

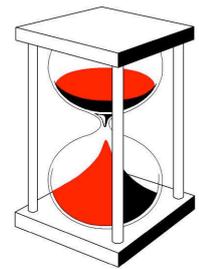


**Friends of
the Earth
Scotland**

Friends of the Earth Scotland

and the

Association for the Conservation of Energy



**Association
for the
Conservation
of Energy**

Response to the Scottish Building Standards Agency's consultation on implementation of articles 7, 8 & 9 of the EU directive on the energy performance of buildings.

Introduction

Friends of the Earth Scotland is a Scottish charity which works to promote environmental justice. As part of our work we have undertaken research into, and argued for greater investment in measures to tackle fuel poverty and promote energy efficiency, alongside increased investment in Scotland's renewable energy resource.

The Association for the Conservation of Energy is a lobbying, campaigning and policy research organisation, and has worked in the field of energy efficiency since 1981. Our lobbying and campaigning work represents the interests of our membership: major manufacturers and distributors of energy saving equipment in the United Kingdom.

The comments included in this response reflect the views of both Friends of the Earth Scotland and the Association for the Conservation of Energy.

Specific comments:

1. Timescale for implementation

We do not agree with the proposed timetable for implementation. Specifically, we believe a deadline of January 2009 for rental properties is unacceptable, and should be brought forward to early 2008, to coincide with the timetable for properties at sale. The proposed date of January 2009 is a full three years behind the deadline specified for implementation of the directive. According to article 15.2 of the directive, member states may derogate for a maximum of three years if they suffer from a lack of qualified and/or accredited experts. This is not the case in Scotland: we understand that FAERO, the industry body, has written to the Commission assuring them that they have sufficient qualified experts for full implementation of the directive.

Indeed, Luc Werring, director of energy policy at the EU Commission, has been quoted as saying that the UK proposals and timescales for implementation are, "completely insufficient", and that without remedial action, the Commission will launch formal legal proceedings in September 2006¹.

We therefore strongly suggest that in order to avoid legal action, the implementation date should be brought forward to early 2008 at the latest.

¹ "Energy in Buildings and Industry", June 2006, p.5

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2. Methodology and tools for generating energy performance certificates

Although we would prefer a methodology which takes account of climatic variation, we accept the use of SBEM, SAP 2005 and rdSAP, since these are robust methodologies which will comply with the directive.

However, from the limited information available, we have severe misgivings about SERT, and believe it should under no circumstances be used. Indeed, it is highly doubtful whether it would comply with the directive. The 'self certification' element of SERT would certainly not comply with the directive, and in order to comply, every certificate based on self-certification would need to be checked by a qualified and/or accredited expert. The additional cost of this cancels out any supposed benefit claimed for SERT in the first place.

In addition, independent experts who have examined the limited information available on SERT have cast doubt on its ability to produce an accurate energy performance certificate. We therefore believe the SERT experiment should be scrapped at the earliest opportunity.

3. The form of an energy performance certificate

We agree with some of the proposed elements of the energy performance certificate, but believe others would benefit from improvement and further development. Specifically:

- We support the display of both Operational Rating and Asset Rating as this will give some immediate indication of the potential cost/energy/CO₂ saving due from improving management, operation and maintenance. Asset rating alone will become irrelevant to building use and actual performance and become very much a theoretical calculation. Our view is that the system should encourage organisations to view their building rating as more immediate and set targets to improve their estate over 1 and 3 year timescales.
- The certificate should include a SAP-based rating, since this has some relation to energy costs, which most consumers will find more accessible than a carbon dioxide rating.
- The rating should include the potential rating of the home on the same diagram as the actual rating, in order to clearly highlight the benefit of possible energy efficiency improvements.
- It is vital that any carbon dioxide figure is put into context – indeed, this is required under article 7.2 of the directive. For example, comparing the average emissions for a building of the same size might provide some context. See also comments under point 4 below.
- The certificate should also show an estimate of fuel use in kWh. We understand that including an estimate of fuel costs would very quickly become out of date, but an estimate of fuel use in kWh could relatively easily be converted to give an estimate of cost.

It is vital that any proposed certificate is subject to extensive public consultation. The Energy Saving Trust in England and Wales has undertaken focus groups to determine the most easily-understood format for EPCs, and we would encourage a similar approach in Scotland. This is because the success or otherwise of the certificates will depend on how easily understood they are by members of the public.

4. Carbon dioxide emissions index

While we understand the reasoning behind the desire to express CO₂ in absolute terms, rather than in 'per square metre' terms, we do not believe the 'per square metre' indicator should be abandoned. In our view, *both* absolute *and* 'per square metre' figures will allow greater comparison between properties.

5. Cost-effective improvements

We are concerned at the proposal that the cost-effective improvements might be generic, rather than specific to the property concerned. If generic proposals are included (for example, a recommendation to install cavity wall insulation in a non-cavity-wall property), this is likely to cause a loss of confidence in the accuracy and reliability of the certificate overall.

We certainly agree that additional property-specific energy efficiency advice should be included with the EPC.

6. Making the energy performance certificate available

We are concerned at the proposals to require certificates to be affixed to the wall in domestic buildings. If, as suggested, this occurs next to an electricity meter, then the certificate is likely to be stuck in a cupboard out of sight, and therefore not achieve its potential impact. However, if a full certificate were included in the papers that a new owner or tenant is able to inspect before purchase / rental of the property *in addition* to being attached to the wall of the property, then our concerns would be allayed.

We do, of course, support affixing of certificates to the wall of public buildings (but please see comments at point 10 below on the definition of a public building).

We are disappointed that SBSA does not consider that a renovation or extension should be grounds for a new EPC to be produced. Such works may substantially affect the energy performance of a building, effectively making a certificate invalid. Failing to require the EPC to be updated would again cause a loss of confidence in the accuracy of the certificates overall. We therefore believe any extension or renovation requiring a building warrant should also require an updated energy performance certificate.

The 'public display' of certificates for public buildings should not be limited to the affixing of the certificate to the wall of the building concerned; these certificates should be subject to public disclosure, and be available to journalists and members of the public through a register of public buildings' certificates, in order to ensure full transparency.

7. Expertise and independence for certification purposes

This section appears reasonable. We agree with aligning energy performance certification, so long as this is not used as an excuse to delay implementation until January 2009.

8. Enforcement measures

We believe the proposals for enforcement need to be strengthened. Specifically, we would suggest that random checks of a sample of new buildings are carried out, to ensure that the building, *as built*, conforms to the description on the certificate. We would also suggest that high-profile and vigorous pursuit of non-compliance at an early stage is likely to encourage all relevant parties to take accurate certification seriously.

9. Energy Performance Register

We strongly support the information gathered from energy performance certificates being held in some form of energy performance register, since this information will be enormously helpful to the Scottish Executive in meeting fuel poverty targets, and to local authorities in meeting Home Energy Conservation Act targets. We take no view as to which of the proposed options (two, three or four) is preferable, so long as the information is available in a readily usable form to local authorities and other relevant public bodies. We also believe that for public buildings, information from the register should be available to members of the public, perhaps in the form of an internet-accessible database.

10. Definition of public buildings

We strongly disagree with the minimalist definition of ‘public building’ included in the consultation, and would urge that this is widened to comply with the wording of the directive.

Recitation 16 of the directive specifically refers to, “Public authority buildings and buildings frequently visited by the public”. The current consultation appears to ignore the second category. This is unlikely to comply with the directive, and represents a major missed opportunity.

A parallel may be made with the 1995 Disability Discrimination Act. Under this act, all bodies or individuals providing a service to the public are required to take reasonable steps to ensure that the building from which those services are accessed is accessible to disabled people. This requirement is not limited to publicly-funded bodies – it includes commercial organisations, charities and other voluntary organisations. Given this legal precedent, we fail to see why the current definition is limited to publicly funded bodies. We would therefore argue that, of the five criteria (a-e) specified, criteria b) and e) are deleted, and the remaining three (a, c and d) are retained.

11. Miscellaneous issues

Under this section, it appears that holiday lets (including holiday cottages) are to be excluded from the requirements of the directive. We fail to see any reason why they should be excluded, since a new certificate will not be required to be produced every time the building is let. Not requiring a certificate would mean a lost opportunity to raise awareness of the issue of climate change with the landlord and holidaymaker concerned. We therefore suggest that holiday lets are not exempt from the directive.

12. Boilers

We do not agree with the proposed approach of using option b) of article 8 of the directive for implementation, and would prefer option a) to be used instead. A recent project run by the Association for the Conservation of Energy entitled ‘User Behaviour in Energy Efficient Homes’ found that only around a quarter of households in social housing used their heating systems according to best practice, and a further quarter used their systems inefficiently. On the basis of this and further findings we would recommend that option a) of Article 8 be implemented, and that, in addition to the technical advice regarding the replacement of boilers and the modification of heating systems, inspectors should further ensure that users have adequate knowledge of features such as programming, TRVs and thermostat settings; thus enabling them to use their system as efficiently as possible.

It is not clear how changes required in the heating (or air conditioning for that matter) system following an inspector’s report will affect a building’s energy rating certificate, or indeed at what stage the certificate is upgraded following an improvement - namely immediately, or upon sale/rent of the building. This is particularly relevant in cases where the certificate is publicly displayed.

For the non-dwellings sector the option of provision of advice is a poor attempt at achieving CO₂ savings. A physical inspection and efficiency measurements should be required so that positive saving can be identified which it will be hard for users to ignore.

13. Air conditioning

Given that most portable air conditioning units will be below 12kw, and therefore not covered by the directive, we do not agree that portable units should be specifically excluded from the requirements for inspection.

We also disagree that, where multiple smaller units in one building are not linked by way of a central control, they should be excluded from requirements of the directive: we

believe in these circumstances that where the sum of the rated value of smaller units adds up to more than 12kw in one building, those units should be covered.

We would also argue that systems which are not specifically for the comfort of building occupants should also be included: the relevant factor is the energy use of the unit, not who or what benefits from the equipment.

14. Other issues

Although the directive sets the maximum validity for an energy performance certificate at ten years, we believe that allowing a maximum of ten years before an energy certificate must be updated is too long. We would suggest that, in the case of publicly displayed certificates in particular, this requirement should be reduced to five years at the first available opportunity for review, and that this intention be signalled as early as possible. We further suggest that it should be the aim to eventually reduce this to a maximum of 3 years.

Conclusion

We trust that you will take our views into account in finalising arrangements for implementation of the directive. We would urge the Scottish Building Standards Agency to take a more urgent approach to implementation of this important directive.

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