

L.N. 376 of 2012

**BUILDING REGULATION ACT
(CAP. 513)**

**MALTA RESOURCES AUTHORITY ACT
(Cap. 423)**

Energy Performance of Buildings Regulations, 2012

IN exercise of the powers conferred by article 6(1) of the Building Regulation Act and article 28(1) of the Malta Resources Authority Act, the Minister for Resources and Rural Affairs, after consultation with the Building Regulation Office, the Malta Resources Authority and the Malta Environment and Planning Authority, has made the following regulations:-

1. (1) The title of these regulations is the Energy Performance of Buildings Regulations, 2012. 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 European Union, 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 Guidance Document F referred to in regulation 5, shall also apply. Interpretation.

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

"the Act" means Building Regulation Act;

Cap. 513.

"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;

B 3674

"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 Director of the Building Regulation Office to monitor and ensure compliance with these regulations;

Cap. 423. "the Authority" means the Malta Resources Authority as established by article 3 of the Malta Resources Authority Act, or any other entity that is authorised to act on its behalf;

"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 the heat released from burning to fluids;

"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 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 Regulation Board" means the Board as established by article 3 of the Act;

"the Building Regulation Office" shall have the same meaning as assigned to it under article 2(1) of the 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;

"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 Malta Environment and Planning Authority in terms of the Environment and Development Planning Act; Cap. 504.

B 3676

"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. 272.

"Enemalta" means the Enemalta Corporation as established by article 3 of the Enemalta 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 or a mechanical or electrical system 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 Regulation Office 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 has already been registered with the Authority before the coming into force of these regulations or is duly registered with the Building Regulation Office after it has taken into consideration that such person is in possession of:

(a) a degree in architecture or in architecture and civil engineering, or civil engineering, or building services, or mechanical, or electrical engineering conferred by the

University of Malta, or an equivalent degree, 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 Regulation Board; or

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

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 Regulation Office 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 Regulation Office 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;
- (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 Regulation Office 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 or boiler or airconditioning installation;

"EPC register" means a database of EPC records and related

B 3678

data or documents established, operated, and maintained by the Building Regulation Office;

"EPC system" means the registers, procedures and rules established, operated, and maintained by the Building Regulation Office 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 Electrotechnical 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 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;

"independent energy performance assessor" means an energy performance of building assessor 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;

"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 concerning buildings, is submitted to the Malta Environment and Planning Authority, save all exclusions in regulation 5(5);

"Malta Environment and Planning Authority" means the Authority as established by article 6 of the Environment and Development Planning Act; Cap. 504.

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

"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 acting in his own name, or as an agent for or on behalf of another person, 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;

B 3680

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

"person" means any natural or legal person;

"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;

"recognised energy performance training provider" means a person who is registered with the Building Regulation Office and who provides an energy performance training course that is recognised as valid by the Building Regulation Office;

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

"residential building or premises" means a building or premises, or any part of a building or premises, which is used or is suitable for residential or habitation purposes, which has sleeping accommodation, and includes a hotel or an institutional building;

"technical building system" means technical equipment for the heating, cooling, ventilation, hot water, lighting or for a combination thereof, 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 needed to carry out the activities of the building in question including waiting and circulation

spaces and excluding garages, storage spaces, plant rooms and yards.

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.

4. The methodology for calculating the energy performance of buildings shall be in accordance with the common general framework set out in Schedule I.

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

5. (1) The Building Regulation Board 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. Reference shall also be made to the Technical Guidance Document F on the EPB

Setting of minimum energy performance requirements.

B 3682

published by Government Notice 1002 of 2006, as may from time to time be amended, as the Building Regulation Board shall determine.

(2) The Building Regulation Board 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 Regulation Board 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 these regulations:

(a) buildings officially protected as part of a designated environment or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance;

(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 40 m²;

(e) a building classified as scheduled property (Grade One) by the Malta Environment and Planning Authority under article 81 of the Environment and Development Planning Act;

(f) a building, the construction of which is subject to the Control of Fireworks and other Explosives Regulations; S.L. 33.03

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

(h) glasshouses used solely for agricultural purposes;

(i) a building constructed for use by the Armed Forces of Malta in connection with their military requirements.

6. (1) The Building Regulation Board 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 Guidance Document F.

Calculation of cost-optimal levels of minimum energy performance requirements.

(2) The Building Regulation Board shall report to the Commission 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 13(2) and (3) of the Energy End-use Efficiency and Energy Services Regulations. Such report shall be submitted to the Commission at regular intervals, which shall not be longer than five years. The first report shall be submitted by 21st March, 2013. S.L. 423.34

(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 Regulation Board 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).

7. (1) The Building Regulation Office in collaboration with the Malta Environmental and Planning Authority shall take the necessary administrative measures to establish a monitoring system whereby the minimum energy performance requirements established in accordance with regulation 5 for new buildings, and buildings

New buildings.

B 3684

which shall be undergoing major renovations, are met and enforced.

(2) For new buildings, the Building Regulation Office in collaboration with the Malta Environment and Planning Authority shall establish a system whereby the technical, environmental and economic feasibility of high-efficiency alternative systems such as those listed below, if available, is considered and taken into account at the application stage by the designer:

- (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. 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.

Existing buildings.

8. (1) The Building Regulation Office shall, in collaboration with the Malta Environment and Planning Authority, take the necessary administrative measures to establish a system to monitor and enforce the upgrading of the energy performance of the building or, in the case of buildings which undergo major renovation, the renovated part thereof, in order to meet minimum energy performance requirements set in accordance with regulation 5, in so far as this is technically, functionally and economically feasible.

(2) Such requirements shall be applied to the renovated building or building unit as a whole. Additionally or alternatively, requirements may be applied to the renovated building elements.

(3) The Building Regulation Board shall determine these minimum energy performance requirements in accordance with regulation 3. The Building Regulation Board and the Building Regulation Office shall, in collaboration with the Authority, encourage, in relation to buildings undergoing major renovation, high-efficiency alternative systems, as referred to in regulation 7(2), in so far as this is technically, functionally and economically feasible.

9. (1) The Building Regulation Board shall, 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 existing buildings. Such system requirements may also be applied to new buildings. Technical building systems.

(2) System requirements shall be 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.

(3) The system requirements shall cover at least the following:

- (a) heating systems;
- (b) hot water systems;
- (c) air-conditioning systems;
- (d) large ventilation systems; or
- (e) a combination of such systems.

(4) Where the guidance contained in any technical guidance document issued in connection with these regulation 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) The Minister shall encourage the introduction of intelligent metering systems whenever a building is constructed or undergoes major renovation, whilst ensuring that this encouragement conforms with paragraph 2 of the Second Schedule to the Electricity Market S.L. 423.22 Regulations, 2011 regarding measures on client protection.

10. (1) The Building Regulation Board shall establish a system to monitor and enforce that after 31 December 2018: Nearly zero-energy buildings.

- (a) all new buildings are nearly zero-energy buildings; and
- (b) new buildings occupied and owned by public authorities are nearly zero-energy buildings.

(2) The Authority in collaboration with the Building

B 3686

Regulation Board and the Building Regulation Office shall draw up National Energy Efficiency Action Plans (NEEAP) and other national plans, if need be, for the purpose of covering future plans, in order to increase the number of nearly zero-energy buildings.

S.L. 423.34

(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 Authority and the Commission about such reports. Upon notification of the reports, the Authority shall include the mentioned targets in the Energy Efficiency Action Plans mentioned in sub-regulation (2), as set out in regulation 13(2) and (3) of the Energy End-use Efficiency and Energy Services Regulations and inform the Commission about such targets.

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

S.L. 423.19

Financial incentives and market barriers.

(a) the detailed application in practice of the Authority regarding the definition 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 by 2015, 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 10, 11 and 17(5) of the Promotion of Energy from Renewable Sources Regulations.

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 Authority shall take all appropriate steps to consider the most relevant such instruments in the light of national circumstances.

(2) The Authority in collaboration with the Building Regulation Office shall also take into account the cost-optimal levels

of energy performance when providing incentives for the construction or major renovation of buildings for such consumers who want to make the best use of energy resources.

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

12. (1) The Building Regulation Office 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.

Energy performance certificates (EPCs).

(2) The EPC may include additional information such as the annual energy consumption for non-residential 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

B 3688

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 may be based:

(a) on a common certification of the whole building; or

(b) on the assessment of another representative building unit with the same energy-relevant characteristics in the same building.

(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.

Issue of energy performance certificates (EPCs).

13. (1) The Building Regulation Office shall establish and maintain a system to monitor and enforce that an EPC is issued for:

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

(b) buildings where a total useful floor area over 500 m² is occupied by a public authority and frequently visited by the public. Such threshold of 500 m² shall be lowered to 250 m² after 9 July 2015.

(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 until expiry date of certificate.

(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 on the date of entering the promise of sale or rent agreement at the latest.

(4) As a derogation from sub-regulations (1) and (3), 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 once the building has been constructed, and no alterations from the energy performance characteristics of the building specified in the certificate have been made. 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.

(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.

(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).

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 Regulation Office.

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

(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 by the date such person or agent submits a full development permission application to the Malta Environment and Planning Authority:

(a) as from 2nd January, 2009 in relation to dwellings;
and

(b) as from 1st June, 2009 in relation to all other buildings.

(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 within the period of the promise of sale or at the time of signing of the sale agreement, or 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, or 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 3690

(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:

Cap. 504.

S.L. 33.03

(a) a building classified as scheduled property (Grade One) or (Grade Two) by the Malta Environment and Planning Authority under article 81 of the Environment and Development Planning Act;

(b) a building, the construction of which is subject to the Control of Fireworks and other Explosives Regulations;

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

(d) a building, or parts of a building, housing solely industrial or agricultural processes or livestock husbandry which require adherence to specific sectoral regulations;

(e) temporary buildings with a planned time of use of two years or less;

(f) glasshouses used solely for agricultural purposes;

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

(h) a building constructed for use by the Armed Forces of Malta in connection with their military requirements; and

(i) a building used as a place of worship.

Provisions
relating to an
EPC.

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.

(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). The provisions of regulation 14(5) shall also apply.

16. (1) For apartments or dwellings designed or altered for separate use in blocks having common or identical water heating, space heating or space cooling systems, the EPC may be issued either for the building as a whole or on the assessment of a representative apartment or dwelling unit in the same block.

Apartments or dwellings designed for separate use.

(2) For apartments or dwellings designed or altered for separate use in blocks that do not have a common water heating, space heating or space cooling system, the EPC shall be issued for each individual apartment or dwelling unit.

17. (1) Where a total useful floor area over 500 m² of a building for which an EPC has been issued in accordance with regulation 12(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 250 m² by 9 July, 2015.

Display of energy performance certificates.

(2) Where a total useful floor area over 500 m² of a building for which an EPC has been issued in accordance with regulation 12(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 shall 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. The Authority in collaboration with the Building Regulation Office shall, in terms of these regulations and other national legislation, where applicable, and also subject to the National Energy Efficiency Action Plan, collect all necessary information and statistics from public authorities as regards

B 3692

and in relation to the recommendations to be implemented by public authorities which are to be included in their EPCs.

Inspection of
heating systems.

18. (1) The Building Regulation Office shall provide all necessary measures to establish and maintain a system for the registration of certificates in connection with the regular inspection of the accessible parts of systems used for heating buildings, such as the heat generator, control system and circulation pump(s), with boilers of an effective rated output for space heating purposes of more than 20 kW.

(2) Such inspection shall include an assessment of the boiler efficiency and the boiler sizing compared with the heating requirements of the building. The assessment of the boiler sizing does not have to be repeated as long as no changes were made to the heating system or as regards the heating requirements of the building.

(3) The frequency of such inspections shall be decreased or increased as appropriate, where an electronic monitoring and control system is in place. The Building Regulation Board shall set different inspection frequencies depending on the type and effective rated output of the heating system whilst taking into account the costs of the inspection of the heating system and the estimated energy cost savings that may result from the inspection.

(4) Heating systems with boilers of an effective rated output of more than 100 kW shall be inspected at least every two years. For gas boilers, this period may be extended to four years.

Inspection of
air-conditioning
systems.

19. (1) The Building Regulation Office shall provide all necessary measures to establish and maintain a system for the registration of certificates in connection with the regular inspection of the accessible parts of air-conditioning systems of an effective rated output of more than 12 kW.

(2) Such inspection shall include an assessment of the air-conditioning efficiency and the sizing compared to the cooling requirements of the building. The assessment of the sizing shall not be repeated as long as no changes were made to this air-conditioning system or as regards the cooling requirements of the building. The frequency of such inspections shall be decreased or increased as appropriate, where an electronic monitoring and control system is in place.

(3) The Building Regulation Board shall set different inspection frequencies depending on the type and effective rated output of the air-conditioning system, whilst taking into account the costs of the inspection of the air-conditioning system and the

estimated energy cost savings that may result from the inspection.

(4) In providing measures referred to in sub-regulations (1) and (3), the Building Regulation Office shall, in so far as this is economically and technically feasible, establish and maintain a monitoring system for the enforcement of inspections to be carried out in accordance with the inspection of heating systems and other technical systems referred to in regulation 18 and the inspection of leakages referred to in Regulation (EC) No 842/2006 of the European Parliament and of the Council on certain fluorinated greenhouse gases.

20. (1) An inspection report shall be issued 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 18 and 19 and shall include recommendations for the cost-effective improvement of the energy performance of the inspected system.

Reports on the inspection of heating and air-conditioning systems.

(2) The recommendations may be based on a comparison of the energy performance of the system inspected with that of the best available feasible system and a similar system for which all relevant components achieve the level of energy performance required by these regulations. The inspection report shall be handed over to the owner or tenant of the building.

21. (1) The Building Regulation Office 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 the installations within a building 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, such person shall be guilty of an offence, unless such person provides the requested EPC within sixty days after the request was made.

Production of an EPC.

(2) Where a person produces an EPC to an authorised officer but refuses or fails to permit the said officer to read and examine the EPC or the associated 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.

22. (1) The EPA and certification shall be carried out using procedures, including calculation methods and software, approved by the Building Regulation Board.

Energy performance assessment (EPA) and certification.

(2) In carrying out the EPA of a building or installation, an assessor shall comply with any direction given by the Building

B 3694

Regulation Board in relation to the manner in which the assessment is to be carried out.

(3) An EPB assessor may refuse to carry 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.

(4) 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 Regulation Board.

Cancellation of an EPC.

23. (1) The Building Regulation Office may revoke an EPC and EPC data file or report compiled by an EPB assessor where it has reasonable grounds for believing that the EPC or data file or report 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 Regulation Office.

(2) Where an EPC or EPC data file or report is revoked, the Building Regulation Office 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.

(3) The Building Regulation Office may demand in writing, the waiving of an EPC which has been revoked within fourteen days of the making of such demand.

(4) Where an EPC or data file, or report is revoked under this regulation:

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

(b) the EPB assessor shall be obliged to make the reimbursement in whole or in part, as the case may be, referred to in paragraph (a), 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.

24. (1) After an EPC has been registered with the Building Regulation Office 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.

Alteration,
cancellation or
addition to an
EPC and related
reports.

(2) No person shall produce:

- (a) a printed copy of any EPC or report for any building or installation, which copy has been altered or added contrary to sub-regulation (1), or upon which the figures have become illegible or the colour has become altered by fading or otherwise; or
- (b) an EPC or report save for those provided in relation to the particular building for which it was issued; or
- (c) an EPC or report which has become void or the validity of which has expired; or
- (d) any imitation of a registered EPC or report.

(3) The Building Regulation Office 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 Regulation Office 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 Regulation Office.

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

Records, data
and
documentation.

(2) The lawful EPC record in relation to a building or installation shall be that maintained on the EPC register kept by the Building Regulation Office.

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

26. (1) Subject to sub-regulations (3) and (4), the Building Regulation Office may register EPB assessors to assess the energy

Registration of
EPB assessors.

B 3696

performance of buildings, and provide reports in relation to hot water boilers, space heating and space cooling systems in accordance with these regulations.

(2) In registering an EPB assessor, the Building Regulation Office 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 Regulation Office shall not consider a person for registration as an EPB assessor unless:

(a) the person makes an application for registration to the Building Regulation Office 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 Regulation Office; and

(c) the person meets any other requirements specified by the Building Regulation Office.

(4) In considering an application for registration as an EPB assessor, the Building Regulation Office shall be satisfied that the applicant has the necessary qualifications and, if required, has successfully completed a training course provided by the Building Regulation Office or an energy performance training provider recognised by the Building Regulation Office as suitable for providing such training for buildings constructed, or installations carried out in Malta in the relevant category of buildings and designated type of certification.

(5) An EPB assessor who is registered by the Building Regulation Office in respect of one type of certification or one category of building may apply to the Building Regulation Office 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 Regulation Office.

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

(7) The Building Regulation Office 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 Regulation Office 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 Regulation Office 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 Regulation Office 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 Regulation Office 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 Regulation Office 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 Regulation Board or the Committee of Appeal against the decision regarding the suspension or termination taken by the Director of the Building

B 3698

Regulation Office, 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 Regulation Office 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 Regulation Office may withdraw such data or documentation.

(13) A person who purports to be an EPB assessor for a designated category of buildings, or for EPB inspections on installations, 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, to the Building Regulation Office 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 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.

Directions given
by the Building
Regulation
Office.

27. (1) The Building Regulation Office may, from time to time, issue directions to EPB assessors in relation to:

- (a) the manner in which the EPB assessments are to be carried out;
- (b) the manner in which an EPC and accompanying advisory reports are to be issued;
- (c) the qualifications and training requirements for EPB assessors;
- (d) the records, data bases and documentation to be maintained by assessors;
- (e) codes of practice to be respected by assessors; and
- (f) such other matters as are reasonably necessary for the proper administration of the EPC system.

(2) An EPB assessor shall comply with any direction given under sub-regulation (1).

28. (1) The registered EPB assessor shall pay to the Building Regulation Office such fee as may be determined by it in respect of each EPB assessment carried out on a building or installation and submitted as an EPC data file by such assessor to the Building Regulation Office for the purpose of registering and issuing an EPC and related advisory report. EPC registration fee.

(2) The revenue from the fee specified in sub-regulation (1) shall be used solely by the Building Regulation Office to defray costs incurred by it in establishing, operating, and maintaining the EPC system including publicising the said system.

29. (1) The Building Regulation Office shall establish, operate and maintain a register of EPB assessors, an EPC register comprising EPCs, advisory reports, inspection reports on installations, EPC data files and related data or documents and any other register that the Building Regulation Office considers necessary for the proper administration of the EPC system. Registers held by the Building Regulation Office.

(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 Regulation Office.

(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, comprising the name, such assessor's employer, if any, and place of business, contact details, and the designated type, whether buildings or installations, of the energy assessment certification system to which such assessor's EPC registration applies, shall be made available to public inspection on the internet or, during office hours, at the offices of the Building Regulation Office;

(b) subject to compliance with the provisions of the Data Protection Act, the Building Regulation Office may allow publication or access, on a restricted or an open basis, to any extract from any register maintained by the Building Regulation Office under these regulations where the Building Regulation Office is satisfied that such publication or access is in the public Cap. 440.

B 3700

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 shall only be made available to:

(i) the EPB assessor that carried out the relevant EPB assessment, or such assessor's formal employer; or

(ii) an EPB assessor undertaking any subsequent EPB assessment of the relevant building, or such assessor's employer; or

(iii) the relevant building owner, or the agent of that building owner, through an EPB assessor.

Evidential information used in proceedings.

30. (1) In any proceedings a certificate signed by an authorised officer of the Building Regulation Office containing only information stated in that certificate to be taken from a register maintained by the Building Regulation Office 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 Regulation Office, 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 Regulation Office 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 Regulation Office shall establish and maintain a monitoring system for the enforcement of energy performance certification of buildings and the inspection of heating and air-conditioning systems to be carried out in an independent manner by qualified and, or accredited experts, whether operating in a self-employed capacity or employed by public bodies or private enterprises. Experts shall be accredited according to their competence.

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

regularly updated lists of accredited companies which offer the services of such experts are made available to the public.

32. (1) The Building Regulation Office shall ensure that independent control systems for EPCs and reports on the inspection of heating and air-conditioning systems are established in accordance with Schedule II. The Building Regulation Office may establish separate systems for the control of EPCs and for the control of reports on the inspection of heating and air-conditioning systems.

Independent control system.

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

(3) The Building Regulation Office shall ensure that the EPCs and the inspection reports referred to in sub-regulation (1) are made available to the Authority or other bodies, organisations and or entities, whether private or public on request.

33. (1) The EPC assessor shall take all necessary measures to inform the owners or tenants of buildings or building units of the different methods and practices that serve to enhance energy performance.

Information.

(2) The EPC assessor shall in particular provide information to the owners or tenants of buildings on EPCs and inspection reports, their purpose and objectives, on cost-effective ways to improve the EPB and, where appropriate, on financial instruments available to improve the EPB.

(3) The EPC assessor 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 Regulation Board in collaboration with the 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.

B 3702

Enforcement of regulations.

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

Appointment of authorised officers.

36. (1) The Director of the Building Regulation Office may appoint persons to be authorised officers for the purpose of enforcing these regulations.

Powers of authorised officers.

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

37. (1) An authorised officer may enter, inspect and examine a building or any part of a building or installation for the purpose of forming an opinion as to whether or not an EPC data file or certificate issued for the building, or part of the building, or installation is warranted.

(2) An authorised officer may do all such things and make all such requirements in relation to the building and installations, as are reasonably necessary for the purpose of carrying out an inspection under sub-regulation (1).

(3) A person who -

(a) fails to permit an inspection of a building, or installation, under this regulation;

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

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

(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 offence in terms of these regulations.

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. Criminal proceedings. Cap. 9.

(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. Cap. 9.

39. Any administrative penalty or sanction imposed by the Building Regulation Office, 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 Regulation Office in ensuring compliance with these regulations shall be due to the Building Regulation Office 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. Administrative penalties. Cap. 12.

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

(a) a fine not less than five hundred euro (€500) and not exceeding one thousand and five hundred euro (€1,500) if contravening regulations 14(1), (3), (4), 15(4), 17(1) and (2), 18 and 19;

(b) a fine not less than one thousand and five hundred euro (€1,500) and not exceeding five thousand euro (€5,000) if contravening regulations 21, 22(1), (2) and (4), 23, 24 and 26(12), (13), (14);

(c) a fine 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 fine and imprisonment, if contravening regulation 37(3).

B 3704

Language.

41. (1) Any Technical Guidance Document 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 may be issued either in the Maltese language or in the English language, or in both languages.

Revocation of regulations and repeal of an article of the Code of Police Laws.
S.L. 423.33.
S.L. 423.25
Cap. 10.

42. (1) The Energy Performance of Buildings Regulations and the Minimum Requirements on the Energy Performance of Buildings Regulations are hereby being revoked, and article 97(1)(f)(i) and (n)(viii) of Part V of the Code of Police Laws is hereby repealed.

(2) Notwithstanding the provisions of sub-regulation (1), the revocation of the regulations and the repeal of the article of the Code of Police Laws mentioned therein, shall not affect the validity of the Technical Guidance Document F on the EPB as published by means of Government Notice 1002 of 2006 and, or any subsequent amendments made thereto.

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 the calculated or actual annual energy that is consumed in order to meet the different needs associated with its typical use and shall reflect the heating energy needs and cooling energy needs (energy needed to avoid overheating) to maintain the envisaged temperature conditions of the building, and domestic hot water needs.

2. The energy performance of a building shall be expressed in a transparent manner and shall include an energy performance indicator and a numeric indicator of primary energy use, based on primary energy factors per energy carrier, which may be based on national or regional annual weighted averages or a specific value for on-site production.

The methodology for calculating the energy performance of buildings should take into account European standards and shall be consistent with relevant EU legislation, including Directive 2009/28/EC on the Promotion on the Use of Energy from Renewable Sources.

3. 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;

B 3706

- (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.

4. The positive influence of the following aspects shall, where relevant in the calculation, 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.

5. 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.

Schedule II

(Regulation 32)

Independent control systems for energy performance certificates
and inspection reports

1. The competent authorities or bodies to which the competent authorities have delegated the responsibility for implementing the independent control system shall make a random selection of at least a statistically significant percentage of all the energy performance certificates issued annually and subject those certificates to verification.

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 authorities or bodies to which the competent authorities have delegated the responsibility for implementing the independent control system 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.

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.

B 3708

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 lifecycle, 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.
