L.N. 261 of 2008

MALTA RESOURCES AUTHORITY ACT (CAP. 423)

Energy Performance of Buildings Regulations, 2008

IN exercise of the powers conferred by article 28 of the Malta Resources Authority Act, the Minister for Resources and Rural Affairs, after consultation with the Malta Resources Authority, has made the following regulations:

Title and commencement.

1. (1) The title of these regulations is the Energy Performance of Buildings Regulations, 2008.

(2) Save as otherwise specified in these regulations, these regulations shall come into force on such date as the Minister responsible for the Malta Resources Authority may by order appoint and different dates may be so appointed in respect of different regulations.

Scope.

2. The scope of these regulations is to give effect to the provisions of Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings[1].

Definitions.

3. (1) The following definitions shall, unless the context otherwise requires, apply.

"the Act" means the Malta Resources Authority Act;

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

"asset rating" means an energy performance rating using data for the building as actually constructed and based on calculations of the energy used in a building for heating, cooling, ventilation, hot water and lighting, with standard input data related to internal and external climates and occupancy and represents the intrinsic energy performance potential of the building under standardised conditions of weather and occupancy;

[1] OJ No. L 1/65, January 2003

"authorised officer" means a person authorised by the Authority to monitor and enforce these regulations;

"the Authority" means the Malta Resources Authority or any other entity that is authorised to act on its behalf on matters of these regulations;

"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;

"design rating" is an energy performance rating based on calculations done at the design stage, of the energy used in a building for heating, cooling, ventilation, hot water and lighting, with standard input data related to internal and external climates and occupancy and based on the design characteristics of the building 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 occupancy according to acceptable comfort norms and other regulations in force at the time of its design;

"development permission application" means an application for development permission or approval in terms of regulation 3(1) of the Development Permission (Method of Application) Regulations, 1992;

L.N. 133 of 1992.

"dwelling" or "dwelling unit" means a suite operated as a house-keeping unit, used or intended to be used as a domicile and usually containing cooking, eating, living, sleeping and sanitary facilities;

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

"EP" means energy performance;

"EP assessment" means an assessment of the energy performance of a building or a mechanical or electrical system carried out by an EP assessor for the purpose of assigning an EPC;

"EPACI assessor" means a person who is duly registered with the Authority after the Authority has taken into consideration that such person is in possession of a degree in building services or mechanical or electrical engineering conferred by the University of Malta or an equivalent degree and who has successfully undergone a period of training on the inspection and assessment of the efficiency of air-conditioning, space cooling and ventilation systems, and such training is approved by the Authority;

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

(a) a degree 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 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 Authority, or

(b) a registration certificate as an energy performance of buildings assessor in any EU member state and who has successfully undergone a period of training on the assessment of the energy performance of buildings built in Malta, and such training is approved by the Authority;

"EPBI assessor" means a person who is duly registered with the Authority after the Authority has taken into consideration that such person is in possession of a degree in building services or mechanical or electrical engineering conferred by the University of Malta, or an equivalent degree, and has successfully undergone a period of training on the inspection and assessment of the efficiency of boiler and space heating systems, such training is approved by the Authority;

"EPC" means an energy performance certificate in a prescribed form on the basis of an EP assessment, which is held and may be viewed in electronic form on the EPC register, and may be reproduced and issued in printed form by or on behalf of the Authority;

"EPC data file" means an electronic file which contains a report on the outcome of an EP assessment in a form approved by the Authority, which is completed by an EP assessor and provided to the Authority for the purpose of notifying it of the record to be

made or updated on the EPC register in respect of a particular building, and it shall be deemed to include any calculations and related data or documents accompanying such report;

"EPC record" means, as the case may be, the current and any earlier EPC, any advisory report, any EPC data file and any related data or documents, pertaining to a building or boiler or air-conditioning installation, as the case may be;

"EPC register" means a database of EPC records and related data or documents established, operated, maintained and owned by the Authority for the purpose of these regulations;

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

"independent EP assessor" means an EP 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 inspection of boilers, lighting, space heating or space cooling systems is made;

"installation" consists of systems providing artificial lighting, water heating, space heating or space cooling or space ventilation in any combination;

"large building" means a building with a total useful floor area in excess of 1000 square metres;

"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 being submitted to the Malta Environment and Planning Authority, save all exclusions in regulation 6;

"the Minister" means the Minister responsible for the Malta Resources Authority;

"new building" or "new public building" means a building for which a development permission application is submitted to the Malta Environment and Planning Authority on or after the 2nd January, 2009;

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

"operational rating" means an energy performance rating based on the measured consumption of energy used for lighting, heating and cooling of water and the internal spaces, and space ventilation in the building throughout a defined period of time;

"owner" means:

(a) a person who in his own right, or as an agent for another person, is entitled to receive the rent of the building or, where the building is not let, would be so entitled if it were let;

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

(c) an emphyteuta;

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

"prescribed" means anything as prescribed by the Minister;

"prospective buyer or tenant" means a person who:

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

(b) enters into 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 into an agreement of rent, whether oral or written, to rent a building;

"public buildings" means a building or part of a building that is used by an entity or by persons to provide any service to the public;

"recognised EP training provider" means:

(a) the Authority; or

(b) a training provider, who is registered with the Authority and providing an EP training course that is validated by the Authority;

"register of EP assessors" means a database of EP assessors registered with the Authority and related data established, operated, maintained and owned by the Authority;

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

"useful floor area" means the area that is 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.

(2) The definitions contained in the *Technical Guidance Document F* referred to in regulation 4 hereof, shall also apply in respect of these regulations.

(3) In these regulations any expression which is not defined shall have the same meaning as it has in the Act.

Objectives.

4. These regulations aim to improve the energy performance of buildings and may set out requirements, by means of any technical guidance document or otherwise, with regard to the following:

(a) the application of minimum energy performance requirements for newly constructed buildings;

(b) the application of minimum energy performance requirements for large existing buildings that are subject to major renovation;

(c) the general framework for a national methodology for the calculation of the integrated energy performance of buildings;

(d) the energy performance certification of buildings referred to in paragraphs (a) and (b) hereof or buildings that change ownership or are rented out; and

(e) the regular inspection of boilers and of air-conditioning systems in buildings with regard to reducing energy consumption and limiting carbon dioxide emissions.

Part 1

Minimum Requirements on the Energy Performance of Buildings

Minimum energy performance requirements.

5. (1) The minimum requirements on the energy performance of Buildings as hereinafter referred to as *Technical Guidance Document F* notified in the Gazette by Government Notice No. 1002 of 2006, shall apply to the following buildings:

(a) buildings whose development permission applications in terms of regulation 3(1) of the Development Permission (Method of Application) Regulations, 1992, was received by the Malta Environment and Planning Authority on or after the 2nd January, 2007;

(b) existing large buildings that undergo major renovation or alteration, whose development permission applications in terms of regulation 3(1) of the Development Permission (Method of Application) Regulations, 1992, was received by the Malta Environment and Planning Authority on or after the 2nd January, 2007. In such situations, the minimum requirements are to be limited solely to the areas of the building, the elements or the installations that are being altered or renovated as the case may be;

(c) in situations of a change of use in buildings, and whose development permission application in terms of regulation 3(1) of the Development Permission (Method of Application) Regulations, 1992, is received by the Malta Environment and Planning Authority on or after the 2nd January, 2009.

(2) Large buildings for which an outline or full development permission applications in terms of regulation 3(1) of the Development Permission (Method of Application) Regulations, 1992, is received by the Malta Environment and Planning Authority on or after the 2nd January, 2009, a study that takes into consideration the technical, environmental and economic feasibility of alternative energy systems such as,

(a) decentralised energy supply systems based on renewable energy,

(b) combined heat and power,

(c) district or block heating or cooling, if available,

(d) heat pumps under certain conditions;

has to be carried out and made available on request to the Authority or to the Malta Environment and Planning Authority.

(3) The study referred to under regulation 5 shall be carried out by persons who are suitably qualified by means of their education, training and experience, and it shall include specific recommendations in relation to the utilization of alternative energy systems, including those specified in this regulation, to serve the building under review.

Non applicability of minimum energy performance requirements.

6. Notwithstanding the provisions of regulation 5 hereof, the minimum requirements on the Energy Performance of Buildings established in these regulations shall not apply to the following categories of buildings:

(a) a building classified as scheduled property (Grade One) by the Malta Environment and Planning Authority under article 46 of the Development Planning Act;

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(b) a building the construction of which is subject to the Control of Fireworks and other Explosives Regulations, 1998;

L.N. 243 of 1998.

(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 40 square metres;

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

Adoption of minimum requirements.

7. There is no obligation to adopt any solution contained in any technical guidance document issued in connection with these regulations if the relevant requirements of these regulations are complied with in any other manner. If, however, a case of an alleged breach of these regulations occurs, it will then be the responsibility of the individual to demonstrate by which other means the requirements have been satisfied.

Application of other laws and regulations.

8. The guidance contained in any technical guidance document issued in connection with these regulation relates only to the particular requirements of these regulations, and any construction works and the installation of any permanent mechanical or electrical services shall also have to comply with the requirements of any other laws and regulations that are operative for the control of construction works and installations.

Part 2

Energy Performance Certificate

Energy Performance Certificate and Energy Performance Assessment.

9. (1) An Owner or his agent has to obtain an Energy Performance Certificate (EPC) in the form prescribed by these regulations when a building is constructed, sold or rented.

(2) To be valid, the EPC has to be obtained from an independent EPB assessor after it is registered with the Authority.

(3) As from the date indicated hereunder, a person or agent acting on behalf of such person 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) Dwellings as from 2nd January, 2009; and

(b) All other buildings as from 1st June, 2009;

(4) As from the date indicated hereunder, a person or agent acting on behalf of such person who offers for sale or letting a building, 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 the asset rating, if the building is already constructed and finished:

(a) Dwellings as from 2nd January, 2009; and

(b) All other buildings as from 1st June, 2009.

(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) of regulation 9, the buyer or the tenant will 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 9(1), 9(2), 9(3), and 9(4), the procurement of an EPC shall not apply to the following categories of buildings:

(a) a building classified as Grade One or Grade Two scheduled property by the Malta Environment and Planning Authority under article 46 of the Development Planning Act and which has a total useful floor area of less than 1,000 square metres and is occupied by, and is providing services to not more than 500 persons daily;

(b) a building the construction of which is subject to the Control of Fireworks and other Explosives Regulations, 1998;

L.N. 243 of 1998.

(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 40 square metres;

(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.

10. (1) An EPC issued in connection with this part of the regulations shall be valid for a period not exceeding ten years from the date of its first issue, provided that no major renovation or alteration occur in the building.

(2) (a) The EPC shall include reference values and shall be accompanied by a recommendation report.

(b) The recommendation report shall indicate cost-effective measures for improving the energy performance of the building.

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

(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 sub-regulation 9(4). The provisions of sub-regulation 9(5) shall also apply.

Apartments or dwelling units designed for separate use.

11. (1) For apartments or dwelling units 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.

(2) For apartments or dwelling units 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.

Public display of EPCs.

12. (1) As from the 2nd January, 2009, all persons or entities that are in charge of existing public buildings listed hereunder are to ensure that an EPC based on the asset rating of the building is commissioned and displayed at all times in a prominent place which is clearly visible to the public by not later than the 2nd January, 2010:

(a) Large buildings (including buildings scheduled as Grade 1 or Grade 2 Buildings) that are used by or are providing services to more than 500 persons daily;

(b) Commercial banks and post office buildings having a useful floor area of over 100 square metres irrespective of the number of persons using or visiting such building;

(c) Showrooms, shops and shopping complexes having a useful floor area of over 1000 square metres irrespective of the number of persons using or visiting the building;

(d) Cinemas, dance halls, discotheques, gambling halls and wedding halls having a total useful floor area of over 500 square metres irrespective of the number of persons using or visiting the building.

(2) Persons or entities in charge of new public buildings shall ensure that an EPC based on the asset rating of the building is commissioned and displayed at all times in a prominent place clearly visible to the public no later than 12 months from the date of connection of the building to the electric power grid.

(3) Within a period not exceeding five years of the first display of the EPC, and every successive three years, an EPC based on the operational rating of the building is to be commissioned and displayed alongside the original EPC to enable users and visitors of that building to compare the building's performance.

Part 3

Inspection and Energy Performance Certification of lighting, water heating, space heating and space cooling installations in Buildings

Inspection of boilers.

13. (1) (a) As from the 2nd January, 2009, owners of water heating and space heating installations in buildings having boilers fired by non-renewable liquid or solid fuel of an effective rated output of 20kW or more shall ensure that such boilers are inspected and that a certificate on their energy performance is issued by an independent EPBI assessor.

(b) In the case of existing boiler installations, the certificate mentioned in paragraph (a) thereof shall be in the owner's possession not any later than 12 months from the date indicated in the said paragraph (a).

(2) In the case of installations with an effective rated output of more than 20 kW having a boiler or boilers that are older than 15 years from the date of coming into force of these regulations, a one-off inspection and certification of the whole heating installation shall be made within 12 months of the date indicated in paragraph (a) of sub-regulation (1) hereof.

(3) In the case of new heating installations having boilers fired by non-renewable liquid or solid fuel of an effective rated output of 20kW or more and gas fired boilers, inspection reports and certifications on their energy performance shall be in the possession of the owner within 28 days from the date of commissioning, and such inspection and certification shall be repeated every four years thereafter.

(4) Certifications and reports on the energy performance of boilers in installations with an effective rated output of more than 100kW shall be in the possession of the owner within 28 days from the date of commissioning, and such inspection and report shall be repeated at least every two years thereafter.

(5) Inspections and certifications shall include an assessment of the boiler efficiency and sizing in the context of the heating requirements of the building.

(6) The inspection report shall contain appropriate advice on possible improvements or modifications to the system, replacement of the system and alternative solutions.

(7) The EPC and report are to be deposited and registered with the Authority by the assessor before they are issued to the owner.

Inspection and Energy Performance Certification of space heating and cooling systems

14. (1) As from the 2nd January, 2009, owners of air-conditioning units, or interlinked systems, or a centralised system, as the case may be, with an effective rated output of more than 12kW whether in dwellings, residential buildings, or other non residential buildings are to ensure that such units or systems are inspected by an independent EPACI assessor at regular intervals as specified by these regulations.

(2) In the case of existing buildings having existing units or interlinked systems or centralised installations with an effective rated

output of 250kW or more, a one-off inspection and certification of the whole system shall be made and a certificate including an advisory report shall be in the possession of the owner or tenant of the building, as the case may be, within 12 months from the date indicated in regulation 14(1), to be followed by inspections and certifications at regular intervals not exceeding five years.

(3) In the case of existing buildings having existing units, or interlinked systems or centralised installations with an effective rated output of between 12kW and 249kW, an inspection and certification have to be made and a certificate including an advisory report is to be in the possession of the owner or tenant of the building, as the case may be, within 24 months from the date indicated in regulation 14(1) and have to be followed by an inspection and certification at regular intervals not exceeding five years.

(4) In the case of all new or existing buildings having new units or interlinked systems or centralised installations with an effective rated output of more than 12kW, the inspection and certification including an advisory report is to be in the possession of the owner or tenant of the building, as the case may be, within 28 days from the date of commissioning and has to be followed by an inspection and certification at regular intervals not exceeding five years.

(5) The inspection must include an assessment of the air-conditioning units' or system's efficiency and the sizing of any unit or system compared to the cooling requirements of the building, and contain appropriate advice on possible improvements to any unit or system, replacement of the system and alternative solutions.

(6) To be valid the EPC and report are to be deposited and registered with the Authority by the assessor before it is issued to the owner or the tenant.

Part 4

Administration of the EPC System for Energy Performance Certification of buildings and, Mechanical and Electrical Services in buildings

Production of an EPC.

15. (1) The Authority or its authorised representative may demand, from the owner of a building falling under 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 excuse the

EPC then and there, such person will be committing an offence, unless such person provides the requested EPC within 60 days after the day on which production was demanded.

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

Energy performance assessment.

16. (1) The energy performance assessment and certification shall be carried out using procedures, including calculation methods and software, approved by the Authority.

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

(3) An assessor may refuse to carry an EP assessment 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 Authority.

Cancellation of an EPC.

17. (1) The Authority may revoke an EPC and EPC data file or report compiled by an 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 Authority's register.

(2) Where an EPC or EPC data file or report is revoked, the Authority is to inform the assessor, giving him or her the reason 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 Authority may demand in writing, the giving up of an EPC that is revoked, as the case may be, within 14 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 EPC assessment to the assessor who carried out the assessment, and

(b) the assessor shall be obliged to make the reimbursement in whole or in part, as the case may be, referred to in paragraph (a) hereof, within 28 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.

Alteration, defacement etc of an EPC and related report.

18. (1) After an EPC has been registered with the Authority and signed by the assessor, no person shall, either by writing, drawing or in any other manner alter, deface, mutilate 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.

(2) No person shall produce:

(a) a printed copy of any EPC or report for any building or installation, which copy has been altered, defaced, mutilated or added to 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 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 colourable or other imitation of a registered EPC or report.

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

Records, data and documentation.

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

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

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

Registration of Energy Performance Assessors.

20. (1) Subject to sub-regulations (3) and (4) the Authority may register EP assessors to assess the energy 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 assessor, the Authority shall designate the type of EP certification and also the category of buildings in respect of which the assessor is authorised to carry out EP assessments and certifications.

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

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

(b) the application for registration is accompanied by any fee specified by the Authority; and

(c) the person meets any other requirements specified by the Authority

(4) In considering an application for registration as an assessor, the Authority must be satisfied that the applicant has the necessary qualifications and, if required, has successfully completed a training course provided by the Authority or an Energy Performance Certification training provider recognised by the Authority 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 assessor who is registered by the Authority in respect of one type of certification or one category of building may apply to the Authority to be registered in respect of another type or category of buildings, and may be so registered, subject to compliance with the provisions set out in sub-regulations (3) and (4) hereof and the payment of any fee specified by the Authority.

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

(7) The Authority shall provide each assessor with a certificate of registration for the designated type and category of buildings to which his or her 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 Authority suspends or terminates the registration of a person as an assessor, it shall note, in the register at the entry for that person as an assessor, the suspension or termination of the appointment and the date on which it was suspended or revoked.

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

(a) failure by the assessor to attend a course of periodic training if required by the Authority or to satisfactorily complete such a training course, or

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

(c) failure by an assessor to carry out a building energy performance assessment 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 assessor, of an offence under these regulations, or

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

(10) A suspension or termination of registration under sub-regulation (9) shall be notified to the person concerned in writing and shall state the reasons for the suspension or termination and 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) hereof may, within 14 days from the said suspension or termination, appeal against the suspension or termination to the Resources Appeals Board as appointed under the Act or the Court of Appeal as the case may be.

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

(13) A person who, not being such, purports to be an EPC assessor for a designated category of buildings, or EPC inspections of installations, or an authorised officer under these regulations will be committing an offence.

(14) (a) A person who, purporting to give information to an EPC assessor, the Authority or an authorised officer for the performance of such person's functions under these regulations, makes a statement that he or she knows to be false or misleading in a material particular or fails to disclose a material particular shall commit an offence.

(b) An assessor who issues an EPC or makes a statement or report that such assessor knows to be false or misleading in a material particular, shall commit an offence.

Directions by the Authority.

21. (1) The Authority may from time to time issue directions to assessors in relation to:

(a) the manner in which the EPC 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 EPC 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 assessor shall comply with any direction given under sub-regulation (1) hereof.

EPC registration fee.

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

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

Registers held by the Authority.

23. (1) The Authority shall establish, operate and maintain a register of assessors, an EPC register comprising EP Certificates, advisory reports, inspection reports on installations, EPC data files and related data or documents and any other register that the Authority considers necessary for the proper administration of the EPC system.

(2) Any register established under sub-regulation (1) hereof 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) hereof shall be a public record and shall be kept under the management of the Authority.

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

(a) extracts from the register of the EPC 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 open to public inspection on the internet or, during office hours, at the offices of the Authority;

Cap. 440.

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

Authority is satisfied that such publication or access is in the public interest;

(c) other than as provided for in paragraphs (a) and (b) hereof, a data file or other extract from a register relating to an EPC for a particular building shall normally only be made available to:

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

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

(iii) the relevant building owner, or the agent of that building owner, via an EPC assessor.

Evidential Value.

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

(2) In any proceedings a document purporting to be a certificate under sub-regulation (1) hereof shall be deemed to be such a certificate and to have been signed by an authorised officer of the Authority, unless the contrary is shown.

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

Part 5

Enforcement.

25. A person or persons who contravene any of the requirements of these regulations shall commit an offence.

Appointment and powers of authorised officers.

26. (1) The Authority may appoint persons to be authorised officers for the purposes of enforcing these regulations.

(2) An authorised officer shall be furnished with a warrant of appointment and in the exercise of a power conferred upon such

officer under this regulation, such officer shall, if requested by any person affected, produce the warrant of appointment.

Power of authorised officers to enter, inspect etc. buildings.

27. (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) hereof.

(3) A person who:

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

(b) without reasonable excuse 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 certificate, 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,

commits an offence.

Prosecution.

28. (1) Criminal proceedings for an offence under these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts of criminal judicature.

(2) Where an offence under these regulations is committed by a body corporate, or by an unincorporated body of persons, or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons, and it is proved to have been

committed with the consent or connivance of or to be attributable to any neglect on the part of any person who when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer or member of such body, such other person as well as the body, or the person purporting to act on behalf of the body, commits an offence and is liable to be proceeded against and punished if found guilty.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations. Cap. 9.

29. Any administrative penalty or sanction imposed by the Authority upon any person who infringes any provisions of these regulations or who fails to comply with any directive or decision given by the Authority in ensuring compliance with these regulations shall be due to the Authority as a civil debt constituting an executive title for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure as if the payment of the amount of the fine had been ordered by a judgement of a court of civil jurisdiction. Administrative penalties. Cap. 12.

30. A person guilty of an offence under – Penalties.

(1) Regulations 9(1), (3), (4), 10(4), 12(2), 13(1), (2), (3), (4), (7), 14(1), (2), (3), (5) is liable on summary conviction to a fine not less than €500 and not exceeding €1,500;

(2) Regulations 15, 16(1), (2), (4), 17, 18 and 20(12), (13), (14) is liable on summary conviction to a fine not less than €1,500 and not exceeding €5,000;

(3) Regulation 27 (3) is liable on summary conviction to a fine not less than €1,500 and not exceeding €5,000, or to a term of imprisonment not exceeding three months, or to both fine and imprisonment.

Part 6

Miscellaneous

31. (1) Any Technical Guidance Document issued in connection with these regulations can be issued in either the Maltese or English language only, or both. Language.

(2) Any EPC certificate or report issued in accordance with these regulations may be issued in either the Maltese or English language only, or both.

Repeals L.N. 238 of 2006.

32. (1) The Minimum Requirements for the Energy Performance of Buildings Regulations, 2006 are hereby repealed.

(2) Notwithstanding sub-regulation (1) hereof, the repeal of the said regulation shall not affect the validity of Technical Guidance Document F on the energy performance of buildings as notified by Government Notice 1002 of 2006, published in Gazette No. 18,002.

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