

BUILDING (ENERGY PERFORMANCE) RULES 2008

Repealed
Subsidiary
2008/011

Subsidiary Legislation made under ss. 45, 46 and 47 of the Public Health Act and section 23(e) and (g) of the Interpretation and General Clauses Act .

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Repealed by LN. 2010/093 as from 17.5.2010

(LN. 2008/011)

Commencement **13.3.2008** *All rules save for 7, 8 and 9*
 4.1.2009 *rr. 7, 8 and 9*

Amending enactments	Relevant current provisions	Commencement date
LN. 2009/076	rr. 2(1), 7A & 7B	26.11.2009

EU Legislation/International Agreements involved:

Directive 2002/91/EC

ARRANGEMENT OF REGULATIONS.

Regulation

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SCHEDULE

**GENERAL FRAMEWORK FOR THE CALCULATION OF
ENERGY PERFORMANCE OF BUILDINGS**

1950-07
Repealed
Subsidiary
2008/011

Public Health

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In exercise of the powers conferred on me by sections 45, 46 and 47 of the Public Health Act and section 23(e) and (g) of the Interpretation and General Clauses Act and in order to transpose into the law of Gibraltar Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings I have made the following Rules—

Title and commencement.

1.(1) These Rules may be cited as the Building (Energy Performance) Rules 2008.

(2) Save for Rules 7, 8 and 9, these Rules come into operation on the day of publication.

(3) Rules 7, 8 and 9 come into operation on 4 January 2009.

Interpretation.

2.(1) For the purpose of these Rules and unless the context otherwise requires—

“air-conditioning system” means a combination of all components required to provide a form of air treatment in which temperature is controlled or can be lowered, possibly in combination with the control of ventilation, humidity and air cleanliness;

“boiler” means the combined boiler body and burner-unit designed to transmit to water the heat released from combustion;

“building” means a roofed construction having walls, for which energy is used to condition the indoor climate; a building may refer to the building as a whole or parts thereof that have been designed or altered to be used separately;

“CHP” (combined heat and power) means the simultaneous conversion of primary fuels into mechanical or electrical and thermal energy, meeting certain quality criteria of energy efficiency;

“competent authority” means the Minister or such other person as the Minister may appoint for the purpose of executing the provisions of these Rules;

“Directive” means Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings;

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“energy performance certificate of a building” means a certificate recognised by the competent authority which includes the energy performance of a building calculated according to a methodology based on the general framework set out in the Schedule;

“energy performance of a building” means–

- (a) the amount of energy actually consumed or estimated to meet the different needs associated with a standardised use of the building, which may include, inter alia, heating, hot water heating, cooling, ventilation and lighting; and
- (b) reflected in accordance with these Rules in one or more numeric indicators which have been calculated, taking into account insulation, technical and installation characteristics, design and positioning in relation to climatic aspects, solar exposure and influence of neighbouring structures, own-energy generation and other factors, including indoor climate, that influence the energy demand;

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

“heat pump” means a device or installation that extracts heat at low temperature from air, water or earth and supplies the heat to the building;

“Minister” means the Minister responsible for the environment;

“new building” means a building (as defined in these Rules)–

- (a) the construction of which requires a permit under section 17 of the Town Planning Act 1999; or
- (b) (in the case of an existing building) the alteration of such which constitutes a material change of use which requires a permit under section 17 of the Town Planning Act 1999,

Provided that such permit was granted no earlier than one month after the coming into force of the Building (Energy Performance) (Amendment) Rules 2009.

(2) Any term used in these Rules but not defined shall be interpreted in accordance with the provisions of the Directive.

Adoption of a methodology.

3.(1) The competent authority shall apply such methodology of calculation of the energy performance of buildings as it deems appropriate provided–

- (a) it is based on the general framework set out in the Schedule; and
- (b) it receives the prior approval of the Minister.

(2) The energy performance of a building shall be expressed in a transparent manner and may include a CO₂ emission indicator.

Setting of energy performance requirements.

4.(1) The competent authority shall set minimum energy performance requirements for buildings based on the methodology referred to in rule 3.

(2) When setting requirements, the competent authority may differentiate between new and existing buildings and different categories of buildings.

(3) The requirements referred to in sub-rule (1)–

- (a) shall take account of 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;
- (b) shall be reviewed at regular intervals which should not be longer than five years and, if necessary, updated in order to reflect technical progress in the building sector; and
- (c) shall not be brought into force without the prior consent of the Minister.

(4) The energy performance requirements shall be applied in accordance with rules 5 and 6.

(5) The Minister may, in his discretion, direct the competent authority not to set or apply the requirements referred to in sub-rule (1) for the following categories of buildings–

- (a) buildings and monuments officially protected as part of a designated environment or because of their special architectural or historic merit, where compliance with the requirements would unacceptably alter their character or appearance;
- (b) buildings used as places of worship and for religious activities;

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- (c) temporary buildings with a planned 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 sectoral agreement on energy performance;
- (d) residential buildings which are intended to be used less than four months of the year;
- (e) stand-alone buildings with a total useful floor area of less than 50m².

New buildings.

5.(1) New buildings shall meet the minimum energy performance requirements referred to in rule 4.

(2) For new buildings with a total useful floor area over 1000m², the technical, environmental and economic feasibility of alternative systems such as–

- (a) decentralised energy supply systems based on renewable energy;
- (b) CHP;
- (c) district or block heating or cooling, if available;
- (d) heat pumps, under certain conditions,

shall be considered and taken into account before construction starts.

Existing buildings.

6.(1) When buildings with a total useful floor area over 1000m². undergo major renovation, their energy performance shall be upgraded in order to meet minimum energy performance requirements in so far as this is technically, functionally and economically feasible.

(2) The competent authority shall derive the minimum energy performance requirements referred to in sub-rule (1) on the basis of the energy performance requirements set for buildings in accordance with rule 4.

(3) The minimum energy performance requirements referred to in sub-rule (1) may be set either for the renovated building as a whole or for the renovated systems or components when these are part of a renovation to be

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carried out within a limited time period, with the abovementioned objective of improving the overall energy performance of the building.

Energy performance certificate.

7.(1) No buildings shall be constructed, sold or rented out, without an energy performance certificate being made available to the owner or by the owner to the prospective buyer or tenant, as the case might be, the validity of which shall not exceed 10 years.

(2) Certificates referred to in sub-rule (1) shall be issued by the competent authority or such other person as the competent authority may approve, by notice in the Gazette.

(3) Certification for apartments or units designed for separate use in blocks may be based—

- (a) on a common certification of the whole building for blocks with a common heating system; or
- (b) on the assessment of another representative apartment in the same block.

The Minister may, in his discretion, direct the competent authority to exclude the categories referred to in rule 4(5) from the application of this rule.

(4) The energy performance certificate for buildings issued under this rule—

- (a) shall include reference values such as current legal standards and benchmarks in order to make it possible for consumers to compare and assess the energy performance of the building; and
- (b) shall be accompanied by recommendations for the cost-effective improvement of the energy performance.

(5) In respect of buildings with a total useful floor area over 1000m² occupied by public authorities and by institutions providing public services to a large number of persons and therefore frequently visited by these persons an energy certificate, not older than 10 years, must be placed in a prominent place clearly visible to the public.

Failure to comply with rule 7.

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7A.(1) Subject to sub-rule (2) a person who constructs, sells or rents out a building in contravention of rule 7 (in this rule referred to as “the relevant person”) is guilty of an offence and liable on summary conviction—

- (a) where the building is a dwelling, to a fine fixed at level 2 on the standard scale;
- (b) where the building is not a dwelling, to a maximum fine of 12.5% of the rateable value of the building subject to a minimum fine fixed at level 3 on the standard scale.

(2) A relevant person is not required to comply with rule 7 where he can demonstrate that—

- (a) he made a request for an energy performance certificate at least 14 days before the relevant time, and despite all reasonable efforts and enquiries by the relevant person, he did not have in his possession or control a valid energy performance certificate at the relevant time; or
- (b) in the case of a failure to make available an energy performance certificate to a prospective tenant—
 - (i) the prospective tenant was seeking to rent out the building due to an emergency which required the tenant's urgent relocation;
 - (ii) at the relevant time the relevant person did not have in his possession or control a valid energy performance certificate;
 - (iii) there was insufficient time in which the relevant person could reasonably have been expected to obtain a certificate before renting out the building to the prospective tenant; and
 - (iv) the relevant person has given a valid energy performance certificate to the tenant as soon as reasonably practicable after renting out the building.

(3) In sub-rule (2) the references to a request are to a request properly addressed to a person who usually provides or is likely to provide an energy performance certificate for the category of building in question and which includes such payment or an undertaking to make such payment as is usually necessary to obtain an energy performance certificate.

Power to require production of documents.

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7B.(1) The competent authority may require a person who appears to him to be or to have been subject to any of the duties under rule 7 (in this rule referred to as “the relevant person”) to produce for inspection a copy of a valid energy performance certificate of the building in respect of which the duty relates.

(2) The power conferred by sub-rule (1) includes power to take copies of any document produced for inspection.

(3) A requirement under this rule may not be imposed more than six months after the last day on which the person concerned was subject to such a duty in relation to the building.

(4) It is the duty of a person subject to such a requirement to comply with it within the period of seven days beginning with the day after that on which it is imposed.

(5) Subject to sub-rule (6) a person who fails to comply with a request under this Rule is guilty of an offence and liable on summary conviction to a fine at level 2 on the standard scale.

(6) A person is not required to comply with such a requirement where he can demonstrate that he made a request for an energy performance certificate at least 14 days before the relevant time, and despite all reasonable efforts and enquiries by the relevant person, he did not have in his possession or control a valid energy performance certificate at the relevant time.

(7) In sub-rule (6) the reference to a request is to a request properly addressed to a person who usually provides or is likely to provide an energy performance certificate for the category of building in question and which includes such payment or an undertaking to make such payment as is usually necessary to obtain an energy performance certificate.

Inspection of boilers.

8.(1) With the objective of reducing energy consumption and limiting carbon dioxide emissions, the competent authority shall, in the Minister’s discretion, apply the provisions of either sub-rule (2) or (5).

(2) Where this sub-rule applies, the competent authorities shall establish a regular programme of inspection of boilers fired by non-renewable liquid or solid fuel of an effective rated output of 20 kW to 100 kW.

(3) Where sub-rule (2) applies, boilers of an effective rated output of more than 100 kW shall be inspected by or on behalf of the competent authority at least every two years. For gas boilers, this period may be extended to four years.

(4) Where sub-rule (2) applies, in respect of heating installations with boilers of an effective rated output of more than 20 kW which are older than 15 years—

- (a) the competent authority shall establish a one-off inspection of the whole heating installation.
- (b) on the basis of this inspection, which shall include an assessment of the boiler efficiency and the boiler sizing compared to the heating requirements of the building, the competent authority or its agent shall provide advice to the users on the replacement of the boilers, other modifications to the heating system and on alternative solutions.

(5) Where this sub-rule applies, the competent authority shall ensure users are provided with advice on the replacement of boilers, other modifications to the heating system and on alternative solutions which may include inspections to assess the efficiency and appropriate size of the boiler: provided that the overall effect of this sub-rule shall be broadly equivalent to that arising from sub-rule (2).

(6) Where the Minister applies the provisions of sub-rule (5), he shall ensure that a report is submitted to the Commission every two years on the equivalence of the competent authority's approach to the provisions of sub-rule (2).

Inspection of air-conditioning systems.

9.(1) In order to reduce energy consumption and limiting carbon dioxide emissions, the competent authority shall establish a regular programme of inspection of air-conditioning systems of an effective rated output of more than 12 kW.

(2) Inspections under sub-rule (1) shall include an assessment of the air-conditioning efficiency and the sizing compared to the cooling requirements of the building. The competent authority or its agent shall provide appropriate advice to users on possible improvement or replacement of the air-conditioning system and on alternative solutions.

Independent experts.

10. The competent authority shall ensure that the certification of buildings, the drafting of the accompanying recommendations and the inspection of boilers and air-conditioning systems are carried out in an independent manner by qualified or accredited experts, whether operating as sole traders or employed by public or private enterprise bodies.

SCHEDULE

Rules 2 and 3

**GENERAL FRAMEWORK FOR THE CALCULATION OF
ENERGY PERFORMANCE OF BUILDINGS**

1. The methodology of calculation of energy performances of buildings shall include at least the following aspects—
 - (a) thermal characteristics of the building (shell and internal partitions, etc.). These characteristics may also include air-tightness;
 - (b) heating installation and hot water supply, including their insulation characteristics;
 - (c) air-conditioning installation;
 - (d) ventilation;
 - (e) built-in lighting installation (mainly the non-residential sector);
 - (f) position and orientation of buildings, including outdoor climate;
 - (g) passive solar systems and solar protection;
 - (h) natural ventilation;
 - (i) indoor climatic conditions, including the designed indoor climate.

2. The positive influence of the following aspects shall, where relevant in this calculation, be taken into account—
 - (a) active solar systems and other heating and electricity systems based on renewable energy sources;
 - (b) electricity produced by CHP;
 - (c) district or block heating and cooling systems;
 - (d) natural lighting.

3. For the purpose of this calculation buildings should be adequately classified into categories such as—

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