

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4671 GIBRALTAR Friday 6th March 2020

LEGAL NOTICE NO. 99 OF 2020.

ENVIRONMENT ACT 2005

ENVIRONMENT (ENERGY PERFORMANCE OF BUILDINGS) (AMENDMENT) REGULATIONS 2020

In exercise of the powers conferred on it by section 18(c) of the Environment Act 2005 and in order to transpose into the Law of Gibraltar Directive (EU) 2018/844 of the European Parliament and of the Council of 30 May 2018 amending Directive 2010/31 EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency, the Government has made these Regulations-

Title.

1. These Regulations may be cited as the Environment (Energy Performance of Buildings) (Amendment) Regulations 2020.

Commencement.

2. These Regulations come into operation on the 10th March 2020.

Amendment of the Environment (Energy Performance of Buildings) Regulations 2012.

3. The Environment (Energy Performance of Buildings) Regulations 2012 are amended in accordance with the provisions of these Regulations.

Amendment of Regulation 2(1).

4. In regulation 2(1)-

(a) after the definition of “building”, insert-

““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;”;

(b) after the definition of “energy performance certificate”, insert-

““energy performance contracting” means energy performance contracting as defined in the Environmental Protection (Energy End-Use Efficiency) Act 2009;”;

(c) after the definition of “European standard”, insert-

““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; and
- (c) capturing heat from ambient air, ventilation exhaust air, or a water or ground heat source using a heat pump;”;
- (d) after the definition of “heat pump”, insert-

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

- (e) after the definition of “major renovation”, insert-

““micro isolated system” means a micro isolated system as defined in point 27 of Article 2 of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009;”;

- (f) after the definition of “primary energy”, insert-

““recharging point” means a recharging point as defined in the Environment (Deployment of Alternative Fuels Infrastructure) Regulations 2016;”;

- (g) substitute the definition of “technical building system” with-

““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 a building unit;”;

Amendment of Regulation 8.

- 5. For regulation 8(5) substitute-

“The competent authority shall encourage, in relation to buildings undergoing major renovation, the consideration and taking into account of high-efficiency alternative systems, as referred to in regulation 7(2), in so far as this is technically, functionally and economically feasible, and shall address issues of-

- (a) healthy indoor climate conditions;
- (b) fire safety; and

- (c) risks related to intense seismic activity.”

Amendment of Regulation 9.

6. In Regulation 9-

- (a) In the heading, at the end, substitute the “.” with “,” and insert directly thereafter the words “electromobility and smart readiness indicator.”;

- (b) After regulation 9(6), insert the following-

“(7) A person who constructs a new building shall take the necessary measures to ensure that the building is 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 so far as this is technically, functionally and economically feasible having regard to what is reasonably practical in all the circumstances.;

(8) The owner of an existing building shall take the necessary measures to install 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 when heat generators are replaced, in so far as this is technically, functionally and economically feasible having regard to what is reasonably practical in all the circumstances.;

(9) Where new non residential buildings and non residential buildings undergoing major renovations which have more than ten parking spaces and-

(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,

the competent authority shall require the owner of the building to install at least one recharging point and ducting infrastructure for at least one in every five parking spaces to enable the installation of recharging points for electric vehicles.

(10) The competent authority shall, by 1st January 2025, determine the requirements for the installation of a minimum number of recharging points for all non residential buildings with more than 20 parking spaces.

(11) Where new residential buildings and residential buildings undergoing major renovations which have more than ten parking spaces and-

(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,

the competent authority shall require the owner of the building to install the necessary recharging points and ducting infrastructure for every parking space to enable the installation of recharging points for electric vehicles.

(12) The competent authority may decide not to apply the requirements of subregulations 9(9), 9(10) and 9(11) where-

(a) the buildings referred to in subregulations 9(9) and 9(11) are owned by small and medium sized companies as defined in Title I of the Annex to Commission Recommendation 2003/361/EC;

(b) building permit applications or equivalent applications have been submitted by 10 March 2021;

(c) the ducting infrastructure required would rely on micro isolated systems if this would endanger the stability of the local grid;

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

(e) a public building is already covered by comparable requirements under the Environment (Deployment of Alternative Fuels Infrastructure) Regulations 2016.

(13) The competent authority, without prejudice to Gibraltar's applicable property and tenancy legislation, shall issue guidelines on measures which will simplify the deployment of recharging points in existing residential and non residential buildings and which shall cover at least the following-

(a) possible regulatory barriers;

(b) permitting and approval procedures.

(14) The competent authority shall require that the overall energy performance of an altered part or the complete altered system when a technical building system is installed, replaced or upgraded is assessed.

(15) The results of the assessment described in subregulation 9(14) shall be documented and made available to the owner of the building in respect of which the assessment has been carried out.

(16) The competent authority shall use the results of the assessment in order to-

- (a) verify compliance with the minimum requirements set out in subregulation 9(1);
- (b) decide whether to issue a new energy performance certificate, without prejudice to Regulation 12.”

Amendment of Regulation 11.

7.(a) For regulation 11(3) substitute–

“(3) The competent 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 a person 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.”;

(b) After regulation 11(3), insert–

“(3A) The competent authority shall maintain databases for energy performance certificates which 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 in Regulation 14, has been issued in accordance with Regulation 13.

(3B) Subject always to Gibraltar’s data protection laws as may apply from time to time, the competent authority shall make available, on request, aggregated and anonymised data for statistical and research purposes.”

Amendment of Regulation 15.

8. For Regulation 15 substitute-

- “(1) The competent authority shall establish a regular programme of inspection of the accessible parts of heating systems or of systems for combined space heating and ventilation, with an effective rated output of over 70kW and shall publish details of the programme on its website.
- (2) The inspection under subregulation (1) shall include an assessment of-
- (a) the efficiency and sizing of the heat generator compared with the heating requirements of the building;
 - (b) the capabilities, where relevant, of the heating system or of the system for combined space heating and ventilation to optimise its performance under typical or average operating conditions.
- (3) The assessment of the heat generator sizing does not have to be repeated as long as no changes were made to the heating systems or the systems for combined space heating and ventilation of the building in the period since the last inspection.
- (4) Technical building systems referred to in this regulation that are covered by-
- (a) an agreed energy performance criterion;
 - (b) a contractual arrangement specifying an agreed level of energy efficiency improvement or performance; or
 - (c) performance monitoring measures on the system side,
- shall be exempt from the requirements of subregulation (1), provided that the overall impact of such an approach is equivalent to that resulting from subregulation (1).
- (5) The competent authority shall ensure that, where technically, functionally and economically feasible, the owners of non residential buildings with an effective rated output for heating systems or for systems for combined space heating and ventilation of over 290kW equip the building with building automation and control systems by 2025.
- (6) The building automation and control systems referred to in subregulation (5), shall be capable of-
- (a) continuously monitoring, logging, analysing and allowing for adjusting energy use;
 - (b) benchmarking the building’s energy efficiency;

- (c) detecting losses in the efficiency of technical building systems;
 - (d) providing energy efficiency improvement information;
 - (e) allowing communication with connected technical building systems and other appliances inside the building; and
 - (f) being interoperable with technical building systems across different types of proprietary technologies, devices and manufacturers.
- (7) The competent authority shall ensure that residential buildings are equipped with-
- (a) the functionality of continuous electronic monitoring that measures the efficiency of the systems found therein and informs the 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.
- (8) Buildings that comply with subregulations (5) and (7) shall be exempt from the requirements of subregulation (1).”

Amendment to Regulation 16.

9. For Regulation 16 substitute-

“(1) The competent authority shall establish a regular programme of inspection of the accessible parts of air conditioning systems or systems for combined air-conditioning and ventilation, with an effective rated output of over 70kW and shall publish details of the programme on its website.

(2) The inspection under subregulation (1) shall include an assessment of-

(a) the efficiency and sizing of the air-conditioning system compared with the cooling requirements of the building;

(b) the capabilities, where relevant, 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.

(3) The assessment of the air-conditioning sizing does not have to be repeated as long as no changes were made to the air-conditioning systems or the system for combined air-conditioning and ventilation of the building in the period since the last inspection.

(4) Technical building systems referred to in this regulation that are covered by-

- (a) an agreed energy performance criterion;
- (b) a contractual arrangement specifying an agreed level of energy efficiency improvement or performance; or
- (c) performance monitoring measures on the system side,

shall be exempt from the requirements of subregulation (1), provided that the overall impact of such an approach is equivalent to that resulting from subregulation (1).

(5) The competent authority shall ensure that, where technically, functionally and economically feasible, the owners of non residential buildings with an effective rated output for air-conditioning systems or for systems for combined air-conditioning and ventilation of over 290kW equip the building with building automation and control systems by 2025.

(6) The building automation and control systems referred to in subregulation (5), shall be capable of-

- (a) continuously monitoring, logging, analysing and allowing for adjusting energy use;
- (b) benchmarking the building's energy efficiency;
- (c) detecting losses in the efficiency of technical building systems;
- (d) providing energy efficiency improvement information;
- (e) allowing communication with connected technical building systems and other appliances inside the building; and
- (f) being interoperable with technical building systems across different types of proprietary technologies, devices and manufacturers.

(7) The competent authority shall ensure that residential buildings are equipped with-

- (a) the functionality of continuous electronic monitoring that measures the efficiency of the systems found therein and informs the 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.

- (8) Buildings that comply with subregulations (5) and (7) shall be exempt from the requirements of subregulation (1).”

Amendment to Section 21.

10.(a) In regulation 21(2), at the end, after the word “building” remove the “.” and insert “, and on replacing fossil fuel boilers with more sustainable alternatives.”

(b) After regulation 21(2) insert—

“(2A) The competent authority shall provide the information in subregulation (2) through renovation advice, one-stop workshops or other accessible and transparent advisory tools as it may determine.”

Amendment to Schedule 1.

11.(a) Substitute paragraph 1 in its entirety with—

“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, built-in 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 calculation methodology following applicable European Union and Gibraltar legislation of the overarching standards.

(b) Substitute paragraph 2 in its entirety with—

“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, as may be defined by the competent authority.

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, weighted averages or on more specific information made available.

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 may be generated and used on-site, provided that it applies on a non-discriminatory basis.”

(c) The following paragraph is inserted after paragraph 2-

“2A. 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 kgCO₂eq/(m².y).”

(d) In paragraph 4, the introductory wording is replaced by “The positive influence of the following aspects shall be taken into account.”

Amendment of Schedule 2.

12.(a) The first full paragraph of paragraph 1 is substituted with the following-

“1. The competent authority shall make a random selection of all the energy performance certificates issued annually and subject those certificates to verification. The sample shall be of a sufficient size to ensure significant compliance results.”

(b) After paragraph 2 insert-

“3. Where information is added to a database it shall be possible for the competent authority to identify the originator of the addition, for monitoring and verification purposes.”

Dated: 6th March 2020.

PROF. J CORTES,
Minister with responsibility for the Environment,
for the Government.

EXPLANATORY MEMORANDUM

The Environment (Energy Performance of Buildings) Regulations 2012 (“the 2012 Regulations”) implement Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (“the Directive”).

These Regulations amend the 2012 Regulations to implement the amendments made to the Directive by Directive (EU) 2018/844 of the European Parliament and of the Council of 30 May 2018 amending the Directive (“the Amending Directive”).

The Amending Directive makes provision in respect of reducing the energy needed to meet the demand associated with the typical use of buildings.