

(c) The requested corrections shall reach the Building and Construction Authority within fourteen days. After this period the inspector shall be removed from the list of registered inspectors until full compliance with this sub-regulation is achieved.

23.(1) (a) After an EPC has been registered with the Building and Construction Authority and signed by the assessor, no person shall, either in writing, drawing or in any other manner alter, cancel, or add anything to the EPC or to any related report or to a printed copy of an EPC or to any related report or entry made therein.

(b) No person shall produce:

(i) a printed copy of any EPC and related advisory report for any building or installation, which copy has been altered or added contrary to paragraph (a), or upon which the figures have become illegible or the colour has become altered by fading or otherwise; or

(ii) an EPC and related advisory report save for those provided in relation to the particular building for which it was issued; or

(iii) an EPC and related advisory report

Alteration, cancellation or addition to an EPC and related advisory report / Alteration cancellation or addition to an inspection report for heating or air-conditioning systems.

which has become void or the validity of which has expired; or

(iv) any imitation of a registered EPC and related advisory report.

(c) The Building and Construction Authority may require the owner of a building or, as the case may be, through his agent, to surrender to it an EPC or report where the Building and Construction Authority has reason to believe that the EPC or report contains particulars which are not correct and, upon being so required, the owner of the building or, as the case may be, the owner's agent, shall surrender the relevant documents to the Building and Construction Authority.

(2) (a) After an inspection report for heating or air-conditioning systems has been registered with the Building and Construction Authority and signed by the respective registered inspector, no person shall:

(i) either by writing, drawing or in any other manner alter, cancel, or add anything to this inspection report; or

(ii) produce and present copies of an inspection report which was altered contrary to subparagraph (i).

(b) Inspection reports which are registered with the Building and Construction Authority may be replaced by an amended inspection report, by the same heating or air-conditioning systems inspector, within fourteen days after initial registration. Such amended inspection report shall be submitted subject to prior approval of the Building and Construction Authority.

24.(1) (a) All data, documentation and records issued by an EPB assessor and submitted to the Building and Construction Authority, in relation with the carrying out of an EPC under these regulations, shall become the property of the Building and Construction Authority, which has the power to demand from the assessor any such data, documentation or records as it considers appropriate.

Records, data and documentation.

(b) Every inspection report issued by an inspector of heating or air-conditioning systems and submitted to the Building and Construction Authority, in relation to an inspection of heating or air-conditioning systems under these regulations, shall become the property of the Building and Construction Authority, which has the power to demand from the inspector of heating or air-conditioning systems any additional data, documentation or records in relation to such inspection report as it considers appropriate.

(2) The lawful EPC record in relation to a building and the lawful inspection report in relation to an inspection of a heating or air-conditioning system shall be that maintained on the respective registers kept by the Building and Construction Authority.

(3) (a) The most recent EPC record entered in relation to a building on the EPC register by the Building and Construction Authority shall be deemed to supersede any previous EPC record for that building.

(b) The most recent inspection report in relation to an inspection of a heating or air-conditioning system entered on the inspections' register by the Building and Construction Authority shall be deemed to supersede any previous inspection reports for that system.

Registration of
EPB assessors.

25. (1) Subject to the provisions of sub-regulations (3) and (4), the Building and Construction Authority is the only institution legally empowered to register EPB assessors to assess the energy performance of buildings, and as published from time to time in the Gazette by the Building and Construction Authority.

(2) In registering an EPB assessor, the Building and Construction Authority shall designate the type of energy performance certification and also the category of buildings in respect of which the EPB assessor is authorised to carry EPAs and certifications.

(3) The Building and Construction Authority shall not consider a person for registration as an EPB assessor unless:

(a) the person makes an application for registration to the Building and Construction Authority in the form specified by it for such purpose;

(b) the application for registration is accompanied by such fee as may be specified by the Building and Construction Authority; and

(c) the person meets any other requirements specified by the Building and Construction Authority.

(4) In considering an application for registration as an EPB assessor, the Building and Construction Authority shall be satisfied that the applicant meets the requirements as defined in the definition of EPB assessor in these regulations.

(5) An EPB assessor who is registered by the Building and Construction Authority in respect of one type of certification or one category of building may apply to the Building and Construction Authority to be registered in respect of another type or category of

buildings, and may be so registered, subject to compliance with the provisions set out in sub-regulations (3) and (4) and the payment of such fee as may be specified by the Building and Construction Authority.

(6) An EPB assessor shall be required to renew his registration at such reasonable frequency as may be determined by the Building and Construction Authority, subject to the payment of such registration renewal fee as may be specified by the Building and Construction Authority.

(7) The Building and Construction Authority shall provide each EPB assessor with a certificate of registration for the designated type and category of buildings to which his registration pertains, and the certificate, if requested by the owner of a building or the owner's agent, or authorised officer, shall be presented for inspection to the person making such request.

(8) Where the Building and Construction Authority suspends or terminates the registration of a person as an EPB assessor, it shall register the suspension or termination of the appointment and the date on which the registration was suspended or revoked.

(9) The Building and Construction Authority may, having regard to all the circumstances of the case, suspend or terminate the registration of an EPB assessor following:

(a) failure by the EPB assessor to attend a course of periodic training if required by the Building and Construction Authority or to satisfactorily complete such a training course; or

(b) failure by an EPB assessor to comply with a direction under these regulations; or

(c) failure by an EPB assessor to carry out a building EPA for EPC purposes in a fit and proper manner, or failure to maintain or provide satisfactory data, documentation or records of any such assessment; or

(d) the committing, or aiding or abetting the committing, by the EPB assessor, of an offence under these regulations; or

(e) the forming of an opinion by the Building and Construction Authority that the EPB assessor has ceased to be capable of performing his functions properly and efficiently under these regulations.

(10) A suspension or termination of registration under sub-

regulation (9) shall be notified to the person concerned in writing including reasons for the suspension or termination and the Building and Construction Authority shall inform the person of the appeal procedure under sub-regulation (11).

(11) A person whose registration has been suspended or terminated under sub-regulation (10) may, within fourteen days from the said suspension or termination, appeal to the Building and Construction Authority or the Committee of Appeal against the decision regarding the suspension or termination taken by the Building and Construction Authority, as established under the Act, in terms of the provisions relating to appeal under articles 12 and 13 of the said Act, or the Court of Appeal, as the case may be.

(12) A person whose registration as an EPB assessor has lapsed or been suspended or terminated may be directed by the Building and Construction Authority to destroy any data or documentation provided by building owners or their agents, and any copies thereof, in relation to EPB assessments carried out by him in his capacity as an EPB assessor. Alternatively, the Building and Construction Authority may withdraw such data or documentation.

(13) A person who purports to be a registered EPB assessor for a designated category of buildings, or a registered inspector for air-conditioning or heating systems or an authorised officer under these regulations shall be guilty of an offence in terms of these regulations.

(14) A person who, purporting to give information to an EPB assessor or inspector, to the Building and Construction Authority, or to an authorised officer for the performance of his functions under these regulations, makes a statement that he knows to be false or misleading in a material particular, or fails to disclose a material particular shall be guilty of an offence in terms of these regulations.

(15) An EPB assessor who issues an EPC or a registered inspector who makes a statement or report, which he knows to be false or misleading in a material particular, shall be guilty of an offence in terms of these regulations.

Registration of inspectors of heating or air-conditioning systems.

26. (1) Subject to the provisions of sub-regulation (3), the Building and Construction Authority is the only institution legally empowered to register inspectors of heating or air-conditioning systems in accordance with these regulations and as published from time to time in the Gazette by the Building and Construction Authority.

(2) In registering an inspector of heating or air-conditioning systems, the Building and Construction Authority shall designate the type of system in respect of which the inspector is authorised to carry out inspections and issue inspection reports.

(3) The Building and Construction Authority shall not consider a person for registration as an inspector of heating or air-conditioning systems unless:

(a) the person makes an application for registration to the Building and Construction Authority in the form and during the period specified by it for such purpose;

(b) the application for registration is accompanied by such fee as may be specified by the Building and Construction Authority;

(c) the person has the necessary qualifications to apply for and successfully complete a training course provided by the Building and Construction Authority, or a training provider recognised by the Building and Construction Authority as suitable for providing such training, on the inspection of heating or air-conditioning systems installed in Malta;

(d) the person meets any other requirements specified by the Building and Construction Authority.

(4) An inspector of heating or air-conditioning systems may be required to renew his registration at such reasonable frequency subject to the payment of such registration renewal fee as may be specified by the Building and Construction Authority.

(5) The Building and Construction Authority shall provide an inspector of heating or air-conditioning systems with a certificate of registration for the designated type of system to which his registration pertains. This certificate of registration shall also include a unique registration number of the inspector, date of registration and the validity period of such registration.

(6) The Building and Construction Authority may, having regard to all the circumstances of the case, suspend or terminate the registration of an inspector of heating or air-conditioning systems following:

(a) failure by such inspector to comply with a direction under this regulation and regulation 22(2); or

(b) failure by such inspector to attend a course of periodic training if required by the Building and Construction Authority or to satisfactorily complete such a training course; or

(c) failure by such inspector to carry out an inspection in a fit and proper manner, or failure to maintain or provide satisfactory data, documentation or records of any

such inspection; or

(d) the committing, or aiding or abetting the committing, by such inspector, of an offence under these regulations; or

(e) the forming of an opinion by the Building and Construction Authority that such inspector has ceased to be capable of performing his functions properly and efficiently under these regulations.

(7) A person shall be guilty of an offence in terms of these regulations if such person:

(a) claims falsely to be an inspector of heating or air-conditioning systems, or an authorised officer under these regulations; or

(b) makes a statement that he knows to be false or misleading in a material particular or fails to disclose a material particular, when giving information to an inspector of heating or air-conditioning systems, to the Building and Construction Authority or to an authorised officer for the performance of his functions under these regulations; or

(c) issues an inspection report for heating or air-conditioning systems which he knows to be false or misleading in a material particular.

Directions issued by the Building and Construction Authority.

27. (1) The Building and Construction Authority shall, from time to time, issue directions to EPB assessors or inspectors of heating or air-conditioning systems, present or prospective, in relation to:

(a) the manner in which the EPB assessments or inspection procedures of heating or air-conditioning systems are to be carried out;

(b) the manner in which an EPC and related advisory reports are to be issued;

(c) the manner in which inspection reports for heating or air-conditioning systems are to be issued;

(d) the qualifications and training requirements to maintain or achieve such roles;

(e) the records, data bases and documentation to be maintained;

(f) codes of practice to be respected; and

(g) such other matters as are reasonably necessary for the proper administration of these regulations.

(2) EPB assessors and inspectors of heating or air-conditioning systems shall comply with any relevant direction given under sub-regulation (1).

28. The Building and Construction Authority may specify fees as are reasonably necessary for the registration procedures and other administrative matters in relation to its obligations in these regulations. The Building and Construction Authority shall be the sole user of the revenue collected from these fees and such revenue shall be used to defray costs incurred by it to properly establish, operate, maintain and promote the various obligations of the Building and Construction Authority.

Registration and other administrative fees.

29. (1) The Building and Construction Authority shall establish, operate and maintain:

Registers held by the Building and Construction Authority.

(a) a register of EPB assessors, an EPC register comprising EPCs and related advisory reports, EPC data files and related data or documents; and

(b) a register for inspectors of heating or air-conditioning systems, a register of inspection reports for heating or air-conditioning systems; and

(c) any other register that the Building and Construction Authority considers relevant and necessary.

(2) Any register established under sub-regulation (1) may be held in non-legible form provided it is capable of being reproduced in legible form.

(3) Each register established under sub-regulation (1) shall be a public record and shall be kept under the management of the Building and Construction Authority.

(4) In relation to the registers established under sub-regulation (1), the following access rights shall apply:

(a) extracts from the register of the EPB assessors and the register of inspectors of heating or air-conditioning systems, comprising the name, contact details and the designated type, shall be made available to the public;

(b) subject to compliance with the provisions of the Data Protection Act, the Building and Construction Authority may allow publication or access, on a restricted or an open basis, to any extract from any register maintained by the Building and Construction Authority under these regulations where the Building and Construction Authority is satisfied that

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such publication or access is in the public interest;

(c) other than as provided for in paragraphs (a) and (b), a data file or other extract from a register relating to an EPC for a particular building or an inspection report for a particular heating or air-conditioning system, shall only be made available to:

(i) the relevant EPB assessor or the relevant inspector of heating or air-conditioning systems; or

(ii) an EPB assessor having been appointed by the building owner or the agent of the building owner to undertake any subsequent EPB assessment of the relevant building; or

(iii) the relevant building owner, or the agent of that building owner.

Evidential information used in proceedings.

30. (1) In any proceedings a certificate signed by an authorised officer of the Building and Construction Authority containing only information stated in that certificate to be taken from a register maintained by the Building and Construction Authority shall be sufficient evidence of the facts stated therein unless there is proof to the contrary.

(2) In any proceedings a document purporting to be a certificate under sub-regulation (1) shall be deemed to be a certificate for all legal intents and purposes, and to have been signed by an authorised officer of the Building and Construction Authority, unless there is proof to the contrary.

(3) A certificate under sub-regulations (1) and (2) that purports to bear a facsimile signature of the authorised officer of the Building and Construction Authority or a copy of such signature applied by means of a stamp or produced by a computer, shall be deemed to have been signed by an authorised officer, unless there is proof to the contrary.

Independent experts.

31. (1) The Building and Construction Authority shall ensure that the energy performance certification of buildings and the inspection of heating and air-conditioning systems be carried out in an independent manner by a qualified duly registered EPB or registered inspector of heating or air-conditioning systems.

(2) The Building and Construction Authority shall make available to the public information on training and accreditations. It shall ensure that regularly updated lists of qualified and, or accredited experts are made available to the public.

Independent control system.

32. (1) The Building and Construction Authority shall ensure that independent control systems for EPCs and reports on the

inspection of heating or air-conditioning systems are established in accordance with Schedule II. The Building and Construction Authority may establish separate systems for the control of EPCs and for the control of reports on the inspection of heating and air-conditioning systems.

(2) The Building and Construction Authority may delegate the responsibilities for implementing the independent control systems. Where the Building and Construction Authority decides to do so, it shall ensure that the independent control systems are implemented in compliance with Schedule II.

(3) The Building and Construction Authority shall ensure that the EPCs and the inspection reports referred to in sub-regulation (1) are made available to the competent authorities or bodies on request.

33. (1) Owners or tenants of buildings or building units shall be informed of the different methods and practices that serve to enhance energy performance as stipulated in these regulations.

Information.
Amended by:
L.N. 134 of 2020.

(2) The EPC assessor and the registered inspectors, respectively, shall in particular provide information to the owners or tenants of buildings on energy performance certificates, including their purpose and objectives, on cost-effective measures and, where appropriate, financial instruments, to improve the energy performance of the building, and on replacing fossil fuel boilers with more sustainable alternatives. Building and Construction Authority shall provide the information through accessible and transparent advisory tools such as renovation advice and one-stop-shops.

(3) The Building and Construction Authority shall ensure that guidance and training are made available for those responsible for implementing these regulations. Such guidance and training shall address the importance of improving energy performance, and shall enable consideration of the optimal combination of improvements in energy efficiency, use of energy from renewable sources and use of district heating and cooling when planning, designing, building and renovating industrial or residential areas.

34. In order to facilitate the effective implementation of these regulations, the Building and Construction Authority shall consult the stakeholders involved, including local authorities, in accordance with the relevant applicable national legislation. Such consultation is of particular importance for the application of regulations 10 and 33.

Consultation.

35. Any person who contravenes any of the requirements of these regulations shall be guilty of an offence in terms of these regulations.

Enforcement of regulations.

Appointment of authorised officers.

36. (1) The Building and Construction Authority may appoint persons to be authorised officers for the purpose of enforcing these regulations.

(2) An authorised officer shall be in possession of a warrant of appointment and shall, upon request, produce the warrant of appointment.

Powers of authorised officers.

37. (1) An officer authorised by the Building and Construction Authority may enter, inspect and examine a building or any part of a building or installation for the purpose of ensuring compliance to these regulations.

(2) Such authorised officer may carry out such inspections and examinations in relation to the building and installations, as are reasonably necessary for the purpose of ensuring compliance to these regulations.

(3) A person who -

(a) fails to permit an inspection of a building, or installation, under these regulations;

(b) without reasonable cause fails or refuses to comply with any request or requirement made by an authorised officer under these regulations;

(c) obstructs, impedes, interferes with or assaults an authorised officer in the exercise of a power under these regulations;

(d) gives to an authorised officer information which is false or misleading in a material respect; or

(e) alters, suppresses, or destroys any EPC data file, related calculation, EPC, advisory report, book, document or record, including a printed copy thereof, and including electronic data, which the person concerned has been requested or required to produce, or may reasonably expect to be required to produce,

shall be guilty of an offence in terms of these regulations.

Criminal proceedings.

38. (1) Criminal proceedings for an offence under these regulations shall be heard either before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), both as a Court of Criminal Judicature, and shall be in accordance with the provisions of the Criminal Code regulating such procedure.

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(2) Where any person, whether voluntarily or negligently, acts or purports to act as a director, manager, secretary or other officer or member of a body, whether corporate or unincorporate, and

in so doing contravenes any provision of these regulations, such person shall be guilty of an offence, and shall, on conviction, be liable to the penalties in terms of regulations 39 and 40.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have the right to appeal before the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), both as a Court of Criminal Judicature, in respect of proceedings taken in relation to any offence committed against these regulations.

39. Any administrative penalty or sanction imposed by the Building and Construction Authority, in accordance with article 22 of the Act, upon any person who infringes any provision of these regulations or who fails to comply with any directive or decision given by the Building and Construction Authority in ensuring compliance with these regulations shall be due to the Building and Construction Authority as a civil debt constituting an executive title for the purpose of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure as if the payment of the debt had been ordered by a judgement delivered by the Civil Court.

40. A person found guilty of an offence shall, on conviction, be liable to:

(a) a fine (*multa*) of not less than five hundred euro (€500) and not exceeding one thousand and five hundred euro (€1,500), if contravening regulations 7(1), 8(1), 13(5), 14(1), (3) and (4), 15(4), 16(1) and (2), 17 and 18 and other corresponding clauses pertaining to heating and air-conditioning systems;

(b) a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) and not exceeding five thousand euro (€5,000) if contravening regulations 20, 21(1), (2) and (4), 22, 23, 25(12), (13) and (14), 26(7) and other corresponding clauses pertaining to heating and air-conditioning systems;

(c) a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) and not exceeding five thousand euro (€5,000), or to a term of imprisonment not exceeding three months, or to both such fine and imprisonment, if contravening regulation 37(3).

41. (1) Any documents issued in relation to these regulations may be issued either in the Maltese language or in the English language, or in both languages.

(2) Any EPC or report issued in accordance with these regulations shall be issued solely in the English language.

*Substituted by:
L.N. 231 of 2022.*

Schedule I
(Regulation 4)

Common general framework for the calculation of energy performance of buildings

1. The energy performance of a building shall be determined on the basis of calculated or actual energy use and shall reflect typical energy use for space heating, space cooling, domestic hot water, ventilation, lighting and other technical building systems.

The energy performance of a building shall be expressed by a numeric indicator of primary energy use in kWh/(m².y) for the purpose of both energy performance certification and compliance with minimum energy performance requirements. The methodology applied for the determination of the energy performance of a building shall be transparent and open to innovation.

The competent authority shall describe its national calculation methodology following the national annexes of the overarching standards, namely ISO 52000-1, 52003-1, 52010-1, 52016-1, and 52018-1, developed under mandate M/480 given to the European Committee for Standardisation (CEN). This provision shall not constitute a legal codification of those standards.

2. The energy needs for space heating, space cooling, domestic hot water, ventilation, lighting and other technical building systems shall be calculated in order to optimise health, indoor air quality and comfort levels defined by the competent authority at national or regional level.

The calculation of primary energy shall be based on primary energy factors or weighting factors per energy carrier, which may be based on national, regional or local annual, and possibly also seasonal or monthly, weighted averages or on more specific information made available for individual district system.

Primary energy factors or weighting factors shall be defined by the competent authority. In the application of those factors to the calculation of energy performance, the competent authority shall ensure that the optimal energy performance of the building envelope is pursued.

In the calculation of the primary energy factors for the purpose of calculating the energy performance of buildings, the competent authority may take into account renewable energy sources supplied through the energy carrier and renewable energy sources that are generated and used on-site, provided that it applies on a non-discriminatory basis.

3. For the purpose of expressing the energy performance of

a building, the competent authority may define additional numeric indicators of total, non-renewable and renewable primary energy use, and of greenhouse gas emission produced in $\text{kgCO}_2\text{eq}/(\text{m}^2\cdot\text{y})$.

4. The methodology shall be laid down taking into consideration at least the following aspects:

(a) the following actual thermal characteristics of the building including its internal partitions:

- (i) thermal capacity;
- (ii) insulation;
- (iii) passive heating;
- (iv) cooling elements; and
- (v) thermal bridges;

(b) heating installation and hot water supply, including their insulation characteristics;

(c) air-conditioning installations;

(d) natural and mechanical ventilation which may include air-tightness;

(e) built-in lighting installation (mainly in the non-residential sector);

(f) the design, positioning and orientation of the building, including outdoor climate;

(g) passive solar systems and solar protection;

(h) indoor climatic conditions, including the designed indoor climate;

(i) internal loads.

5. The positive influence of the following aspects shall be taken into account:

(a) local solar exposure conditions, active solar systems and other heating and electricity systems based on energy from renewable sources;

(b) electricity produced by cogeneration;

(c) district or block heating and cooling systems;

(d) natural lighting.

6. For the purpose of the calculation, buildings should be adequately classified into the following categories:

- (a) single-family houses of different types;
- (b) apartment blocks;
- (c) offices;
- (d) educational buildings;
- (e) hospitals;
- (f) hotels and restaurants;
- (g) sports facilities;
- (h) wholesale and retail trade services buildings;
- (i) other types of energy-consuming buildings.

*Substituted by:
L.N. 231 of 2022.*

Schedule II
(Regulation 32)

Independent control systems for energy performance certificates
and inspection reports

1. The competent authority or bodies to which the competent authority has delegated the responsibility for implementing the independent control system shall make a random selection of all the energy performance certificates issued annually and subject them to verification. The sample shall be of a sufficient size to ensure statistically significant compliance results.

The verification shall be based on the options indicated below or on equivalent measures:

- (a) validity check of the input data of the building used to issue the energy performance certificate and the results stated in the certificate;
- (b) check of the input data and verification of the results of the energy performance certificate, including the recommendations made;
- (c) full check of the input data of the building used to issue the energy performance certificate, full verification of the results stated in the certificate, including the recommendations made, and on-site visit of the building, if possible, to check correspondence between specifications given in the energy

performance certificate and the building certified.

2. The competent authority or bodies to which the competent authority has delegated the responsibility for implementing the independent control systems shall make a random selection of at least a statistically significant percentage of all the inspection reports issued annually and subject those reports to verification.

3. Where information is added to a database it shall be possible for national authorities to identify the originator of the addition, for monitoring and verification purposes."

Schedule III
(Regulation 6)

Comparative methodology framework to identify cost-optimal levels
of energy performance requirements for buildings
and building elements

The comparative methodology framework shall enable Member States to determine the energy performance of buildings and building elements and the economic aspects of measures relating to the energy performance, and to link them with a view to identifying the cost-optimal level.

The comparative methodology framework shall be accompanied by guidelines outlining how to apply this framework in the calculation of cost-optimal performance levels. The comparative methodology framework shall allow for taking into account use patterns, outdoor climate conditions, investment costs, building category, maintenance and operating costs (including energy costs and savings), earnings from energy produced, where applicable, and disposal costs, where applicable. It should be based on relevant European standards relating to these regulations.

By calculating the costs of the energy efficiency measures during the expected economic life-cycle, the cost-effectiveness of different levels of minimum energy performance requirements is assessed by the Member States. This will allow the determination of cost-optimal levels of energy performance requirements.
